UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE (AMS)
NATIONAL ORGANIC PROGRAM (NOP)

MEETING OF THE NATIONAL ORGANIC
STANDARDS BOARD (NOSB)

THURSDAY,

APRIL 29, 2010

The National Organic Standards Board convened at 8:00 a.m. in the Heidrick Ag History Center located at 1962 Hays Lane, Woodland, California, Daniel G. Giacomini, Chairperson, presiding.

MEMBERS PRESENT:

DANIEL G. GIACOMINI, Chairperson

TRACY MIEDEMA, Vice-Chairperson
TINA ELLOR, Secretary
STEVE DeMURI
JOE DICKSON
JAY FELDMAN
BARRY FLAMM

JOHN FOSTER
WENDY FULLRIDER
JENNIFER M. HALL
KATRINA F. HEINZE
JEFFREY W. MOYER
ANNETTE RIHERD
JOE SMILLIE
STAFF PRESENT:

MILES McEVOY
JUDY RAGONESI
VALERIE FRANCES

ARTHUR NEAL
MARK BRADLEY
LARS CRAIL
SHANNON NALLY
DR. KERRY SMITH
DR. LISA BRINES
C-O-N-T-E-N-T-S

Recommendations of Corps Committee
2011 Sunset Recommendation for Ferric Phosphate
Vote: 0 no, 14 yes, 1 absent

2012 Sunset recommendation for 205-601
Vote: 0 no, 14 yes

2012 Sunset Recommendations for 205.601:
Non-synthetic Substances Prohibited for Use in Organic Corp Production
Vote: 0 no, 14 yes, 1 absent

List 3 and List 4 in Inerts
Vote: 1 no 13 yes, 1 absent

Production Standards for Terrestrial Plants and Containers and Enclosures
Vote: 1 no, 12 yes, 2 absent

Presentation of Plaques for New Members

Recommendations of Livestock Committee
Petition from the Methionine Task Force
Vote: 12 no, 2 yes, 1 absent

Recommendation from Committee on Methionine
Vote: To table until after lunch
5 no, 9 yes
Vote: 10 no, 4 yes, 1 absent
Vote: 4 no, 10 yes, 1 absent
Vote: 4 no, 10 yes, 1 absent

Sunset substances on 205.603
Vote: 0 no, 14 yes, 1 absent

205-604 materials, strychnine
Vote: 0 no, 14 yes, 1 absent

Animal health care products definition
Withdrawn from voting docket
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Neal R. Gross & Co., Inc.  
202-234-4433
CHAIRPERSON GIACOMINI:  Final session of this National Organic Standard Board Meeting is now back in session. Board members are seated and we have the high five from Valerie and the sound man, so we're all ready to go.

Today's the final day for final discussion and voting on the Board recommendations brought forth at this meeting by the various committees. The committees have worked for months on these recommendations and now after respectfully weighing the public comments submitted both online and then in person at this meeting, we are ready for final consideration and vote.

It is always impressive to me at the responsiveness of the Committee to public comment. We work very hard, and sometimes very late in the evening, to make any modifications and changes that we can to make
corrections and make the document more responsive to the industry.

And again, we thank the public for their input.

So we ask the audience as we proceed through this process to please refrain. While we don't have email this time, but in this modern age we do have cell phone text and different things. Please refrain from contacting members of the Board during this process. And we thank you all for consideration and fairness to all parties involved.

We would like to make a special request and remind the Board members Vice Chairman of the committees working on the recommendations as we take votes, please Vice Chairman, make special attention to any changes, any modifications, anything that is altered in your documents before final vote so that we make sure we're all on the same page when it comes to posting the final documents.
So, Vice Chairs, please have your pencils ready.

Regarding today's vote, the substance of votes as required by OFPA require a two-thirds vote of this Board. Abstentions are handled as no votes, essentially. They are counted towards the quorum, but are not counted as part of the vote. They're considered the essential of absent, but they are counted towards the quorum.

Fourteen active votes. Members voting requires a ten vote to pass. Thirteen votes requires nine votes to pass. Twelve members voting requires eight votes to pass. Eleven voting requires eight. And ten votes require seven. I ran that list in consideration of any recusals, abstentions or other reasons that someone may not be voting.

All the Board should have the voting documents. I will be starting on the side with Barry and working this way through the members. If you'd please enter your
initials of everyone at the top of that page.

Still have a pair of reading glasses here if anyone can't see their documents.

And we have blank voting sheets for anyone who may need them.

Any other housecleaning before we start? Joe?

MR. SMILLIE: I'd just like to thank the volunteers who had the coffee available and the people at the Heidrick Center for helping us get through these meetings. I think that was really a wonderful thing. I think it was Kim Dietz, Kelly Shea, Gwen whoever you were thank you very much. It really made it much hospitable for everybody to have coffee and drinks. And the Heidrick Center people went out of their way to accommodate us. So I'd just like to thank all of you for that wonderful, gracious gesture.

CHAIRPERSON GIACOMINI: Thank you, Joe. And that is just centrally extended from
all of us. And all of you have helped make
this meeting a wonderful experience with the
consideration of things we'd have to deal
with. And we apologize for any inconvenience
with the wi-fi. And we hope that won't happen
again.

Okay. Anything else before we get
started? All right.

The first one up is the Crops
Committee and Chairperson Tina Ellor.

SECRETARY ELLOR: Thank you, Dan.

The first item we have up this
morning for a vote, and you know it's been six
months so I might be a little vague about the
process, I am aging, is the 2011 Sunset
Recommendation for ferric phosphate. And as
we discussed yesterday, we do have a petition
in front of the Board to remove. We had only
favorable public comments to keep this on.
And if we don't act on it, it will go off.

So do I make a motion or --

CHAIRPERSON GIACOMINI: Yes, you
make a motion to accept the recommendation.

SECRETARY ELLOR: Okay. I'll make a motion that we accept the recommendation to keep ferric phosphate on List 205.601.

MR. MOYER: I'll second that motion.

CHAIRPERSON GIACOMINI: Motion has been made by Tina Ellor, seconded by Jeff Moyer to accept the recommendation from the Crops Committee regarding the relisting of ferric phosphate on 601.

Madam Maker of the motion, do you have any further debate?

SECRETARY ELLOR: I do not.

Oh, Jeff.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Dan, just a point of clarification. The petition was to remove.

SECRETARY ELLOR: Right.

MR. MOYER: So we have to be careful how we vote. Because if we vote yes, it will be removed.
SECRETARY ELLOR: No, no. We're not voting on the petition.

CHAIRPERSON GIACOMINI: No, that's not correct.

SECRETARY ELLOR: We're voting on the Sunset.

CHAIRPERSON GIACOMINI: This is Sunset. The affirmative vote is for relisting.

MR. MOYER: So we're not voting on the petition?

CHAIRPERSON GIACOMINI: No.

SECRETARY ELLOR: We're not voting on the petition to remove. We are voting on relisting.

Sorry. Thank you, Jeff.

MR. MOYER: Yes, I just want to clarify it.

CHAIRPERSON GIACOMINI: This is a Sunset vote to relist. An affirmative vote asserts and relists this substance on the National List.
MR. MOYER: Thank you for that clarification.

CHAIRPERSON GIACOMINI: Thank you.

Any further debate? Seeing none.

Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MS. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: Joe.
CHAIRPERSON GIACOMINI: John?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Joe votes yes.

One absent.

Votes are zero no, 14 yes, no abstention. One absent. Motion passes.

I'm sorry. We missed an important step of asking for conflicts and recusals. Would anyone on that vote consider that they have any potential conflict?

Please, even if I happen to miss that point, the point of a vote, please if anyone has those issues to state, please bring them to our attention.

Madam Chairman.
SECRETARY ELLOR: The next item on
the agenda is our low hanging fruit, 2012
Sunset recommendation for 205.601 and -- no,
we're going to do that separation. Okay.

205.601 since synthetic substances
allowed for use in organic crop production,
and I'm going to go quickly through the
category use and the material. And all votes
from the Crops Committee were unanimous to
keep these on the List. So a yes vote would
be to relist all of the following:

Category use as algicides
disinfectives and sanitizers including
irrigation system cleaning systems: Hydrogen
peroxide, soap-based algicide de-mossers.

Category use as herbicides, weed
barriers as applicable. Herbicide soap-based
for use in farms as maintenance.

Category use as animal repellents:
Soaps, ammonia soaps.

Category use as insecticides:
Ammonium carbonate, boric acid, elemental
sulfur, lime sulfur including calcium
polysulfide, oils, horticultural oils - narrow
range oils as dormant, suffocating and summer
oils, insecticidal soils, sticky traps and
barriers, sucrose octanoate esters,

Category use as plant disease
control: Hydrated lime, hydrogen peroxide,
lime sulfur, horticultural oils - narrow range
oils as dormant, suffocating and summer oils,
potassium bicarbonate and elemental sulfur.

Category use as plant or soil
amendments: Aquatic plant extracts, elemental
sulfur, humic acids, micronutrients, soluble
boron products, sulfates, carbonates, oxides
or silicates of zinc, copper, iron, manganese,
molybdenum, selenium and cobalt, liquid fish
products, vitamin B1, C and E.

And I believe I captured that list accurately.

And I would encourage you to read
the recommendation because we did have some
concerns with some of these, and we did send
an awful lot of materials back for technical review, which we certainly hope to get back by the fall. But these are the ones we considered.

Yes, Valerie?

MS. FRANCES: You forgot mulches. You didn't mention that. Just for the record.

SECRETARY ELLOR: Oh, I'm sorry.

CHAIRPERSON GIACOMINI: Yes, for the record --

SECRETARY ELLOR: Oh, okay. All right. Very important.

CHAIRPERSON GIACOMINI: -- please refer to the actual document.

SECRETARY ELLOR: Okay. Yes, I did. I just can't read, Dan. Okay.

CHAIRPERSON GIACOMINI: That's why I asked them to please refer to the document.

SECRETARY ELLOR: Okay.

CHAIRPERSON GIACOMINI: For all of our humanity involved.

SECRETARY ELLOR: Mulches:
Newspaper, other recycled paper or plastic mulching covers. Although, no. Actually, no. We sent those back for TR because of new advances in inks and coatings and because of the nanotechnology. So, no, I should not have read those. Those should not be on our list. Yes.

And the plastic mulching covers we sent back to look at alternatives. That's not on our voting docket for this morning.

CHAIRPERSON GIACOMINI: Thank you. As we said, please refer to the document.

SECRETARY ELLOR: Okay.

CHAIRPERSON GIACOMINI: Was our motion there or do you still need make a motion?

SECRETARY ELLOR: So, I would like to make a motion that we -- oh no. Not yet. Yes. I would like to make a motion that we accept for relisting those materials that I just listed for 205.601 that they are accepted as allowed for use in organic crop
production.

So I made the motion.

MR. MOYER: I'll second that motion.

SECRETARY ELLOR: Is there any--

CHAIRPERSON GIACOMINI: The motion has been made and seconded to accept the list of substances for relisting on Section 601.

Madam Maker of the motion, do you have any further comments?

SECRETARY ELLOR: I do not.

CHAIRPERSON GIACOMINI: Any further debate? Steve?

MR. DeMURI: Just a question of clarification. The votes that I see up there on the board apply to all those items? It was unanimous, basically, for everything?

SECRETARY ELLOR: It was unanimous, yes.

CHAIRPERSON GIACOMINI: Further debate? Seeing none, proceed to vote.

For the new members, the process
that we proceed through is we start at one end of the table for the first vote and we go around the table, we proceed in that same fashion moving one person each vote for the starting person. So, the first vote is now Annette.

MS. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: Joe.

CHAIRPERSON GIACOMINI: John?
Mr. Foster: Yes.

Chairperson Giacomin: Steve?

Mr. DeMuri: Yes.

Chairperson Giacomin: Katrina?

Ms. Heinze: Yes.

Chairperson Giacomin: Joe Dickson?

Mr. Dickson: Yes.

Chairperson Giacomin: Barry?

Mr. Flamm: Yes.

Joe votes yes.

Motion passes, 14 zero.

Any conflict of interest? I will get this by the last one. Any conflicts on that that we would need to reconsider this vote? Okay.

Motion passes.

Secretary Ellor: The next one on our agenda are the 2012 Sunset Recommendations for 205.601: Non-synthetic Substances Prohibited for Use in Organic Corp Production.

And the Committee voted again

Neal R. Gross & Co., Inc.
202-234-4433
unanimously on this particular category to
relist as prohibited for use in organic
agriculture: Ash for manure burning, arsenic,
lead salts, potassium chloride, sodium
fluoaluminate, strychnine and tobacco dust.

So I would like to make a motion
that we maintain those prohibitions on the
list.

Did I say that correctly.

CHAIRPERSON GIACOMINI: The way
you said it.

SECRETARY ELLOR: Okay.

VICE-CHAIRPERSON MIEDEMA: Second.

CHAIRPERSON GIACOMINI: Motion has
been made and seconded to relist the items in
the recommendation to maintain those
prohibitions on the list for 601.

Maker of the motion, do you have
any further comment?

SECRETARY ELLOR: No, I do not.

CHAIRPERSON GIACOMINI: Any

further debate? Seeing none, we'll proceed to
vote.

Conflicts? I wrote it down right there. Thank you. Conflicts?

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.
CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: The Chair votes yes.

One absent, zero no's, 14 yes.

Motion passes.

SECRETARY ELLOR: The next item on our agenda are the List 4 inerts in pesticides, that document, and I'm going to turn this over to Jeff.

MR. MOYER: Sorry. I was looking on livestock.

Okay. Do you have the document up? Thank you.

Okay. A document that we had a
lot of discussion on yesterday, the mechanism
to handle the Sunset of List 4 and List 3
inerts as they appear in our standard.

While Valerie brings that up, we
did have the opportunity to meet briefly with
the program last evening. And taking into
consideration the discussion we had yesterday,
we did make some changes to the list for
inerts document which we think are quite
substantive, but still heading in the same
direction we were heading yesterday. So we
haven't changed our overall goals and
objectives.

You'll see there that we added to
the sentence about creating a memorandum of
understanding with the EPA. We added another
sentence to the end of that that says "This
MOU should serve as a platform for an
implementation strategy that may include an
official task force or some other structure to
achieve the following objectives."

So the idea would be that there
would still be the creation of a memorandum of understanding between the Program EPA and this Board, so all three of us would work together in a triumvirate fashion bring industry into the process as needed to make sure that we get everything right as we go through this process.

We have not changed the overall strategy or the objectives for that task force, or whatever structure the Program deems would be most beneficial to the process. So we included that sentence in there.

Moving down -- question?

MR. SMILLIE: Yes. This may be a minor point, but the official task force, I just want to probe into that. We've done this in the past and there's been a differentiation between task force and working group.

MR. MOYER: That's right.

MR. SMILLIE: Working group is formally assembled and certain people are invited. It's not necessarily inclusive of
everyone.

I just want to make sure that when we structure this task force that it is open to all sectors to be involved.

MR. MOYER: Yes. My understanding in the discussion with the Program, and if Arthur wants to comment here or jump in that's fine. We were leaving the actual title of that working group/task force a little bit open. We used the word "task force" since it came from the program yesterday in this discussion, but it's really a working group, task force, whatever you want to call it, that's officially organized under this memorandum of understanding with these targeted objectives. And at that point we're assuming in the MOU there will be a timeline and the time frame for which this to operate.

We have seen working groups go on for seven years; that's not the time frame we're hoping this takes. But that'll all be worked out in the Memorandum of Understanding,
which is really the platform that encompasses this process.

CHAIRPERSON GIACOMINI: It does say official task force or other structure.

MR. MOYER: Right. Or other structure.

MR. SMILLIE: Right. I'm not arguing with the wording. I want clarification on it.

So the MOU is the trigger to create the official working group?

MR. MOYER: That's correct.

MR. SMILLIE: So the MOU is established first --

MR. MOYER: That's correct.

MR. SMILLIE: -- between the three parties?

MR. MOYER: That's correct.

MR. SMILLIE: Okay.

MR. MOYER: Thank you, Joe, for the opportunity to clarify that.

Moving down in the document,
paragraph 1 or objective 1 we did not change.

That was the objective that working with the EPA to split the list into the naturals or the non-synthetics and the synthetics.

Moving into objective 2, paragraph 2 there. We did at the recommendation of this Board remove or suggesting that we remove what's highlighted in yellow there; at least yellow on my computer. Green on the wall.

We took out any reference to specific days for implementation. So we were suggesting we take out the 180 days of posting and replace it with a phrase that says "An established time frame" giving the task force for other structure under that MOU the opportunity to create that established time frame. We're not doing it with this document.

A little hard to see up there. On my computer, unfortunately or fortunately for me, it shows up in red.

But the words right before "180 days of posting," it says "an established time
frame." That piece is new. That's the replacement and we're suggesting we strike the "180 days of posting." Again, based on comments that we got from this Board yesterday in our discussion.

Moving down to paragraph 3, objective 3 there. We did the same thing with this paragraph. Again, at the end where it says "1 year," we replaced that with the word "designated." So "there will be designed grace period" but we are not determining that with this document. It could be one year, it could 18 months; I don't know what it'll be. Again, the task force operating under that MOU will determine that.

Objective 4, again removing any reference to time period, we're suggesting we remove both references to the 6 month time period, one for reformulation and one a grace period and replace those with the same verbiage that we used in the previous paragraphs. The one saying "an established
time period" in 2.

I don't know if you can capture

that, Valerie. Yes, perfect.

The gray area would be the
replacement language, the green would be
stricken from the document.

And then at the end there
"designed" again would replace the text that
says "6 months."

Paragraph and objective 5. This
one we did not change the language, but what
our intention to do with this paragraph is
basically we cannot delete "EPA List 4 and EPA
List 3" as they're shown in the standard or it
would Sunset and we would lose all these
materials. So we didn't formulate the
language there and we're hoping we can do that
in a brief discussion here to make sure that
those materials do not come off the list
while this process takes place. Otherwise,
they would Sunset.

So whether we vote to relist
these, I guess that would be the official terminology, we have to utilize vote to relist. So a vote for this document would be to basically to relist those two categories in the rule so that we don't lose them in the interim where the original language there says to "delete them." So we got to change that language. Just so you know what you're voting for.

Objective 6. And this one, again, was totally rewritten based on the -- so if you can highlight all of number --

CHAIRPERSON GIACOMINI: That should be a six, not a five.

MR. MOYER: That should be a six, yes.

We're replacing six -- five with language to relist. Okay. Okay.

And I'm going to read all of six because we changed it completely from yesterday.

As you recall, yesterday the
language said to list each item individually in the rule and to put them under Sunset.

Here what we're doing is we're giving ourselves some options. One of the options is to list them as individual items, but I'll just read it as its stated here. And this was late at night, like 11:00 at night. So if I get things wrong, I'm sure you'll correct me.

"Based on the results of the MOU established task force, the National Organics Standards Board will either list the specific inert ingredient components recommended for inclusion on 205.601 and by the NOSB subject to the current Sunset process, or post the list as a single material listing as a subset list managed by the EPA under" -- and the title that we talked about was List of Inerts Suitable for Organic Production. No matter how we list it in our rule, this document is suggesting that whichever listing format we utilize, the materials will be subject to the
Sunset process already established under National Organic Standards Board policy manual.

So each of these materials would still fall under the Sunset process, no matter how we list them.

We could choose, or the task force recommend that we list them as a subset of 40 CFR 180, which the EPA would us manage under the title "List of Inerts Suitable for Organic Production," which is a totally separate list from what they manage today. And, again, that was based on the discussion we had yesterday.

Madam Chairman, back to you.

SECRETARY ELLOR: I do have one little bit of confusion. On item 5 we're going to delete item 5 completely? Yes, that's what I'm curious about.

And a vote for this would leave it open for us to relist on the November meeting. Because that item we decided to defer until the November meeting. So I think essentially
that's what we would be doing.

MR. MOYER: That's fine. I'm comfortable with that. I just highlighted the whole box and didn't relight it because I wasn't sure how you wanted to handle that or how the Committee wanted to handle that, or the Board.

SECRETARY ELLOR: Right.

MR. MOYER: But I did want to highlight it to make sure that we don't lose it.

I'm open to suggestions from anybody.

CHAIRPERSON GIACOMINI: Arthur?

MR. NEAL: Good morning.

This is my perspective of the recommendation.

To me the most critical part of the recommendation would be the establishment of the MOU and the potential task force. The remaining pieces or items that are listed to me kind of express the Board's desire.
MR. MOYER: Correct.

MR. NEAL: Because our discussion and dialogue, that whole thing could change. So I really wouldn't spend a lot of time debating those things. It just may be the Board, you know has a desire to see these types of things happen. Because I guarantee you it's going to change through the dialogue and discussion with one another, and with the industry and with the EPA.

MR. MOYER: Yes.

MR. NEAL: Because we don't really know what's the best way to list these inerts right now. So to prescribe, you know, the EPA inerts, I mean the Listing in 205.601 may not be the best to handle them or not. I think that all of this will get flushed out if you dialogue more about how to handle this issue. That's just my perspective on it.

MR. MOYER: Yes. I think based on our discussions, that's correct. However, we the Committee still thinks it's important that
we post these objectives because it's our perspective and point of view on how we -- we felt it was important for us to give guidance to the Program and the EPA on what we want them to work on and accomplish. So these are our Committee's objectives.

MR. NEAL: Right. And I don't disagree. And as I said earlier, I think it's the Board's desire to see something like this happen. And what I want to make sure that everybody understands, too, that it's a guide for us but it may not look anything like that after we all dialogue.

MR. MOYER: Yes. Sure. I understand that.

CHAIRPERSON GIACOMINI: We just need a quick decision within the Committee of what they want to do with that paragraph.

MR. MOYER: That's correct.

Madam Chairperson, Committee Chair?

SECRETARY ELLOR: Well, what I'm
not clear about, or to seems to me what are
the consequences if we leave it exactly as it
is? Because it's going to go through the
major objective first, which is the task
force. So for me it's a matter of timing.
Eventually these will come off the list.

MR. MOYER: Correct.

SECRETARY ELLOR: But, you know --
right?

MR. MOYER: Okay. I think what I
hear you saying, Tina, is that we could leave
it the way it is because that's one of our
objectives, but the reality is we're deferring
the inerts --

SECRETARY ELLOR: Right.

MR. MOYER: -- until November
where we will vote to relist them?

SECRETARY ELLOR: Right. So until
these processes --

MR. MOYER: Take place.

SECRETARY ELLOR: -- grind through
the process, we are going to continue. And
five years from now if this thing isn't complete, you know then the Board will have decide again whether to relist as it is. But I think that there won't be terrible consequences if we leave that just the way it is. And Arthur's --

MR. NEAL: No. Right now we kind of, we frozen what we had before time with the former EPA List 4 and List 3 designations that were approved by the Boar for use in organic agriculture.

MR. MOYER: Correct.

MR. NEAL: So right now we're okay. We're going to be working on this and dialoguing about it, though, to find out how we tackle the issue in the future.

MR. FELDMAN: Just a point of information.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: You raised the issue of frozen in time. We're frozen as the 2004 List but there have been additional inerts
approved since that time. So when we talk about "frozen about time," we have to reference what's happened since 2004.

CHAIRPERSON GIACOMINI: That's the question that I asked yesterday. Point 2 says "currently."

MR. FELDMAN: Right.

CHAIRPERSON GIACOMINI: Not the 2004 List.

MR. MOYER: No. It says the ones that are currently allowed. It doesn't say the current List. So it's the ones that are frozen in time.

CHAIRPERSON GIACOMINI: They're product ingredients currently listed.

MR. MOYER: Currently. Item number 2 it says "currently allowed." So it's not the current List.

CHAIRPERSON GIACOMINI: Okay.

MR. MOYER: It's the one that are currently allowed under our List --

CHAIRPERSON GIACOMINI: Okay.
MR. MOYER: -- which is frozen in
time.

CHAIRPERSON GIACOMINI: Okay.

Okay.

If there's no debate on the
language, Arthur or --

MR. NEAL: Well, one point of
clarification on the things that have been
reclassified. Those inerts that have been
reclassified, just like prior to EPA's
reclassification, you know those inerts that
wanted to be included on the National List
that there were not an EPA List for, they had
to be petitioned.

MR. MOYER: That's correct.

MR. NEAL: And that process is
still the same. It hasn't changed. Yes,
they've been reclassified, but at the same
time EPA's definitions have not remained the
same regarding inerts. So what we've done is
that we've said that if anybody wants to have
a reclassified material add on a National
List, they would petition to have those included until we work out this new process in terms of accessing what the Program is now going to allow based on the reclassification of EPA inert ingredients.

MR. MOYER: That's the way I view this, Arthur. And what we're suggesting in these objectives is that moving forward, this Board sees all the materials that gets added to that list, whether the EPA manages it or, whatever the Task Force decides; we still review those materials because that's our obligation as Jay read yesterday in OFPA. And they would fall then under our Sunset process as individual items, not as the List in whole.

CHAIRPERSON GIACOMINI: Miles?

MR. McEVOY: That's what the current policy says.

MR. MOYER: Yes.

MR. McEVOY: Any additional materials have to be gone through the petition process, you would have full review of those
in deciding in whether to add them to the List.

MR. MOYER: Correct.

MR. McEVOY: And this is pretty clear on the website under policy 5008. So I think we're pretty solid on this one.

CHAIRPERSON GIACOMINI: Valerie?

MS. FRANCES: I just want a clarification. Did I hear a subtext kind of going on in the conversation regarding the List of materials that have not made it on the 2004 EPA List of Materials formally but were allowed for use? I don't know if that's clear from this discussions, but I sort of hear that.

MR. MOYER: Your question, I think, is less clear to me than my answer might be. So I'm not sure what you're looking for.

MS. FRANCES: There is the List for Materials --

MR. MOYER: Right.
MS. FRANCES: -- that the EPA had allowed for use that were not in that sort of link on that we have in the Appendix --

MR. MOYER: Correct.

MS. FRANCES: -- in the document that we then excluded by way of policy.

MR. MOYER: Correct.

MS. FRANCES: So I'm making sure what are you doing with that list?

MR. MOYER: Nothing. It stands as is; it's frozen in time. Any new materials have to be petitioned.

MS. FRANCES: Okay.

MR. MOYER: And that's what our language here says as well, moving forward any new materials have to be petitioned.

