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

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MEETING OF THE NATIONAL ORGANIC
STANDARDS BOARD (NOSB)

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TUESDAY
APRIL 26, 2011

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The National Organic Standards Board convened at 8:00 a.m. at the Red Lion Hotel, 1514 Fifth Avenue, Seattle, Washington, Tracy Miedema, Chairperson, presiding.

MEMBERS PRESENT

TRACY MIEDEMA, Chairperson
COLEHOUR BONDERA
STEVE DEMURI
JOSEPH DICKSON
KRISTINE "TINA" ELLOR
BARRY FLAMM
JENNY FOSTER
WENDY FULWIDER
KATRINA HEINZE
NICHOLAS MARAVELL
ROBERT "MAC" STONE
JENNIFER TAYLOR
C. REUBEN WALKER
STAFF PRESENT

MILES McEVOY, Deputy Administrator, National Organic Program
MELISSA BAILEY, Director, Standards Division, National Organic Program
LISA BRINES, Standards Division, National Organic Program
EMILY BROWN ROSEN, Standards Division, National Organic Program
LISA AHRAMJIAN, NOSB Executive Director
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Adjournment
P-R-O-C-E-E-D-I-N-G-S

8:00 a.m.

CHAIR MIEDEMA: Esteemed colleagues of the National Organic Standards Board, United States Department of Agriculture, National Organic Program staff and dear members of the public, good morning and welcome to the spring 2011 meeting of the National Organic Standards Board. Before we begin with introductions and announcements, Deputy Administrator Miles McEvoy would like to present a special address that he has brought from Washington, D.C.

MR. MCEVOY: Good morning. This is Miles McEvoy, deputy administrator for the National Organic Program. Kathleen Merrigan, Deputy Secretary for USDA has prepared a video message for the National Organic Standards Board that we'd like to present to you now.

MS. MERRIGAN (via video): Good morning everyone, Kathleen Merrigan, Deputy Secretary. I wish I could be with you today.
First of all, I want to start by thanking the National Organic Standards Board for your service. You have spent countless hours in developing proposals for public review and full board consideration. As a former board member I understand the amount of work involved in committee calls and board meetings. The issues that you are dealing with are challenging because agricultural systems are complex. They involve environmental and economic considerations, consumer interests and the realities of organic production and handling. You have reviewed technical reports, thousands of public comments and government regulations to develop your proposals. I know that your proposed committee recommendations were developed with the greatest care to balance all of the information and respect the diversity of interests within the organic community. Well, now comes the fun part where you get to listen to numerous public comments.
and make your final recommendations in the public spotlight. Your recommendations impact the livelihood of thousands of organic farmers. Consumers depend upon your recommendations to align with their expectations of organic farming and the ingredients they expect to be in organic food products. Board members need to keep an open mind and a listening attitude. As the seasoned board members know there are times when the public testimony is heated and passionate. Remember that it comes with the territory, it is part of the wonderful public process, but at the end of the day after a spirited debate you are all part of that same community trying to make the right decisions to support the thriving organic agricultural industry.

I also want to thank the public for their participation. We understand that the NOSB recommendations are critically important to your livelihoods and the food
that you eat. Your comments help the board develop better recommendations. Your participation in providing public comments is critical to understanding the issues involved. Thank you for your contributions and know that the board and the National Organic Program review your comments and take your input very seriously. As testament to the strong public interest in organic issues nearly 200 people signed up to make public comments at this meeting. The board agenda includes two days of public comment and with five minutes per person the board would have been unable to accommodate all public input and adhere to the agenda. The board requested to reduce the oral comment period from five minutes to three minutes per person so that everyone who wants to make public comment could be heard. The program provided advance notice of the 3-minute limitation last week as a courtesy to participants. We felt that it was more important to hear from everyone rather than
cut off public participation. Thank you for your understanding.

Organic agriculture is prospering with an 8 percent growth rate in 2010 and nearly $29 billion in sales. The USDA has made numerous strides in supporting the organic agriculture over the last two years. The restructuring of the NOP within USDA's organizational scheme has elevated the program to function as its own unit under the Ag Marketing Service. In conjunction, the program received an increase in congressional funds, bringing the budget from $3.89 million in 2009 to nearly $7 million in 2010. The President proposed a $3.1 million increase for FY '11 but with all of the budget cuts to discretionary funding and USDA in particular it was a victory to retain the $6.9 million budget for FY '11. President Obama has requested an NOP budget of almost $9.9 million for 2012. If approved, the $2.9 million increase would be used to accelerate review
and development of NOP regulations to conduct
more surveillance of foreign accredited
certified agents and increase capacity to
investigate complaints and violations, both
domestic and foreign, to enable the program to
respond to requests for international
equivalency agreements and to educate
certifying agents worldwide to ensure organic
regulations are consistently implemented.

The NOP is in an age of
enforcement. Civil penalties for willful
violations of the organic standards may be
severe, response times to complaints are
improving and interpretations of organic
standards have been narrowed and applied more
consistently. The NOP is increasing
enforcement activities in the United States
and monitoring recognition agreements with
foreign countries. In September 2010 the Ag
Marketing Service published its first NOP
program handbook to provide guidance for
accredited certifying agents, state organic
programs and producers and handlers so that
organic standards are consistently
implemented. The NOP still has a lot of hard
work to do. Though improvements to the
complaint-handling process have occurred,
additional work is needed to more rapidly
address emerging issues, label violations and
fraudulent activities. The program needs to
do more work on improving the oversight,
accountability and performance of the nearly
100 accredited certifiers that operate around
the world. There are many NOSB
recommendations that have not been implemented
and rulemaking or guidance is needed. The
Organic Foods Production Act was designed to
respect the authority of the organic community
through the National Organic Standards Board
concerning which materials are allowed in
organic production and handling. The NOSB has
a statutory responsibility to review and
recommend materials for the national list of
allowed and prohibited substances. The USDA
cannot add materials to the national list
unless the NOSB has reviewed and recommended
those materials to be added to the list.

The NOSB also has the
responsibility every five years to conduct the
sunset review of all substances on the
national list. Your agenda this week includes
the last of the 232 materials that are part of
the 2012 sunset review process. After the
April 2011 NOSB meeting the program will
prepare and publish the 2012 sunset proposed
rule. Once the comment period closes the
program will review the public comments
received and prepare a final rule. The final
sunset 2012 rule must be published before June
2012 or some substances currently allowed in
the national list will not be allowed to be
used in organic production or handling. Given
the lengthy timeline for rulemaking the
program will be working expeditiously after
this meeting to issue a final rule by the June
2012 deadline. I recognize the challenges
that the board faces with the sunset review of nutrient vitamins and minerals. As NOP deputy administrator Miles McEvoy described in April 2010, previously the current annotation for nutrient vitamins and minerals was incorrectly interpreted by the program. We apologize for this. It has made your job tougher. The program has been working with the Food and Drug Administration to understand what vitamins and minerals are covered by the existing annotation and explore alternatives that would provide a clear and transparent list of substances that could be reviewed by the board and by the public. The program has the responsibility to provide a clear and transparent list of substances that are allowed in organic production and handling. The board has the responsibility to approve all substances it feels should be on the national list and to review all allowed substances every five years. The program needs the board now in this time to roll up
its sleeves, listen to public comment and complete the sunset review of the current listing for nutrient vitamins and minerals at this meeting.

The board should be aware that the completion of the sunset review of nutrient vitamins and minerals does not preclude the board from making future recommendations concerning nutrient vitamins and minerals. If the NOSB does not approve the re-listing of nutrient vitamins and minerals or any other 2012 sunset materials at this meeting then nutrient vitamins and minerals or any other materials not voted on will not be included as part of the 2012 sunset process. See, we're up against some serious deadlines here. Failure to re-list nutrient vitamins and minerals will cause these substances to be removed from the national list on October 1, 2012 because the board failed to review such exemption under the OFPA sunset provision.

Understand the failure to move forward would
have a devastating impact on certain segments of the industry including dairy because the addition of Vitamins A and D to organic milk would no longer be allowed, nor any other fortified product, cereals, et cetera. This is why the department needs the board to complete its sunset review of nutrient vitamins and minerals at this meeting and provide us their recommendation. At future meetings the board may decide to recommend annotation changes or the addition of substances, including vitamins, minerals or other nutrients in the national list. The program and the department are available to assist the board and the organic community. Please let us know how we can help. Again, thank you for your work, thank you for facing tough decisions this week. I wish you all the best and again I wish I could be there.

CHAIR MIEDEMA: Thank you to the National Organic Program for carrying that address from Deputy Secretary Kathleen
Merrigan. Quite an extraordinary address.

I'd like to make a few announcements. First, let everyone know we are in about minute 12 of a meeting that is scheduled to go 2,175 minutes and they are sure to be filled with a whole host of interesting topics.

A few housekeeping announcements here. We do have one podium up at the front of the room here. Please do listen for your name to be called. We will have one public speaker at the podium and one person standing by, and that person will be seated here next to Lisa Ahramjian at the front table. If you would like to connect to the internet we do have an internet connection, a wireless connection in the room. Lisa, will you please tell the group the password information?