MR. NEAL: And, just those reclassified substances or as we dialogue about them through the task force processing, that may be some of the things that we talk about.

MR. MOYER: Sure.
Katrina's been waiting.

CHAIRPERSON GIACOMINI: Okay.

Jennifer?

MR. HALL: Okay.

CHAIRPERSON GIACOMINI: Okay.

Jay?

MR. FELDMAN: Yes. I just want to make sure that we capture that list you're referencing, Valerie, that conforms to the criteria of the previous list for, the frozen static list in time. And that the NOP is aware of what those ingredients are and that we don't inadvertently disallow those if they are in conformance with the previous list for while we're going through this task force process.

And the other issue is as things come up, prior to full disclosure and, you know dispensing with the CBI issues around inerts, once we have this policy in place how will we as a Board evaluate those ingredients, the inerts, outside the context of their use.
patterns and the products they're in? How will we as a Board be able to do that?

MR. NEAL: I guess the question is why would you want to evaluate them outside their use pattern?

MR. FELDMAN: We wouldn't, but they're CBI currently. You made the comment that they would come before the Board through the approval process and be petitioned. But if they're not attached to a specific product, how would we as a Board know what we are approving?

MR. NEAL: Well, this is my take.

MR. FELDMAN: Okay.

MR. NEAL: If someone is petitioning a substance, an inert substance, and they want it to be used in organic agriculture production and the Board can't make a determination on its use because you don't have enough information, how can you then make a clear determination as to whether or not it could be allowed? So it comes to a
point of, you know if the petitioner wants
their substance allowed, they're going to have
to provide enough information that the Board
can make an intelligible decision that proves
the applicable criteria.

MR. FELDMAN: Okay.

MR. NEAL: That's my take on it.

And we have to be reasonable with respect to
the sharing of the information.

MR. MOYER: Katrina's been --
CHAIRPERSON GIACOMINI: Katrina.

MR. MOYER: Thank you.

MS. HEINZE: I have a procedural
question. Are we in Committee discussion or
Board discussion?

MR. MOYER: We're in Board
discussion.

CHAIRPERSON GIACOMINI: Committee
discussion.

MR. MOYER: No.

MS. HEINZE: Committee discussion?

CHAIRPERSON GIACOMINI: Motion has
not been made presenting to this to the Board. This is --

MS. HEINZE: So the rest of us are just hanging?

CHAIRPERSON GIACOMINI: You can participate, but this is officially Committee discussion.

MS. HEINZE: Okay. Can I ask a question then?

MR. MOYER: Committee invites you to participate.

MS. HEINZE: Thank you. Okay. So here's my understanding of the list for EPA's List for Inerts. That after 2004 they stopped maintaining the list, is that correct?

MR. MOYER: Correct. That is correct.

MS. HEINZE: Okay. Since then -

MR. MOYER: Clarification. They changed their designation and they still manage the list. This list is in their hands but frozen in time.
MS. HEINZE: Gotcha. So this List for Inerts as it exists and as we use it is frozen as of 2004?

MR. MOYER: Yes.

MS. HEINZE: Okay. Since then there are materials that are on that list --

MR. MOYER: Yes.

MS. HEINZE: -- that EPA has reviewed and taken off the list?

MR. MOYER: That's correct. Eight of them.

MS. HEINZE: And there are materials that weren't on the list --

MR. MOYER: That is correct.

MS. HEINZE: -- that they have reviewed and approved through their process?

MR. MOYER: That is correct.

MS. HEINZE: Okay. So it seems that your recommendation can ignore the ones they've allowed because they're not on the list?

MR. MOYER: That is correct.
MS. HEINZE: So then, therefore, they're not allowed in organic?

MR. MOYER: That is correct.

MS. HEINZE: Okay.

MR. MOYER: Unless they petition them as individuals materials.

MS. HEINZE: Right. But for the purposes of this, we can ignore them unless the petitioner petitions and they get listed separately?

MR. MOYER: That is correct.

MS. HEINZE: Therefore, it seems like somewhere in your recommendation --

MR. MOYER: Yes.

MS. HEINZE: -- but I'll have a question after this, you need to do something with the ones that have been prohibited, otherwise they're still allowed with the listing?

MR. MOYER: No. My understanding is because of the way our rule is written, those eight were removed from the static list.
MS. HEINZE: Gotcha.

MR. MOYER: So we can remove, but we cannot add.

MS. HEINZE: Okay.

MR. MOYER: Removing is easy. We don't have to review the removal. But we would have to review --

MS. HEINZE: An addition?

MR. MOYER: Through a petition process, yes.

MS. HEINZE: Okay.

MR. MOYER: Yes.

MS. HEINZE: So then I have one final question. It seems that this recommendation is focused on how do we want to manage inerts going forward.

MR. MOYER: Yes.

MS. HEINZE: And it's perhaps separate from what to do with the Sunset in the interim?

MR. MOYER: That is correct. And that was the point of discussion on item 5.
I want to make sure we handled that in the
most proper manner. But since this is a
document that's going to go into the hands of
the task force, we can leave it as is because
our goal is to do this. We're going to have
to do it anyway.

MS. HEINZE: Okay.

MR. MOYER: But as Tina mentioned, we are deferring the vote today on EPA List
3--

MS. HEINZE: On Sunset.

MR. MOYER: -- or on Sunset until the November meeting in which place -- unless
this all gets done between now and then, we will vote to relist.

MS. HEINZE: I understand.

Then a final question. We didn't spend that much time at the language right at
the time where it talks about MOU.

MR. MOYER: Yes.

MS. HEINZE: If as a Committee you could look at that again and just make sure
that it's clear that 1 through 5 or 6 are
goals but not requirements.

MR. MOYER: I don't think we
stated in that MOU specifically that either
one of those was the case.

MS. HEINZE: I just didn't have a
chance to see how that might be --

MR. MOYER: We're just saying
that, if you look at the next down, we're
calling this a recommendation. So these six
items are our Committee's recommendation to
the MOU established group.

MS. HEINZE: I guess the question
is would the NOP see those as requirements --

MR. MOYER: No.

MS. HEINZE: -- or desires?

MR. MOYER: My understanding from
our conversations yesterday is that these are
our originally Committee and as soon as we
vote on these, the Board recommendation to
them and to this MOU created group, committee,
task force.
MS. HEINZE: I'm just keeping some of our discussion on classification. You know, and the recommendation can have a lot of different meanings.

MR. MOYER: Yes.

MS. HEINZE: So if the recommendation is thou shalt versus we would like you to consider, I don't know if we need to use different words or not.

MR. MOYER: I don't think we have to. I mean, our discussion again and what Arthur was saying is this is to give direction to the MOU and to the Program.

Arthur?

MR. NEAL: Yes. Oh, go ahead, Miles.

MR. McEVOY: Yes. This, you are making a recommendation to the Program and the Program will take a look at it and respond back.

MR. MOYER: Yes.

MR. McEVOY: So you have specific
objectives that you're outlining here that
you'd like to see in the agreement in our work
with EPA, and we'll take a look at that and
we'll get back to you.

So I think it's clear that this is
a recommendation of your intent. And I think
it'll work.

MR. MOYER: And we got word from
the Program yesterday that they would expedite
this in a timely fashion, as Arthur said that
the MOU should not take long to write and get
this. Now how long it takes the task force to
work, or whatever you call it, we don't know.

CHAIRPERSON GIACOMINI: Okay. I
think we've moved from the discussion of the
things you would like to change in the
Committee structure into Board discussion.

I'd like to entertain the motion
so that if there's any further debate, it
really is Board debate if you're done making
all your little amendment changes.

MR. MOYER: I am, Mr. Secretary,
thank you. The little changes were made.

And I make a motion that we accept

this document as written.

MR. FELDMAN: I second.

MR. MOYER: And now it's yours,

Mr. Chairman.

CHAIRPERSON GIACOMINI: Okay.

Motion has been made, properly made by Jeff.

Seconded by Jay to accept this document.

You have first discussion, maker

of the motion. Did you have any further

debate?

MR. MOYER: I do not.

CHAIRPERSON GIACOMINI: Okay.

Joe?

MR. MOYER: Prepared to answer

questions.

MR. SMILLIE: Yes. But we're

voting on this package.

MR. MOYER: That's correct.

MR. SMILLIE: What is being

deferred until the November meeting?
MR. MOYER: Okay. Good question, Joe. Just to clarify that, what's being deferred you'll see when we get to our materials vote, we are deferring the Sunset item of EPA List 4 Inerts of Minimal Concern, EPA List 3 Inerts of Unknown Toxicity Allowed until the fall meeting. So the vote on that as a Sunset item is being deferred. What we're voting on here and the reason for this to be included is, as one of the objectives we're going to have to strike this eventually from our document because they no longer exist. So one of the processes that will be what happens.

MR. SMILLIE: I got it.

MR. MOYER: Thank you for that opportunity.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes, and just to make that clear. In Committee we had already decided not to act on the inerts Sunset at this meeting. We decided as a Committee in
our Committee deliberations to act on that,
along with a lot of others, at the fall
meeting so that we could have this discussion
before we decided on what to do with that
particular Sunset.

So we've already been through all
the material votes, and that was not part of
our Sunset vote for this meeting. But you'll
see it --

MR. MOYER: You'll see that if you
look at your other documents and you go
further along, you'll see that List 3 Inerts
was deferred. The only way that that will
change in fall is if the Program gets the MOU,
EPA they work out all the details with the
task force before November and we know what's
going to happen, so you know the chances of
that.

CHAIRPERSON GIACOMINI: Well, we
could also extend into spring.

MR. MOYER: You could.

CHAIRPERSON GIACOMINI: I don't
know the exact date on this, but most of these
could allow us -- we generally allow three
meetings to try and accomplish all of our
Sunsets.

So, Steve?

MR. DeMURI: So has the Committee
voted on the reworked recommendation?

MR. MOYER: Yes. The Committee
voted this morning on this recommendation and
anonymously approved it.

MR. SMILLIE: Okay. Good. It's not
listed on the bottom of the recommendation.

MR. MOYER: No, we didn't change
that. That was the original Committee vote.
But we did vote on it this morning and it was
unanimous. We had one absent.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Jeff, would you be kind
enough to restate the motion?

MR. MOYER: Sure. The motion is
to accept the document on the changes on the
status of List 4 and List 3 Inerts as posted.
CHAIRPERSON GIACOMINI: Further debate of questions?

I would just like to add that as we've added the initiation of this group, task force, whatever, I just want to make sure we have it in the record that that group needs to be as inclusive as possible. It needs to include the crop side, it needed to include the farmer. This will also have implication on livestock. And from what I understand on the processing side in handling, when they're dealing with their pest issues they generally look to 601, if that's correct. So everybody needs to be involved and we want to ask that we make sure that we are extremely inclusive in that endeavor.

Further debate? Katrina?

MS. HEINZE: I'm still confused. Are we having Board debate or Committee debate?

MR. MOYER: Board.

CHAIRPERSON GIACOMINI: Board.
MS. HEINZE: Okay. Could we scroll through the document one more time?

MR. MOYER: Is there a place you want to stop?

MS. HEINZE: Yes. The MOU part.

Okay.

Valerie, can you go back to that MOU part? And you scroll faster than I can read. Okay. You can scroll. Thank you. Can you scroll? Okay. Thank you.

MR. MOYER: Except for the time designation changes, you have the document on your desk pretty much intact, except for that language with the MOU. And we did change 6 dramatically.

MS. HEINZE: And then is 5 in or out?

MR. MOYER: Five is staying in.

MS. HEINZE: Okay.

MR. MOYER: As part of this document, yes.

MS. HEINZE: Thank you.
CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: At the risk of bloviating here, I have to say, to have to put on public record that the work that Jeff and Jay, and the EPA in the Program and the consideration put into this document has been extraordinary. And I think that this is not just a, whatever, better getting in the way of best or whatever. This is a great document. And I just wanted to say thank you.

MR. MOYER: We learned a lot, right Jay?

CHAIRPERSON GIACOMINI: Okay. Also finally before we move to vote, I just want to say that in response to some of the way the discussion was being -- some of the words used yesterday in talking about whether things would be added to the list, what we're all considering here is taking a single line existing in the list and expanding it to all the things that are included. Nothing would be added to the list. If anything, even if we
added -- even if we included all the items
that we want, it would be a reduction in the
number of allowed substances currently
allowed.

So, this is going to end up being
a reduction in the number of substances
allowed in organic production and processing.
And it is not adding anything to the list.
There may be -- if there's 800 on this list,
there could be 1600 items listed in the list,
it is not adding a single item. So I just
want to be very clear on that.

MR. MOYER:  Thank you, Dan, for
that clarification. I can't tell you how
important it is for the folks in the audience
to carry that message back to the world that
we are working diligently to reduce the number
of materials that are allowed in organic
production, and this goes a long way to doing
that. Thank you.

CHAIRPERSON GIACOMINI:  Okay. Are
we ready for the question?
Okay. For the vote for accepting the recommendation document from the Crops Committee regarding List 4 and List 3 Inerts beginning with Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: No.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?
MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: The Chair votes yes.

And was there any conflict of interest? Seeing none, we will keep the count.

One no, one absent, 13 yes.

Could you track these with us? No conflict of interest.

Motion passes.

One more for Crops.

SECRETARY ELLOR: Thank you, Mr. Chairman.
The last we have on our workplan for Crops is the Production Standards for Terrestrial Plants and Containers and Enclosures.

And I would like to make a motion that we accept this document as up on the board with the changes that we made. We haven't made any changes since discussion yesterday. So it's the --

CHAIRPERSON GIACOMINI: What presented yesterday?

SECRETARY ELLOR: It was what was presented yesterday. So I would like to make that motion.

MR. MOYER: I'll second that motion.

CHAIRPERSON GIACOMINI: It's been moved and seconded to accept the document on the Production Standards for Terrestrial Plants and Containers and Enclosures presented by the Crops Committee, and properly seconded.

Madam maker of the motion, do you
have any further debate?

SECRETARY ELLOR: I do not.

CHAIRPERSON GIACOMINI: Any further debate on this matter? Seeing none, we'll proceed to vote.

Is there any conflict of interest? Any conflict of interest? Any further debate? I'll do it one more time.

Joe?

MR. SMILLIE: Once again, one of the criticisms of the document is not the intent of the document, or even some of the substance. But it's like the multiple points that the document is trying to make. I'd just like to ask you to just go through because it's kind of scattered. So could you, Tina, just summarize the document as the points of principle of your intent? If you know what I mean.

SECRETARY ELLOR: I do.

MR. SMILLIE: Okay.

SECRETARY ELLOR: And I think that
John expressed some of these concerns in Committee.

And essentially it came about, I think, as Jerry explained yesterday because of the Equivalency Agreement with Canada was part of it, and the very strong public sentiment that hydroponics and aeroponics should not be allowed in organics. So we're covering that issue in this document.

And we were asked by the Program to set forth some standards for container grown greenhouse, you know, enclosure.

And this document has been through now at least three groups of public opinion and we responded to every bunch of public. But I know that I sat in meetings in 2000 where this was in discussion. So essentially, you know through all the public comment and all the mutations of the Committees, which of course and have a great deal changeover, this is the document that we came up with.

And I know that there is some
concern about that it being overly
prescriptive. And we had comments on both
sides of that. That, you know, people wanted
to really tighten it down even more. And then
we had pretty clear comments it was over
prescriptive.

We kind of figured that would
shake out in rulemaking and that there's
further opportunity for work, you know, within
the community on this document. So this is
sort of, you know, our best effort after all
of that input and time.

MR. SMILLIE: So it clarifies our
stand on aeroponics or hydroponics, number
one?

SECRETARY ELLOR: Yes.

MR. SMILLIE: It creates a format
that will be a longer discussion, really, in
rulemaking on what constitutes container
growing? I hesitate to call it pot growing,
so we'll call it container. Couldn't resist
it.
And number --

MR. MOYER: You didn't hesitate too long, Joe.

CHAIRPERSON GIACOMINI: We'd have to transfer the document to the Joint Committee in order to do that.

MR. SMILLIE: I knew you were going to do it. I thought I'd get it before you, but you beat me to it. It's definitely a Joint Committee discussion.

But no, seriously. So the second objective is there and it does correct the allowance for sprouts? So these are the three take homes I have when I vote yes on this document?

SECRETARY ELLOR: Yes.

MR. SMILLIE: Okay.

SECRETARY ELLOR: Thank you for that clarification.

MR. SMILLIE: Thank you.

MR. MOYER: That's correct. But it further outlines some of the objectives within
those three --

MR. SMILLIE: Right.

MR. MOYER: Like split operations and all those things --

MR. SMILLIE: Yes.

MR. MOYER: -- that will need to be flushed out.

MR. SMILLIE: Right. Okay.

CHAIRPERSON GIACOMINI: Further debate? John?

MR. FOSTER: Just very briefly. If the intent was to address hydroponics in Canadian, then that's what it should be about, right. I think this is reaching much farther than that in a way that can be improved with further discussion.

CHAIRPERSON GIACOMINI: Okay.

Further debate? Katrina?

MS. HEINZE: Hey, John, could you elaborate on what you just said? I'm not sure what that means; what you're thinking.

MR. FOSTER: That if the main
intend was to address Canadian implementation
and its aversion to hydroponics, then calling
this Production Standards for Terrestrial
Plants in Containers and Enclosures I think
was drifting farther than it needed to. If it
wanted to be a prohibition of hydroponics,
that can actually be done very, very easily in
the context of existing crops production.

And I understand that the goals
were kind of amalgamated over time, and that's
very complicated particularly when Committee
members change over time. I totally get the
challenges that were in play. But to Joe's
question: What's the main point? If the main
point was hydroponics in Canada, that's very
discreet and I think this is not a discreet
solution.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: So do you object to
that content or do you just object that it all
got muddled together?

MR. FOSTER: A little bit of both.
MS. HEINZE: Are there specific things in the content to which you object?

MR. FOSTER: Not that I feel can be effectively dealt with in the context of this meeting. I think it's a long -- much longer discussion.

MS. HEINZE: Okay. Well they be addressed in their rulemaking process?

MR. FOSTER: I think they can be.

MS. HEINZE: Thank you.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes. And I'd just like to make clear it wasn't the main intent just to be compatible with Canada's thought on hydroponics. We had an overwhelming response from the public that they did not want organic hydroponics.

So however I feel about it personally, our community spoke loud and clear over many years on that issue.

CHAIRPERSON GIACOMINI: Other comments or questions? Seeing none.
Any conflict of interest?

Proceed to the vote.

Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy is absent for this motion.

Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: No.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.
CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: And Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: The Chair votes yes.

Two absent, one no, 12 yes.

Motion passes.

I'd ignore this but I think it's just too obvious to completely ignore it. Our Vice Chair is dealing with some personal issues at home that she's needing to be very close to her phone and making some phone calls. And we will just be -- respectfully accommodate whatever she absolutely needs to be handling. And Jay has agreed to help us make sure we get the votes right.

Are you finished?
SECRETARY ELLOR: That concludes the Corp Committee official business for this meeting. Thank you very much.

CHAIRPERSON GIACOMINI: Thank you.

Okay. We are currently ahead of schedule, so we've been looking for a place to slide something in. Miles has a presentation, please.

MR. McEVOY: We have some plaques for the new members. So thank you very much for your service. I don't know if you knew what you were getting yourselves into, but here you go. And you get a nice plaque to welcome you to the National Organics Standards Board. Thank you very, very much for your public service.

So there are plaques for Annette Riherd, Wendy Fulrider, Jay Feldman, John Foster and Joe Dickson.

So thank you very much. And here we go.

CHAIRPERSON GIACOMINI: Can the
new members please come up so that we can have
everybody getting their plaques and we can get
some pictures for you guys.

    We'll take a break after this.

MS. HEINZE: Welcome to the team.

CHAIRPERSON GIACOMINI: Thank you.

It's almost 9:15. Break until

9:30.

(Whereupon, at 9:14 a.m. the
above-entitled matter went off the record and
resumed at 9:35 a.m.)

CHAIRPERSON GIACOMINI: Okay.

We're back from break a few minutes late.

I realized in the middle of that
first session that while I had already checked
out of my room and I realized that I left
something in my room. So I had to run back
over to the hotel before my room got cleaned.

So we have an announcement here.

This evening from 6:30 until 11:00 there will
be post-NOSB meeting party to celebrate
another successful organic week. The dinner
dance will be in Sacramento. For details and
directions please see Katherine DiMatteo or
Bill Wolf.

I was asked if this would be
appropriate yesterday and I said we would only
announce it if everyone was invited.

Katrina, I'm going to finish
passing this around. Hopefully, I will have
a chance to look at this at the next break.

Okay. Anything else? Any other
housekeeping we need before we proceed further
with the voting part of our meeting?

All right. Next up is Livestock
Acting Chair Jeff Moyer.

MR. MOYER: Thank you, Mr.
Chairman. Again, standing in for Committee
Chairperson Kevin Engelbert. I would be amiss
if I didn't thank Kevin for all of his hard
work in pulling this together. It's a
privilege for stand in for Kevin on this at
this meeting and to conduct the voting.

Hopefully throughout the course of
this part of the discussion you'll hear
Kevin's voice in most of the things that we've
done.

Our first item of business, Mr.
Chairman, is the petition material methionine.
So I'd like to bring that up for discussion
here.

The Livestock Committee met
briefly yesterday and this morning to discuss
these documents, all the documents we're
looking at. And the methionine document we
have not made any suggested changes from
yesterday. So the document you see today in
front of as a Board for voting --

CHAIRPERSON GIACOMINI: Mr.
Chairman?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: The first
thing we need to do is vote on the petition
and then our recommendation.

MR. MOYER: That's correct. There
are two votes.
CHAIRPERSON GIACOMINI: Yes.

MR. MOYER: There will be two votes, that's what I was getting to.

CHAIRPERSON GIACOMINI: Okay.

MR. MOYER: The documents that you see in front of you are exactly as they were presented yesterday. There are two documents that we'll be voting on.

The first document is the petition from the Methionine Task Force, who again I want to thank them publicly for all the hard work that they've done throughout the course of this lengthy multi-year discussion.

The first document we'll be voting on is their petition. And then there's a possibility we'll be having a second vote based on the outcome of that vote.

CHAIRPERSON GIACOMINI: Make for the motion for that.

MR. MOYER: There's a question.

Proceed to the question.

CHAIRPERSON GIACOMINI: We'll need
to make two lines. We'll have a methionine petition line and a methionine LC recommendation line.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: Depending on the result of the first one.

MR. MOYER: It's on the outcome of the first one.

MR. MOYER: Mr. Chairman, the Committee's recommendation regarding the petition of methionine, and it was --

CHAIRPERSON GIACOMINI: To lists.

MR. MOYER: -- unanimous --

CHAIRPERSON GIACOMINI: But to list.

MR. MOYER: Right. The vote would be to list this material with the recommendation by the Livestock Committee at the rate of, and if you want I can read the exact petition. It's amending the annotation for synthetic methionine on the National List 205.603 to read: DL-Methionine, DL-Methionine
hydroxy analog and DL-Methionine hydroxy
analog calcium for use only in organic poultry
production until October 1, 2015 provided that
the total amount of synthetic methionine in
the diet remains below the following levels
calculated as an average pounds per ton of
1000 percent synthetic methionine in the diet
over the life of the bird.

Laying chickens 4 pounds, broiler
chickens 5 pounds, turkeys and other poultry
6 pounds.

I move that we -- I'm not sure how
to make my motion for this petition.

CHAIRPERSON GIACOMINI: We need to
accept the annotation change --

MR. MOYER: I move that we accept
the annotation change. Thank you.

CHAIRPERSON GIACOMINI: Second?

MR. HALL: Second.

CHAIRPERSON GIACOMINI: It's been
moved and seconded to accept the annotation
change as listed in the petition.
We'll get to debate in a minute.

I just want to take this minute to clarify especially for the new members and the audience, the way we've evolved in dealing with these issues with our Board and in Robert's Rules of Order the closest thing that we have found, and now with Jay's experience in parliamentary procedure maybe we can find something else. But the closest thing we've found to the petition process is the procedures in Robert's Rules of Order following submission of bylaw change. That is where recommendations are submitted from the public, which are then reviewed and analyzed by Committee and then presented in the form that they were originally presented to the Board for vote. That's the structure of what we're dealing with here.

So we list these in an affirmative vote.

The other reason we do that that's very pertinent to the Board is that OFPA calls
for all substantive action on this Board to be a two-thirds vote. So if something is to be listed, it requires a two-thirds vote.

In the essence of time a negative motion that fails does not list -- it's not just a simple majority. The motion to not list that fails, you could follow that up with a motion to list that would also fail. Because neither, if the vote was 8 to 7 on a 15 member Board, neither would pass.

The motion of importance is the motion to list. That is the substantive action that this Board needs to take. The alternative of a motion to not list passing doesn't accomplish anything, but could add time to the process.

So we're not meaning to appear to bait and switch. We're not meaning to appear deceptive. There's foundation in Robert's Rules of Order for the way we proceed. And for the expediting the work of this Board according to the votes that are required in
OFPA, this is the process that we proceed with.

So, this motion is to accept the recommendation of --

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: -- and the petition for the annotation change, the Committee's recommendation on that vote was to fail.

MR. MOYER: Thank you for that clarification.

MR. FLAMM: Thank you for the motion.

Any further debate?

MR. MOYER: No. I appreciate that clarification because it is confusing. That and three hour's sleep was why I wasn't sure how to make the motion. But I appreciate your help on that and clarification.

And the Committee's recommendation is to not approve that motion.

CHAIRPERSON GIACOMINI: Further
debate? Katrina?

MS. HEINZE: So I was thinking about this last night. I just want to make sure I'm clear on these points.

So the kind of historic aversion to methionine is not necessarily the material, but because its use compensates for production standards that we're not comfortable with.

But even what I heard yesterday was even with the right production standards it's possible the animal might not get enough methionine.

And then the other thing I heard was the material has a hard cut-off date in October. So if we don't do something at this meeting, there's no refining at all?

MR. MOYER: That's absolutely correct.

MS. HEINZE: Okay. There's a lot of natural alternatives in the works, but not for act over?

MR. MOYER: That's also correct.

MS. HEINZE: Okay. So as I
understand it, even with the right production standards, natural alternatives for methionine are still going to be necessary?