MS. AHRAMJIAN: Sure. So the network is USDA and the password is emerald lower case, and then the numeral 1.

CHAIR MIEDEMA: I would also like to remind everyone to turn off their cell
phone ringers. I believe there's a standing round at the end of the day that needs to be purchased by anyone whose cell phone rings during the meeting. Okay. At this time I would like to approve our agenda. And I would like to start by polling each of our committee chairs on whether they have any changes to the agenda. And I'll start with Wendy Fulwider, Livestock Committee. Do you have any changes from what was announced at regulations.gov?

MS. FULWIDER: Yes, we will -

CHAIR MIEDEMA: Excuse me, NOSB members, please hold down the button while you are speaking.

MS. FULWIDER: We will be pulling the omnivore discussion document and we will bring that in the fall.

CHAIR MIEDEMA: Thank you. Barry Flamm, Policy Committee, do you have any changes to the agenda?

MR. FLAMM: There should be only two items on the policy agenda. The third one
if it still appears on the agenda - I don't have it in front of me - that should - will be postponed till fall.

CHAIR MIEDEMA: Joe Dickson, Certification, Accreditation and Compliance Committee.

MR. DICKSON: We have no changes to the agenda.

CHAIR MIEDEMA: Steve DeMuri and Handling Committee.

MR. DEMURI: Thank you, Tracy.

Yes, we have a few changes today. The first one is for a petition to remove silicone dioxide. We had originally planned on having a recommendation ready for this meeting on that petition to remove but based on all the public comment we received and our desire to receive more public comment because there is a lot of split in this particular material we would like to postpone that until the fall 2011. The other one is nutrient vitamins and minerals, the sunset 2012 recommendation. We
had originally had it on the agenda. We put out a notice a couple of weeks ago that we would like to rescind it from the agenda because of all the public comment we were receiving. We felt like we needed a little more time to delve into it, receive more public comment, make a very strong recommendation that the board could vote on. We subsequently decided to pull it from the agenda and the program last week notified us that because of the timing issue that Kathleen so eloquently described that that was going to be a problem. So what we would like to do for this meeting is leave it on the agenda as a recommendation for now. We would like to reserve the right to pull it if we need to. We will be asking the program during their update later today to describe to us what the timing is for the sunset process from your perspective so that we can get a better understanding of what steps have to take place when. And at that point the committee will
reconvene and we'll go through it again. At this point we really only see two options. One is to delay a sunset vote until 2011 in the fall, the other one is to re-list it as it currently stands just to buy us some time until the next meeting when we can come back with some more thoroughly thought out recommendation based on all the public comment.

And the last agenda item change for the committee is the - a related subject, nutrient vitamins and minerals recommendation. Again because of all the public comment we received and our desire to receive more and to really study that comment we would like to postpone that recommendation until the fall of 2011.

CHAIR MIEDEMA: Thank you, Steve. John Foster and Crops Committee.

MR. FOSTER: Thanks, Tracy.

There's two listings for the sodium or thallium nitrate. One is the sunset
recommendation, the other is a response to the NOP. We went through a lot of deliberations. We'll be voting on the sunset on thallium nitrate while addressing the issues that the NOP brought forward so we will be addressing the NOP, however, it's a single agenda item. For sodium nitrate.


MS. HEINZE: We don't have any changes, thank you.

CHAIR MIEDEMA: May I have a motion to approve the agenda?

MR. DEMURI: I'll move.

MS. ELLOR: I'll second then.

CHAIR MIEDEMA: All in favor of approving the agenda for the spring 2011 meeting of the National Organic Standards Board say aye.

(Chorus of ayes)

CHAIR MIEDEMA: My apologies. Was there any discussion on that? Looks like
there was.

MS. HEINZE: As chair of the
Materials I did want to highlight that this is
- and I'll bring this up in my presentation.
This is the first meeting where we've handled
annotation changes during sunset. So while
the agenda doesn't list it, there will be two
votes for each of those materials. So I just
wanted to highlight that since those aren't
listed on the agenda.

CHAIR MIEDEMA: Thank you,
Katrina. Any other discussion? Okay. The
vote stands, we have an approved agenda and
let's carry on here. I'd first like to extend
a very warm welcome to our five new National
Organic Standards Board members. I'll note
that Jennifer Taylor is having some trouble
with her travels and her flights getting here
so we expect to see her this afternoon, but I
would like to extend that very warm welcome to
Colehour Bondera, Mac Stone, Nick Maravell,
Calvin Walker and Jennifer Taylor. We'll take
a couple of minutes here and each give a brief
biographical introduction and get to hear from
our new members and learn about them as well,
thank you. Let's start with you, Steve.

MR. DEMURI: Hello, everybody,

thank you, thank you for coming. My name is
Steve DeMuri. I've been on the board now,
this is my fifth year. I'll be out next
January. I'm the chairperson of the Handling
Committee and a member of the Crops and
Executive Committees. In my free time I work
for the Mmm Mmm Good Campbell's Soup Company
handling all supplier and vendor quality co-
manufacturers and all organic certification
and production aspects for our company.

MS. HEINZE: Good morning. Okay.

Katrina Heinze. I am the scientist on the
board, also starting my fifth year. I sit on
Handling and Materials and chair the Materials
Committee. Not in my free time I work for
General Mills where I lead food safety and
product quality for Small Planet Foods and our
Cascadian Farm and Muir Glen organic brands
and Larabar. My most important job is I'm the
mother of Kayla, 11, and Victor, 6, and that
really fuels my passion as an organic consumer
as they grow in their stewardship of the
earth. Thanks.

MR. STONE: My name is Mac Stone. I'm executive director for the Office of
Marketing at the Kentucky Department of Agriculture of which the organic certification
program is part of that. I also farm
organically with my wife and her brother
raising vegetables and various kinds of meat
organically.

MR. FOSTER: My name is John Foster. I'm a director of quality food safety
and organic integrity for Earthbound Farm. I'm here as a handler representative. I chair
the Crops Committee. I'm also on the Handling Committee, Materials Committee and the
Certification, Accreditation and Compliance Committee. This is the beginning of my second
year and I'm very happy to be here and happy
to see so many interested and committed folks
in the audience. It's really a - it's really
a tribute to you all. Thank you.

MR. BONDERA: Hello folks, I'm
Colehour Bondera. Thank you for having me
here. I come here from Hawaii, I'm a farmer
in Hawaii with my wife. We have a very
diversified, very small, longtime certified
organic farm. And I do serve on the - excuse
me, the Crops and the Livestock Committees,
and I think that the main thing that I feel
like I can and would like to be doing for you
all is listening to and representing the
public, especially from the very small-scale
operation perspective. And again, thank you
for having me.

MR. DICKSON: Good morning. My
name is Joe Dickson. I am the retail
representative on the board. I work for Whole
Foods Market as the global coordinator of
quality standards. I manage food quality
issues and organic certification for the company. This is the beginning of my second year on the board and something like my seventh year as sort of a board groupie following the board's activities and watching very closely. I chair the Compliance Accreditation and Certification Committee and I serve on the Livestock, Handling and Policy Development Committees. Thank you.

MS. FULWIDER: I'm Wendy Fulwider and this is my second year on the board. I serve as Livestock chair and I'm a member of the Materials Committee. I work for Organic Valley as the animal care specialist and I have been a farmer my entire life and my son is currently completing the organic transition of our diversified livestock farm and he will be adding dairy cows next year.

MS. ELLOR: My name is Tina Ellor. I'm filling an environmentalist seat on the board and this is my final year. Looking forward to sitting out there and watching with
you guys. I'm currently - what am I, vice
chair of the Livestock Committee and also the
Crops Committee.

MR. MARAVELL: My name is Nick
Maravell and I'm the operator of Nick's
Organic Farm. I started back in 1979 as an
all-vegetable producer and now I have very
little vegetable left in my lineup but I'm a
diversified farm with livestock and crops.
And I serve on the Handling Committee and the
Crops Committee.

MR. WALKER: Good morning. My
name is C. Reuben Walker. I serve as program
leader for animal science at Southern
University. Came here by way of Oregon State
animal breeding and genetics statistics. I
serve on the Compliance, Accreditation and -
Committee, Livestock and Policy and
Development Committee. I am delighted to be
appointed to the board as a consumer and
public interest, and I'm looking forward to
this meeting to hear the numerous comments on
some of the great work this committee has
done. And as a significant amount of public
comments I'm sure most of the committee
members have read everything so I'm looking
forward to keeping an open mind and see if we
can make organic agriculture be the shining
program that we all believe it should be.

Thanks.

MR. FLAMM: Good morning. I'm
Barry Flamm. I'm in one of the environmental
positions on the board. This is my fourth
year. I can't believe it, but it is. As many
of you know one of my dearest topics is the
conservation of biodiversity and that's what
I also at this time consult in and along with
a lifetime of working in natural resource
conservation, other elements of the
environment. But one of the things I'm most
proud of is that I was the first certified
cherry-grower in the state of Montana. I'm
chair of the Policy Committee and serve on the
Crops and the CACC Committee. Thank you all
for being here.

   MR. FELDMAN: Good morning. I'm an environmentalist on the board as well and it's the beginning of my second year and I can't believe it. It's been an exhilarating year working with everybody. I'm the executive director of Beyond Pesticides which tries to bridge farmer-consumer interests on issues related to alternatives to pesticides and organic in particular. I serve on the - well, I'm the vice chair of the Policy and Development Committee. I also serve on the Crops Committee and Materials Committee and the Inerts Task Force. And like the other members, it's a true honor to serve and to work with you the public and really look forward to hearing your input over the next several days. Thanks.

   CHAIR MIEDEMA: Thank you. Well, good morning again everyone. My name is Tracy Miedema. I'm chair this year of the National Organic Standards Board. This is my last year
on the board so two meetings. And I've got to say I think I will miss it. I find this work incredibly exhilarating and gratifying and I really look forward to seeing many of you a couple of times a year and I look forward to meeting those of you out here who I haven't had a chance to meet. So please know, you know, we're very informal at the breaks. If you have a chance to introduce yourself to any of us please do that. It's especially nice and serendipitous to have the meeting take place in Washington State. This is my home state and my alma mater town, so that adds something a little extra special here. You know, this meeting draws all walks of life from all over the country and all over the world for one shared purpose of collaborating to shape the future of organic. So your voice is as important as every other voice in the room and that's the reason we're all here today and for the next 2,000-odd minutes.

So without further ado we'd like
to take a look at the NOSB mission. Let's see if we've got that ready to - we don't have that ready to post up this year? We might revisit that. I think we don't have it ready to pull up on the screen right now. We do have that on our agenda but we'll come back to that. Next on our agenda is the secretary's report, Wendy Fulwider.

MS. FULWIDER: The only business is acceptance of the transcripts and voting sheets. So if anyone has any changes?

(No response)

MS. FULWIDER: If not, if someone would make a motion to accept?

MS. ELLOR: I'll motion that we - do you want to do them all as one item?

CHAIR MIEDEMA: Yes. May we have a motion to accept the transcripts and the documents and recommendations from the fall 2010 meeting?

MS. ELLOR: I will make that motion.
CHAIR MIEDEMA: Any second?

MS. HEINZE: Second.

CHAIR MIEDEMA: All in favor of approving the transcripts as posted to the Federal Register and the recommendations as submitted from the fall 2010 meeting please say aye.

(Chorus of ayes)

CHAIR MIEDEMA: Any opposed?

(No response)

CHAIR MIEDEMA: And I left off that discussion again. Any discussion?

(No response)

CHAIR MIEDEMA: Okay. Okay. We also have as a tradition getting started at the beginning of our meeting to hear from the Materials Committee chair and get a brief review on the Materials Review process and the various areas of the national list. Katrina Heinze.

MS. HEINZE: Thank you. Lisa, do you have the presentation? So while Lisa's
pulling that up, for the new folks this is a
review of the national list just to re-ground
us as well as the public, as well as a little
bit of a review of the process. Next slide.

Keep going. Okay. So a review on the
national list, just a reminder there are six
sections on the national list. For crops and
livestock, those both have two sections, 601
for crops, 603 for livestock which cover
synthetics that have been reviewed by the NOSB
and recommended to be allowed for use in
organic production. And then similarly there
are two sections, 602 and 604, which are non-
synthetic substances which have been reviewed
by the NOSB and recommended to be prohibited.

Handling is a little bit different. Handling
also has two sections but you have 605 which
covers non-agricultural ingredients, both
synthetic and non-synthetic, which are
allowed. So what's different about handling
is non-synthetic materials need to be reviewed
by the NOSB and recommended to be allowed. I
also wanted to highlight that another
difference in handling is that due to other
regulation all ingredients have to be on the
package so there is disclosure to consumers.
Then the second section for handling is 606
which is agricultural products that are non-
organically produced. They've been reviewed
by the NOSB and determined to have a fragility
of supply so they are allowed and recommended
to be allowed. Next slide. So to highlight
for 606, handlers have to demonstrate that
these ingredients can be used only when they
are not commercially available in organic
form. So there's a process that handlers go
through with their certifiers to demonstrate
that they have looked for organic
alternatives. Next slide.

So the material review process.

And I know the new folks have been through
quite a bit of this in your first couple of
months. Material petitions are used to add a
new listing, change an annotation or remove a
material currently on the national list, and there are guidelines that have been published in the Federal Register. Okay. Our published minimum time frame is 145 days. I really want to emphasize this is clearly the minimum. It is not the reality and it does not include time for rulemaking. So this is receipt of the petition by NOSB to recommendation by the NOSB. The time frame is dependent on a lot of different things. I would say the real hurdle is manpower within a specific reviewing committee. So right now where we have been under the 2012 sunset which has taken quite a bit of work, this time frame has expanded quite a bit. Okay. Next slide.

I won’t do all the details, but in general the process is that a petition is received by the NOP, they do a review for completeness, they have dialogue with the petitioner. Once they deem it ready they send it to the NOSB committee review which does a review for completeness, asks for a technical
review if that's necessary. If there's additional technical questions they will ask for a supplemental TR and then that goes back to the program for the technical review. Once that is received the committee reviews the TR, either accepts it or sends it back for more information. Then there is a review of all the material. There may be independent research that happens. There's committee debate. The committee comes up with a recommendation and posts it for public comment. That's received so that's where we've been in the process here for the last couple of weeks and then at the NOSB meeting we review that and vote on a final recommendation. Did want to highlight for the new folks we have a practice that a communication between petitioners and the NOSB goes through the program. That's just so that we have transparency and those public comments are captured and posted. So it is a little bit formal, it does make sure that we capture
those comments. Okay, next slide.

A little bit on national list criteria. And I'm - next slide. I'm not going to read all of these, but in general the national list criteria asks us to look for detrimental effects to the land, animals, human health. It asks us to look for alternatives and it asks for a compatibility with the system of sustainable agriculture. Next slide. There are very specific criteria for processing aids. These are available in the rule. But wanted to highlight here that these are specific to processing aids so when we're looking at those you need to add these. Okay.

We talked about 606, but this one does get a little bit tricky. So for 606 which are those agricultural potentially commercially unavailable materials for handling what we try to look at is why the substance should be permitted in the production or handling of the organic product
and then look at current industry information to look at fragility of supply. So are there climate things going on. So for example my first year we listed hops because there was a drought in Australia that had a significant impact on the ability to get hops and there wasn't an established industry in the United States. We look at the number of suppliers, trade-related issues and other issues that could prevent a challenge to a consistent supply. So what we don't look for is is there any organic available because the organic may be available but in not sufficient quantity or quality. So this is really a quantity/quality/form conversation that we have. Okay, next slide.

So sunset review criteria. We are required to every five years review materials that are on the national list to renew those exemptions. So the national list really is exceptions to the rule, and these are listings that were accepted by the NOSB because
evidence showed that the material wasn't found harmful to human health or the environment, it was necessary because of unavailability of alternatives, and use of the material was consistent and compatible with organic practices. Next slide.

So the purpose of sunset is an opportunity to revisit the continued need for the exemption. So it's where we determine if conditions relevant to the acceptance of the exemption, so what the NOSB reviewed when they first put the material on the list, whether those conditions have changed, and then if the review finds that the initial conditions still exist the listing is renewed. It's not a time to add new substances and it's not a time to reinterpret information that is unchanged. Those issues are dealt with through the petition process. There are a lot of materials on sunset so I've listed those. The board early on when the first sunset came up in 2007 spent quite a bit of time thinking
through what sunset meant and I would
encourage folks to go look at those documents.
Lisa or I can provide them if you need them.
Okay, next slide.

Now, there are some things that
have changed so at our last meeting, at the
October 2010 this board approved a policy
change allowing annotation changes during
sunset review of materials. This is our first
meeting where we have used that policy change
and it is a learning process. So I just
wanted to highlight what we said in our
recommendation because some committees
probably need to go back and look at your
recommendations to make sure you followed this
properly. So a quote from the recommendation.
"The committee and subsequently the board will
first take up the annotation amendment and
then vote on the materials renewal." So there
is a two-vote process. I know one of the
crops recommendations has that, some do not.
Okay. Then, just to highlight the steps from
- and these are highlights. I couldn't fit all the steps on the slide, but go look at the recommendation. We can request a third party technical review if we feel that there is public comment that is going to warrant that. The NOSB committee begins review of the material with the intent of providing a recommendation to the board. The review is conducted based on the force of evidence - so this is a longstanding NOSB standard - as presented by board members, public comments and scientific data. So there needs to be a force of evidence to change the annotation. And then finally and maybe most importantly the reviewing NOSB committee provides its recommendation to the full board and the public no less than 60 days and it would include the following: a simple motion to remove, add or amend an annotation resulting in a restriction or clarification. So you can't loosen an annotation, you can only tighten. And a simple motion to renew the
existing listing. Next slide.