MR. MOYER: That's our understanding from the lengthy discussion and input from the public, and particularly the poultry produces, and the Methionine Task Force.

MS. HEINZE: So listing but with the step down, is that a way to encourage those natural alternatives?

MR. MOYER: Yes, but that's the second vote.

MS. HEINZE: I get that. Yes.

MR. MOYER: Okay.

MS. HEINZE: I wanted to make sure I was clear on this vote.

MR. MOYER: Yes. You have it exactly correct.

MS. HEINZE: Okay. Thank you.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: Again, I'm not sure
if it's proper to address the possible second vote, or probable second vote. But --

MR. MOYER: I'm fine with it.

MR. SMILLIE: You're fine with it?

Okay.

MR. MOYER: Yes.

MR. SMILLIE: I'd just like to explore why there wasn't a middle ground found between the petitioner and the Committee recommendation? I'd been lead to believe that there was going to be some middle ground on --

MR. MOYER: Let's do that part.

IF that's the amount that you want to do with the next vote, let's do that then.

MR. SMILLIE: Okay.

MR. MOYER: I thought your point was to discuss that in relationship to this.

CHAIRPERSON GIACOMINI: If this motion passes, we don't go to the second vote.

MR. MOYER: That's right.

MR. FELDMAN: I'm sorry. I got a little distracted during your questioning,
which was the exact question that I wanted to ask. So the first vote is on the --

CHAIRPERSON GIACOMINI: Jay.

Tina, please.

Go ahead.

SECRETARY ELLOR: Yes, I wanted to bring up something Jennifer brought up during the break and I thought it was a really good point that two no votes and methionine goes away, right? Am I correct?

MR. MOYER: That is correct. If you voted no on this first vote on the petition, and then also no on the Committee recommendation, October whatever the date is 2010 October 1st, it goes away. 2010, yes. It would go away.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Thanks. I'm fine.

CHAIRPERSON GIACOMINI: Further debate? Questions? Ready for the question? Katrina?

MS. HEINZE: So if you don't want
the industry to lose methionine --

   CHAIRPERSON GIACOMINI: You have

to vote for one of them.

   MS. HEINZE: But you also have to

   hope that the second one is going to pass,

   right?

   CHAIRPERSON GIACOMINI: Yes.

   MS. HEINZE: So if the second one

doesn't pass, is there an opportunity to come

   back and revisit?

   CHAIRPERSON GIACOMINI: There is

   always the potential motion to reconsider.

   MS. HEINZE: Okay. Thank you.

   CHAIRPERSON GIACOMINI: Further

   questions, comments?

   MR. MOYER: I would just mention,

Mr. Chairman, that the Committee did try to

   seek compromise between the many public

   comments that we heard regarding the idea that

   some folks want no methionine, some people say

   we need some. So when we get further down the

   road to address what Katrina had to do, there
was some discussion.

CHAIRPERSON GIACOMINI: Further debate? Question?

To accept the petition for annotation change on the listing of methionine. Jay?

MR. FELDMAN: No.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: No.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: No.

CHAIRPERSON GIACOMINI: I'm sorry.

Any conflict of interest? Hearing none, we'll proceed.

Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: No.

CHAIRPERSON GIACOMINI: Katrina?
MS. HEINZE: No.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: No.

CHAIRPERSON GIACOMINI: No. Barry?

MR. FLAMM: No.

CHAIRPERSON GIACOMINI: Annette?

MR. RIERD: No.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: No.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: No.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: No.

CHAIRPERSON GIACOMINI: The Chair votes no.

We have one absent, no abstain, no conflict. And two yes. I hate the way we do this. 12 no, 2 yes, 1 absent. Motion fails.

MR. MOYER: Next item, Mr. Chairman, is the recommendation from the
Livestock Committee on methionine, and I'll read the recommendation as proposed by the Committee, and I'll read the recommendation as proposed by the Committee.

The recommendation is amend 7 CFR 205.603(d)(1) as follows: DL-Methionine, DL-Methionine hydroxy analog and DL-Methionine hydroxy analog calcium for the use in organic poultry production until October 1, 2012 at the following maximum levels per ton of synthetic methionine in the feed ration.

Laying chickens, 4 pounds per ton, broiler chickens 5 pounds per tons, and turkey and all other poultry 6 pounds per ton.

After October 1, 2012 the following maximum levels per ton:

Laying and broiler chickens 2 pounds per ton, and turkeys and all other poultry 3 pounds per ton.

I make the motion that we accept this recommendation from the Livestock Committee.
SECRETARY ELLOR: Second.

CHAIRPERSON GIACOMINI: Second Tina.

Okay. It's been moved and seconded to accept the recommendation from the Livestock Committee in the listing of methionine.

Maker of the motion, do you have any further debate?

MR. MOYER: No, Mr. Chairman.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Thank you.

First of all, thank you to the Committee for an incredible -- incredibly important and good work on this.

I'm glad to hear you were thinking about it last night, Katrina. Because it kept me all night.

So I wanted to raise with four issues that I've been struggling with. And starting with the fact that I support a phased down and with the hope that this would become
a phase out. And so I'm looking for that in this Committee recommendation.

Number 2, it's hard for me, given that I view the Sunset process as needing repair, as agreeing to something that goes back into the Sunset process, which I understand to be the process here.

MR. MOYER: That's correct.

MR. FELDMAN: It's very difficult to get out of the Sunset process at this point. Now that may change, and my hope is it will change. Very difficult to re-annotate through the Sunset process. I know we can use the petition process to do that. So I'm troubled by the fact that we're not going from phase down to phase out.

As we heard, there is very promising research on the horizon. I think we as a Board need to do everything we can, especially -- and this is somewhat systemic or this is a systemic question for us as a Board. How do we create those proper incentives to go
from phase down to phase out rather than phase
down to evergreen without any real incentive
there for either changes in practices, changes
in breeds, changes in methodology of how we
view organic production in this arena.

So, my goal here is to not be
disruptive, but my goal here is to create the
proper incentives to get to where we want to
be. And I say that with utmost respect for
you, Wendy, and others that have so elegantly
articulated the need here. It's a catch-22
for me.

I also think we really need to
have a clear legal reading from the NOP on
what our authority is on this area. And I
think the Board, you know historically has
wanted to codify practices that are conceived
to be accepted practices of the industry. And
our role as a Board, I believe, is to
challenge those practices constantly and work
with industry to find -- you know, this is an
evolutionary process. We're always
transitioning to something better, hopefully. But I would ask the NOP to look at and give us, if possible, an assessment or an interpretation of 6517(c)(1)(b)(i) or little one, which is the exemption for prohibited substances in organic production and handling operations, and the categories of substances for which the NOSB is allowed to issue those exemptions for.

So, Mr. Chairman, I appreciate the work, I do. I don't want to be disruptive to organic productionists, and then I know the Board doesn't want to be in this arena. I think we need to know our legal standing here, and I was hoping we could do a phase down to phase out and put the burden back on the user community to relist at that point, rather than put the burden on the NOSB to find, which we will never find because we typically don't in my experience, to find that there is a problem and then be told that previous Boards have not found a problem, so why can we find a problem.
It's a catch-22.

So I would urge that this proposal be amended to be a phase down, as you propose to a phase out, which will shift the burden to the industry to come up with an alternative, or support.

This will -- this will I guarantee -- I mean I don't guarantee. But I suspect this will open the flood gates for research in this arena because they will know, the community will know we are serious about moving to a better day.

So thank you. And thank you again for your work on this. Appreciate it.

CHAIRPERSON GIACOMINI: Jeff, do you have a response?

MR. MOYER: I guess I'm trying to find out if in your comment there was a question to the Program that you would like addressed right now.

MR. FELDMAN: Well, I'm not sure.

MR. MOYER: Or is that -- I wasn't
sure what your question was. What is your question?

CHAIRPERSON GIACOMINI: I think part of that answer is in the fact that it keeps getting relisted and it's gone through Federal Register notice a number of times to do that.

MR. FELDMAN: Right.

CHAIRPERSON GIACOMINI: One of your issues addressed was an effort to pinch the industry to prompt further research. That was part of the basis for the original writing of this document to have an additional step down.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: The Committee felt that it took the step down process to take -- it would take too long.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: Because we'd have to give a couple of years at each step. They didn't like the length of time
that it was going to do.

Also, when you come in with the next amount of step down, it had no scientific basis for those amounts to be used. And it was felt that it was an effort to pinch, but we didn't have any of the basis to create those numbers.

So, that was some of the intent along the way of how we ended up. But the original idea of this, number one, is even though there is a certain part of the industry that wants methionine completely off the List, there's an even greater part of the industry that they don't want to have to deal with a repetition process everything two to four years. This puts it on Sunset, puts it in that process. We'll always have that to fall back on. But instead of just giving them methionine to use at the full amounts that anybody wants to, it does start putting some fences around it.

Jennifer?
MR. HALL: Jay, just a question.

Am I hearing part of your comments that potentially be a friendly amendment?

MR. FELDMAN: Yes.

MR. HALL: Okay. Do you want to suggest that?

MR. FELDMAN: Yes, I would. I like to propose that we amend this proposal to require a phase out at the end of the phase down period. And I don't know, I mean you can play with the wording on that.

CHAIRPERSON GIACOMINI: If we just go back the wording of how many years would you like the second phase to be?

MR. FELDMAN: Well, you had in there 2012, and what was your second time frame?

CHAIRPERSON GIACOMINI: Second time frame puts it on Sunset.

MR. MOYER: Right.

MR. FELDMAN: Right.

MR. MOYER: Which is five years.
MR. FELDMAN: I would like to go for the phase down and make that the phase out period will require a relisting at that point and see where we are with the research and whether we have made any progress.

CHAIRPERSON GIACOMINI: So you would like to add to the motion of adding that it --

MR. FELDMAN: I guess it's to phase down during the period from 2010 to 2012, at which point methionine would phase out.

MR. MOYER: Yes, the recommendation.

CHAIRPERSON GIACOMINI: Okay. So your motion would be use in organic poultry production until October 1, 2017? Or how many years? How many years? Two more years?

MR. FELDMAN: Two more years.

CHAIRPERSON GIACOMINI: Two more. So 2014. I'm trying to get this straight, folks.
MR. FELDMAN: Sorry.

CHAIRPERSON GIACOMINI: '15, '17, yes.

MR. MOYER: Well, '17 is what we-- if it's under Sunset, but I don't know what he's proposing.

CHAIRPERSON GIACOMINI: Well, he's asking for two more years.

MR. FELDMAN: No. I'm asking for two -- if we do nothing --

CHAIRPERSON GIACOMINI: Right.

MR. FELDMAN: -- this phases out when?

MR. MOYER: 2010.

MR. FELDMAN: 2010.

CHAIRPERSON GIACOMINI: Right.

MR. FELDMAN: So I'm saying two years beyond that, which is 2012.

CHAIRPERSON GIACOMINI: Well this recommendation puts the -- the recommendation is to put the first fence around their use until October 1, 2012.
MR. MOYER: And the rates standard for clarification are the rates that we asked for --

CHAIRPERSON GIACOMINI: For four, five and six as asked for by the petitioner.

MR. MOYER: Correct.

CHAIRPERSON GIACOMINI: Okay. The second step down after October 1, 2012, the following maximum levels per ton: Laying and broiler chicks 2 pounds per ton, turkey and all poultry -- I'm sorry. Laying and broiler chickens 2 pounds per ton, and turkeys and all other poultry 3 pounds per ton until October 1, 2015 --

MR. MOYER: Fifteen he said.

CHAIRPERSON GIACOMINI: You want three years?

MR. FELDMAN: Okay. So that's what I would suggest instead of a phase down a phase out at that second phase.

CHAIRPERSON GIACOMINI: Okay.

MR. FELDMAN: Okay.
CHAIRPERSON GIACOMINI: So the motion, if I'm allowed to paraphrase -- you're making it the form of a motion.

MR. FELDMAN: Yes, correct. Thank you.

CHAIRPERSON GIACOMINI: The motion is to amend the recommendation to add the words until October 1, 2015.

MR. FELDMAN: Right.

CHAIRPERSON GIACOMINI: Is there--

MR. MOYER: I think you have to add the word at which time it phases out to--

CHAIRPERSON GIACOMINI: No, we don't. By the expiration date that is a -- that's it.

MR. MOYER: That is an expiration date? Okay.

VICE-CHAIRPERSON MIEDEMA: Point of order. When we have a motion and it's been seconded and it's on the table, can we have a second motion?

MR. MOYER: You can have a motion
to amend. It's a motion to amend.

CHAIRPERSON GIACOMINI: It's a secondary motion to the primary.

VICE-CHAIRPERSON MIEDEMA: Okay.

So in both the original maker of the motion and the second would have to agree to this amendment.

MR. MOYER: That's correct.

That's what we're getting to now.

CHAIRPERSON GIACOMINI: For it to be friendly not to require a vote, it would be.

Jeff, maker of the motion, would you accept that amendment? Would you accept that --

MR. MOYER: He has a question.

MR. FELDMAN: Excuse me. I mean, I believe I can propose an amendment on which the Board can vote.

CHAIRPERSON GIACOMINI: Yes.

MR. FELDMAN: If Tracy wants to amend my motion, I would have to accept that
as a friendly motion.

CHAIRPERSON GIACOMINI: No. You weren't looking to amend anything Jay said, were you?

VICE-CHAIRPERSON MIEDEMA: No. I want to be able to vote on the motion that was --

MR. MOYER: No. But you have to first vote on my motion.

VICE-CHAIRPERSON MIEDEMA: -- the first motion?

CHAIRPERSON GIACOMINI: Right. Right.

MR. MOYER: But we first have to address his.

MS. HEINZE: We'll have to address my motion first.

CHAIRPERSON GIACOMINI: Okay.

MR. MOYER: Sorry.

CHAIRPERSON GIACOMINI: So we have the motion to amend.

MR. FELDMAN: I need a second,
though.

CHAIRPERSON GIACOMINI: Well, no.
If Jeff and Tina accept that as a friendly amendment, historical preference of the Board has been to absorb it into the motion.

MR. FELDMAN: Okay. Okay.

CHAIRPERSON GIACOMINI: Jeff, do you accept that?

MR. MOYER: I do not.

CHAIRPERSON GIACOMINI: Okay.

That answers that.

Do we have a second on the amendment?

MR. FLAMM: I'll second the amendment.

CHAIRPERSON GIACOMINI: Okay.

It's been moved and seconded to amend the main motion by adding the words until October 1, 2015, is that correct?

MR. FELDMAN: Correct.

CHAIRPERSON GIACOMINI: Okay. Any discussion on the amendment? Katrina?
No, I'm sorry. Maker of the motion, do you have any further discussion on this?

MR. FELDMAN: No.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: So I want to be clear. We're voting on the addition of the words until October 2, 2015?

CHAIRPERSON GIACOMINI: Yes.

MS. HEINZE: If we vote no, we go back to the original and vote yes it stays?

MR. FELDMAN: Correct.

CHAIRPERSON GIACOMINI: Yes.

Correct. Correct.

MR. FELDMAN: Just got all our member, we want to make sure everyone is clear on what they vote.

MR. MOYER: Correct. It's always better to be clear.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: I would just like to clarify with the Program that that wording
does actually establish an expiration?

MR. McEVOY: Yes. The wording is awkward.

MR. HALL: Yes.

MR. McEVOY: I think there is a lack of clarity in what you're proposing here. So I'm not exactly sure how you should word it, but so you're pretty much everything is in place and then on October 1, 2015 methionine is no longer allowed. I would add that. Until October 1, 2015, methionine comes off the list.

MR. MOYER: Thank you.

MR. FELDMAN: I think that needs to be there, yes.

CHAIRPERSON GIACOMINI: Okay. The current listing, if we could refer to that, is for use only in organic poultry production -- it finishes. For use in only in organic poultry production until October 1, 2010. We would be consistent with the current listing to add for use only in organic poultry
production and then finishing with October 1, 2015. That would be consistent with what it is now. Is that okay.

MR. McEVOY: The clarification is what is valid until October 1, 2015? Is it the annotation or is the substance? So I think that's why you have to clarify it.

MR. FELDMAN: That's it.

MR. NEAL: This is Arthur.

This is why annotations are so critical. The longer the annotation, the more susceptible it is to abuse. So you want to make sure that you're writing clearly and in short statements if possible, because you want people to be very clear in terms of what the expectation is. So the inclusion of so many dates in this annotation, you probably want to make sure that you break those up.

Don't know exactly how, I'm like Miles right now, because there's a lot we're trying in that annotation. But some additional thought just may want to be given
to communicating that annotation clearly so that it doesn't get twisted and provide an opportunity for somebody to exploit it.

MR. FELDMAN: I think we can add the phrase if you think this is appropriate, as of which date the use of methionine would phase out. Then there's no question of whether phasing -- expired. Then there's no question as to whether we're talking about the annotation or the product.

MR. McEVOY: Yes. I would use the term phase out.

MR. FELDMAN: Expired. Expired.

MR. McEVOY: But expired is much better. Yes.

MR. FELDMAN: Thank you.

And just again so the Board realizes here, I'm not suggesting that there wouldn't be a case that could be made for it's continued use at that point. But, again, it shifts the burden to the industry to show us that a product that no one it seemed -- even
those who use it, no one is that happy with it. That it gets a really rigorous review at that point.

CHAIRPERSON GIACOMINI: Yes. I'm just making a note here so I can --


CHAIRPERSON GIACOMINI: Okay.

MR. NEAL: Potentially putting a period at the end of the 3 pounds per ton, the last line and then just beginning a new sentence saying that on October 1, 2015 the use of methionine will expire. Instead of putting another comma there.

CHAIRPERSON GIACOMINI: Would that be acceptable to the maker of the motion? Okay.

Maker of the second? Barry, would that be acceptable to you?

Okay. So the amendment is to add the words at the end of the current
annotation. The new sentence, on October 1, 2015 the use of methionine in organic poultry production expires. Is that acceptable to both of you?

Berry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: So the maker of the motion and the maker and the second have accepted this. So this is now the amendment that we are discussing, addition of the sentence at the end of the current annotation, October 1, 2015 the use of methionine in organic poultry production expires.

Katrina?

MS. HEINZE: I think this is a very important discussion. I am concerned about exactly what wording we're voting on. I'm not sure that I'm ready to do this. I was going to suggest that perhaps we take a
breather on this. Let the folks really look
at the wording, and then we come back after
lunch and regroup on it do we really get the
wording right. Because what you're reading
doesn't match the screen and there's periods.
And I'd rather that we really get the working
right and then come back and really be able to
vote.

So I believe I make a motion to
defer. Is that the proper -- to pause?
What's my right thing to do here?

MR. FELDMAN: Mr. Chairman, I
would accept that as a friendly amendment.

CHAIRPERSON GIACOMINI: Well,
okay. Could you make the motion to table
until after lunch?

MS. HEINZE: I make a motion to
table until after lunch.

MR. HALL: Second.

CHAIRPERSON GIACOMINI: Second.

Okay. Help me out. Table two-
thirds or majority?
Majority? Okay. My parliamentary procedure advisor says majority.

Okay. I know it's debatable.

So it's been moved and seconded to table this until after lunch.

Those in favor aye.

(Chorus of ayes.)

CHAIRPERSON GIACOMINI: Opposed nay.

(Chorus of nays.)

CHAIRPERSON GIACOMINI: Okay. The Chair is unsure. We'll go with a voice vote? Joe? Joe first.

MR. SMILLIE: That's fine. We're talking about tabling the amendment, right?

CHAIRPERSON GIACOMINI: We're talking about tabling of the discussion for methionine at the point in time we are right now. We have a motion and an amendment.

Jay, did you have --

MR. FELDMAN: That's fine. Thank you.
CHAIRPERSON GIACOMINI: Okay.

MR. SMILLIE: I was curious as to why there's vote opposing it, the people that are opposing them or opposing this.

CHAIRPERSON GIACOMINI: The Chair was not sure, let's do a voice vote.

Barry, on the motion to table?

MR. FLAMM: Yes. I agree to table.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: No.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: No.

CHAIRPERSON GIACOMINI: Tracy?
Vice-Chairperson Miedema: No.

Chairperson Giacomin: Joe?

Mr. Smillie: No.

Chairperson Giacomin: John?

Mr. Foster: No.

Chairperson Giacomin: Steve?

Mr. DeMuri: Yes.

Chairperson Giacomin: Katrina?

Ms. Heinze: Yes.

Chairperson Giacomin: Joe Dickson?

Mr. Dickson: Yes.

Chairperson Giacomin: Chair votes yes.

So the results are five no, nine yes, the motion to table this discussion until after lunch passes.

Mr. Chairman, please proceed with your next item.

Mr. Moyer: Thank you, Mr. Chairman.

And the next item are the Sunset

Neal R. Gross & Co., Inc.
202-234-4433
substances on 205.603. It's a rather lengthy list. I will go through the list reading only the main materials, not all of the annotations as we go through them.

Under 205.603(a) disinfectants sanitizers and medial treatments as applicable. We have atropine, biologics - vaccines, butrophanol, chlorahexidine, electrolytes, flunixin.

And the Committee, as discussed yesterday, is setting aside furosemide, which was on our list yesterday but we're setting it aside deferring it to fall, the fall meeting. So, you know, you see it on your list. It is being deferred. We voted on that as a Committee.

Nitrogen peroxide, iodine, magnesium hydroxide, oxytocin, paraciticides, invermectin, peroxyacetic/peracetic acid, phosphoric acid, poloxalene, tolazoline, xylazine, and that completes that list.

We're also adding under 205.603(b)
topical treatment, external parasiticide or local anesthetic, iodine, lidocaine, lime hydrated, mineral oil, procaine, sucrose octanoate esters.

And then under 205.603(d) as feed additives we have trace minerals and vitamins. And under 205.603(f) excipients.

I make a motion that we approve that recommendation.

SECRETARY ELLOR: Second.

CHAIRPERSON GIACOMINI: Motion made by Jeff. Seconded by Tina to accept the Committee's recommendation on 603. Been properly seconded.

That is the statement of the motion, and that includes the withdrawal of the one item no longer being in that list, which is not part of the motion itself but just making sure we all recognize that.

Maker of the motion, do you have any debate?

MR. MOYER: I do not.
CHAIRPERSON GIACOMINI: Any further debate, questions on this topic from the Board? Ready for the question? Okay.

For the relisting of the 603 items as recommended by the Livestock Committee.

Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.
CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Any conflicts of interest?

MR. MOYER: You didn't vote.

CHAIRPERSON GIACOMINI: I know.

No, I haven't yet.

Any conflicts of interest?

MR. MOYER: No.

CHAIRPERSON GIACOMINI: Okay.

Seeing none.

Chair votes yes.
One absent, zero no's, 14 yes.

Motion passes.

Next one, Mr. Livestock Chairman.

MR. MOYER: Thank you, Mr. Chairman.

The next item on the Livestock Committee's voting schedule is section 205-604 materials. These are non-synthetic substances prohibited from use in livestock production. We have one material in this category under section (a) strychnine.

The Committee's recommendation is that we continue to not allow strychnine to be used in organic production.

I make a motion that we accept the Committee's recommendation

MR. HALL: Second.

CHAIRPERSON GIACOMINI: Okay. Mr. Chairman, could you please rephrase that as accepting the motion to relist?

MR. MOYER: Yes. I make a motion that we accept the Committee's recommendation
to relist this material.

CHAIRPERSON GIACOMINI: Thank you.

Been moved and seconded. Jeff moving, Jennifer seconding to accept the Committee's recommendation to relist the substance in 604.

Maker of the motion, do you have any further debate? Jeff?

MR. MOYER: No, I do not.

CHAIRPERSON GIACOMINI: Any other further debate on this topic? Seeing none, proceed to vote.

Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.
CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Conflict of interest? I'm going to get this before the last round.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.
CHAIRPERSON GIACOMINI: Chair

votes yes.

One absent, zero no, 14 yes.

Motion passes.

Mr. Chairman, your next item, please.

MR. MOYER: The next item, Mr. Chairman, on the Livestock's voting docket is the animal health care products definition. The Livestock Committee met and has asked to table that --

CHAIRPERSON GIACOMINI: Please don't move to table. Just withdraw it.

MR. MOYER: We're going to withdraw it. Sorry. We're not putting it on the table. We are withdrawing that from the voting docket.

CHAIRPERSON GIACOMINI: Thank you.

MR. MOYER: There's questions why we're withdrawing it. We're withdrawing that from the voting docket because the way it was presented to the Board we don't have it in the
right context of where it belongs.

We positioned as being part of the Animal Welfare document, it actually belongs in the excipients document. So the language that we had isn't appropriate. If we vote on it, it won't be right. And so it does impact the industry at all to defer this to a November vote. So the Committee has withdrawn it from the voting docket and you will see it again in its proper context.

CHAIRPERSON GIACOMINI: Livestock Committee hugely apologizes for this, the way it was structured.

Your next item.

I'm on Livestock, so I can --

MR. MOYER: Yes. I'm not sure how we didn't catch that, but we didn't. We did have a lot of work. And that's not an excuse, just a reason.

The Livestock Committee's next item on the agenda is the Animal Health Care Products classification of 205.238(c)(1). The
Committee has met and has not made any changes on that document from what you saw yesterday. That's the one that I have the minority opinion.

I make the motion that we accept the Committee's recommendation as written.

CHAIRPERSON GIACOMINI: Second?

Is there a second?

MR. HALL: Second.

CHAIRPERSON GIACOMINI: Motion from Jeff seconded by Jennifer to accept the recommendation from the Livestock Committee regarding an amendment to section 238(c)(1).

Mr. Maker of the motion, do you have any further discussion?

MR. MOYER: I do not.

CHAIRPERSON GIACOMINI: Any further debate?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: I just want to make sure I've got this right in terms of the
public comments we've received. There is a
disagreement within the industry on how we
should handle this, is that fair?

MS. FULWIDER: Yes.

MR. FELDMAN: Okay.

MR. MOYER: Well, I'm not sure if
you mean there's a disagreement in -- I guess
in the industry, but also between the public
and the industry as well.

CHAIRPERSON GIACOMINI: No,

there's --

MR. MOYER: There's some in the
industry as well.

CHAIRPERSON GIACOMINI: Yes.

There's portions of the farmer industry.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: The
processor industry that has differences of
agreement.

MR. MOYER: Right.