Okay. So that was process. Now moving on to an update and this is mostly for the public so you know where we are in our work plans. For the Crops Committee they're handling three petition - two petition materials and then sunset reviews at this meeting. They have received a petition - so since the last meeting we've received a petition to remove ferric phosphate and two of the petitions received by crops have been withdrawn. We have four petitions to add a substance and you can see that we're waiting for TRs on several of those. And then we have petitions for inert ingredients on the crops work plan. Okay, next.

For livestock they have no petition materials. They do have - have received a petition to amend the annotation for methionine and they have a TR on livestock vaccines in process. Next. Handling. Quite an active committee at the moment so I won't
read all of them. They've got four - three petition materials and six sunset listings for this meeting. We have one petition to remove, two petitions for annotation changes, a number of petitions to add substances some of which we've reviewed and did not feel were complete and have been sent back to the petitioner for additional information. Next.

Okay, the sunset review status. We try to highlight this so that folks can see what's coming. We've got 28 materials for the 2012 docket that we should be handling at this meeting and then you can see the flow for '13, '14, '15, and '16, '14 being a really good year for those of you on the board where you won't have any sunset materials. Okay, next.

So some final notes. So this is a standing one and it's just to reinforce for the public and the rest of the board that our practice is for a committee chair to assign a material to a committee member to lead the review. They're often chosen due to their
area of expertise and the role of this person is really to steward the material through the process and facilitate a good dialogue. So they'll lead the committee debate, they'll provide all the prospectives to the rest of the committee, they'll write the committee recommendation and then present it at the meeting. I want to highlight for folks that the NOSB reviewer is representing the committee, not always necessarily their own personal perspective. So that's important for folks to know. Okay.

And then this is a new note that I was asked to provide. This can get a little bit confusing for the new folks so I tried to provide an example, hopefully a little levity as well. So when we make material recommendations it is our practice to make these recommendations on materials in the affirmative. So for example, we would - the Crops Committee would make a motion to list Google Rocks on the national list section
205.602 non-synthetic substances prohibited in crop production. So they're making it affirmatively. For whatever reason the Crops Committee has determined Google Rocks shouldn't be prohibited so it fails in the Crops Committee with one yes vote and five no votes. The committee brings that motion to the full board again with that affirmative motion to list. The NOSB then has choices. So they can vote and pass the motion which would then list Google Rocks or the motion could fail and it would not be listed. So that is what we do. Now, let's look at the non-affirmative motion. So here the motion would be not to list Google Rocks. The motion would pass in the Crops Committee with five yes, one no vote. They would bring that motion to the full board and the motion would be not to list. If the motion passed then Google Rocks wouldn't be listed, but if it failed we're in limbo, right? Because that would indicate that the board thinks it should
be listed but they can't do that because they
don't have that motion. So then Google Rocks
needs to go back to committee, the committee
needs to rework the recommendation and bring
it back at the next meeting. So that's not a
very efficient process. It would force
everything into a two-meeting vote. So that
is why we list everything in the affirmative
which I know I struggled with my first year
when there was all these things we weren't
going to list and we were recommending they be
listed, but that's why. So click. So that's
not what we do. Okay, next slide. So some
website listings and then I think that's it.
If there's questions.

CHAIR MIEDEMA: Any questions for
Katrina? Jay?

MR. FELDMAN: Katrina, you
mentioned transparency and I think for
purposes of the public it's helpful to go into
a little bit more detail about how that works,
specifically the posting of the TRs on the NOP
website which many may be aware of and others
may not be. And the issue that we're
grappling with right now and that is the
disclosure of minutes, committee minutes which
some people feel would give them a better idea
as to the thinking of the committee and help
to possibly engage the public in some of these
discussions prior to the public comment
period, or engage experts. So I don't know if
you want to mention any of that, where we're
at or how that process will evolve.

MS. HEINZE: Well to your first
point yes, I should highlight that technical
reviews get posted to the petition database
once they have been accepted by the committee.
So if there's a technical review - the same is
true for petitions. So for example those
petitions that we've received but went back to
the petitioner have not been posted because
they have not been accepted by the NOSB. So
TRs are the same way. But once they have been
accepted they do get posted and are available
for everyone. You know, for the second topic, Jay, I'm not sure that's in the purview of the materials review process but certainly something that I know is an ongoing dialogue.


MS. BRINES: Yes, Lisa Brines for the record. Just a clarification that when petitions are sent to the board for review they are posted on the website immediately once they are submitted to the board. So they are available immediately. Technical reports according to the policy manual as Katrina described is they're not posted on the website until the board has fully reviewed them and all of their technical questions have been addressed.

MS. HEINZE: Thank you for clarifying, Lisa.

CHAIR MIEDEMA: Thank you, Katrina. I have one point to add to our -
the benefit of our new members. This authority over materials is the most unique and significant authority that Congress gave us in creating the NOSB such that not even the Secretary of Agriculture can go around this board when it comes to materials. So I just want to implore you to think independently and know that we have the weight of law to vote independently as a board. It is now time for Deputy Administrator Miles McEvoy to give his semi-annual National Organic Program address.

MR. MCEVOY: Good morning. Nice to be here. Can everybody hear me in the back? Okay, great. I'm very happy to be back in my home state, Washington State. The weather is, you know, typical for the spring, cold and wet but sometimes it's beautiful here. I mean, this is beautiful too. If you're from this area the rain and the precipitation is part of what makes this part of the world really, really beautiful. So I'm Miles McEvoy, deputy administrator for the
National Organic Program. I have a lot of things to do. I know we have a tight agenda so I'm just going to get right into it and you're going to move fast forward here. So I have three things I'm going to cover, a program update, what's going on with the National Organic Program, a little bit of background on materials and then nutrient vitamins and minerals.

So the three main components of the National Organic Program, what we're implementing is having clear, enforceable standards, a rigorous certification process to verify the organic claims and then enforcement to make sure that when there are violations of the standards that we bring people back in line with the requirements. A little bit on the program update. The Fiscal Year 2010 budget was $6.9 million. We had requested a $3.1 million increase for Fiscal Year 2011. You probably followed there were a lot of considerations about the Fiscal Year 2011
budget that was finally passed a few weeks ago. What we ended up with is about the same amount of money as we had last year, about $6.9 million with a little bit of things that are changed around the edges, but basically the same amount of money for this year as last year. Our request for Fiscal Year 2012 is for $9.8 million. That's a $2.9 million enhancement. There's a lot of things that we have done but there are a lot more things that we need to do. We're still a long ways from getting caught up with a lot of different elements of the program in terms of appeals, in terms of complaints, in terms of standards, implementing the National Organic Standards Board recommendations. There's a lot of work that the program still needs to do and additional resources would really help us to get there.

There's been some staffing changes in the program. Arthur Neal who was the associate deputy administrator for the
National Organic Program for last year has gotten a promotion to be the new deputy administrator of the Agricultural Marketing Service's Transportation and Marketing Program. He's going to do a great job there. We're still going to work closely with that program but he's no longer the associate at NOP. So Ruihong Guo who is the director of the Accreditation and International Activities Division, she's now acting associate deputy administrator until we make a permanent hire in that particular position. We also have a number of new hires that we're working on. We're in the process of hiring a communications director for the program and the main task of the communications director is going to be to get the website much more functional and user-friendly than it currently is. There's a lot of information on there. Sometimes it's difficult to find things. We made some improvements about a year ago but there's still a lot more to do there so that's
what that's all about and then we're hiring a
two number of new ag marketing specialists for
each of the divisions to continue the work
that we're doing.

A little update on the Office of
Inspector General. A little over a year ago
they published the audit of the National
Organic Program. They had seven findings of
the program. The NOP needs to improve
enforcement, the processing of complaints
needs to be more timely, the oversight of the
California State Organic Program was
inadequate, periodic residue testing had not
been implemented as required by the Organic
Food Production Act. Peer review of the NOP
accreditation program had not been performed.
Inconsistent program requirements and audits
of foreign certifiers have not - were not
conducted. So I'm happy to say that they may
- out of those seven findings they made 14
specific recommendations for program
improvements, 13 of those 14 recommendations
have been completed with corrective action. The one in terms of implementing the periodic residue testing requirements we've met the OIG recommendation component but we haven't completed the rulemaking on that. We have a proposed rule on the periodic pesticide residue testing that will be coming out within the next few weeks and - but we've completed the action for the OIG. The one outstanding recommendation for the OIG recommendations is recommendation number 9 about the peer review panel, and this is where we had two different components. One was that we needed a procedure to do an annual review of the audits of the accredited certifiers. We have already implemented that procedure. But the other part was to actually implement the peer review process. And we've had some difficulties contracting, getting an agreement with the National Institutes of Standards and Technology. We started that process last August but because of a number of different
legal things that I don't completely understand it's taken us a very long time to actually get the agreement signed. It was just signed a month or two ago and we're in the process of getting that assessment done this spring and summer. We'll have a report to report back to the board on that assessment of the - the peer review assessment by NIST at the next meeting.

The strategic plan is how we keep track of how we're doing. This is where we're going, our target, what we're trying to accomplish. It has specific objectives and performance measures in there. So I'm going to go through the five major goals within the strategic plan and a little bit about the performance of how we're doing on meeting our objectives. So the first one is around quality management. The objectives were to develop and publish a quality manual, analyze existing processes and develop a quality management system that's aligned with ISO
17011 which is the international norms for accreditation bodies like the National Organic Program, implement and train the National Organic Program staff on the quality management system, and conduct internal audits, management reviews and continuous improvement efforts. So those were our objectives in this particular area. So we have published the quality manual last August. We're working with the Audit Review and Compliance Branch and collaborating with them to analyze and improve the accreditation and audit procedures to align with ISO 17011. We conducted training with ARC on this new system the last few months so this year the audit procedures are going to be somewhat different to more closely align with ISO 17011. There's a lot of changes there that we've - we're in the process of implementing. And then we've started the implementation and training of NOP staff on the quality management system. That's an ongoing process. If you know about
quality management systems it's not like you
do it and you're done, it's an ongoing
process. Each division has an assistant
quality manager that assists with that
training and implementing of the quality
management system. And then we're in the
process of doing a mid-year assessment of the
strategic plan. We have created an NOP
integration team that is making specific
recommendations for improvements and then we
have internal audit and management review to
conduct later this year. We have the
processes for that in place, it's just a
matter of doing those for later this year.

The second major goal is around
standards, developing consistency for
certifiers and organic producers and handlers.
The objectives were to publish the program
handbook, develop and publish additional
organic practice standards, implement the NOSB
recommendations and develop a system to
respond to questions and interpretations of
the NOP regulations. Performance here, we
published the program handbook first and
second edition. There's still a lot more work
to do, a lot of guidance and instructions that
need to be completed, so that's a work in
progress but we're at least - we're making
some progress there. The residue testing rule
is in clearance. Other practice standards
we're working on. We have many national list
rules that are under development or in
clearance. We've provided training to the NOP
auditors on the program handbook so when
they're doing the audits this year they're
following those guidance and instructions
within the program handbook. And we have a
new internal public inquiries tracking and
documentation system that's under development.
We get many, many questions and we need a
system to provide consistent answers to folks
that are asking those questions.

This is a whole long list of
published rules, guidances and notices that
we've done since October 2010. Proposed rule on national list for crops and processing, a final rule for crops and processing for a number of different substances, a proposed rule for Sunset 2011, a notice on draft guidance for made-with-organic-ingredients and labeling, a notice for draft guidance on wild crop poultry commingling compost and chlorine, the second edition of the program handbook, a notice for the section 610 review per requirements of the Regulatory Flexibility Act, a notice for the information collection per requirements of the Office of Management and Budget and a final rule on methionine. So all of these standards, all these notices and rules take a significant amount of staff time and - to work with Office of General Counsel and get it through the clearance process.

Forthcoming - what we're coming on, forthcoming rules, guidances and policy. We anticipate many of these things will be published later this spring or summer.
Advanced notice of proposed rulemaking for Sunset 2013, a proposed rule on periodic residue testing, a proposed rule for national list for Fenbendazole and moxidectin, a notice on the final guidance for wild crops poultry commingling compost and chlorine, a notice for ruminant slaughter stocks under the access to pasture - that's answering the questions from the final pasture rule from last year - the final rule on national list for crops and processing for lecithin, cheese wax, acidified sodium chlorite, orange pulp, Pacific kombu seaweed, a final rule for Sunset 2011, a notice on draft guidance for commercial availability of seeds, livestock feed additives, kelp, and responding to positive residue testing results and the third edition of the program handbook which we expect to be out in July of this year. So many additional things are coming down the road for us to get out later this year.

Moving on to the third major goal,
accreditation, this is the oversight over the certifiers. The objectives are to conduct thorough and timely audits of certifiers, state organic programs and foreign governments, and also to develop a realtime database for certified operations. Performance in this area, we've completed all foreign audits and we're on schedule for all foreign audits. We have implemented requirements for pre-decisional audits prior to granting accreditation. Three pre-decisional audits were conducted in 2010 and we have completed the assessment of the Canadian organic regime last fall and the California State Organic Program had their second assessment in two years earlier this year. We've also developed new audit review checklists that will be implemented this year. The new checklist that the auditors will use will actually score the certifiers on their percent compliance with the accreditation requirements so we'll be able to report out
those numbers of the percent compliance with
the requirements that certifiers have to
maintain for their accreditation. We've
established a designated accreditation
specialist to provide technical support to all
the certifying agents around the world and
removed accreditation from two accreditation
agents through settlement agreements.

In terms of international
activities briefly, the U.S.-Canada Organic
Equivalency Arrangement, we now have a
technical working group, a steering committee.
We're conducting mutual peer assessments and
then we've also made a formal request to
remove stocking rates from that critical
variance for ruminants based on the pasture
rule. For EU equivalency the EU had a mission
to the U.S. last year. They've completed
their report on the NOP. We'll be doing our
assessment of the EU program later this year
so we're moving forward with trying to see if
there's a possibility for U.S.-EU equivalency.
And our other priorities in terms of equivalency and market access are China, Korea and Japan. China in particular has a new organic standard that's difficult for U.S. producers to get products into China. It's an emerging organic market so we're trying to see if we can do things to open up that market for U.S. organic products.

Moving on to compliance and enforcement, the objectives are to handle complaints and enforcement actions in a timely manner, classify and prioritize the complaints so we're putting our resources to the types of complaints that really make a difference, and develop onsite investigative procedures and a penalty matrix. So we've closed so far this year 71 complaints in the first six months of this fiscal year, improving the closure rate by 15 percent over last year. Thirty-six complaints alleged the representation of products as organic without certification. That's a fairly common complaint that we deal
with. Eleven complaints alleged labeling violations of certified products and two complaints alleged the use of fraudulent NOP certificate. We've also streamlined the complaint intake procedure by establishing an internal investigative priority policy so that we're determining those types of complaints that need to be kind of a rapid - more rapid response. Anything to deal with fraud or pesticide residues, that gets into that category whereas a labeling complaint is not as high of a priority as fraud or pesticide residues. We've also collected eight civil penalties for willful violations in the first six months of this fiscal year compared to 10 civil penalties in all of Fiscal Year 2010, and we also have a new enforcement action procedure for publishing notices of NOP fraudulent certificates. We don't have the same - we don't have jurisdictional authority in foreign countries for assessing civil penalties so we're looking at other ways of
protecting organic integrity when it involves a foreign operation. And so we've published two notices about fraudulent certificates both involved in international operations misrepresentation of agricultural products as certified organic through falsification of an approved accredited certifying agent certificate. Now, if this was a certified operation then we would have some authority to suspend or revoke the certification, but these are operations that are operating in foreign countries where we don't have jurisdiction and they're not certified under the National Organic Program. So this is an idea of getting that information out to the public that these are not valid certificates and we plan to continue to expand on that concept.

In terms of our management strategy, effectively managing the human resources, communication and administrative activities of the program. This includes working with the National Organic Standards
Board, the cost-share programs, human resources, civil rights, Freedom of Information Act, transparency and communication. In terms of performance here we've developed an employee handbook for NOP staff. We now have the NOP Organic Insider to disseminate information, a Listserv to interested parties. We've done certifier trainings and numerous presentations. We have a new technical report contractor that's providing technical reports to the National Organic Standards Board and the public and we believe that should expedite the response time from the time that we get a technical report request to getting that report to the National Organic Standards Board. We have a new internal petition substances database that's in the process of being populated that will help with our management of the petition substances and that we've met and we continue to meet the federal requirements for disclosing information and also redacting non-
disclosable information under the Freedom of Information Act. That's a constant thing that the program has to deal with. We basically have one full-time person that that's what they do is handle Freedom of Information Act requests and it does impact the rest of our staff as well. It's a very important thing that we do is to provide information to the public but we also have to be very diligent that we don't disclose information that's not disclosable because it's confidential business information or personal information. So that's a constant thing that we're - have to manage.

Positive trends that we're seeing is that overall certifiers are very effective at protecting organic integrity. The vast majority of organic operations comply with organic standards and the pesticide residue testing that we've done shows that organic products, many have no residues and those that have residues are at - tend to be at very
minimal residues - minimal levels. So that's a good thing. Okay. So that's the program update.