MR. FELDMAN: Okay. I just wanted
to just make sure that was true.
MR. MOYER: Okay. Thank you. And we heard that public comment several times since we made our language recommendation in November.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Thank you.

I guess this one has me confused, especially the very clear and strong minority opinion by the Chair of the Committee. And so I have to respect those opinions. And also the comments made by the Board on this issue, and the divided comments among the public. And not being on the Committee or very closely involved, I'm not real clear what's happening here.

I understand the explanation for taking out the line that it was put it under - you know, without maybe full consideration. But I'm particularly -- you know, I'm persuaded by that minority opinion. So I don't know if anybody can help me through my own dilemma here on the proper course of
CHAIRPERSON GIACOMINI: The amendment suggested is to change what we passed at the November meeting. A no vote keeps in the sentence that we are recommending to delete. So a no vote keeps the sentence and 100 percent completely supports the minority opinion.

A no vote completely supports the minority opinion. We don't even need to go back and revote anything. That just reasserts the existing language in the recommendation we had in November and completely supports the minority opinion.

Tina?

SECRETARY ELLOR: And here's the difficulty and the reason why we decided to take this action. Because this was put in in one of those late night meetings by the person who wrote the minority opinion. And without any opportunity for -- you know, it was not in response to public comment. It was not
subject to any public comment or public input when it was put in.

So, you know, we did get a lot of feedback and people very clearly explained to us what the ramifications of this can be. And we discussed some of those yesterday in terms of beef out on the range, piglets. And, you know, it's not like if you have one sow and you have piglets, those piglets have to be on the sow. I mean, there's a knock on effect to this beyond the dairy and it's the dairy that people mostly, I think, had in mind when they were recommending against this.

And for me, personally, it's an animal welfare issue. So that's why I would support this particular document.

CHAIRPERSON GIACOMINI: I have Jay and then Wendy. But I'd like to further respond to Jay's question earlier. I don't think we gave Jay a full and complete answer. There is also debate within the regulatory part of our group as to whether
this recommendation is completely legal. The issue of whether this action would allow the feeding of a prohibited substance to a non-sick animal is part of the regulatory debate. If they were to decide that that was the case, I'm sure the Program would come back to us and say that they could not accept that recommendation.

MR. MOYER: That's correct. Yes.

CHAIRPERSON GIACOMINI: If they do come back with that recommendation we will also or they will also then need to look at what they are going to do with this milk because the comment from Kevin making the minority opinion is that you just go out and dump it on your ground. Well, that would be putting the synthetics, an unlisted synthetic substance on organic crop ground also. So the full ramifications in both directions will need to be evaluated.

But to complete the answer for your question, there's even regulatory
consideration.

MR. FELDMAN: Thank you.

MR. MOYER: That's correct, Dan.

But if we vote affirmative on the recommendation by the Committee, it does put it in the hands of the Program to address that.

CHAIRPERSON GIACOMINI: Correct.

Correct. Correct.

MR. MOYER: Not in the hands of the Board.

CHAIRPERSON GIACOMINI: Of what's legal?


CHAIRPERSON GIACOMINI: What's legal within OFPA and the rest of the regulation.

Jay, did you have any --

MR. FELDMAN: Yes. I was actually going to ask about the prohibited material issue. And thank you for clarifying that.
Because I think that's very helpful.

In deliberations on this issue did the Committee evaluate the range of synthetic materials that are used in this context? I guess these are therapeutic uses. And whether there's any distinction that the Committee could have made among the therapeutic uses, say between parasiticides or antibiotics, or types of antibiotics? Was there any discussion regarding the type? You know, because this seems pretty broad. This seems all inclusive as opposed to limiting, to zeroing in more on certain conditions and some certain subset of those therapeutic drugs?

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: I believe this primarily addresses things that would not routinely be used, like the pain meds and the Flunixin. And the pain meds would be, you know if the animal needed surgery for some reason. You know, and so therefore it's a humane issue and we don't want to, you know
just be restraining the animal and tying her
down and, you know, doing surgery.

And the other one is the Flunixin.
And that particular product, you know brings
down fevers. It's an anti-inflammatory. And
it prevents septic shock. And this is
particularly important that we have this
particular tool available to farmers that are
transitioning and have not learned all the
proper and appropriate organic tools that are
at their disposal. Because there is a
learning process for these folks to learn how
and when to administer these organic
medicines.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Do you feel that
this wording is sufficiently narrow to not
exclude or to exclude other treatments that
might go beyond the two you just described;
the pains meds and the --

MS. FULWIDER: Flunixin.

MR. FELDMAN: -- Flunixin? My
question is, is the wording sufficiently narrow to pertain solely to those uses as opposed to something broader something?

MR. MOYER: Yes, Jay. Those are the only materials that we have at our disposal on the National List --

MR. FELDMAN: Right.

MR. MOYER: -- that have the withholding times.

MR. FELDMAN: Right.

MR. MOYER: So it includes all of them. We did not go specifically into each material to determine.

MR. FELDMAN: Okay. That's --

MR. MOYER: That was already done in the review of those materials and the withholding times are established.

MR. FELDMAN: Right.

MR. MOYER: This point of discussion was whether or not that milk retains its organic character and can be feed as 100 percent feed to organic livestock or
whether it cannot.

MR. FELDMAN: Okay.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Has the Committee considered postponing a decision on this until this regulatory issue is cleared up?

CHAIRPERSON GIACOMINI: They're shaking their heads. I think this recommendation would put it right in the lap for them to make that regulatory decision and either accept or reject the document.

Valerie?

MS. FRANCES: Wasn't the intention of this vote just to correct essentially kind of a mistake in the previous recommendation and really just keep things as the status quo in the recommendation as they are right now?

CHAIRPERSON GIACOMINI: I think that's the way some of the members would feel and others would disagree.

MR. MOYER: Yes. Certainly the writer of the minority opinion would not
consider it as a correction of a mistake but
a reaffirmation of the statement that they
thought was correct.

CHAIRPERSON GIACOMINI: Yes.

Kevin writing the minority opinion was the
person who wrote that sentence --

MS. FRANCES: Yes. I didn't mean
to characterize it really as a mistake. I'm sorry.

CHAIRPERSON GIACOMINI: Yes.

MS. FRANCES: But just wasn't it
intended to just remove what was added?

CHAIRPERSON GIACOMINI: Yes.

MS. FRANCES: It would just keep
the regulation as it is right now.

CHAIRPERSON GIACOMINI: Yes. Part
of the industry that came to us with the
question and part of the Committee really sat
down and read what that sentence was that we
put in on that last day. We felt that we had
gone farther than we intended.

MR. MOYER: That's correct. And
it wasn't up for community debate at that point or public comment. And some of the comment that we got subsequent to that sentence being added encouraged us to go back and maybe retract that sentence.

CHAIRPERSON GIACOMINI: Again, to finish. Kevin would say it says exactly what we have intended.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: I apologize, but I just want to be really clear. I missed the previous recommendation possibly. But this wording limit to analgesics, like you couldn't use a parasiticide, for example?

Following the same question as Jay's, but I didn't really catch the definition answer.

MS. FULWIDER: Well, the parasiticides are not allowed in this discussion.

MR. SMILLIE: Right.
MS. FULWIDER: I mean, this is just about the pain meds and the Flunixin.

MR. SMILLIE: Okay. Absolutely restricted to those two items?

MR. MOYER: Yes, that's my understanding. And only to be used in emergency situations.

MR. SMILLIE: Right.

MR. MOYER: This is not routinely on just animals.

MR. SMILLIE: Okay. That's what I thought, but I just wanted to be clear.

MR. MOYER: And only under a veterinarian's care

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: I have two questions. A follow-up on that one. How would a non-expert know that? Because what it says is -- right. How would we know that? So if it's prohibited, you can't sell it. So presumably these are allowed non-synthetics?

MS. FULWIDER: Allowed synthetics.
MS. HEINZE: Allowed synthetics?

MR. MOYER: Allowed synthetics.

MS. HEINZE: So when that was on

the list, there's a withholding time?

MR. MOYER: They're allowed

synthetics with a withholding time and

previous Boards have established a two times

the FDA withholding period for those

materials. Those are the materials we're

talking.

MS. HEINZE: Okay. And my second

question much more pragmatic is, my

understanding is this is current practice. So

this is what --

CHAIRPERSON GIACOMINI: Some.

MS. HEINZE: Some.

CHAIRPERSON GIACOMINI: In some

cases it's current practice, it some cases the

more restrict language is their current

practice of what's being enforced.

MR. MOYER: Both are current

practices.
MS. HEINZE: Okay.

CHAIRPERSON GIACOMINI: Let me just read 238 Livestock Health Care Standards.

(b) When preventative practice and veterinary biologics are inadequate to prevent sickness. And this gets to both sides of your issue. A producer may administer synthetic medications provided that such medications are allowed under 205.603. Parasiticides allowed under 205.603 may be used on to dairy stock when used a minimum of 90 days prior to the production of milk or milk products that are to be sold, labeled or represented as organic.

So there is a specific statement in the regulatory language of the rule identifying the milk of the parasiticide treatment animal as not organic.

Other discussion? Wendy?

MS. FULWIDER: We're not requiring, you know that the farmers use the pain meds when they do surgery, but we certainly don't want to discourage them from
doing this because this will further label us
as being inhumane. And so we have the
science, you know and morally and ethically I
mean we should not be doing surgery on animals
without pain meds.

MR. MOYER: As a follow-up
representing Kevin, Kevin would say that
that's true, he would agree with that
statement. But then he would go further to say
that the milk that comes out of whatever
animal it is could not be fed to the young
stock. He would still treat his animals with
the pain meds, but he would dump that milk.

CHAIRPERSON GIACOMINI: Is that
new or a follow-up, Katrina? New statement or
a follow-up to what Jeff just said?

Jay?

MR. FELDMAN: So, Dan, the point
of view of reading the annotation on
paraciticides is to suggest that the language
before us does not allow -- would not allow
the use of paraciticides? I mean, I guess I'm
having trouble --

CHAIRPERSON GIACOMINI: No. It would --

MR. FELDMAN: I mean in this context?

CHAIRPERSON GIACOMINI: Yes.

MR. FELDMAN: Right. Yes. And substance that contains a synthetic not allowed under 205.603. That's a huge -- that's the language here as proposed.

CHAIRPERSON GIACOMINI: As prohibited?

MR. FELDMAN: Right. So the presumption is -- there's no reference in here to pain meds and referencing surgery, or that sort of thing?

CHAIRPERSON GIACOMINI: No. No. The reference there is the excising out specifically or of milk from cows treated with the parasiticide as opposed to the pain meds or other items with -- actually, it's not limited to pain meds. Currently the only
thing on the List with or withholding additional withholding time is pain meds, but it's not limited to pain meds. It's other substances on the List with a withholding time which could change in the future.

MR. FELDMAN: Right. Thank you.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: So clearly we want to encourage farmers to use the pain medications when they need to. We don't want to discourage that.

So if we leave the sentence in, we might be encouraging them to wean the young from their mother too early, right? Because they treat -- is that really what it comes down to?

CHAIRPERSON GIACOMINI: Or not using pain meds.

MS. HEINZE: Or not using pain meds. It could be perceived that that's what we're doing?

MR. MOYER: We don't know that for
a fact. But what you're saying is, yes, some farmers could.

MS. HEINZE: Right.

MR. MOYER: In order to not dump their milk, they could say we're not going to use these materials.

MS. HEINZE: I'm just trying to understand, right?

MR. MOYER: I don't want to characterize farmers as not treating their animals correctly, that's --

MS. HEINZE: Totally get that.

CHAIRPERSON GIACOMINI: No, It's going to end up coming down to what is legal within the rule, you know. Is it legal to do this? Is it legal to give this to the calves or not. If it's not, I think someone's going to have to look at well what can we do with that milk? Because --

MR. MOYER: Right. And that's why an affirmative vote here puts it in their camp, not ours to decide that.
CHAIRPERSON GIACOMINI: Miles?

MR. McEVOY: Or the suggestion that you made a lot of questions basically about this, that maybe you should just ask a question of the Program and we can get back to you on this. I'm clarifying --

CHAIRPERSON GIACOMINI: The intent of the majority vote of the Livestock Committee was to alter what was the final vote of what was included in the recommendation in November and bring it back to what the majority of the Livestock Committee fully intended that section to say when we were going through all of our discussions in reviewing it as opposed to the next step that was taken on the last day when that sentence was included.

MR. MOYER: As a point of reference, Dan, all we're doing is if we make that change, the full recommendation, the final recommendation is on the plate of the Program.
CHAIRPERSON GIACOMINI: Yes.

MR. MOYER: This just clarifies that paragraph.

CHAIRPERSON GIACOMINI: Yes.

MR. MOYER: And keeps it on their plate so they can act on it.

CHAIRPERSON GIACOMINI: Yes. Yes.

Arthur, did you have a statement?

MR. NEAL: I'm okay.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: Call the question.

CHAIRPERSON GIACOMINI: Objection to calling the question? Seeing no objection and no further debate, call for the vote on accepting the recommendation from the Livestock Committee on the amendment to section 238(c)(1). So an affirmative vote accepts the deletion of that sentence and as an amendment to the previous recommendation we passed in November. A negative vote keeps that sentence and completely supports the opinion expressed in the minority opinion.
MR. MOYER: That's correct.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: A reluctant yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.
Chairperson Giacomini: Jeff?

Mr. Moyer: Yes.

Chairperson Giacomini: Jay?

Mr. Feldman: No.

Chairperson Giacomini: Tina?

Secretary Ellor: Yes.

Chairperson Giacomini: Tracy?

Ms. Fulwider: Yes.

Chairperson Giacomini: Conflict.

Any conflicts?

Okay. One no, one absent --

Mr. Moyer: Did you vote, Dan?

Chairperson Giacomini: Ah, yes.

One no, one absent, 13 yes.

Motion passes.

Mr. Smillie?

Mr. Smillie: There's been so much channeling of Kevin, that I do want to urge that if we find time during a break for Jay Feldman to conduct his survey as to who is channeling Kevin. I want to remind him of the promise he made yesterday. I fully intend to
vote on that. So find an appropriate time.

MR. MOYER: I was going to suggest earlier, but didn't think it appropriate, Joe, that we just pretend that Kevin is sitting here and that my voice is coming out of him.

MR. SMILLIE: I want a vote on that. I want to vote,

CHAIRPERSON GIACOMINI: We did do a straw pull at dinner, so I know who is leading.

MR. MOYER: Mr. Chairmen, until we return to the methionine question, that is the end of the Livestock Committee.

CHAIRPERSON GIACOMINI: So to deal with that issue, I would request that at a break or at lunch we have the maker and person making the second of both the original motion and the amendment, just so we have all four parties involved, so -- I'm asking them to be there just so everybody understands what the language is that we're dealing with. They don't have the exact say, but I'd like them
aware.

So we have Jeff, Tina and Barry.

It's mainly Jay and Berry that need to approve this language, but just so everyone is involved.

What time are we at? 10:45.

Okay. We're ahead schedule.

And that concludes Livestock.

Moving on to Handling, Steve, please.

It is the request of the Chair for the Handling Committee to possibly consider--and I expressed this to Steve early, so it's not news to him. It's news to you. To consider consolidation of their recommendations so that we could vote 605(a), 605(b) and 606 as three separate motions rather than the individual groupings that they did by members of the Committee.

MR. DeMURI: Yes. And I am fine with that. As I mentioned yesterday the group things that we put together for ease of presentation yesterday, not necessarily for
voting. So we will be voting the three separate groups in. So the first group will be all the 605(a) items, which I'll through in a minute. And then we'll vote on all the 605(b) items. And then all the 606 items. So there will be three separate votes for the Handling Committee Sunset items.

So I think we went through a pretty thorough review of all the items yesterday. I'll start with the 205.601(a) items. I'll just read them at this point. If anybody has any specific questions, we can get to that during the discussion after I go through these.

So the first group is Sunset materials for section 205.605(a) which are nonagricultural, non-organic substances allowed as ingredients in or on processed products labeled as organic or made with organic. And these are the non-synthetics.

So they are: acids, bentonite, calcium carbonate, calcium chloride,
carrageenan, dairy cultures, diatomaceous earth - food filtering aid only, kaolin, nitrogen - oil-free grades, oxygen - oil-free grades, perlite for use only as a filter aid in food processing, potassium chloride, sodium bicarbonate, sodium carbonate and waxes none synthetic, carnauba wax and wood whip resin. So those are the 605(a) items we'd be voting on right now.

I'd like to make a motion that these Sunset items be accepted as re-listed.

VICE-CHAIRPERSON MIEDEMA: Second.

CHAIRPERSON GIACOMINI: Motion made by Steve DeMuri, seconded by Tracy to relist the items listed under 605(a) for relisting in the Sunset Review process.

Mr. Maker of the motion, do you have any further debate on this?

MR. DeMURI: No.

CHAIRPERSON GIACOMINI: Any other debate? Ready for the vote?

MR. DeMURI: Conflict.
CHAIRPERSON GIACOMINI: Conflict of interest? Thank you.

MR. DeMURI: I do. Let me mention that not only for the 605(a) item, but 605(b) and some of the 606 items the company that I work for does use some or all of these items in our processes.

CHAIRPERSON GIACOMINI: Chair does not that find that as a reason to recuse. But I would like everyone with those similar conflicts to reveal or state them.

Katrina?

MS. HEINZE: I also work for a food manufacturer who may use some or all of the items on 605(a), 606(b) and 606.

CHAIRPERSON GIACOMINI: Thank you.

Joe?

MR. DICKSON: Yes. I also work for a retailer and a food manufacturer that uses all or some of the items on 605(a), 605(b) and 606.

CHAIRPERSON GIACOMINI: Thank you.
John?

MR. FOSTER: Not surprisingly, work for a manufacturer that may use some or all of the items on 605 and 606.

CHAIRPERSON GIACOMINI: Thank you.

Okay.

MR. FELDMAN: I eat those things.

CHAIRPERSON GIACOMINI: So what you're telling me then is they do have a specific finance or impact on you, but we will allow it at this point.

MR. DeMURI: We'll let you do it then.

CHAIRPERSON GIACOMINI: Any further? Thank you.

Proceeding with the vote.

John?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.
CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.
CHAIRPERSON GIACOMINI: And the Chair votes yes.

One absent, zero no, 14 yes. Is that what everyone else has? Of course that was an easy one that I asked. Motion passes.

Your next item, Mr. Chairman?

MR. DeMURI: The next group would be the 205.605(b) items. Again, all lumped together for the vote. These are non-air cultural, non-organic substances allowed as ingredients in or on processed products labeled as organic or made with organic. These are the synthetics that are allowed.

And they are: Calcium phosphates (monobasic, diabasic, tribasic), carbon dioxide, ethylene - allowed for post-harvest ripening of tropic fruit and de-greening of citrus, glycerides - mono and did for use only in drum drying of food, glycerin produced by hydrolysis of fats and oils, hydrogen peroxide, magnesium carbonate for use only in agricultural products labeled "made with"
organic" prohibited in agricultural products labeled "organic," magnesium chloride - derived from sea water, magnesium stearate for use only in agricultural products labeled "made with organic" prohibited in agricultural products labeled "organic," ozone, potassium acid tartrate, potassium carbonate, potassium citrate, potassium hydroxide prohibited for use in live peeling of fruits and vegetables except when in used for peeling peaches during the IQF, individually quick frozen, production process; potassium phosphate for use only in agricultural products labeled "made with organic" prohibited in agricultural products labeled "organic," xanthan gum, alginates, ammonium bicarbonate for use only as a leavening agent, ammonium carbonate for use only as a leavening agent, ascorbic acid, calcium citrate and calcium hydroxide.

I move for relisting of these items just read off to Sunset.

MR. SMILLIE: Second.
CHAIRPERSON GIACOMINI: Been moved and seconded by Joe. Moved an seconded to relist the items and the recommendation from the Handling Committee for relisting on 605(b).

Maker of the motion, do you have any further debate?

MR. DeMURI: I don't.

CHAIRPERSON GIACOMINI: Any further debate and questions, comments on this?

Tracy?

VICE-CHAIRPERSON MIEDEMA: I have a clarification. I misspoke yesterday, so I would like to make the correction and put that on the record.

When I present potassium hydroxide I stated that the uses were limited strictly to the peeling of IQF peaches. And what the Listing actually says according to Codex when this was originally put on, is that all food uses are okay unless there are annotations
that limit it. So the limitation actually has
to do with the peeling of fruits with the
exception of IQF peaches, which are allowed.
Other food uses are also allowed. And I
needed that to be clearly stated in the record
and then, of course, enforcement, everything
else falls under enforcement and outside of
our purview.

CHAIRPERSON GIACOMINI: Joe, did
you have -- Joe?

MR. SMILLIE: Yes, I've got a
question concerning the List and especially
placement on the list. As we know, we've got
a number of materials that may not be on the
right Lists, which is not a controversial one,
but it's come to my attention that glycerin
can also be produced, not necessarily by
hydrolysis in fats and soil. That it can
actually be extracted and certified as organic
and put on the marketplace.

So I'm just wondering when we put
something down like glycerin that can be
produced in two dramatically different ways,
how are we going to deal with that in the long
run, or do you just want to say --

CHAIRPERSON GIACOMINI: There's a
number of ways to deal with that. Number one
right now is the Sunset Review Relisting as
it's printed.

MR. SMILLIE: As it's printed?

CHAIRPERSON GIACOMINI: As the
annotation reads.

Number two, there's always the
petition process to change an annotation.

Number three, as we proceed
through the classification, the material
process a reevaluation of anything that may
need to be shifted is part of that road that
that group plans to go down.

MR. SMILLIE: Thanks.

CHAIRPERSON GIACOMINI: Thank you.

Katrina, did you have anything
else on that?

MS. HEINZE: No. I agree with what
you said as cannot be on your --

CHAIRPERSON GIACOMINI: Yes.

Steve?

MR. DeMURI: I agree with you what you said, Dan. And just to reiterate that, I think it's cleaner if we go ahead and Sunset these as written and then go through a petition process to either move them or change them around on the List.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: As Joe said, I just wanted to make sure the original Board review for potassium hydroxide considered all those uses, correct?

VICE-CHAIRPERSON MIEDEMA: All of what uses?

MS. HEINZE: The other three uses?

VICE-CHAIRPERSON MIEDEMA: As standard practice, yes.

MS. HEINZE: Thank you.

CHAIRPERSON GIACOMINI: Further debate? Ready for the question?
For the relisting of 605(b) in Sunset.

CHAIRPERSON GIACOMINI: Steve?

Any additional conflicts on this items from all those that were previously disclosed?

Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?
MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Chair votes yes.

One absent. Was there a no?

Fourteen yes. Motion passes.

Next item, Mr. Chairman.

MR. DeMURI: Okay. The last group are the 606 items, non-organically produced agricultural products allowed as ingredients in or on processed products labeled as "organ." And if I've said it once, I've said it a million times: These are subject to the
commercial availability statutes, scrutiny by
certifiers, but these would be agricultural
nonorganic ingredients that would be
sunsetting.

So, they are: Casing from process
intestines, celery powder, chia, dillweed oil,
fish oil stabilized with organic ingredients
or only with ingredients on the National Lists
205, 605 and 205.606, galangal frozen,
gelatin, gums - water extracted only (Arabic,
guar, locust bean and carob bean, konjac
flour, lemongrass frozen, orange shellac
unbleached, pepper chipotle chile, kelp for
use only as a thickener and/or dietary
supplement, sweet potato starch for bean
thread production only, Turkish bay leaves and
wakame seaweed.

I move for the relisting of these
items on 205.606.

MR. SMILLIE: Second.

CHAIRPERSON GIACOMINI: Motion has
been and seconded to relist these items as
stated in the recommendation on 606.

Joe Smillie?

CHAIRPERSON GIACOMINI: Mr. Maker of the motion, do you have any further debate?

MR. DeMURI: I do not.

CHAIRPERSON GIACOMINI: Further debate, any questions? Jay?

MR. FELDMAN: This, I may not have heard this, but you're including in this lemongrass?

MR. DeMURI: Frozen.

MR. FELDMAN: Frozen? And I guess sweet potato starch, although the whole List is -- you didn't leave any off? Okay.

MR. DeMURI: No. They're all on it.

MR. FELDMAN: Okay.

CHAIRPERSON GIACOMINI: Further discussion? Jeff?

MR. MOYER: Yes. Steven, this also has the animal casings on this list as well, right?
MR. DeMURI: That was the first one I mentioned.

MR. MOYER: Yes. I guess I'm going back to the discussion that we had when we first put that on the List. There was a lot of discussion about that, and I know several of us in the Livestock Committee have been talking about the fact that the livestock industry has grown tremendously since that was first put on the list. And I'm just curious why -- it would seem like there would be enough to make a difference now, and I'm wondering why no one's responded or put up any information. And I don't know, maybe this is mentioned more to the audience.

MR. DeMURI: Well, we do have a casings guy in the audience, I believe. Is he here, the one that talked to me yesterday.

No, I guess not. He's out playing somewhere.

He mentioned to me yesterday that beef intestines are not suitable for sausage making. They have to use hog intestines and...
organic hog availability for intestines for sausage making would not be able to supply the organic sausage market. He had told me that earlier when I had contacted them sometime ago when we were looking at this. But he reiterated that to me yesterday.

MR. MOYER: I guess I always feel like we're in the same dilemma that we get into. I mean, there's a certain amount of organic hog intestine, obviously not enough to satisfy the whole market. But it seems like people who buy this stuff, if they can't get it all, they don't want any. So now that we get -- it just doesn't seem to be working the way the system --

MR. DeMURI: The way our testimonies do?

MR. MOYER: Yes. The way the system's designed, maybe Joe.

MR. SMILLIE: There's probably enough, but they all don't go to the same slaughter house. It's a question of how much
processing goes on at the slaughterhouse and how they have to be certified as an organic slaughterhouse, have segregation. So the potential to segregate hog intestine is there, but the volume's not, as I understand it. And the petitioner, as I understand it, at least one of the petitioners was Organic Prairie, not Organic Valley, but the meat division of crop cooperative. And that petitioner is totally, you know I would expect industry being on top of the availability of organic when that volume reaches a point that the process could occur.

So, I'd fully expect once we hit that number that there will be a petition because it's in the interest of the organic industry to do so, to make use of their currently non-saleable intestines.