Moving on to materials. Materials that are used in organic agriculture. There's a long history of their use in organic systems, they're consistent with organic principles and there's nowhere in the Organic Food Production Act that it states that the list of materials - the list of allowed materials should be minimized. In terms of crop materials there's over 500 natural substances and 88 synthetics that are currently allowed under the National Organic Program regulations. And if you think about it there's lots of things. In greenhouse there's potting soils, there's compost and manure, rock minerals, soil amendments, there's liquid fertilizers, micronutrients. For pest control you have botanicals, you have dormant oils, you have biologicals like BT, you have sulfur and pheromones, you have the
inert ingredients and then you have crop
production aids such as gibberellic acid and
cytokinins. For livestock we have over 400
natural minerals and 38 synthetics that are
currently allowed under the program. The
numbers here are taken from looking at OMRI's
list of generic substances. That's where we
got the numbers from. So for livestock,
livestock feed, feed additives, vitamins,
minerals, methionine, feed supplements,
molasses, it must be organic. For health
care, vaccines, medications, probiotics,
excipients. There's many substances used in
livestock production, organic livestock
production. For handling post harvest
substances, processing aids and ingredients
both natural and synthetic must be listed on
the national list. So there's 28 naturals
under 205.605(a), there's 44 synthetics under
205.605(b) and then if it's an agricultural
substance used in a processed organic product
it must be organic or there are 43
agricultural substances on 205.606. They also must be organic unless it can be documented and shown that those particular substances are not commercially available in organic form. So for handling, natural substances includes citric acid, bentonite, dairy cultures, enzymes, flavors, microorganisms and waxes. For synthetic substances, ascorbic acid, baking soda, baking powder, chlorine, ethylene, glycerin, vitamins and minerals and xanthan gum. This is just a sampling of some of the substances. And for the agricultural substances again they must be organic. If they're on 606 they - you can use non-organic if you can show that they're not commercially available. There's 19 colors on there. There's casings, celery powder, fish oil, gelatin, gums, kelp, cornstarch and wakame seaweed just to name a few.

So the Organic Foods Production Act, it's designed to respect the authority of the organic community through the National
Organic Standards Board. Natural substances or non-synthetics are allowed unless they're specifically prohibited. Synthetic substances are prohibited unless they're allowed. It must be through an NOSB recommendation and rulemaking to add the substance to the national list. And again, OPFA has no restrictions regarding the length of the materials list. So the NOSB has the statutory authority to review and recommend approval of the following classes of materials, synthetics in crop production, synthetics in livestock production, non-synthetics and synthetics in organic handling both ingredients and processing aids, and also NOSB recommends prohibitions on natural substances and also advises the Secretary on any other aspect of the implementation of the National Organic Program.

The National Organic Program supports the work of the board. We're a liaison between the board and the national
list petitioners. We coordinate the
development of the technical reports by the
third party contractors. We take notes for
the NOSB committee work. We facilitate the
logistics of the NOSB meetings and we ensure
a public and transparent process. We
definitely respect the work of the NOSB, of
your work and we strive to implement your
recommendation. You all have been very, very
busy over the last, what, 15, 16, 17 years now
and we have a lot of work to do to get caught
up with you all. So our responsibility is to
have clear, enforceable standards including a
clear list of allowed substances. We cannot
add substances to the national list unless you
have reviewed and recommended adding materials
to the national list and we have to ensure
that those recommendations are clearly defined
and follow the process outlined in OFPA, the
NOP regulations and the NOSB policy handbook.
So making sure that the process is correctly
followed.
A little bit about respect.

Reasonable - there's a lot of knowledge here and a lot of deep knowledge and background and perspective. You're all reasonable and well-intentioned people and you have different opinions and perspective. We encourage a spirited debate and public input but at the end of the day we're all part of the same community. We're not always going to agree but we should respect the process and the decisions made by the board. We will certainly respect the decisions made by the board and we implore the board to also do the same.

Nutrient vitamins and minerals.

Just want to give a little bit of background on this since this has been such an interesting topic to get our hands around. So the 1995 NOSB recommendation said a number of different things. Said specifically that vitamins and minerals that were required by law should be allowed in organic food
products, that accessory nutrients that are allowed or supported by independent professional organizations should be allowed in organic food products on the national list. It also referred to nutrients that are not specifically classified as vitamins and minerals including omega-3 fatty acids, inositol, choline, carnitine and taurine were specifically mentioned in the 1995 NOSB recommendations. And from our perspective that recommendation was promoting or recommending that a relatively open-ended list would be appropriate to support the continued development of nutritionally rich foods. So what the program did is it took that recommendation in the midst of writing the proposed and final rule and came out with the listing in 7 CFR 205.605(b), Synthetics Allowed, and this is how it's written. "Nutrient vitamins and minerals in accordance with 21 CFR 104.20, Nutritional Quality Guidelines for Foods." The reference as
stated in the rule only lists vitamins and
minerals that are allowed, that nutrients that
are not vitamins or minerals are not
referenced in the national list. We went
through this a year ago.

So in 2006 NOP received a
complaint alleging violation to the national
organic standards for certified organic
products that contained accessory nutrients.
NOP at that time determined that accessory
nutrients were allowed based on an
interpretation of 7 CFR 205.605(b), 21 CFR
104.20 and the past NOSB recommendations. So
they took a lot of things into context to make
that particular determination that accessory
nutrients were allowed under the current NOP
regulations. Then in 2008 the NOP determined
that lutein ester in another ruling did not
fall under the FDA fortification policy and
was not allowed in organic foods. That
particular letter also stated that only
nutrients listed in 21 CFR 104.20(d)(3) were
allowed. So there were inconsistencies in terms of how the program reviewed 104.20 in the past. And what we're trying to do here is say okay, it's not the best reference, let's figure out where to go from here to meet the recommendations from the board and have a clear list of what's allowed in this class of nutrient vitamins and minerals. Next slide.

So we've been working with the Food and Drug Administration, specifically the Center for Food Safety and Applied Nutrition and we finally got the letter from them and we posted it that states that the specific regulatory reference in the national list to 21 CFR 104.20 is limited, that it does not cover the nutrients such as taurine, DHA, ARA, lycopene, lutein. It does not include nutrients used in infant formula or pet food, and it does not - FDA does not define accessory nutrients. So it's a real disconnect between that regulatory reference and FDA's view of the meaning of 104.20. And
FDA has suggested that a better regulatory reference to meet kind of the intent of that '95 recommendation would be 21 CFR 101.9, 107.100 and 107.10 and that would include essential and approved vitamins, minerals and other nutrients for infant formula and the fortification of foods. The other thing that's nice about those particular references, it does provide specifically lists of substances that you can look at and you can say this is allowed. If it's not on that particular list then it wouldn't be allowed. So our plan is that - well first of all, that we currently list a clear list of nutrient vitamins and minerals that are allowed in organic food products. It's something that we sorely need, that our previous interpretation of those nutrient vitamins and minerals allowed under 205.605(b) was incorrect. We recognize that many certified operations made business decisions based on that '95 recommendation and statements previously made
by the program. We do plan to publish draft
guidance that will clarify the FDA
interpretation of 21 CFR 104.20 and - and next
slide. So we plan to provide a transition
time for businesses to reformulate products to
comply with the regulations as per the FDA
interpretation. The draft guidance as per all
draft guidance would be published through the
Federal Register with a 60-day comment period
for the draft guidance and then after that we
would publish final guidance after considering
the comments received, and again, after that -
that final guidance would include the - enough
time for the petition process to work, for the
board to do their work and for rulemaking to
occur to meet the intent of the NOSB and to
respect the authority of the NOSB in terms of
what materials are allowed in organic food
production and handling.

So nutrient vitamins and minerals
that are required for pet food are being
covered by a separate rulemaking. We're in
the process of working on a proposed rule for
the pet food - to implement the NOSB pet food
recommendations. DHA, ARA, choline and
taurine have been petitioned and are awaiting
board action, so those things can be
separately reviewed by the board. And we also
advise companies that they may petition to add
substances to the national list including
nutrient vitamins and minerals that are not
currently allowed under 21 CFR 104.20.

So in summary the NOSB needs to
review and approve all substances on the
national list. The program and the organic
certifiers, producers and handlers need a
clear list of what's allowed and what's
prohibited to do their work. We need an open
and transparent process, that's essential to
moving forward and adequate time is needed for
the organic trade to petition substances not
included under 21 CFR 104.20, for NOSB to do
the review that they need to do and for any
rulemaking to be completed. So thank you very
much and please remember that we're all in this together. The NOP is here as a partner with the organic community, with the board and so we look forward to working together on many of these issues in the future. Thank you.

CHAIR MIEDEMA: Thank you, Deputy Administrator McEvoy.

(Applause)

CHAIR MIEDEMA: Now I'd like to see if anyone has questions for Mr. McEvoy. And before you step down from the podium I hope that you introduce your NOP staff as well. But now, any questions for Mr. McEvoy? Steve.

MR. DEMURI: Thanks, Miles, good update. As I mentioned in my agenda update at the beginning of the meeting I was going to ask you for an off-the-top-of-your-head timeline on sunset for nutrient vitamins and minerals if we did not act on it at this meeting.

MR. MCEVOY: Well, the program's
going to - is going to be moving forward with
the Sunset 2012 proposed rule after the
meeting. So we need to move forward with
that. It's 230-plus materials, 232 materials
that we will move forward with after the
meeting. Usually a rulemaking to go from a
proposed to a final rule is about - we like to
have about 18 months for things that are non-
controversial so we already have kind of a
tight time frame to get the proposed and final
rule done by June of 2012. In that proposed
rule we would list all the materials that are
being proposed to be re-listed but we'd also
have to list any materials that were not being
proposed to be re-listed. So that's part of
the consideration here. Now if you wait until
the fall meeting which is going to end the
first week of December of 2011 then we would
work to make a final recommendation on
nutrient vitamins and minerals. It wouldn't
be included in this packet that moves forward,
but we would work as diligently as we could to
try to get that completed by October of 2012. As I said we like to have 18 months to do national list rulemaking. With a controversial topic such as nutrient vitamins and minerals there's all kinds of things that could potentially happen. We've had notices that to us seem to be fairly insignificant that OMB is very interested in everything that the National Organic Program does. And so part of the process we control but a lot of the process we don't control. We have Office of General Counsel that needs to do review, we have OBPA that does review and then we have OMB. So it's a wild card to say what exactly would happen, but we would work our darnedest to get it done.

MR. DEMURI: Well, let me ask a follow-up. If we did not act until the next meeting and you folks weren't able to get it completed by the end of the sunset period what would happen to nutrient vitamins and minerals?
MR. MCEVOY: Well, they'd no longer be on the list so that processors could not use those substances in their products. Until rulemaking was completed.

CHAIR MIEDEMA: Katrina?

MS. HEINZE: For the full docket that you intend to move forward with after this meeting if there's certain materials that aren't included does that make that docket more controversial? Because then you have to - I'm hypothesizing because then you would have to work through the economic impact of those coming off the list? How does that work?

MR. MCEVOY: Yes, that's a good question. So if the - if the 2012 proposed rule does not include nutrient vitamins and minerals would we have to address the potential economic impact of nutrient vitamins and minerals coming off the national list. I think we would have to address that, yes. So it could slow down that process.
MS. HEINZE: And I was just thinking more broadly. There's other materials.

MR. MCEVOY: There's lots of materials on that list that are important to organic agriculture, yes.

CHAIR MIEDEMA: Any other questions for Mr. McEvoy? I have -

MR. MCEVOY: I can introduce my staff.

CHAIR MIEDEMA: I have a question.

MR. MCEVOY: Okay, go ahead Tracy.

CHAIR MIEDEMA: And it's related to something Deputy Secretary Merrigan mentioned. She mentioned the potential of Vitamin D coming out of milk in relation to this topic if we didn't perform sunsetting. What I wondered was the effect of other laws in OFPA and the Federal Food, Drug and Cosmetic Act. I was under the understanding that the National Organic Program is subject to other laws such as the fortification of
milk with Vitamin D.

MR. MCEVOY: Well, you can't use the organic standards to violate other federal statutes that are required so if Vitamin D and Vitamin A are required to be in milk then - and the organic standards didn't allow Vitamin D and Vitamin A to be in milk then you wouldn't be able to have organic milk. But you'd still be able to have milk because milk would have that requirement to have those things added to it.

CHAIR MIEDEMA: So is Secretary Merrigan saying that if we don't get a vote this time on this material that organic milk would go away?

MR. MCEVOY: Deputy Secretary Merrigan is concerned about the potential impact on the trade of delaying a determination on nutrient vitamins and minerals in terms of the amount of time it takes to do rulemaking, the possibility for problems in - I mean there would be the
possibility if you waited till December to do an interim rule. OMB does not like interim rules, especially for controversial topics such as this. So yes, there's - we're just concerned that to not disrupt the trade it would be better to move forward now rather than wait until December.

CHAIR MIEDEMA: Okay, thank you. And just one other follow-up question. You mentioned the FDA letter that just was released last week. Our board has just received that letter on Friday. Did FDA approve of the current annotation?

MR. MCEVOY: I don't know.

CHAIR MIEDEMA: Katrina?

MS. HEINZE: So one of the things that we've talked about is to re-list with the current annotation which is less than ideal and then to move forward with a recommended annotation change at a later meeting. What would be the process to get that annotation change through?
MR. MCEVOY: Well, you have a number of different options that you could take. So you could - you could determine to re-list as is and now with the policy change you're allowed to change annotations during the sunset review process. So you could either recommend to re-list, you could recommend to re-list with an annotation change. If you recommended to re-list with an annotation change then we would take that and incorporate that into the proposed rule for 2012. That doesn't preclude you from doing further action in the fall that could again make a further annotation change or a change to the listing. The board has fairly broad authority in terms of what you can do with the national list. You have the petition process where the public can petition to get materials either added to the list or deleted from the list, but you also have the ability as a board to take separate action like you did on the injectable vitamins vote from a couple of
years ago. So if you move forward with a
recommendation at this point we would then -
either to re-list or re-list with an
annotation change we would move forward with
proposed rule based on that recommendation.
Again, that doesn't preclude you from making
a further recommendation in the fall which
would entail doing a separate docket to move
that forward through a separate rulemaking
action. So both of those things could happen
at not exactly a parallel process but a
staggered process.

CHAIR MIEDEMA: Any further
questions for the deputy administrator? Thank
you.

MR. MCEVOY: Okay, I'd like to
introduce the staff. We have Lisa Ahramjian
who is the NOSB executive director. And then
we have Melissa Bailey who's the standards
director. And then we have Emily Brown Rosen
who's staff in the Standards Division and Dr.
Brines who's also staff in the Standards
Division and handles the petition process in
the national list.

(Applause)

CHAIR MIEDEMA: Next up on our
agenda is an update on the inerts materials
working group by Emily Brown Rosen. Thank
you.

MS. BROWN ROSEN: Okay. Good
morning. I'm Emily Brown Rosen in the
Standards Division now at National Organic
Program and I'd like to tell you a little bit
about what's been happening with inerts in
pesticides. Inert ingredients in pesticides,
just a little background for everyone who's
not breathing this stuff every day. An inert
ingredient is any substance other than the
active ingredient which is intentionally
included in any pesticide product. That's the
definition we have in the rule. It also
aligns with the EPA definition of inert
ingredient. It's a little bit abridged there.
So we have this problem - well, first of all
as examples, these are the other ingredients
that don't have to be on your pesticide label
by the EPA's FIFRA law. They can be concealed
basically. They can just put "inert." So
there could be all kinds of things that are
used as - to prevent caking, foaming,
preservatives, help it stick on the plant,
help it actually make the pesticide work much
more effectively in a lot of cases. But it's
a huge category of compounds.

The Organic Foods Production Act
permits synthetic inerts that are not
classified by EPA as inerts of toxicological
concern. So this is the general statement.
It's been interpreted in the current
regulation and by the previous board to mean
a certain class of inert ingredients that are
classed by - or were classed by EPA as List 4,
meaning inerts that were supposedly of less
toxicological concern, of more minimal risk.
And so these have been in use, allowed in
pesticides for the last - well, pretty much
since 1990 but formalized in 2002 in the regulation. And we also have an allowance for List 3 inerts which are slightly more unknown, more of concern, that are allowed only in pheromone traps, passive pheromone traps.

Now, EPA has revised this system of assessment in 2006 under the Food Quality Protection Act. So they no longer use this system where there was a List 1, 2, 3 and 4 of classification of inerts. And we have been operating yet with this reference in our rule since 2006 and it's an obsolete system. So we're referring to a list of inerts that was done - well, it was last modified in 2004. So this definitely - it's causing more and more problems as pesticide formulations are, you know, newly created that don't really compliment this old system. So we are getting more petitions as the board's well aware for inert ingredients and that they're not on the old List 4.

Last April the board made a
recommendation and reviewed this and it was a
difficult thing to try and figure out what to
do. In summary, they suggested that the NOP
should create a memorandum of agreement with
EPA and try and work on evaluating all the
former List 3's and 4's, maybe start a task
force that the NOSB and/or the task force
would review as a first step the former List
4's to identify any that might be natural non-
synthetic compounds that would be okay for use
and those should be the first choice in
pesticide formulations. Then we'd ask - the
idea was to ask the manufacturers to give
information on all the remaining synthetics
and possibly review them individually as
petitions. The task force should come up with
sort of a prioritized review of inerts with
well-publicized timelines and then the result
would be either individual listings of certain
inerts or maybe there was hope that EPA could
manage some sort of list that NOP could refer
to.
Okay. So what we've done since then, we at the NOP have drafted an MOU and we've shared it with EPA. It's a real general agreement to share information and work together. We had an initial meeting with a number of EPA staff in October of 2010 over at EPA and it was a very positive meeting. They're very interested in seeing some progress on this issue. We had another follow-up meeting with the staff that came to our office in December and then we set up an initial work group, we're calling it a working group meeting - working group, not a task force - but we met for a full day in February of this year. And we're basically in a data collection phase at this point. But this is who's on the work group now. It's myself, Lisa Brines and John Punzi from the NOP staff. John Punzi is also a chemist who's on detail to our Standards Division at this time who's done a lot of work with the pesticide residue guidance and regulations so he's very helpful.
On the EPA side we have Chris Pfeifer from the Biological Pesticide Pollution Prevention Division. I think that's what that stands for. And then Kerry Leifer who is in the Inerts Division. He's been around quite a long time and has been very - he knows inerts like inside and out so he's really helpful. Then we've invited several NOSB members, Tracy Miedema, Jay Feldman, and then Jeff Moyer is a former board member who was very involved in the recommendation. And so they all came to Washington and we you know did preliminary work on this.