MR. FELDMAN: Well, I guess my question is how do we -- and we probably can't answer it here. Is how do we encourage the industry to buy what's there before they go
somewhere -- I mean, they want it all at one
place, this one-stop shopping. I know that to
me -- but it's frustrating from my perspective
when I'm looking at I know there's organic
hogs out there and they are growing, but that
segment doesn't move -- hopefully in the
future it will.

MR. SMILLIE: Well, again what
Steve said for the millionth time, you know
it's like commercial availability. The
certifier has to be on top of making sure that
every year when they use -- and that's one of
the things that I think was asked for, one of
the public, is you know a database where 606
items that are requested are posted so that we
get a more transparent database of how many
606 items are being granted. You know, so we
get a good handle on that and what's
available.

I think it is definitely in the
financial interests of the organic hog
producers to get this off the List once
they've got their volume. But perhaps Wendy
could add more detail to that.

    CHAIRPERSON GIACOMINI: Wendy?

    MS. FULWIDER: I'm sorry, I
haven't worked that much on that side of it.

    MR. SMILLIE: But when we go
around again, I'm sure we'll have this.

    MS. FULWIDER: I'll make a point
of knowing.

    CHAIRPERSON GIACOMINI: Jay?

    MR. FELDMAN: Do we as a Board
have a good sense of how well that system is
working, Joe? in terms of certifiers directing
the organic production side toward that
element of the community that is producing
organic products on the 606 List?

    MS. FULWIDER: You know, it's not
perfect but I think it's good. I mean, the
ACA, the Accredited Certification Association,
has got a 606 List and they are making that
known to their members and to other people.
So I think the certifiers are actively
reaching out to the community.

And again, one of the best ways,
and I don't want to get into all of our
secrets, but enforcement, you know competition
is a great enforcer. And if you are using
something organic and your competition is
sourcing conventional, you have a financial
interest into making that known to certifiers
and to the Program.

And so through the complaint
process, through again the active outreach of
ACA on the 606 List. But competitors are
driving that, Jay.

And I think it functions pretty
well. We've seen a lot of things. So we saw
it, and we just went through it. You missed
the wonderful lessons and the debates, which
hopefully we won't return to, but we had some
really classic examples of some of the
industry using organic lecithin and some of
them not using it. And that drove us to
remove lecithin from the thing.
So it's not perfect, but I think it is working. I think that the commercial availability rules are getting better and better understood. And as we are now in the age of enforcement, I think that it will only improve.

I would also like to see that database for all the -- I don't want to call them exceptions because that's the wrong word. But for all the 606 conventional materials that are allowed be posted so it becomes even more transparent.

MR. McEVOY: From the Program's perspective, I would say that ACAs and certified operations are doing a great job at using organic seeds and using organic when available. And ACAs are doing a great job at doing their best to be consistent in terms of how they evaluate the firm's efforts around commercial availability. There's certainly room for improvement. We're planning on clarifying requirements for certifiers to
determine commercial availability on seeds to implement the NOSB recommendations in draft guidance this summer. But I think it's a challenging area to be consistent through all the certifiers and all the certified operations worldwide. But I think that there are very good efforts going on and also room for improvement.

CHAIRPERSON GIACOMINI: Thank you.

Further discussion?

Yes, Steve, I would have totally been behind dropping the casings from the List today. I very much appreciate your statement on the need for the hog casings. I don't think that there's any question that this is probably the least mature of all the major livestock industries that we have developing an organic. I would just ask you to very much keep track of the ANPR Notice of Public Comment and see if there's much at all there, new information of any significance, to justify reviewing this one.
MR. SMILLIE: Yes. As a Committee we will be looking at all public comments that come in between now and May 25th on all these items that we've voted on today. So we'll keep an eye on that.

CHAIRPERSON GIACOMINI: Thank you.

Further debate? Ready for the question?

Conflicts? Seeing none.

Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.
CHAIRPERSON GIACOMINI: Jeff?
MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?
MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?
SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?
VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?
MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John?
MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?
MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Chair votes yes.

One absent, zero no, 14 yes.

Motion passes.

Okay. Does that complete your work, Mr. Chairman?

MR. DeMURI: We are done.
CHAIRPERSON GIACOMINI: Okay. We are slightly ahead of schedule. We have a little bit of work that we have to do within one Committee before we bring that information up for a final vote. And so we're going to slightly change and take our break now. We're slightly ahead. Not bad. Slightly ahead.

So let's go 11:25 to bring it back to order.

Lunch will be when we fit in, closer to 12:30 after the meals arrive.

(Whereupon, the above-entitled matter went off the record at 11:10 a.m. and resumed at 11:25 a.m.)

CHAIRPERSON GIACOMINI: Okay.

Thank you.

We had a slight extended break.

We are way ahead of schedule and we had plans of things that we need to do as Board business relevant to some of these recommendations at the break. So as far ahead in the schedule we are, we're going to be moving some people so
that they were missing the breaks that we were planning to work on those information. So that was the cause for coming back a little bit late.

Let's see, we have one bit of business to backtrack on. Annette? I mean Wendy.

Sorry Annette.

I was going to ask for a ChapStick demonstration, but we'll just move on with Wendy.

MS. FULWIDER: Yes. I need to change my vote on the 606 to an abstain because of connection to Organic Prairie. I was unaware of their petition.

CHAIRPERSON GIACOMINI: Recused.

I think the fact that you were unaware that the company that you fairly recently started working for only the last couple of years was the petitioner of this substance reveals how close you are to it and how much it effects your life. We probably would not have
requested that, but because of the nature of
the way this has folded out, we appreciate
your voluntary action on that matter.

MR. SMILLIE: Five Our Fathers and
two Hail Mary's.

CHAIRPERSON GIACOMINI: You've
just brought religion into government, Joe.

Okay. We now have that vote on
606 as zero no, 13 yes, one absent and one
recusal.

We are now moving on to something
that is on the agenda 2:00, folks. We are
doing amazingly well. Yes, we do have to go
back on methionine. But we can make it feel
like we're ahead. Okay.

The Joint Materials and Handling
Committee, Katrina Chairperson.

MS. HEINZE: Thank you, Mr.

Chairman.

CHAIRPERSON GIACOMINI: One
second. This is actually a joint Committee.

It actually has Co-Chairs. Steve is also the
Chairman on this. But through this classification process issues, Katrina is generally. But it does actually have two Chairs. I don't want to shortchange Steve's participation, addition and level of authority with that Committee.

MS. HEINZE: Thank you.

I've been informed that sometimes I'm a little bit quiet. So if that's the case if someone on the Board could just wave at me and I will reposition my microphone.

Okay. I'm not going to go through everything that I summarized yesterday, but obviously we'd be happy to have discussion on that.

What I did want to do is update the Board on updates to the document that we noted on this morning. So, Valerie, if you could scroll down to section IV, the Rule Change.

So yesterday there was some discussion about whether the changes that we
recommended in November and tweaking with this addendum, whether they could be done through a guidance document or whether rule change was required. There was some preference by some on the Board that if we could do it through guidance, that would be more flexible and certainly more timely.

So working with the Program, we've approved a change to this Rule Change language. So now this document is coming out of Committee with nine yes votes, two no votes, no absent.

Our previous document said that we asked the NOP to begin the process of rule change and know that they would prioritize it as appropriate. The new language says: "In our November recommendation we asked the NOP to begin the process for rule change when they received recommendation from the NOSB." With this addendum we are instead asking the NOP to begin the process of reviewing this recommendation for the purpose of facilitating
a relevant rule change and/or developing the
industry guidance. Where possible we would
like this recommendation to be implemented in
industry guidance for some period of time
prior to rule change.

The NOSB asks that the NOP
provides feedback to the NOSB regarding its
review and works collaboratively with its
numbers to address any areas of concern. We
asked the NOP to prioritize the review of in
response to this recommendation so that
increased consistency and classification of
materials can be implemented quickly.

So in conversations with Arthur,
really the intent, if this addendum passes, is
if they will take this and our November
recommendation, they will take it back for
review, identify any areas of regulatory
concern, identify where there may be a need
for more immediate rule change and then work
with us as we develop the guidance document.

So it will really be a
collaborative process to bring the changes
that we recommended into place for the
industry. They understand that our preference
would be the guidance document because of the
flexibility that that allows us. So this
language, I think, captures that.

Then I just wanted to highlight a
couple of other things in the addendum so
you're fully aware of what you're voting on.

Valerie, on section III right
above this. the last sentence. There you go.

I just wanted to highlight for
everyone that we have requested that the NOP
continue to be aware of the public and NOSB's
desire to explore this topic, this topic being
the applicability of commercial availability
to 605.

So then finally, Valerie, if you
could just look at the chemical change
definition, which is above. There you go.

Oh, unfortunately it's on 2 pages. Maybe put
in some spaces or something so it ends up.
Bravo. Okay.

So everything I just mentioned is really procedural, how we want to go forward. This is really the key change that you'll be voting on.

So in November the Board passed a definition of chemical change which says "An occurrence whereby the identity of a substance is modified, such that the resulting substance possesses a different distinct identity (see related definition of "substance")."

And you know just to summarize, there's considerable public comment that that went too far with regards to agricultural products. So after all the debate in public comment that I summarized yesterday, the Joint Committee is recommending the addition of the underlined language which reads: "Allowed processing, as defined in ^U205.2 of agricultural products using materials allowed on the applicable section of the National List, that is: ^U205.601 for crops, ^U205.603
for livestock and \( ^{205.606 } \) for handling does not result in chemical change as it applies to classification of materials."

So with that, I move that the Board accepts this document as an amendment to the November recommendation.

VICE-CHAIRPERSON MIEDEMA: Second.

MR. SMILLIE: Second.

MS. HEINZE: Questions, discussion?

CHAIRPERSON GIACOMINI: Yes. Questions and discussion? Properly been moved and seconded of this document from the Joint Materials and Handling Committee. That was Katrina's motion and Tracy's second.

Madam Maker of the motion, do you have any further discussion?

MS. HEINZE: No.

CHAIRPERSON GIACOMINI: Further debate? Jay?

MR. FELDMAN: I've already told you this, Katrina. Thank you for all your
work on this. It's been an extraordinary effort. Very fair, open. And you've really sought out everybody's opinion in putting this stuff together. But, so none of this is a surprise to you and I just want to get this out there so people are clear on where I'm coming from on this.

This is a scenario I see, and I don't want to mischaracterize it. But I hope we have agreement on what's happening here from a practical standpoint. We're approving a synthetic as part of our listing process that we're approving their list, and then we use that synthetic to make another material that we then call non-synthetic. And that's the process we're engaged in here.

I understand what part of the community wants to do that. I think it at the end of the day is going to be a problem for the Board and the organic community. I would prefer if we could have taken an approach that would have recognized its synthetic nature of
the material we've approved or are considering and recognize, as we have to date, that these materials are necessary, essential and important to organic under the guidelines that we have embraced.

And so I think we're at a crossroads that we're not wanting to put more synthetics on the List wanting to be able to point to materials as being non-synthetic even though they may have synthetic components to them. And hat is not the road that we should follow I don't believe at this time.

Now as you know, Katrina, part of my concern as well as the underlying document the past November on the issue and the challenge of defining significant versus insignificant. And I think having been then --yes I'll refer to it at as another rabbit hole but I think I should have characterized it as a rat hole. Having been down that rat hole on numerous pesticides on the conventional side as to what is an allowable
level that represents a reasonable exposure or a reasonable certainty of no harm, or de minimis risk, there are never really good answers.

So it is my hope that at some point we can return to the statute here and really recognize that we are about process, we are governed by a process-driven law and we should seek to identify those materials that we believe are necessary and essential to that process, and live up, own them, embrace them, explain to the public why we think they're necessary and essential. And then take whatever heat comes from that process. But recognize that to do otherwise takes us into a realm of exposure patterns, sensitivities among the consuming public, ecological fate issues, health outcomes around issues around endocrine disrupting chemicals for which we have not yet established an acceptable level of exposure and for which we're seeing no longer classical toxicology having impact on
significance, such as dose makes the poison. And a dose response code that is linear.

We're now seeing inverted use where we see nonlinear exposure responses to synthetic chemicals. You've heard about the hermaphroditic frogs, you've heard about the impacts at very low levels of exposures to synthetic materials for which we have no testing.

Now, I'm not saying that is relevant or irrelevant to the kinds of low level exposure to synthetics we're talking in the context of this effort. But we just don't know and we want to precautionary. So we want to ensure that when we do allow synthetic, we have subjected it to the most thorough review even at minuscule and so called insignificant levels.

And I know everybody wants to do that and balance that against what we view as a burdensome process. And I don't think we've yet found that balance in this definition. I
think we're avoiding something.

And last point. We're looking to

organic to be leading the curve on these sorts of issues. Leading the curve rather than

pointing to definitions in FDA and EPA and

other institutions that have expressly taken

a different viewpoint this question of process driven. They are risk-mitigation driven. It's

a totally different realm. And to point to

those statutes and to those other venues

really does a disservice to those who have

embraced the organic concept.

Again, a tremendous effort.

Really, I mean that sincerely and I think that

some day we'll find the balance here. But I
don't think this is it. Thank you.

MS. HEINZE: Thank you. I
certainly do respect your opinion. Although,

I respectfully disagree with one point that

you made, which is that we are at a
crossroads.

We very studiously in our November
recommendation worked to classify materials as they have traditionally and historically been classified by previous Boards and by our certifiers. So the definition that we passed in November effects very, very few materials with regards to how their classified.

So I do not believe this is a crossroads for organic, or changes how we've historically behaved. That was the November recommendation.

So what I want to emphasize is we are not voting on the first sentence. All we are voting is the second sentence which corrects an intended consequence that our November vote had with regards to classification of very large numbers of agricultural products.

So just for everyone else. I know, Jay, that that won't change how you're feeling about it. But I just want to be clear that folks know what they're voting on. We're not voting on November.
The other thing is, I think your comments on significant and insignificant are very valuable and are going to be critical to our discussions on that topic as we write up that document. And I'm very grateful to have your expertise on that. It will be a challenge. I know we've gotten a lot of public comment, but that is work still ahead of us, and also not being voted on today.

CHAIRPERSON GIACOMINI: Joe?

MR. SMILLIE: Well, there's two issues we can talk about. We can talk about this document and the specifics of this document, or we can color that discussion with our philosophical differences. And some of the comments you made, Jay, are putting this document in the context of following the path of the conventional industry. I don't believe that's accurate.

I believe that we are process-driven, and that's one of our beauties. And I believe we are finding the balance. I think
that this document is actually living proof of the search for that balance.

And I also think that it's a philosophical difference that's been playing out for the last -- well, since I can remember. And it's that same, we keep coming to the same point. Is the point to change agricultural in the United States to make organic profitable so that we can get farmers to convert or is the point to create the purest food possible? And we always are trying to find the difference between those two.

I believe that this Board, the entire history of this Board has been searching for, you know, the Buddhist middle way on this. And it's an ongoing exercise. It's never going to end. And I believe that this document is a process-driven document where as what you would be proposing would be the endless petition process for anything that could possibly be considered synthetic --
CHAIRPERSON GIACOMINI: I think the impact of what he's proposing would be subject to how it was applied for this Committee. I think that would be way down the road. I'd like to kind of -- let's see if we can bring the discussion back specifically to this document.

MR. SMILLIE: I started my remarks by saying we can go down two roads on this discussion. And Katrina stuck to the document. I just want to point out that Jay made it into a bigger context, and I'm simply not -- I respectfully retreat back to the specific comments that relate to the document.

CHAIRPERSON GIACOMINI: We've allowed Jay's -- MR. SMILLIE: That's right, soapbox.

CHAIRPERSON GIACOMINI: We've allowed Jay's philosophy, we've allowed Joe's counter-philosophy. Both of those would have been more appropriate yesterday in the
Committee discussion. Today we are looking at the discussion for any amendments and changes to this document as it has been presented by the Joint Committee and the vote by the Board on that document.

MR. SMILLIE: I concur.

CHAIRPERSON GIACOMINI: Any further statements, questions relevant to this document and its implications, application not to the alternatives? John?

MR. FOSTER: So this is a very complicated situation. And I've admired the previous work on it tremendous. A lot of ins, a lot of outs, a lot of what have yous.

At the risk of clouding Katrina's very clear statement, my point is my hat the changes here don't exist in isolation. They exist in a context that has pretty firm footing in the industry, I think, and is relatively noncontroversial.

I think the language here does two things. One, it makes our definition
consistent across multiple applications. And
I think that's good because it's based in what
exists in reality and is independent really
from philosophical opinion, I believe.

It's a little bit counter to other
comment. I think we're always at a crossroads
everyday. And so the fact that we might here
today is no different than any other day. I
think everyday is a crossroads in a relatively
young industry.

I'll leave it there. Thanks.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Question. Katrina,
could you for my benefit simply say what
problem this addition is intended to solve
that the original definition created, please?

MS. HEINZE: It's simple as I used
the example that I used yesterday, which is
that if you take a wheat kernel and you toast
it under the definition of chemical change as
it stands from November, that wheat kernel
once toasted is now synthetic. That's a very
simplistic example, and I get that. There are a myriad of other agricultural products that we have a similar effect. And it's maybe less simplistic is any 95 percent certified organic product that has as an ingredient a 605(b) item and is nixed could be a certified organic synthetic.

You could take two agricultural imports and mix them together and have chemical, and that's chemical change. And that would be synthetic. And that was not our intention.

And we heard very clearly from our public that they thought that was way too far and very inconsistent with how we have the classified the materials in the past.

MR. FLAMM: I have had --

MS. HEINZE: Hold on just a second. Does that answer your question, Barry?

MR. FLAMM: What effect does it have on crops in the field? There's where
I'm--

MS. HEINZE: I am, as everyone in this room knows, not a crops person. And I haven't asked him to do this, but I'm wondering, John, would you be able to address that better than I can?

CHAIRPERSON GIACOMINI: Or the Corps Committee, Tina or Jeff, or anyone.

MS. HEINZE: I think I can do this one, John, if you're not comfortable.

MR. FOSTER: No, I'm fine. I just wanted Dan to okay it.

CHAIRPERSON GIACOMINI: I think we should send it to the Crops Committee first. We'll come to you if they're not responding.

The question is the impact of this Listing, this potential amendment on crops in the fields? Tina?

SECRETARY ELLOR: It would have an impact on inputs, if I have that right. It would have a impact on inputs to crops on the field. Not directly to the crops themselves,
but to the inputs on the crops. Is that okay?

        MR. FLAMM: But what?

        MS. HEINZE: I guess what I would add, but only for synthetics that have been reviewed by this Board as allowed for crops. So it's not like you could use a 605 input. It would only be crops inputs.

        MR. FLAMM: But does it make a difference? I guess this change does it make a difference to the inputs to crops in the field on how -

        SECRETARY ELLOR: It would have an impact in that in the determination of what's applied to crops. So in the determination of whether something is synthetic or not synthetic according to whether a chemical change has or has not taken place. And I guess -- you know, it's just in determining what's synthetic and not synthetic to be applied to crops, that's where it would have an impact.

        CHAIRPERSON GIACOMINI: Okay.
MS. HEINZE: Although I am unaware in public comment of an example that it would apply to. But again, I'm not a crops expert.

CHAIRPERSON GIACOMINI: Okay.

This is the Chair taking their term.

In the November document one of the -- and we all come from our -- we're victimized by our experience and a big part of my experience is livestock.

In the November document one of the things we did was eliminate the step for agricultural products to become nonsynthetic before becoming synthetic.

In the definition that we had at that time it was viewed that the mechanism of that change was too liberal and that it would create too many synthetics. We have now changed that to decrease the number of synthetics created in this step.

Now processing in 205(2) cooking, baking, curing, heating, drying, mixing, grinding, churning, separator, extracting,
slaughtering, cutting, fermenting, distilling, preserving, dehydrating, freezing, chilling or otherwise manufacturing blah, blah, blah.

Okay.

If you're taking out a product and you use an allowed synthetic on 601 in crops, 603 in livestock, 605/606 in handling it would not create a synthetic. That's a lot of stuff. We've really cut back on the number of things that are becoming synthetic now.

Have we gone too far the other way?

MS. HEINZE: My understanding is that this definition much more -- I don't have the right verb. Much better matches the current practice. So it is from a principle that has guided our work for the last two years on this, because that we did not want to cause the mass reclassification of materials.

CHAIRPERSON GIACOMINI:

Absolutely.

MS. HEINZE: We were trying to
come up with definitions that matched the current practice in the industry to aid in consistency. We're not trying to change, and have no intention of changing how people are doing it. It's just about consistency.

So my belief and the majority of the Committee's belief is that this does a better job of that.

CHAIRPERSON GIACOMINI: Thank you.

Jay?

MR. FELDMAN: I was trying to address Barry's issue. You know, first of all, I think I have to agree with the comments that we got that most of our discussion was processing-centric. So in that context, where we're talking about materials that essentially become ingredients in the processing world. And if those materials are developed with an agricultural material and a nonsynthetic material, nonagricultural material, in our view as we discussed it in the Committee, in
our view that if you applied to normal
practices of heating, baking, churning all
those things Dan mentioned in the definition,
that you wouldn't by definition end up with a
synthetic product.

The problem was when you say that
an organic product for which we have allowed,
this is an agricultural commodity, say, or it
could even be an allowed synthetic under
605(b), but once you take that allowed
synthetic material and mix it with all that
other nonsynthetic stuff that we understand to
be nonsynthetic by virtue of the fact that we
call it an agricultural commodity or we call
it a nonsynthetic nonagricultural commodity;
that when you mix in that admittedly
acceptable synthetic material that we have
approved, that somehow we can ignore the fact
that that ingredient we're creating, not that
overall product. I'm not talking about calling
macaroni and cheese produced with grain
products, we're not calling that a synthetic
product. We're calling that a processed food that it contains different ingredients.

We're talking about creating a material. Creating an ingredient essentially by putting in some agreed upon 605(b) synthetic and not calling that a synthetic ingredient. It's not logical.

And I understand why we want to do that because we've approved that ingredient. We believe it's not harmful. We believe it's acceptable. And I concur with all that. But we can't logically not call it synthetic because we have done something to that product, either by adding it or by virtue of changing some chemical bonds; we've done something to that ingredient that now makes it synthetic.

I mean, I don't know how much that's going to change the list. I guess you have a better feel for that than I do. But I think that we have to, again, own up to what's happening here and then just deal with the consequences.
MS. HEINZE: In many cases --

actually in probably most cases that would be
certified organic ingredient. So the objection
that the public had was to certified organic
synthetic.

MR. FELDMAN: I'm sorry. Say that
again. A certified --

MS. HEINZE: Certified organic
corn and I -- this is one that Katrina's made
up. And I -- okay, how about this? This is
relevant to this week.

I take my certified organic grapes
and I add sulphur dioxide to them, and I have
certified made with organic grape synthetic
wine.

MR. FELDMAN: No. No. What you
have if you create an ingredient, you're
creating a material. We're not talking about
a product, we're talking about a material that
would be added to wine, is that material, the
sulfites synthetic. The product can still be
based on the percentage 95/6, 70/30 can still
be classified as an organic product that has
a synthetic ingredient.

MS. HEINZE: And in fact last
November going into our deliberations the
Committee agreed with you.

MR. FELDMAN: Yes.

MS. HEINZE: Which is why we
didn't have the second sentence.

MR. FELDMAN: Right.

MS. HEINZE: The public disagreed.

CHAIRPERSON GIACOMINI: John.

MR. FOSTER: I haven't been
successful in making my point, apparently,
that I think this does the opposite. I think
this makes it more consistent.

We have the one example I've used
before is bread. We recognize bread is not
synthetic, even though we've added synthetics
to it and we've baked it, we all accept, and
I've embarrassed myself more than once making
the point that wine is wine even though it has
sulphur dioxide; bread is bread even though it
has synthetics in it, leavening agents in it.

And my hope was that this made things, the definition of what is synthetic or not, more consistent across ingredients and inputs. If at a later time, this is what I was trying to get at with the difference between definitions and sensibilities. If our sensibilities are such that we want to change what's allowed in organic, that's one thing. But I think what this does is make the determination about what's synthetic more consistent. And I think more consistent with what we all think of right now with what's okay to put in our mouths; wines, bread, for example, cheese, many, many things. We recognize those things as being nonconsistent. And if we discovered that wine was a fantastic fungal control agent or better fertilizer which would make a lot of people in this room rally happy, I think, that wine would be allowed as a fertilizer as is because it's non-synthetic.
So my point is -- my thought is that we already do this. We've already said if there's a synthetic on the National List and we take an egg product, add something on the list, use it if approved practices as defined in 205(2) that product is not synthetic. And that is a definition -- that's the difference between the definition versus the allowability.

So I think I see this as just kind of codifying that and allowing wine to be used as a fertilizer if we find it works. And I would be thrilled with that, actually.

CHAIRPERSON GIACOMINI: I think we have beaten this section of this pretty well. I would certainly if there's any new consideration from this part of it, but there are some other issues in the document that I would like us to get to if there is any discussion on.

MS. HEINZE: Can I just wrap up?

CHAIRPERSON GIACOMINI: Yes.
MS. HEINZE: I appreciate, Jay, Berry you guys asking the questions and helping bring the conversations we've had for two years to light.

It is my personal opinion that this is the very best that we can do at this point and that industry asked us 3 years ago to do something, and our time has come. And it is time to give this to the Program, give them a chance to chew on it, to work with us and to get this out there to industry to use.

And, like someone so elegantly said, the matter of classification for the National Organic Program will never really be done, it just needs to be done right now.

CHAIRPERSON GIACOMINI: Further debate any other of the other issues in the document?

MR. FELDMAN: Can I just ask one more question of you, Katrina? You know, in the crops community we've been dealing a lot with extraction, extraction of elements with
the synthetic process. Can you envision a day when we're sitting in the Crops Committee and will be told that you've got an agricultural product all natural, we've extracted the portion of that that we want. You know, it could even be an enzyme, a bacteria or whatever it is through some process. It has not left any residues in the final product, and therefore we want you to classify this as a nonsynthetic. Could you envision that day? Would it change what we're doing in our Committee work presently? And how do we control that down the road, or do we need to?

MS. HEINZE: It looks like, Tina, do you have a comment on that?

SECRETARY ELLOR: We do that now. There's lot of extracts used as botanical controls, essential oils; those things are extracted.

MR. FELDMAN: Right.

SECRETARY ELLOR: So I think we do
that now.

MR. FELDMAN: Right.

SECRETARY ELLOR: Right.

MR. FELDMAN: So I'm asking what

the effect of this classification would be

where we're told you can extract, chelate,

whatever you do and not result in it being a

significant residue or having a synthetic

cOMPONENT either because that is on the

acceptable List as an acceptable synthetic or

somehow it's determined that the residues

remaining are de minimis or insignificant?

MS. HEINZE: So I understand your

question, the addition of this sentence I do

believe, I'll one of the Committee members

speak if they want, doesn't change that. It's

the first sentence.

MR. FELDMAN: Okay.

MS. HEINZE: So in an extraction

if you use -- because this happens today.

Botanical pesticides are extracted with

hexana, as I understand.
MR. FELDMAN: Right. Yes.

MS. HEINZE: There is no chemical change. There's no change in identity. That first sentence. And there is, as currently understood, no significant residue of the hexane. Adding this sentence so what's being voted on today is not affected, or does not affect that.

MR. FELDMAN: So I'm referring to the November decision. Okay.

MS. HEINZE: Right. Yes.

MR. FELDMAN: Thank you.

CHAIRPERSON GIACOMINI: Also, Jay, there's a place for everything on Handling. There's essentially a place for everything in crops. The biggest impact on this is on livestock feed of what has changed. I mean, I don't want to get into this whole discussion.

MR. FELDMAN: Right.

CHAIRPERSON GIACOMINI: We've had it. But an agricultural product is it changed
to a nonsynthetic? Well, we don't do that anymore. Does it go all the way to synthetic? Then it would need to be on the list. If it doesn't go all the way to synthetic, it's required by statute or by the regulation that it had to be organic. And that is the place where this whole discussion I believe has the biggest impact. Because everywhere else, wherever it falls, there's a place to put it.

If it falls a certain place on the livestock side and it's something that goes in the cow's mouth, there's no place to put it depending on where it falls.

MS. HEINZE: And then if you remember yesterday I asked the Livestock Committee to look at that in more detail --

MR. FELDMAN: Right.

MS. HEINZE: -- and see if they wanted to make recommendation to address that.

CHAIRPERSON GIACOMINI: Ready for the question? All right. On the motion to
accept the recommendation from the Joint
Materials and Handling Committee as presented.

Joe?

MR. DICKSON: Yes.

CHAIRPERSON GIA COMINI: Barry?

MR. FLAMM: I hope you're right.

I vote yes.

CHAIRPERSON GIA COMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIA COMINI: Was that yes?

MR. RIHERD: Yes.

CHAIRPERSON GIA COMINI: Okay.

Jennifer?

MR. HALL: No.

CHAIRPERSON GIA COMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIA COMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIA COMINI: Jay?

MR. FELDMAN: No.

CHAIRPERSON GIA COMINI: Tina?
SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: No conflicts on this. This is a classification. Everybody lives and dies on this. Nobody's getting out of this one.

On the entire document as it was done yesterday for the Chair.

One absent, two no's, 13 yes.

Motion passes.

MR. MOYER: Twelve and two.
CHAIRPERSON GIACOMINI: Sorry.

Okay.

Does that conclude the work of --

MS. HEINZE: It does. I am very grateful for such a fabulous discussion. I think future Boards will benefit from having all that in the transcript, and I really appreciate it.

So thank you.

That concludes the work of the Joint Materials and Handling Committee.

CHAIRPERSON GIACOMINI: Somehow I've lost my pages here.

Okay. We're at 12:15. We have one CAC. Do we have a lunch in. Lunch is in? Have the lunches arrived? We're not sure. We're going to go with the CAC.

We already said.

Go, Joe.

MR. SMILLIE: We're not ready?

CHAIRPERSON GIACOMINI: You're not ready?
MR. SMILLIE: Well, I'm ready.

The document being presented is Guidelines for the Use of Inert Atmospheric Gases With Products Labeled and Sold As 100% Organic.

Just a couple of things. In struggling to find the FDA information on this, it isn't under packaging aids, although it is referred to as packaging aids in the FDA CFR. It's under -- oh, gee. I forgot it again. Steve? Oxygen displacement. So that's where the information on the use of these materials as approved by FDA can be found. Again, it's one of the FDA rabbit holes. Not that it affects things, but that information is there on how the FDA considers it.

So we're not changing the document whatsoever. The changes that were made yesterday stay the same, but the backup information is available.

I'd like to move that the NOSB accept the document, Guidelines for the Use of
Inert Atmospheric Gases With Products Labeled and Sold As 100% Organic

VICE-CHAIRPERSON MIEDEMA: I second.

CHAIRPERSON GIACOMINI: It's been made and seconded to accept the recommendation from the CAC on 100% label with use of inert atmospheric gas.

Maker of the motion, do you have any further debate on this?

MR. SMILLIE: Nope.

CHAIRPERSON GIACOMINI: Any other debate, comments or questions?

I have one clarification that I'd like to ask. Does the use of the term being "oxygen displacement" change the potential answer that we've discussed yesterday with the carrot juice?

MR. SMILLIE: Thank you. I believe it does. I believe it does. Because, again, it's complicated. Our recommendation is to regard it as a packaging aid, not a
processing aid; that stays as our
recommendation. But the fact that the FDA
calls it is effect is not as a packaging aid,
it's effect is oxygen displacement would lead
me to change the opinion that I gave on the
spur of the moment to Steve that during the
processing of the carrot juice at an
intermediate period, this inert gas was used
as oxygen displacement would take it out, once
again, from the processing equation and hence,
I think it would be allowed.

Again, to be fair to the negative
commentator, this does add a layer -- pun
intended -- of complexity to the decision
making process. But nonetheless, I would
change my opinion I gave Steve yesterday based
on the information data in FDA.

CHAIRPERSON GIACOMINI: And I
think it's always important to remember that
the Program holds final authority on
interpretation. But it is important that with
the proper language and the intent of this
Board being on the public record, I felt that that was something I wanted to add.

MR. SMILLIE: I thank you for that. I think you that, Mr. Chair.

CHAIRPERSON GIACOMINI: John?

MR. FOSTER: I'm quite confident that ACAs would consider this a processing aid if it was used in the application that Steve brought up yesterday. It fits the definition quite well. I mean, I don't know how a certifier could call it anything other than a processing aid in the context that Steve brought it up.

MR. SMILLIE: But not in the context of the flush at the end of processing.

MR. FOSTER: Okay. Regardless. I mean, I'm as you know --

CHAIRPERSON GIACOMINI: You're expressing an difference of opinion and the opinion as the opinion of the Board then, from what Joe just stated?

MR. FOSTER: I don't know that.
If you say, I'll accept it.

CHAIRPERSON GIACOMINI: Okay.

CHAIRPERSON GIACOMINI: But my point being that it would be a processing aid out of the context of a processing plant. And that it's something different in a bottle and a jar with a cap as opposed to a tank with valve is odd to me.

CHAIRPERSON GIACOMINI: Okay.

Jeff?

MR. MOYER: I guess my question, Joe, I see a difference between the two. And I was inclined to originally consider this as a packaging aid, that made sense to me. But what you just said infers that anywhere along the processing chain if you used it for the same use then it's -- so if you used it as the first step in the processing, you would still call that a packaging aid; and then I have a problem with it. I do see differences.

MR. SMILLIE: You're agreeing with John, what John just said?
MR. MOYER: Not exactly. Because I think John sees the use, he doesn't care where it is in the step of the process if I'm reading your comment correctly, even at the end in a bottle as a packaging aid, you see that as being the same?

MR. FOSTER: No.

MR. MOYER: Isn't that what your comment just was?

MR. FOSTER: I think we ought to--if it's used in a tank, it's the same material for the same purpose as it is in a bottle with a cap. I think we ought to treat it the same way. That's all I'm saying. And in a processing facility it's a processing aid, so it would discount the 100 percent claim on anything after that point.

So if that carrot juice is in a tank and you get the nitrogen displacement in the tank, then at that moment that carrot juice loses its ability to be labeled a 100 percent anywhere else down the chain.
So the assumption is is that process had not been used in the tank in the processing facility, in the case of being allowed 100 percent claim in the finished product of this carrot juice with the nitrogen flush, in that case so apparently the processing plant that ended up producing the finished product that Joe's talked about, a bottle with a cap, you know a retail package, had not used that same material in that same way for the same purpose anywhere in the processing facility. What I don't see a way around is why you can treat a material for a single use in one case, differently just because it's in a bottle with a cap as compared to a tank in a processing facility. I don't see -- that doesn't add any clarity to me. I don't understand the rational to allow that inconsistency.

CHAIRPERSON GIACOMINI: Okay. I apologize to the readers in the transcript in the future not to be able to get John's hand
message. But to Jeff --

    MR. FELDMAN: Interpretive dance.

    CHAIRPERSON GIACOMINI: Yes. To

Jeff, does this part of the discussion of
whether it's one or the other effect your
consideration of this document, or is this
just something --

    MR. MOYER: Yes. No, it does. It
clearly does.

    CHAIRPERSON GIACOMINI: Okay. I'm
happy to continue it then. If not, and it's
just -- when I initially introduced the
question to Joe was to get -- if that change
in language changed his interpretation of what
it mean as the Board's thinking in presenting
this document to the program, I wanted that on
the record. It's obvious now that it has --
that the Board is undecided on that influence.
So I'm happy to get that on the record.

    MR. MOYER: Yes.

    CHAIRPERSON GIACOMINI: I think we
only need to continue this part of it of that
influence if it's going to effect your vote on this document.

MR. MOYER: Correct. And I do think it will as a point of clarification.

CHAIRPERSON GIACOMINI: Okay.

MR. MOYER: Because even though the same material is used at different stages, I guess I'm inclined to say if it's a packaging aid, I'm approving of it. But if it's used as a processing aid even though it's the same material, atmospheric gases along the way, then it's processing. But if you're saying with this vote it's going to be allowed anywhere along the chain, as it what John is suggesting that they be equal, then I have a problem with it.

MR. SMILLIE: Well once again, we have the beautify and the luxury of not making the regulation. We just make our recommendation and the Program will determine how they will deal with it and what guidance they will give to certifiers if we do adopt
it.

So I believe that that issue can be clarified.

To me processing means that you're using something in a process to create something. There's a reason for it. It's an anti-foaming agent, it's a filtering agent; it's doing something to move the process forward. That's what processing aids do. This doesn't do that.

CHAIRPERSON GIACOMINI: I think this relates sort of to the diatomaceous earth in grain tanks. To say that this is as wondrous as the other would be like to say only when you use the diatomaceous earth in the last tank before it's feed to the cows would cover for this, but other times it would different. I don't understand that.

Tracy?

VICE-CHAIRPERSON MIEDEMA: I think the argument could be made that it's a processing aid right there in the bottle. It's
doing something. It's keeping the oil fresher longer. In a drum it's keeping the carrot juice fresher longer.

The recommendation as we put it forth attempts to make some more fairness, creates some more fairness. The risk is that it creates inconsistency. So we're kind of taking making a decision of more fairness, less consistency, I believe, by voting yes on this document. And I don't think it's a very powerful argument to say that there's no processing function.

And I think it's a problem to start introducing more layers of certification and more terms. We haven't explored all the other types of packaging aids, even though we would be introducing the term.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: I forget the Committee's feeling on some wording change in this.

Instead of calling a packaging
age, call it an oxygen displacer. Wherever packaging aid shows up in your document, refer to it as an oxygen displacement gas.

CHAIRPERSON GIACOMINI: Would you like to present that in the form of a motion?

MR. DeMURI: I would like to make a motion for a friendly amendment.

CHAIRPERSON GIACOMINI: To make the motion to change --

MR. DeMURI: To change the language in the recommendation from "packaging aid" to "oxygen displacement" anywhere in the process.

CHAIRPERSON GIACOMINI: Joe, Tracy, would you accept that as a friendly amendment?

MR. SMILLIE: I do.

VICE-CHAIRPERSON MIEDEMA: I do too. And I think it --

CHAIRPERSON GIACOMINI: Just yes or no right now.

VICE-CHAIRPERSON MIEDEMA: Okay.
Yes, and may I have a turn?

CHAIRPERSON GIACOMINI: Yes. It's been accepted as a friendly amendment to change the language in this recommendation from wherever it says "processing aid" --

MR. SMILLIE: Packaging aid.

CHAIRPERSON GIACOMINI: "packaging aid" to "oxygen displacer."

Steve, maker of the motion, do you have any further debate?

MR. DeMURI: No.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: I think that's a pretty nice elegant solution and would keep us from having to decide between the fairness and the consistency. So I'd vote for that.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Okay. Yesterday, we questioned what materials we were talking about. And I'm trying to use this handy dandy thing to figure out on the web what we're
actually talking about.

So what I come up with, and
Katrina you may be able to correct me, is that
the inert atmospheric gases include helium,
neon, argon, krypton, xenon, radon -- it
sounds like Superman's involved with this one.
But I don't know -- I'm not sure about
nitrogen in that context. And if you just
define it as inert, whether you're going to
capture nitrogen, which is one of the
materials I understand you want to get to.

MR. SMILLIE: It's the main
material.

MR. FELDMAN: Yes. But you've
researched that apparently. I mean, you came
up with inert as including that, right?

MR. SMILLIE: I've never seen any
reference otherwise that N2 isn't an inert
gas.

MR. FELDMAN: Okay. I guess when
you're strictly talking about the elemental
table, it may not be there, but maybe in the
trade it's referred to as inert. I don't know.

MS. HEINZE: I cannot help. I'm sorry.

MR. FELDMAN: Okay.

CHAIRPERSON GIACOMINI: I know there are strict terminology in -- I understand. There's strict terminology in chemistry for the use of this term. There's also use strict terminology in chemistry for the use of the term "organic." And we've slightly modified from that one.

I think whether the N2 form is reactive or not is the pertinent information here. And I think the intent of the document is very clear, and I would hope that the Program would evaluate the list to make sure that whatever is listed there, is not a nonreactive atmospheric gas and take any guidance or rulemaking appropriately.

Is that reasonableness?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: So -- Jay?
MR. FELDMAN: One more question.
Can you give me an example? Maybe you did, John, and I just missed it, where in the processing would this oxygen replacement as opposed to packaging as the layperson understands packaging, where in processing, what would you use it?

MR. SMILLIE: Well until yesterday, my understanding as that it was the final cap fill.

MR. FELDMAN: Right.

MR. SMILLIE: That's where it's mostly used, that's what we are talking about. I hadn't realized that it was used during the processing -- I got to be careful here. It wasn't used during the process. But apparently it is. And for the same exact reason; to prevent rancidity and not to change anything.

MR. FELDMAN: Right.

MR. SMILLIE: Just to keep what you got.
MR. FELDMAN: Okay.

MR. SMILLIE: Without having it react. And in the bigger picture of things, Jay, you know there's a lot of packaging materials that we allow that we're starting to find out do react.

MR. FELDMAN: Right.

MR. SMILLIE: And this doesn't.

MR. FELDMAN: Right.

MR. SMILLIE: So we're allowing more things, to go back to back to your philosophic dictum, this is just a much better solution. And then you've got the food safety aspect that the sole purpose is to prevent rancidity.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes, Joe pretty said what I was going to say.

Its used quite often in tanks to push the oxygen out and put a nitrogen blanket on top of the product, just on top. There'd be an interface there. But just on top of the
tank to keep oxidation from occurring before
that juice, for instance, goes further into
the process. It might sit in a tank for two
or three hours, so you don't want oxidation to
occur during that period of time.

CHAIRPERSON GIACOMINI: John?

MR. FOSTER: In terms of full
disclosure I should note we do a product,
Earthbound does where we use nitrogen flush in
the finished packaging actually for the
purposes of displacing of oxygen. And we do
that.

MR. SMILLIE: But you're not
making a 100 percent claim.

MR. FOSTER: That is correct.

CHAIRPERSON GIACOMINI: This is
affecting the 100 percent claim.

MR. FOSTER: Yes. Okay. I wanted
to make it clear that --

CHAIRPERSON GIACOMINI: You're
reminding me of conflict of interest.

MR. SMILLIE: So you're not
getting off on recusal on this one, John.

MR. FOSTER: I wanted to make clear that despite the fact that we use it and may in fact at some point in the future be able to benefit from making a 100 percent claim, we would choose not to.

CHAIRPERSON GIACOMINI: Jeff.

MR. MOYER: I have a question, I'm not sure who it's for. But --

MR. SMILLIE: Well, I'll take it.

MR. MOYER: Thank you.

Last night sitting in the restaurant I learned a little trick from Dan that by -- yes, I talk more than I more learn.

MR. SMILLIE: Too much information.

MR. MOYER: That if you blow through a straw into a glass of wine and put CO2 into it, you can change --

MR. SMILLIE: The taste?

MR. MOYER: The -- completely the
flavor and the texture of that wine.

MR. SMILLIE: Correct. Yes.

That's CO2.

MR. MOYER: I got you. But are there opportunities where inert atmospheric gases would be infused into a product that would somehow change it if --

MR. SMILLIE: The answer almost a 100 percent, and Steve might know more, is no. If you put it in, it comes up. That's what it does. It's consistent behavior, nonreacting consistent behavior, as far as I know.

MR. MOYER: So bubbling through and infusing in there --

MR. SMILLIE: It wouldn't matter. Actually if you would allow me the indulgence, I would like --

MR. MOYER: And I apologize. It's an area of expertise of which --

MR. SMILLIE: But we need an answer. I'd like to ask Gwen to come to the mic to clarify it. If you don't mind.
CHAIRPERSON GIACOMINI: Yes, Gwen?

MS. WYARD: Gwendolyn Wyard.

CHAIRPERSON GIACOMINI: I'm accused of having great control, but sometimes I'm getting around it. That's okay. Go ahead.

MS. WYARD: So this might be some useful information, and it does sound like hair splitting, but there is a distinction that Oregon Tilth makes. And we make this distinction because we're trying to hang our hats on the word "processing aid." And the requirement in the regulation that you have to have an organic processing aid in order to label something 100 percent. We're trying to prevent going down the rabbit of hole at what point along the process whether you're using a sanitizer in the field that might knock something out of the 100 percent category, to something that you're using post-harvest handling and something that you're using during processing. We want to make a
distinction. We want it to be a processing aid.

So when it comes to the use of nitrogen under 834.1520 the ingredient is used as a propellant aerating agent in gas as defined in 173.025. Now pointing out it just referred to it as an ingredient, however it will do that throughout the regulation. The point here is that 170.3025 describes the technical functional effect of oxygen displacement versus 21 CFR 173.24 that describes the technical functional effect of processing aids.

So the FDA makes a distinction between an oxygen displacer and a processing aid. And it doesn't matter whether you're using it during processing or during packaging. In fact, that definition of processing includes packaging.

So whether you're flushing a tank or whether you're adding it to a bag, the technical functional effect is oxygen.
displacement. And that could be in the case whether it's going to be aerating or propelling, or displacing oxygen; it's all under that 170.3025 different than the technical effect of processing aid.

So that's a distinction that we make.

MR. SMILLIE: Could you speak to the other issue? Does it react if you bubble it through --

MS. WYARD: Blowing -- bubbling into a line? I did that last night.

MR. SMILLIE: It's only 70 percent nitrogen, though.

MS. WYARD: Right. So what the question there again?

MR. SMILLIE: If you bubble into a solution will it react differently?

MS. WYARD: No. Nitrogen wouldn't.

MR. SMILLIE: Then would if you lay it out?
MS. WYARD: Right. Versus carbon dioxide or --

MR. SMILLIE: Right.

MS. WYARD: Right, but nitrogen would not.

MR. SMILLIE: It doesn't react?

MR. SMILLIE: Thank you.

MR. MOYER: Thank you. That was very helpful for me.

CHAIRPERSON GIACOMINI: Oh boy.

Oxygen displacement, Joe or Steve, whichever of you, the oxygen displacement issue I was pretty comfortable with. But when Gwen then reads the rest of that, I think super loading that to use as a propellant is an entirely different issue. Would that be part of this document?

MR. DeMURI: No.

CHAIRPERSON GIACOMINI: Thank you.

Thank you.

Is that clear to the Program that
it wouldn't be? Thank you.

Further debate?

MR. SMILLIE: I'm not sure how to proceed now. Because there are some place --

CHAIRPERSON GIACOMINI: We'll take the vote, that's the best way to proceed.

MR. SMILLIE: Yes, I know that. But I want to be clear. I don't want to -- you know. There may have to be some wordsmithing because if you do a direct replacement, it creates some non-English sentences in there. It doesn't change the intent of the document. But there has to be some minor wordsmithing when you change from packaging aid to oxygen displacement. But I do not believe it affects the document. It doesn't affect the intent of the document whatsoever.

CHAIRPERSON GIACOMINI: Was it "displacement," or "displacer?"

MR. SMILLIE: Well that's what I mean. It will depend on the context of the
sentence.

CHAIRPERSON GIACOMINI: Right.

Right. I think the appropriate one is valid.

MR. SMILLIE: Thank you. Just want to be clear.

CHAIRPERSON GIACOMINI: Ready for the question?

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Conflicts of interest outside of John's statement?

MR. SMILLIE: I do not believe I have a conflict of interest. We rule on this everyday, but I have no interest in nitrogen gas sales or -- but we have to rule on that.

CHAIRPERSON GIACOMINI: Thank you.
The Chair does not view that as a conflict.

MR. SMILLIE: Thank you.

CHAIRPERSON GIACOMINI: We're getting to far down the page to follow my line.

Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe

Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John

Foster?

MR. FOSTER: Have you determined whether or not I have a conflict of interest?

CHAIRPERSON GIACOMINI: You're allowed to vote.
MR. FOSTER: No.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Chair votes yes.

One absent, one no, 13 yes.

Motion passes.

We are at 12:40. We're looking for a lunch break. 1:40 -- 1:45 back for after lunch.

(Whereupon, at 12:44 p.m. the meeting was adjourned, to reconvene this same day at 1:57 p.m.)
A-F-T-E-R-N-O-O-N  S-E-S-S-I-O-N

1:57 p.m.

CHAIRPERSON GIACOMINI: Jay are you ready? The rest of the Board all completed our lunchtime. We're a little late, but we're fairly well ahead of schedule, and hopefully that will continue.

Valerie, are you ready? Okay. All the sound?

We had the motion earlier to table the discussion on methionine until after lunch for the makers of all the various motion to get the language together for the amendment to the main motion. So, Jay, could you please read the agreed upon language to amend the main motion?

MR. FELDMAN: Yes. Thank you.

We're really only adding a sentence or a portion of a sentence that would affect the expiration of the --

CHAIRPERSON GIACOMINI: Let's just start by reading it.
MR. FELDMAN: I'm reading the last sentence here.

CHAIRPERSON GIACOMINI: Okay.

MR. FELDMAN: On October 1, 2015, allowed uses of the synthetic methionine in organic poultry production expires.

CHAIRPERSON GIACOMINI: Yes. And that's agreed to by the second. Thank you. So that has been properly moved and seconded?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: This is the language. This is where we tabled, this is where we're coming to with the exact language that they're looking for.

Jay, please, proceed with any debate.

MR. FELDMAN: Yes. Again, just to review quickly. The point of this was to make sure that everybody understands the seriousness of this issue and it's tacked onto the original motion because the step down
process is one that the Board would be endorsing. It's just at the end of that step down process this amendment would require those that feel its continued use is essential and necessary, would have to repetition to retain that use.

My feeling is that this sends a stronger message than putting it into the Sunset process. And, hopefully, will contribute to the ability to do more research, generate more interest to support research that would help facilitate the transition to another source of methionine or other practices that might help in this regard.

Thank you. That's all I have to say.

CHAIRPERSON GIACOMINI: Thank you.

Jeff?

MR. MOYER: Just to try and represent the Livestock Committee's perspective, and the reason that we had chosen in our original recommendation to not have an
expiration date on methionine was because we had already gone through a process where we've had two, if not three, expiration dates on this material and each time the Methionine Task Force has repetitioned to the Committee and to this Board to have it reinstated on the List.

The Livestock Committee felt by taking the drastic step down measure that down and putting it into the Sunset process still enables us to review the material every five years, but frees up the slate of work on the Livestock Committee to move on to other items. Because this continuously keeps coming up and I can almost guarantee you that you will see a petition in before the Livestock Committee that sits at that point, we'll see a petition to reinstate again and again. And our goal is to move beyond that. Not that we didn't think research was important. We think we're sending a fairly strong message with the drastic step down that we already gave them.
That was kind of our position from the Livestock Committee.

CHAIRPERSON GIACOMINI: John?

MR. FOSTER: I think the Livestock Committee's work has been really good, really strong. I think they did the hard work and continue to do it.

I also think that the participants in the Methionine Task Force and associates have already shown very clearly that they get this is an important thing and have made as significant movement in research and ponying up money as much more than any other interest group out there. I think they clearly understand this already.

And I think for those two reasons, I think the original Livestock Committee's recommendation I think is good.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Point of clarification for the Board, Dan. A no vote on this particular amended language would send it back
to the original recommendation of the
Livestock Committee, and we would vote on
that, is that correct?

CHAIRPERSON GIACOMINI: Yes. This
is to amend the motion.

MR. MOYER: But if we vote yes on
this the Livestock Committee's is a dead
issue? And this is what we would be
accepting?

CHAIRPERSON GIACOMINI: No. We
would then vote on this as the amended motion.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: So first
we vote to amend the motion. If that fails,
we vote on the original motion. If that
passes, we vote on the amended motion.

MR. MOYER: I gotcha.

CHAIRPERSON GIACOMINI: We're
going to have two votes either way.

MR. MOYER: Thank you very much
for that clarification.

CHAIRPERSON GIACOMINI: Katrina?
MS. HEINZE: I'm having a deja vu moment. I'm vaguely remembering that perhaps my first or second meeting we had this conversation as the result of a petition to methionine because their cut off date was coming. And there were some who wanted to -- we had the same debate: Should we put it into Sunset or should we have a cut off date. And there were some Board members who felt we had to have the cut off date to be able to communicate to future Boards the concern.

Am I imagining things or am I correct?

MR. MOYER: I don't know if you're imagining things, but in this particular point you are correct.

MS. HEINZE: Thank you.

CHAIRPERSON GIACOMINI: Yes. As I've stated before when we originally -- an early draft of this recommendation had one more step down period, which was the full intent of, for lack of a better word, pinching
the industry to really go after and initiate all possible avenues to that research. We could not find a scientific justification for the numbers we picked, so we backed up one, we settled on these numbers with the one step down. We had a number of public comments from one side of the issue wanting the finding to be completely off. We had a number of comments from the other side issue requesting us to transfer the young chickens in the step down to the larger amount of methionine. Because of all the debate requesting that methionine come off, we decided to stay with this recommendation and not agree to the request from the poultry community to move the young chickens.

In my mind the effect of that is essentially that it's going to continue to spur that research because some of that community is right now saying they'll have an extremely, extremely hard time if possible to achieve it.
So I think the demand for pushing for research will continue. And it was a great desire of the Program, the Livestock Committee and a large part of the public over three times in my time of being on this Board, I believe, to please get this onto Sunset so we don't have to be continuing to deal with the petition process.

Jay?

MR. FELDMAN: All this amendment does is gives the ability of future Boards to address the annotation issue. It ensures the ability to address the annotation issue.

If the Sunset process doesn't change and we go with the original amendment, then the Board does not have the authority to change the annotation, as we all know, unless we can encourage someone to petition, which is somewhat of an artificial process. Because, you know, here we already have something that's controversial. The Committee in its wisdom has created a step down process that
the industry seems to think is probably viable. But there are still unknowns associated with that

The controversy on the chemical has not gone away. All this amendment does is ensure that we as a Board, as we vote on this thing, guarantees us the opportunity to address the annotation process, or address the annotation. No other process guarantees us that opportunity because we cannot as a Board be ensured that anybody would petition or we would artificially ask someone to petition who would, or might or might not. You know we just have no control over that.

So this is a guarantee on a chemical that's controversial. It's an attempt to compromise among those who think this a bad idea to institutionalize and others who recognize they don't want to be disruptive to the industry, but want to help to facilitate a transition, this is an attempt to create a middle ground so that there's some
assurance and guarantee to future Boards that
they will have the opportunity to do what you
all did on the Committee, and that is craft an
annotation that reflects your best sense of
what needs to be done as of today.

Thanks.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Mr. Chair, I'd like to call a question on this
amendment.

CHAIRPERSON GIACOMINI: Any
further debate? Tina?

SECRETARY ELLOR: I still feel
like the original Livestock Committee
recommendation is the best of all worlds, and
this is why. It puts it into straight Sunset
at a defined and reduce usage to spur further
developments of alternatives, which we know
are on the way. It also provides a great
incentive for those people who have invested
in these alternatives to come forward at
Sunset and say we don't need this anymore.
And I know that that's not how it always works, but I think there's strong and focused incentive built into this for those people to come forward at Sunset. But this puts into straight Sunset and off this perpetual petition cycle.

And I'd also like to point out, I love my birds. Birds aren't meant to be vegetarian. And the way the office set up this is sort of forcing birds to become vegetarians. And methionine is important.

Once again, I don't want to see naked chickens, absolutely not. Whether in the future there will be a continued need for a small anti-synthetic methionine, that is yet to be determined. We know there's alternatives in the development. I think that the Livestock Committee recommendation is the best of all worlds to forward that agenda.

And I'd like to go back to the original.

Thank you.
Further debate? Seeing none, proceed to vote on the motion to amend the motion. So the motion is to accept this language.

I'm trying to figure out where to put it. Okay.

So an affirmative vote accepts this new language into the motion, which we would then vote on that. A negative vote retains the original motion and we would vote on that.

Annette?

MR. RIHERD: Yes.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Yes?

MR. HALL: Yes.

CHAIRPERSON GIACOMINI: Conflicts?

MS. FULWIDER: Organic Prairie does have hen houses. I don't make money on chickens.

CHAIRPERSON GIACOMINI: I have no
problem with you voting.

MS. FULWIDER: I would vote no.
CHAIRPERSON GIACOMINI: No.
Jay? I'm sorry. Jeff?
MR. MOYER: I vote no.
CHAIRPERSON GIACOMINI: Jay?
MR. FELDMAN: Yes.
CHAIRPERSON GIACOMINI: Tina?
SECRETARY ELLOR: No.
CHAIRPERSON GIACOMINI: Tracy?
VICE-CHAIRPERSON MIEDEMA: No.
CHAIRPERSON GIACOMINI: Joe?
MR. SMILLIE: No.
CHAIRPERSON GIACOMINI: John?
MR. FOSTER: No.
CHAIRPERSON GIACOMINI: Steve?
MR. DeMURI: No.
CHAIRPERSON GIACOMINI: Katrina?
MS. HEINZE: No.
CHAIRPERSON GIACOMINI: Joe Dickson?
MR. DICKSON: No.
CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: Yes.

CHAIRPERSON GIACOMINI: No.

Ten no, 4 yes, 1 absent. Motion fails.

Mr. Chairman of the Livestock Committee, Acting Chairman, Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: The debate is now reopened on the existing motion. Is there any further debate on the recommendation from the Livestock Committee to relist methionine with the step down putting it back onto Sunset.

Joe?

MR. SMILLIE: Yes. There will be a question. Originally the Methionine Task Force came back and asked you to change the number somewhat. This is the question about the numbers. I just wanted to hear what your reasoning for not boosting the methionine levels in pullets and broilers is.
Differentiating it from layers and turkeys, I think.

MR. MOYER: Okay. I'll attempt to answer it, but other Livestock Committee members please feel free to jump in.

For broilers, for example, the difference would have been for the entire life span of the bird because they asked for 27 weeks.

Pullets we did discuss but felt that in talking to industry people in the hallways and privately, that it wasn't absolutely necessary.

To follow-up on what Jay was saying, we wanted to make sure that the industry certainly felt the need to pursue other avenues, to work on research, and in counsel with Wendy and other people on the Committee felt that scientifically the birds would be okay at those lower levels.

Our goal is to use this as a tool to also help modify production practices.
Because we know that production practices are also related directly to the bird's need for methionine.

So we thought we struck a good balance when we originally discussed this in Committee. We did take into account the public's comment and the comments from people in the Methionine Task Force to include those birds. But again, our recommendation was to not accept that.

Is that helpful? But maybe Wendy--

CHAIRPERSON GIACOMINI: Any other Livestock Committee members?

MS. FULWIDER: I agree with what he's saying.

CHAIRPERSON GIACOMINI: The reason I've decided to stay with this was twofold. Again, I'm a firm believer in the petition process. This is now an annotation on Sunset that's allowable for a petition to change the annotation.
Number two, this brings into great focus the problem that Tina just expressed where, unfortunately, OFPA has created an abnormal diet for poultry. And I'm hoping it will give the opportunity for the Livestock Committee to work with the program to explore possible potential ways that that issue can be addressed to meet within the need. And I understand that's in OFPA, which makes it very difficult. But to also, though, meet the needs and demands of all of the rest of the industry that would be concerned, depending on how that language is written, that would be concerned with any liberalization of the regulation that would be ensued.

So that's the process I would like to encourage to proceed as well.

Joe?

MR. SMILLIE: Yes. One other thing. You know, the vegetarian diet is one thing, and that's an important thing which in my understanding is in Europe they don't have
that same constriction.

My understanding also is that
Canada, who we have mentioned briefly in our
talks as influencing us on hydroponics, have
no restrictions on methionine, and we have an
equivalency agreement with Canada. So that
means that American consumers can eat USDA
chicken that has methionine.

CHAIRPERSON GIACOMINI: They can now.

MR. SMILLIE: They can now.

CHAIRPERSON GIACOMINI: Even in
our regulation.

MR. SMILLIE: Right.

CHAIRPERSON GIACOMINI: We just have it --

MR. SMILLIE: Well, you're stepping it down.

CHAIRPERSON GIACOMINI: Yes.

MR. SMILLIE: Okay. Just wanted to make those two points.

Would the Committee, in your
recommendation, consider a friendly amendment to split the difference and boost for broiler chickens and pullets up to 2.5 pounds per ton for broilers and pullets? In other words, a slight boost for those two categories. Would the Committee consider that as a friendly amendment? I'm proposing an amendment.

I would propose that we move to replace, after October 1st, 2012, the following maximum levels per ton. Laying and broiler chickens 2 pounds per tons ending there, and replacing with, after October 1, 2012, the following maximum levels per ton: Laying chickens 2 pounds per ton, the same; broiler chickens and pullets 2.5 pounds per ton.

CHAIRPERSON GIACOMINI: And turkeys?

MR. SMILLIE: The same. That's continued.

CHAIRPERSON GIACOMINI: Arthur?

MR. NEAL: Please forgive me. I'm
just coming back. Don't know the full history on how we came to our numbers. But I want to caution us all on how do we justify the numbers that we've established for this annotation?

I mean, I'm not saying that you have not done it.

MR. MOYER: Right.

MR. NEAL: But even in making changes to it, what's the rationale that we're using to make the changes? Because it needs to be documented. Because when we go to rule-making, we've got to put it in the Federal Register.

MR. MOYER: And that was going to be my answer to you, Joe, that the Committee, while we haven't had a chance to discuss your friendly amendment here among ourselves, my reaction is to say no we would not accept that because it's an arbitrary number just pulled out of thin air, which Arthur is just alluding to. The Committee itself did do its due
diligence in terms of searching through the industry to come up with the numbers that we came up with looking at, as Dan indicated yesterday, talking to feed mills, talking to producers and folks who are raising chickens to come to the numbers that we came with. And as the Acting Chair of the Committee, I would be reluctant to come up arbitrary numbers to plug in today sitting here at this meeting.

So my answer to you is no, we would not accept that friendly amendment.

CHAIRPERSON GIACOMINI: I would respectfully disagree with your statement there, Jeff, of his arbitrariness. Without extensive writing in our recommendation on the process of the step down, it could be easily said we cut the numbers in half but we decided to do more than that on broilers without justifying why were doing that to broilers.

I don't think putting that in at 2.5, which is half of what the broilers are in the earlier part of the recommendation, would
be considered anymore arbitrary than anything else.

Tracy?

VICE-CHAIRPERSON MIEDEMA: Mr. Chair, we need to --

CHAIRPERSON GIACOMINI: We had one -- for the Livestock Committee comment. I'm sorry.

VICE-CHAIRPERSON MIEDEMA: Mr. Chair, we need to --

SECRETARY ELLOR: This is in response to Joe's comment.

CHAIRPERSON GIACOMINI: Right.

SECRETARY ELLOR: I did raise my hand. Honest to God I did.

CHAIRPERSON GIACOMINI: Okay.

SECRETARY ELLOR: The usage is only half the concern about methionine. There are other concerns around methionine besides just the use of it. And that's my point.

MR. MOYER: Right.

CHAIRPERSON GIACOMINI: Tracy?
VICE-CHAIRPERSON MIEDEMA:

Procedurally we can't ask the Livestock Committee whether they would make an amendment. This is out of Committee now and a motion before the full Board. And so any amendment proposed would be to the Board's motion. And if there is no second, then there's no amendment being discussed right now.

CHAIRPERSON GIACOMINI: Well, he asked if the Committee would accept it as a friendly amendment in making it.

MR. SMILLIE: I asked if the motioner would accept it.

CHAIRPERSON GIACOMINI: Yes.

MR. SMILLIE: And no second.

CHAIRPERSON GIACOMINI: And he said no.

MR. MOYER: And I said no.

VICE-CHAIRPERSON MIEDEMA: Okay.

Thanks.

CHAIRPERSON GIACOMINI: Valerie --
MR. SMILLIE: So it's off the floor now, right?

MS. FRANCES: I do want to remind the Committee that there is all the backup criteria when you make your recommendation, all the little checklists under each category. And you don't really capture your discussion well there in terms of the bases for your numbers. I think it certainly is reflected in your various Livestock Committee minutes and all the discussion that you did have. But it would, I think, would be helpful when you actually submit this final document to make sure you do that in here.

CHAIRPERSON GIACOMINI: Thank you.

MR. MOYER: I acknowledge that on behalf of the Committee. And when we do submit the final documentation we will document all those numbers, the way we came to those numbers.

MS. FRANCES: Do you have any of your notes on that here that you could add it
into the record right now?

    MR. MOYER: I'm going to say no.

I probably do, but I'm not going to spend an
hour finding them.

    CHAIRPERSON GIACOMINI: Joe, would
you like to make that in the format of a
motion to amend?

    MR. SMILLIE: Yes.

    CHAIRPERSON GIACOMINI: Did you do
it in that form before, or did I just miss it?

    MR. SMILLIE: I thought I did.

    CHAIRPERSON GIACOMINI: You did?

Okay.

Is there a second to Joe's motion
to amend? Yes, unfriendly.

    MR. SMILLIE: No.

    CHAIRPERSON GIACOMINI: No, not
making it. Okay.

    MR. SMILLIE: Just one last
question instead of the unfriendly amendment.

Isn't there a difference between
the methionine needs of a pullet and an layer,
although the pullets will become layers or they'll become broilers, right? But isn't there a difference in their methionine needs?

Chairperson Giacomini: Wendy?

Mr. Smillie: Wendy.

Ms. Fulwider: Yes. Well, the younger the bird is when they're growing and they're feathering, there is a greater need. And then, of course, after they molt, you know they have a greater need when they're refeathering. So, I mean, it's not a simple issue.

Mr. Smillie: Want it to be.

Okay. I'll accept it.

Chairperson Giacomini: Further debate? Ready for the question?

To take your statement of potential conflict of interest, Wendy, the Chair does not feel that that justifies you not to vote on this unless there's any significant objection from any other members of the Board. We'll proceed with that.
Program, Arthur?

MR. NEAL: Mr. Chair, just thinking through the process and the time line that has to be met for methionine, providing the justification is going to pass the muster test. I'm concerned.

If the recommendation is not thoroughly fleshed out as to how we came up with this, this annotation, which it may be, our ability to explain it so the industry and those who will be participating in the formal public process can understand it as well as OTC and whoever else has to review it internally, we're probably going to have an issue. That's my personal concern.

I think some of us on the Program probably feel the same way, especially those of us who have to write it.

And just for future references, any decision -- one of the things that distinguishes this Board from some other organic programs across the world is that I
think we document our decisions such that
people can follow how we came to where we
ended. And I'll never forget in Codex one
time we were being challenged on a materials
decisions that our Board had made, and there
was not any documentation that they had. But
we did have some.

And so if we're going to make
these types of recommendations, we want to
make sure that how we make them can be
defensible when we're challenged.

And so I just highly recommend
that for future references whatever decisions
we make, they're thorough with respect to the
criteria sheets, that we have, all of the
information that's necessary to fill in the
gaps or provide it because we have to write
the rules based on what you all provide us.

CHAIRPERSON GIACOMINI: Thank you.

We ready for the question?

MR. McEVOY: I'd like to add a

little bit to that.
I've already been through the federal rule-making process, well only once with a major rule. And when I first got there in October the idea is we were going to get that Access to Pasture final rule published by the end of December. It came out in mid-February.

There are lots and lots of questions, lots of economics questions that come up during the review process.

Seeing this complicated annotation, it's very different from annotations in the past with this very, very tight time line that we have in front of this to do this before October. I definitely have concerns that this going to be challenges.

I hope that the background that you have, the justification that you have for this annotation is very solid because we'll probably need it as we move forward.

CHAIRPERSON GIACOMINI: The time line of this is certainly unfortunate. We
requested this petition pretty much when we
made the previous recommendation. We received
it, I believe, like the last week in August,
a week before we were supposed to post
recommendations for the fall meeting. And we
had no time to act on it then.

I understand your concern. I am
very concerned with the potential disruption
to the industry. Is there a process that you
would recommend that we can follow? Can we
split this into two or what can we do right
now that would help you not disrupt methionine
in October, but maintain the intent?

Steve?

MR. DeMURI: Could we go back and
rebuild on the Sunset? We considered the
Sunset for another year or two years while
they have time to flesh out this petition?

MR. MOYER: Well, Dan, in response
to Steve, if we were to vote yes on this,
nothing does change for two years. They
maintain their current levels that they
already have through 2012. So this puts that into play. We're not stepping anything down at this point in time. There should be at least, according to what we're saying here, no disruption in the industry for a minimum of two years, which is when we requested the step down. But we would be able to get before our final recommendation to the Program, all the documentation that we used to come up with the numbers that we came up.

The industry, of course, in that two years could repetition to change that annotation if there was a problem. But it would not fall off in October and it would disrupt the industry.

MR. SMILLIE: Is that true, though? Aren't they going to be able to not use it in October of 2010? Because this petition won't be in effect yet.

CHAIRPERSON GIACOMINI: If it doesn't get listed, it will go off the List and they won't be able to use it.
I'll get to you, Katrina.

If that motion is made, Steve, we have to proceed but it would not be my preference until we find out the response from the Program.

It would take extreme cooperation from this Board to do what I'm thinking. But there is a possibility, I think, and we would ask the Program if this were appropriate also, if it would be appropriate at this time that we could split this into two recommendations, one that can be posted to save methionine for October and a second one that would put in the step down and switch it over to Sunset that could be advanced later on.

So I would like to know what the Program -- if you want to make that motion, we will accept it and proceed. But I would like to see what the Program has to say.

Katrina, did you have anything?

MS. HEINZE: I was thinking the same thing you were. If we split it with the
first one, have a cut off date of the October 1, 2012?

CHAIRPERSON GIACOMINI: Yes.

MS. HEINZE: Okay.

MR. McEVOY: We would recommend because of the tight time frame that you split this into different recommendations. And if you pass both of them, we can try to do it as one rule-making action. But if we start to run into problems with the step down part of this, we can just do that as a separate item.

CHAIRPERSON GIACOMINI: Okay.

MR. McEVOY: So that we can move forward and extend the expiration date to 2012.

CHAIRPERSON GIACOMINI: Valerie, are you going to be able to manage this? Doing this on the -- okay.

Livestock Committee is that reasonable to you?

MR. MOYER: The Livestock Committee has no objection to that.
CHAIRPERSON GIACOMINI: Okay. I think the best action would be for the Livestock Committee to withdraw their current motion, or the maker, who was Jeff, I believe.

MR. MOYER: I'm willing to withdraw the motion.

CHAIRPERSON GIACOMINI: You're just withdrawing your motion?

MR. FELDMAN: Yes. I'm saying I'm to withdraw the motion.

CHAIRPERSON GIACOMINI: Second?

MR. MOYER: Tina.

CHAIRPERSON GIACOMINI: Tina seconded that. Do you agree?

SECRETARY ELLOR: Yes. That would be fine.

CHAIRPERSON GIACOMINI: Okay. All right. Jeff, do you have a motion regarding methionine that would deal with the first half of this up through the period of 6 pounds per ton?

MR. MOYER: Yes. I would like to
make a motion to amend 7 CFR 205.603(d)(1) as
follows: DL-Methionine, DL-Methionine hydroxy
analog and DL-Methionine hydroxy analog
calcium for the use only in organic poultry
production until October 1, 2012 at the
following maximum levels per ton: Synthetic
methionine in the food ration; Laying
chickens, 4 pounds per ton, broiler chickens
5 pounds per tons, and turkey and all other
poultry 6 pounds per ton.

CHAIRPERSON GIACOMINI: Second?

Is there a second.

SECRETARY ELLOR: Second.

CHAIRPERSON GIACOMINI: It's been
moved and seconded to amend the annotation for
methionine as stated. Again, the way you have
it in front of you in the documents to cutting
it off after the 6 pounds per ton for turkeys
and all other poultry.

Mr. Maker of the motion, do you
have any further debate?

MR. MOYER: I do not.
CHAIRPERSON GIACOMINI: Any further debate? We ready for the question?

Beginning with Jennifer?

MR. HALL: No.

CHAIRPERSON GIACOMINI: I stand by the same Chair decision regarding any conflict with Wendy.

And does everyone understand what we're voting on right now?

MR. SMILLIE: I beg your indulgence. Could you just recalculate what an affirmative means and what a negative means?

CHAIRPERSON GIACOMINI: Affirmative means that we are relisting methionine for the use in poultry until October 1, 2012 at the levels of 4 pounds for layers, 5 pounds for broilers, 6 pounds for turkeys and all other poultry.

Jennifer, your vote was no.

Wendy?

MS. FULWIDER: Yes.
CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: No.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?
MR. FLAMM: No.

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: No.

CHAIRPERSON GIACOMINI: Chair votes yes.

One abstention, we have 14 voting.

Four nos, 10 yes, 14 vote, one absent, with 14 voting, it takes ten to pass. Motion passes.

To complete the rest of the second half of that -- yes, Valerie?

MS. FRANCES: I only got three nos. Did I miss somebody.

CHAIRPERSON GIACOMINI: Barry, Annette, Jennifer and Jay.

MS. FRANCES: Okay.

CHAIRPERSON GIACOMINI: Jeff, would you please with what we were doing there, please make the second motion for this process?

MR. MOYER: Yes, Mr. Chairman,

I'll do my best.

After October 1st, 2012 I move
that we amend 7 CFR 205.603(d)(1) as follows:

DL-Methionine, DL-Methionine hydroxy analog and DL-Methionine hydroxy analog calcium for the use in organic poultry to be at the following levels per ton:

Laying and broiler chickens, 2 pounds per ton, and turkey and all other poultry 3 pounds per ton.

CHAIRPERSON GIACOMINI: Nobody second.

Can I make a suggestion, Jeff?

MR. MOYER: That's fine.

CHAIRPERSON GIACOMINI: Could you please just change that motion to amend the annotation on poultry -- oh, we have to do it this way because the other one is not yet fully in place. Okay. So we have to reread the entire thing --

MR. MOYER: That's what I thought.

CHAIRPERSON GIACOMINI: -- as a full complete. Okay. Second?

SECRETARY ELLOR: I second.
CHAIRPERSON GIACOMINI: Okay. Mr. Maker of the motion, any further debate? Does he have any further debate? Jeff?

MR. MOYER: No, I do not.

CHAIRPERSON GIACOMINI: Steve?

MR. SMILLIE: Maybe it's a mute point and I'm just tired and can't think straight. But how is this going to affect Sunset, the two petitions? Are they both going to Sunset in five years?

CHAIRPERSON GIACOMINI: The first, the one we just voted on, has a drop dead date. It's in this current process we have been in since methionine was put on. It would need a petition to relist because of the drop dead date.

This motion would amend that annotation to drop to a lower level and put it onto Sunset. The second one was Sunset.

Valerie, are we straight over there? I think so. Good.

Program?
MR. NEAL: I'm sorry, but I missed this earlier on the first vote, and I know we're on the second portion of the vote. This is a complexity of what we're talking about.

To justify the annotation by October 1, 2010, it has to be a solid justification. Because it's very different from what's currently in the regulations.

If you're confident that the justification is there, no snags, no people are going to fly with it or be able to delete it and get their questions answered, then we can probably make that October date. If we can't, we do run the risk of disrupting the industry.

The one option would be to end the first portion of the recommendation at the date October 12, 2012, or October 1, 2011, something of that nature. And work to try to get the other piece, the step down in, when you're comfortable with the justification if you're not already comfortable with the
justification.

CHAIRPERSON GIACOMINI: The amounts set in the first vote we have already taken, are the exact amounts taken from the petition that came from the industry with only one slight change. They asked for it to be an average over the life span of the bird and we took that off to just be each ton that's made. There was absolutely no objection from the poultry industry to the first half of this recommendation. The only comment that we received was on the second half.

Is that substantive to your concern?

MR. NEAL: It is. And I think that that would probably and should be sufficient if that's the case.

MR. McEVOY: What is involved here is that you're putting in a whole bunch of new information, and we'll have to justify it so it's going to take longer because there's going to be questions: Where did you come up
with these numbers? Do we have the research? Is it supported by evidence by the community of poultry producers? You know, do we have that background to justify that. It's going to slow down the process, I'll put it that way, because we have to justify --

CHAIRPERSON GIACOMINI: We have the structure place for the Methionine Task Force as well. We have the --

MR. McEVOY: Okay. So if you have all that information, then we'll use that. It is going to open up more questions why you putting in all these additional restrictions or annotations for that given material. Since we're in such a tight time frame that will potentially impact our ability to get this done by October. But if you have lots of good information, we'll use that and we'll do the best we can.

CHAIRPERSON GIACOMINI: Tina? She called point of order.

SECRETARY ELLOR: Point of order.
We are responding to a petition from the industry, that's what we're doing at this meeting. So we're not -- this isn't being pulled out of thin air. This is in response to a petition.

So what we're basically doing is pretty much giving them what they petitioned for with that first vote.

With the second vote then we introduce the more complicated step down process.

CHAIRPERSON GIACOMINI: Further debate on the question of the second motion? Steve?

MR. SMILLIE: A question for the Program. The people that are going to be asking the questions, will they take the opinion of the groups that were against this into consideration as well?

MR. NEAL: We do have to provide it. We have to provide all positions that were presented on this particular petition.
MR. SMILLIE: So that could potentially slow it up?

MR. NEAL: It depends on how valid they are.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Steve, were you referencing the consumer groups that wanted it dropped, is that what I'm to understand, not just the industry folks?

MR. SMILLIE: Consumer groups.

MR. MOYER: Thank you.

CHAIRPERSON GIACOMINI: Further comment? Debate, questions? We ready for the question?

Okay. Starting out, conflicts. The Chair has already voiced its opinion on Wendy. Anything else?

Katrina?

MS. HEINZE: I just need to clarify. So we're voting on the step down with--

CHAIRPERSON GIACOMINI: Annotation
change to add the step down and convert it to Sunset.

MS. HEINZE: Without a cut off?

CHAIRPERSON GIACOMINI: We are voting on this entire language right now. An annotation with this entire language.

MS. HEINZE: But there's no cut off, right?

CHAIRPERSON GIACOMINI: Sunset.

MS. HEINZE: Okay. Thank you.

CHAIRPERSON GIACOMINI: Okay. So a yes vote is to accept the motion to change the annotation to this entire language.

Wendy?

MS. FULWIDER: Yes.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: No.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?
VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe

Mr. Smillie?

MR. SMILLIE: Yes.

CHAIRPERSON GIACOMINI: John

Foster?

MR. FOSTER: Yes.

CHAIRPERSON GIACOMINI: Steve?

MR. DeMURI: Yes.

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: Joe

Dickson?

MR. DICKSON: Yes.

CHAIRPERSON GIACOMINI: Barry?

MR. FLAMM: No

CHAIRPERSON GIACOMINI: Annette?

MR. RIHERD: No.

CHAIRPERSON GIACOMINI: Jennifer?

MR. HALL: No.

CHAIRPERSON GIACOMINI: Yes. The Chair votes yes.
One absent, 4 no's, 10 yes.

Motion passes.

Does that conclude the matters before this Board from the Livestock Committee?

MR. MOYER: I certainly hope so.

CHAIRPERSON GIACOMINI: Thank you

MR. MOYER: And I appreciate everybody's indulgence.

CHAIRPERSON GIACOMINI: I appreciate everyone's hard work. I appreciate the inputs from the Program, the efforts that Valerie, obviously, has endured and everybody's working concern on this.

And we now move to the Policy Committee, Chairman Barry with your recommendation for this meeting.

MR. FLAMM: We have a recommendation on the two tier process, and Steve will present that as he explained yesterday.

MR. DeMURI: Thank you, Barry.
We went through this yesterday.

The Committee did not meet and did not make any changes to it since the last time you've seen it.

So, at this point I want to explain real quick that it is a two tier voting process to reinstate that process as it relates to materials that are petitioned to the Board to be added to the National List.

And as I mentioned yesterday, in the past the Board used to vote twice on each material whether or not it was synthetic, and a yes or no vote. That practice was stopped at some point. We are just putting language back into the policy manual to reestablish that procedure.

So it was unanimous in the Committee. And we made no changes to what you saw yesterday.

So with that, I'd like to move that this two tier voting procedure be made a part of the Policy Manual for NOSB.
VICE-CHAIRPERSON MIEDEMA: Second.

CHAIRPERSON GIACOMINI: Been moved and seconded to accept the recommendation from the Policy Committee regarding two tiered voting.

Steve made the motion, Steve's first. Steve, do you have anything further?

MR. DeMURI: I do not.

CHAIRPERSON GIACOMINI: Any further comments and debate? Barry, do you have anything? Joe?

MR. SMILLIE: Would the Policy Committee considering referencing the new document on Classification of Materials in their manual?

CHAIRPERSON GIACOMINI: How is that in regard to this motion for two tiered voting?

MR. SMILLIE: I think it directly affects --

CHAIRPERSON GIACOMINI: Katrina?

MS. HEINZE: I guess I'm not sure
why you're asking for this. Because this --
you mean just for the historical that they're
doing it because we have that document?

MR. SMILLIE: No. That they would
use that document now as part of the two
tiered voting system as a vote on whether
it's synthetic or not using this --

CHAIRPERSON GIACOMINI: That would
not be appropriate until it comes back to the
Program as --

MS. HEINZE: Yes.

CHAIRPERSON GIACOMINI: --

accepted.

MS. HEINZE: I agree.

MR. SMILLIE: Okay.

MS. HEINZE: I don't think that's
appropriate we have the guidance document in
place.

CHAIRPERSON GIACOMINI: Oh, I'm
sorry. Were you done, Katrina?

MS. HEINZE: Yes, thank you.

CHAIRPERSON GIACOMINI: Thank you.
Sorry.

MR. DeMURI: Joe, I did reference the classification materials work in the narrative prior to the recommendation. So it is in there.

MR. SMILLIE: Oh, okay.

CHAIRPERSON GIACOMINI: Further debate?

I can't imagine, but conflict of interest? I finally remembered on one that could never matter.

Seeing no further debate, we'll call for the vote.

CHAIRPERSON GIACOMINI: Jeff?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Jay?

MR. FELDMAN: Yes.

CHAIRPERSON GIACOMINI: Tina?

SECRETARY ELLOR: Yes.

CHAIRPERSON GIACOMINI: Tracy?

VICE-CHAIRPERSON MIEDEMA: Yes.

CHAIRPERSON GIACOMINI: Joe
1 Smillie?

2 MR. SMILLIE: Yes.

3 CHAIRPERSON GIACOMINI: John?

4 MR. FOSTER: Yes.

5 CHAIRPERSON GIACOMINI: Steve?

6 MR. DeMURI: Yes.

7 CHAIRPERSON GIACOMINI: Katrina?

8 MS. HEINZE: Yes.

9 CHAIRPERSON GIACOMINI: Joe

10 Dickson?

11 MR. DICKSON: Yes.

12 CHAIRPERSON GIACOMINI: Barry?

13 MR. FLAMM: Yes.

14 CHAIRPERSON GIACOMINI: Annette?

15 MR. RIHERD: Yes.

16 CHAIRPERSON GIACOMINI: Jennifer?

17 MR. HALL: Yes.

18 CHAIRPERSON GIACOMINI: Wendy?

19 MS. FULWIDER: Yes.

20 CHAIRPERSON GIACOMINI: Chair

21 votes yes.

22 One absent, zero no, 14 yes.
Motion passes.

CHAIRPERSON GIACOMINI: Any further work, Mr. Chairman from the Policy?

MR. FLAMM: That completes our work, Mr. Chairman.

CHAIRPERSON GIACOMINI: That completes all of the recommendations for voting that we had at this meeting.

Well done, everyone, Public, Program, Board, Valerie, the sound man, everybody. Thank you.

MR. FLAMM: The internet guy.

CHAIRPERSON GIACOMINI: Even without the internet.

Next on the agenda, one request I think we would like to make, though, is regarding particularly the second vote that we took on the methionine is for the Program to stay in touch with us and to give us feedback as quickly as possible on whether that ship could be sailing or whether we're having an extreme crash and burn. So that the industry
and this Board would be aware of it and be able to deal with that.

We only gave that until 2012. If the next step is not going to go through, that is putting the industry again in a petition position of an extremely compromising nature.

MR. McEVOY: We will keep you informed through monthly report and other ways.

CHAIRPERSON GIACOMINI: Thank you. Okay. We are now up to the point and time of the meeting for the Committee Work Plans.

If the Committee Chairman would please get their work plans ready. The practice of the Board is for each Committee to put forth the expected work plan for the next meeting. And we would like to do that at this time.

First on the list is, in the order we've going for this meeting, first is Crops with Tina?
SECRETARY ELLOR: Yes. We have work, and we plan to do it. We have a lot of work and we did in our last Crops Committee meeting briefly go over a work plan.

So in addition to the remaining 2012 Sunsets, which we have on our work plan for the fall, and in a perfect world we would get all of that done in the fall. We have some petitions we have some comments on. So for petitioning material that we need to act on, we have ethylene glycol, tetramethyl, polycaprolactone. For that we had a draft TR received and we sent it back with additional questions.

Tall oils, actually I think that we found TR to be sufficient and we can start to look at that material.

Ethylene DDA, difluoroethane we've sent forward for a TR.

PGML, propylene glycol monolaurate. We have sent that one forward for a TR.
Ferric phosphate to remove. We'll be acting on that petition. And petitions to remove do take priority, so we fully expect to have that ready for the fall. We have tons of information on that.

Indole-3butyric acid. We still have not yet received that petition. We received the checklist, but we still don't have that petition in our hand. So that's where we stand on that one.

Corn steep liquor, we've talked a lot about that. We found the TR to be insufficient, and we have additional questions to send forward for that. Although they might have already answered those questions, you know, that is a possibility.

We have received a petition for nickel which we will review for sufficiency and decide whether we want to send it for TR. And the same for ammonium nonanoate, if I said that correctly.

I've already mentioned the Sunset
materials.

And boy, that's pretty much it.

It's an awful lot, but that's what I have unless anyone can remind me of other things.

CHAIRPERSON GIACOMINI: Nothing for your spare time?

SECRETARY ELLOR: We might take on, who knows, food safety, mushroom standards. You just never know.

CHAIRPERSON GIACOMINI: Okay. So those are potentials: Food safety and mushrooms standards. Thank you. Having them on your list and not getting to them, it may be better than not listing them and doing it.

SECRETARY ELLOR: Yes. It takes a long time to scroll down to get to those.

CHAIRPERSON GIACOMINI: Okay.

Livestock Committee. Jeff has been acting as Chair. We'll have you proceed.

MR. MOYER: Thank you, Mr. Chairman.

The workplan for the Livestock
Committee leading up to the fall meeting will include Sunset materials that were deferred from this meeting for which we are awaiting TRs, the alcohols, aspirin, the chlorine materials, glucose, glycerin, magnesium sulfate, copper sulfate and then as of today fusoremid.

The apiculture, we'll be taking that up.

We'll also be revisiting the stocking rate chart that we had, the paper that we had at this meeting. And possibly including a hybrid of that system based on our conversations here that would include maybe some basic minimum numbers and then outcome-based guidelines for that as well.

And then we will also be taking up the discussion document that we had here -- I'm sorry. Not the discussion document, but the item that was pulled, which is the definition of animal health care products so we can reformulate that and get that where it
belongs.

CHAIRPERSON GIACOMINI: Okay.

Would all the Chairmen please forward a copy of these work plans to Valerie as soon as possible so we can make sure we cross reference the two lists in case she happens to miss one as she's furiously typing?

MR. MOYER: Yes.

CHAIRPERSON GIACOMINI: Thank you.

Handling, Steve.

MR. DeMURI: Yes. We have quite a few petition materials that are in various stages of work at this point. We have received tech reviews for a few here in the last month or so.

Glucosamine. These are 605 items.

Calcium acid pyrophosphate and sodium acid pyrophosphate, have not received those TRs yet. But if we do, here shortly we'll try to get those in for the fall.

Two fairly new ones, attapulgite and silicone dioxide to remove.
606 items we have pectin, yeast and hops which are being worked on. Yeast would be a big one. That's a petition to move from 205.605 to 205.606. So that one will get a lot of attention by the Committee over the next few months.

And we have four fairly new petitions that we received recently:
Caramunich malt. barley beta fiber, beta carotene and sugar beet fiber. And those would all be related in some respect to the nutrient vitamins and minerals work that we'll be doing.

We do have 43 materials for Sunset in fall 2000 that we need to continue on in addition to any comments we might get on what we recommended for this meeting.

We have a five 605 items, 12 605(b) items and 26 606 items; 19 of those are colors and the colors will take an little extra time because we also do have a petition on colors to change annotation, which
Katrina’s working on for the Committee. So that will take up quite a bit of time.

And then, of course, we have the nutrient vitamins and minerals guidance or recommendation that we're working with the Program on as we get more information on that. So we have a full docket.

CHAIRPERSON GIACOMINI: I'm going to ask you to include one more.

MR. DeMURI: Okay.

CHAIRPERSON GIACOMINI: The policy put forth presented by the Program regarding certification of yeast is out. It presents a far number -- it doesn't present the questions, but it certainly raises some questions that may or may not be fully answered within that document. It refers to production standards for yeast, but it doesn't quite explain what they are. It includes that they be following the National List but it doesn't say what section is followed. And it justifies the inclusion the continuance of
yeast to be feed to livestock according to its existing Listing on 605 and that would influence if you changed it to 606, the impact of that effect. That makes the Handling Committee doing a bit of an issue regarding the impact on livestock, which I'm not sure what the best way to handle is. But there are a number.

There's also some specific references, at least one I know in the classification of materials documents regarding yeast that I would ask the Committee to include when they're making these considerations, both for petition to change the Listing and the other issues.

MR. DeMURI: What would be real helpful for us is if you would put your questions in writing and them to us, and we'll consider those as we go through all this.

CHAIRPERSON GIACOMINI: Joe, do you have those? Did that send that list to you?
MR. SMILLIE: You did, but not formally.

CHAIRPERSON GIACOMINI: Okay. I can do it formally. Okay.

MR. SMILLIE: Because some of what you said is going to be part of our deliberation on either the switch for the Listing and some of it isn't.

CHAIRPERSON GIACOMINI: Yes.

MR. SMILLIE: And as far as the livestock, I think what would be -- I don't want to do another Joint Committee because those just play hell with our schedule, you know.

CHAIRPERSON GIACOMINI: Yes. Agreed.

MR. SMILLIE: Those are deadly, deadly things. No offense, Katrina. No offense. I mean, it's just like scheduling-wise, joint committees are really rough.

But I would propose that we get a representative from the Livestock Committee to
join us when that issue is being discussed. I think that would be a quick efficient way so you guys can decide in the Livestock Committee who you would nominate to be your point liaison when we deal with that issue.

CHAIRPERSON GIACOMINI: We'll talk to Kevin on that issue, since he's officially Livestock Chairman.

MR. SMILLIE: Yes. Whatever you guys decide is fine.

CHAIRPERSON GIACOMINI: Yes. I just think that with these questions that are raised I'm very uncomfortable proceeding with the change of petition ahead of those issues. If they can be done concurrently, that would be great. But the questions that were raised I think are fairly significant. So --

MR. SMILLIE: Well, we also might consider making sure we had the Program involved in that discussion, too, on the specific issue of what their guidance policy is.
CHAIRPERSON GIACOMINI: Yes.

MR. SMILLIE: So we'll have to look at that and get it all lined up properly because it's a multifaceted issue, as you have pointed out.

CHAIRPERSON GIACOMINI: Is that okay, Program, for us to request that you --

MR. McEVOY: Yes, that sounds great. Input into the yeast policy would be very helpful.

CHAIRPERSON GIACOMINI: Thank you.

Okay. That was Handling. Joint Materials and Handling, Katrina?

MS. HEINZE: I could not be happier to say that the Joint Committee of Materials & Handling is no longer required. Any work they have left to do will be rolled into the Materials Committee.

CHAIRPERSON GIACOMINI: The Chair concurs.

MS. HEINZE: Ay.

CHAIRPERSON GIACOMINI: Materials,
Katrina?

MS. HEINZE: Okay. Well, we're short-lived. But I know speaking probably for 11 people on the NOSB, we will all be happy to have that extra hour back every week.

Okay. The Materials Committee work plan.

We have nanotechnology on our work plan. We are hoping to have a recommendation on how to appropriately prohibit nanotechnology in organic for the NOSB's consideration in the fall. So we, hopefully, will have the TR back in time that we can accomplish that, but that is our goal.

On classification of materials we will continue work on the draft guidance document taken up from the Joint Committee and with all the useful public comment that we had at this meeting.

We will also be working with the NOP on implementation of our November recommendation and the addendum that passed at
this meeting.

We have, obviously, quite a bit of work on materials. First we'll be working with the Material Committees; Crops, Livestock and Handling as well as the NP on petitions and TRs just to make sure that everyone's on the same page with what's in queue and to make sure everything's on track and prioritized the way everyone wants it to be.

So I run the master list, so the master list will get updated and we'll try to stay on track with that.

On Sunset 2012 we'll be monitoring the public comments to that Federal Register notice in collaboration with, again, the Corps, Livestock and Handling Committees.

There is a take from the table petition that the NOSB passed several meetings ago that found materials that in times past the NOSB had tabled materials during Board discussion, but had never finished the discussion. So we'll be digging all those out
and figuring what needs to happen with those.

Similarly, there were materials

that were never on the table but were

petitioned and have kind of gotten lost. We

need to refine them. We have public comments

that we've received over the last several

years. And so we'll be collecting the list and

working on those, which I know you all are

very excited about.

On those last two topics, I do

envision we'll have to work with the Program

on the right way to do this. That our first

step would be to contact the petitioners and

make sure that they still want us to be

working on those materials.

And then finally, it is my

understanding that the NOP is working on a

number of materials related items that they

want us to work with them. There is a

criteria for a material review program,

improvements on the petition process, the

quality and timeliness of TRs and then should
any of their guidance work deal with materials.

So we will, obviously, be available to work with them as needed on those topics and other material topics as they come up.

CHAIRPERSON GIACOMINI: Thank you.

Let's see CACC, Joe.

MR. SMILLIE: Current work plans, which can always change, would include further guidance. We did, was it two years ago, published a guidance on retailer re-certification. standards for retailer re-certification. And we're going to enlarge upon that document. That document was designed originally to be the first step and now we're going to take the second step. Getting more specific about how guidance for the current regulation to improve both the retailer certification and the understanding of retailer certification and now retailer certification is marketed among other topics.
And the second item is it sounds like, although I haven't had a chance to confer with my Committee, but sounds like we're ready to take on round two probably I would think in a recommendation, some guidance on the made with label claim. I think there's enough in that. And again, I didn't say seal. I said just the made with label claim and how we'd like to create some guidance for that label claim.

And, I should add, I have no intention of taking on the 100 percent claim. So forget about it if you're going to try to get it on our work plan.

CHAIRPERSON GIACOMINI: John?

MR. FOSTER: I would ask that you look into the transcript and public comment from Patti Bursten about organic integrity opportunities to enhance it. Take that comment and consider adding it to the work plan.

CHAIRPERSON GIACOMINI: Thank you.
Miles?

MR. McEVOY: We're looking forward to working with all the various committees on the guidance documents that we'll be putting out this summer. There's a lot of NOSB recommendations that you all have made. We're moving towards putting that in the Program Handbook. And we imagine that we would like to confer with the committee from time-to-time to clarify your recommendations.

In addition, I would request that the CACC put on their work plan pesticide residue testing, unannounced inspections, or parameters around unannounced inspections and probably material evaluation programs is mostly relevant to that Committee.

These are things that the Program will be working on and we'd really like to work closely with the NOSB as we develop these initiatives.

MR. SMILLIE: Could you run through that list again? Pesticide residue
testing?

MR. McEVOY: Material evaluation programs, the procedures for what's an acceptable material evaluation program that's evaluating substances and putting them on a list. For instance, the OMRI program, WSTA program. We're getting a lot of requests from various entities. Some are certifiers, some are not certifiers of what makes an appropriate material evaluation program.

We have the new California Fertilizer law that's being implemented. They want some kind of official recognition from the NOP for reviewing organic input materials.

We have foreign entities that are looking at approving materials, and they want some kind of acceptance from the NOP that their evaluation programs are sufficient.

Long term I think we got to look at adding material evaluation as one of the scopes. We have four scopes currently.

So it's just more the long term
initiative, but it's a very important part of this whole organic integrity piece of what materials are approved. Not just on the List but how does an organization evaluate it to see that it actually meets the criteria.

MR. SMILLIE: So you're asking us actually to develop some sort of matrix to judge the program it's evaluating, not evaluating the material. We're evaluating the evaluators.

MR. McEVOY: Right. Kind of an accreditation criteria for material evaluation program.

In addition we would request the Livestock Committee in their animal welfare deliberations to --

MR. SMILLIE: You did have -- I thought you had three.

MR. McEVOY: Oh, unannounced inspections.

MR. SMILLIE: Okay.

MR. McEVOY: Is that enough?
Okay.

Livestock Committee, we'd ask the Livestock Committee to in their animal welfare deliberations to look at slaughtering transport in terms of including that in a comprehensive welfare recommendation.

And I think that's it.

CHAIRPERSON GIACOMINI: Okay. And we have one more, Policy. Barry?

MR. FLAMM: Thank you, Mr. Chair.

The Policy Committee has a draft work plan that the Committee has discussed. And it consists of one new item plus a follow-up on the discussion items that we presented this week.

The new item is a request by the Board Chair for the Policy Committee to look at the ability of the Chair, the Board Chair to establish to create ah hoc committees as the Chair feels necessary. And we have agreed to examine that in the context of our current policy and see whether we think that is a
desirable thing to do.

So that's on the top of our list since it came from the Board Chair.

But very importantly, and I think Miles' request touches on a topic that was one of our discussion items, that is a portion of our policy and procedure manual dealing with the NOP/NOSB working together or collaboration as it's being called. And we've had some discussions at this meeting with Miles about that and coordinating work plans in a better fashion is one we've already discussed.

Another item, and he's already implemented, that was in his having contact points for the committee. But we'll do more work on that and have more discussions and welcome further feedback.

The Committee hasn't received very much either from the public or the rest of the Board. So we plan to wrap that up and have a recommendation for the fall meeting.

I'm not doing this in the order we
presented it because I'm going to leave a major item to last so we don't squeeze out these other things.

But the next item was one that's been raise by a number of people on the previous Board and at various times requested I think by the Program, or at least sort of agreed to by the Program to look into it, and that's the question of whether the rotation or replacement of Board members is now occurring due to events that may have not been fully anticipated when the appointment schedule was first set up.

We got almost no public comment on this. About the only ones that do anything, and we didn't get a whole lot more than that from the Board discussion. So it leaves a little dilemma. So I think we need some direction from the Board Chair and the rest of the Board whether we should pursue it.

It seemed like coming out of discussion, if I got it right and Tina,
correct me, it seemed like the more concern
with how we going forward if there isn't a
system to replace people who leave the Board
prematurely, rather than trying to fix the
schedule now. I sort of got that impression.
I may be wrong.

But anyway, Mr. Chair, I think we
need some direction on whether you want us to
pursue that because it will take some time.
And whether or not the Board really thinks it
is an issue that is important. I don't know
whether you want to take the time to address
that now or we'll just pass on it and maybe at
Executive Committee meeting or something,
pursue it. But I think our Committee will
need some direction on it.

And then finally what we consider
very important that we have on our draft work
plan is the follow through taking the comments
we've received on the Sunset policy issues and
try to frame that into a recommendation to the
Board. You know, we're not pointing him and
suggesting any sort of option right now. The
questions were raised about the Policy
Committee doing that. And I don't know, Mr.
Chair, whether a joint committee is something
you want to do, or an ad hoc committee. But
right now it's on our work plan to follow up,
and we think it's really an important thing to
follow up on and to clarify.

So that is the status of our draft
work plan at this time.

CHAIRPERSON GIACOMINI: Thank you,
Barry.

Miles, did you have a comment?

MR. McEVOY: Yes. I would say
that OFPA is pretty clear about the
appointment schedule, that it's a five year
appointment. There's only allowed staggered
terms when the Board was initially set up. So
that I would suggest that you shouldn't spend
a lot of time on that since that's a statutory
requirement that you are appointed to five
year terms. Unless you can get really
creative of working with the statute, it might
not be worth the Policy Committee's time to
try to address that.

CHAIRPERSON GIACOMINI: Thank you, Miles.

Katrina?

MS. HEINZE: I was just going to suggest to Barry on the Sunset if you process it, perhaps you and I, Tom can figure out the most efficient way for our two Committees to work together as opposed to doing a joint committee. I think we could just probably do it through some liaison between the two Committees.

CHAIRPERSON GIACOMINI: Yes, I would like you to have that conference. I would like, though, also for the Executive Committee to sort of discuss all of these. I think it's very important to remind all the Chairpersons of all the committees and all of the members, and of course respectfully the Program and staff and
everyone else our first and number one job this year, we got the easy stuff, now we got to do the hard stuff. We got the new TRs coming in. We need to get as much done of the 2012 Sunset as we possibly can that we don't have to put off to the next spring meeting.

So it's very important for even the Committees that are not material review committees, Livestock, Crops and Handling, to keep that in mind. Because all of you, the Chairman and all the members are on those other committees and it's very important that we conquer as much of that mountain as possible for the fall.

Joe?

MR. SMILLIE: In the spirit of give and take, the Program has got to get the TRs to us in time. This is critical. And the TRs have to meet our needs.

We are going to be really hamstrung if we don't get those TRs a lot faster and a lot better than we've been
getting them.

MR. McEVOY: I completely agree.

We'll work on it and get them to you in a quality fashion. That's our goal.

CHAIRPERSON GIACOMINI: Thank you.

I completely agree also, Joe.

Thank you, Miles.

So that's one.

I want to remind everybody that the Board, Valerie and Miles please stay in this area after the meeting. We'd like to get a Board picture.

I have had a couple of requests to consider any alternations and change in committee assignments. That could be somewhat altered now since we do not have the Joint Committee. And that was greatly going to be greatly dependent on sort of what passed and what didn't, what moved ahead and what you still have to work on.

So anyone else who is still looking for wanting me to consider any
possible changes in the committee assignments, please get those to me fairly quickly and I'll look those over and see what I can do.

We do have some flexibility as 11 of us are now on one less committee.

Steve?

MR. SMILLIE: Before we break up, I'd like to invite everybody to the COPAC meeting tomorrow. California Organic Product Advisory Committee meeting. You're laughing.

Everybody on the NOSB, everybody in the audience, all Program staff are invited to the COPAC meeting tomorrow. Starts at 9:00 a.m. goes until, who knows, maybe 4:00. And it's at the California Department of Food and Ag Building at 1220 N Street, the Main Auditorium in Sacramento. 9:00 a.m.

CHAIRPERSON GIACOMINI: Thank you.

Joe, did you have something?

Tina, you had something to add?

SECRETARY ELLOR: We all maybe are denying this emotionally, but this Valerie's
last meeting as our leader. And I just want
to take a minute to say the work you've done
is beyond extraordinary. But we've heard that
we're going to see you again. We've heard
you're not leaving the NOP. And I know we're
going to take an opportunity to thank you in
a more formal way. But speaking from the
bottom of my heart you've been terrific.

(Applause.)

CHAIRPERSON GIACOMINI: Before I
call on you, Katrina. There's been a couple
of times where someone has steered the Chair
a little bit. And during the course of these
meetings we joke about it a lot. I don't
think that there's anything that I'm probably
more upset with taking on that -- of co-opted
on, but I completely echo that sentiment. I
could not have said it better. And thank you
for all the wonderful efforts, hard work and
dedication you have put on this Board.

We came on together. We're one
meeting off of going off together. But thanks
for everything.

Katrina?

MS. HEINZE: I was just going to say that for those in the public who don't really fully appreciate what Valerie does, we talk about the work that the Board has to do; Valerie is on every single NOSB Committee call that we have. She takes the notes. She keeps track of it. She reminds us what we talked about. It is unbelievable. And we'll miss you.

CHAIRPERSON GIACOMINI: Okay. Final reminder. The party. South Sacramento. If you're interested, Bill.

Okay. Any other announcements? Any other housecleaning? Last call on the reading glasses.

Do we have a motion to adjourn this meeting of the National Organics Standards Board?

MR. SMILLIE: I move we close this meeting.
CHAIRPERSON GIACOMINI: Do we have a second?

MR. RIHERD: Second.

CHAIRPERSON GIACOMINI: Motion made by Joe Smillie, seconded by Annette.

Any objections to the motion to adjourn? Seeing none, we are adjourned.

(Whereupon, at 3:25 p.m. the meeting was adjourned.)
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