So just some beginning information that we have so far. EPA has made it real clear they're willing to help, they're willing to share with us what information they have on inerts and their procedures for reviewing them, but they don't have authority or resources and they really don't want to be you know the keeper of an organic list of inerts which is kind of disappointing. We would like
that would be an easy way out but it's - they see it as the National Organic Program is our rules for organic rules. They don't have authority over organic but they want to work with us and collaborate. So that's what we're going to be dealing with. The overall goal of the group is to develop a new policy that can be finalized no later than 2017 which is the next sunset date after this one for the List 4 inerts and we would want to do that in a way that provides an ample timeline for pesticide formulators to actually be able to meet that date and not majorly disrupt what limited tools organic farmers have for the pesticides that are in use.

Just as a few points of information the old EPA list is divided in two sections, 4(a) and 4(b) and there's a total of 879 substances on that list. But this, in the new system EPA lists inerts that are allowed for food crop use either as exempt from tolerance of - in other words, they don't -
they are exempt from having any residue
tolerance on the crop or they have specific
tolerance, there's limits to how much
pesticide residue could be found on a crop.
So there's a specific section of the EPA's
rules that list these exemptions from
tolerance and they also have a system where
they classify some inerts as permitted for use
in what they consider minimal risk pesticides.
This is often referred to as a 25(b) list.
These are products that generally - that are
exempt from registration. So they have
actually changed the 25(b) list, updated it a
little bit since December 2010 and that's
probably one of our primary starting points is
to look at this list and see how usable that
could be because that list actually is
reviewed for not only hazard to health and
humans but environmental harm. So we're -
that's one of our primary things to look at.
These are some of the options
we've been talking about. The first option
listed was, well, maybe we'll have to review everything individually and come up with screening criteria. The board had proposed some types of environmental screening and - health and environmental screening criteria in their proposal last year. This everybody recognizes would be extremely difficult and you know, no one really wants to see hundreds and hundreds of inert ingredients on the national list. It's just - it's very problematic. Then we're hoping maybe we could identify subgroups of inerts under the EPA current system for listing that might be compatible, especially with this 25(b) list. And then another tactic will be to evaluate the currently used inerts for any patterns or groupings, look at the known uses, see if we can identify certain groups that would be, you know, categories of inerts that we'd want to support.

So far I'd like to thank OMRI, Organic Material Review Institute, and WSDA,
the Washington State Department of Agriculture, for sharing with us. They have graciously helped us in an anonymous manner. We don't know the products but they've shared with us lists of inerts that are commonly in use in products that they review. We know this is not all the products out there that are being used in organic farms, but it's a good start. And so we're looking at this, comparing it to how EPA classifies them and the old List 4 to see where the overlaps and the gaps are and also going through to look for what are non-synthetic and not a problem. So the good news of this is that out of those 879 ingredients OMRI's list only has about 157 of 4(a)'s and 4(b)'s that are synthetic. So that immediately, you know, indicates to us that maybe we have a, you know, not as huge of a problem as we were fearful of. And then Washington State's list overlaps pretty much. There's another extra 20 or so that are not covered. So we're looking at I think
approximately 179 List 4(a) and mostly 4(b)'s really. The 4(a)'s are mostly all natural. So that's - so we're starting to focus in on the problem and get somewhere. So the next steps will be to look at the data further, compare all these lists and then look at where the ones that are in use fall under EPA classification, see if we can figure out a baseline reference point and then work on if we're going to need additional criteria. I think the board indicated as pretty well the Crops Committee, I've been working with them the last year, very difficult to review inert ingredients that are being petitioned to the board under the existing checklists and criteria that you go through for an active ingredient in organic. So if we are going to need a step two to review inerts we would like to come up with some better criteria that match, you know, that sort of elaborate on OFPA but are more suitable for inert ingredients in pesticides.
So those are things. So that's basically it. Our plan is to keep reporting back to the board and you know, we'll keep you informed. Any questions? Okay, thank you very much.

CHAIR MIEDEMA: Thank you very much, Emily. We are slightly ahead of schedule and so if - if Director Newhouse of the Washington State Department of Agriculture is here we would love to hear his address. Is he here?

MS. AHRAMJIAN: Do you want to do the mission first?

CHAIR MIEDEMA: We'll take that up right before public comments begin after the break. Director Newhouse, welcome to the podium.

DIRECTOR NEWHOUSE: This is an unusual situation. Good morning. My name is Dan Newhouse. I'm the director of agriculture for Washington State and I believe my duty is to welcome you folks to the state of Washington. We are very proud of our state
and located in the far corner of the United States, but we think that we in the Pacific Northwest have a very unique place to live and we welcome you here and are anxious to share our part of the country with you. I also want to take my hat off to you for holding these regional meetings. I've been standing in the back of the room because there's no chairs available so I think that's a great indication of the kind of interest that people have in being participants in your work. So I think it was a great step forward and will make this program even stronger.

Let me just say a few things about Washington State. Maybe many of you have been here before but if you haven't and I'll bet you even if you have there's some things that you don't know about the state of Washington. Of course, I'm going to speak to you from an agricultural perspective because that's the most important thing in the world, right? Being the director of agriculture I can say
things like that and also because I'm a farmer from eastern Washington. But Washington State is, you know, we're known for a lot of different things. You probably have heard of a little airplane company called Boeing. They've been here for a long time. Things like Microsoft and Starbucks and things like that are familiar icons from the state of Washington. Agriculture isn't something that usually pops to mind when people think of Washington State. Maybe you're familiar with our famous Washington apple. That's something that many people know of. But did you know that we can raise, and we do raise commercially about 300 different kinds of crops in Washington State? We can raise almost anything except citrus and those kinds of things. But the variety that we can raise in the state is tremendous and that gives us a lot of opportunities. We've got about 39,000 farms in the state of Washington producing some of those 300 different crops.
We're the third largest producer of fruits and vegetables in the United States. We are also - and I'm kind of proud of this - the third largest exporter of agricultural products in the United States, second only behind California and Louisiana which is a fact not too many people even in our state are aware of. Our processing industry is tremendously important as well. Over 40,000 people are employed in agricultural processing. It's a $13 billion industry. It impacts every county in our state. In fact, you're in the largest ag processing county in Washington State of King County. So agriculture is a tremendously important industry. It's fully equal to aerospace which is about 13 percent of our economy. So we are very impactful for our state. So it's a big deal.

I'm very proud of our industry that we have here in Washington State. Of course focused on organics. The National Organic Program has been a tremendous asset to
our farmers. It gives us a lot of its different options, it allows us to differentiate our products from others and I think it gives consumers a tremendous variety of choices which is very important especially in this very competitive market we find ourselves in and extremely thin bottom lines. We need all of the help we can get. We're very proud of our organic industry. I believe we are second in production value in the United States with over $200 million worth of production organically. So it's a big deal to us. Only about I think 1 and a half percent of our farmland is in organic production but it accounts for over 4 percent of our farm gate value in the state of Washington. So there's a tremendous value to our industry.

Being the director of agriculture let me brag a little bit about WSDA. We have the largest organic program in the country. We have benefitted from tremendous leadership in our program, not the least of which was Mr.
Miles McEvoy who actually helped start our program more than 20 years ago. So thank you very much, Miles, for your contributions and I certainly want to say thank you to him for his continued leadership at the USDA and his efforts in making sure organic remains a strong viable option. We are also the biggest state organic certification agency. We are very proud of our relationship with our growers and we are working hard to improve those relationships to make sure that they can be as successful as possible.

One of my goals as the director of agriculture is something that I hope is one of your goals too, and that is to reconnect people with the source of their food. We have a tremendous challenge there. Less than I think 1 percent of our population has any connection with actual farming so it's a huge challenge. Organics play a huge role in that. Many of our urban cousins want to know where their food comes from so we're enjoying a
renewed interest in the source of food around the country. It's no different here in Washington State. So the decisions you make certainly have an impact on our ability to make that reconnection. And you know, that is so important for a host of reasons, not only for the financial success of our producers but people need to understand the kinds of challenges agriculture faces, whether it's conventional, organic or whatever kind it is. Policies need to be in place locally, at state levels and national levels in order to provide an environment where farmers can continue to be successful. And so having that reconnection will help people understand those challenges and the policymakers then can make the correct decisions when it comes time for agricultural discussions. So it's a very important thing for us to do.

I want to thank you folks for your continued efforts to make organics mean something. To continue the integrity of an
organic program is very important. The branding, the marketing tool that it's become is key, it's essential for folks in order for them to be successful. So your efforts to protect that integrity are very, very important. So again, I'd just like to say thank you for coming to the state of Washington, for holding these regional meetings. Again, as evidenced by the standing room only crowd there's a tremendous amount of interest in what you do because it impacts each and every one of us in a variety of ways. I don't know what the kinds of crowds you're seeing in other locations, but I would expect that it would be very, very similar and we encourage you to continue having these kinds of discussions so that we can all participate. So again, welcome to Washington State, I appreciate you being here and hope you can come back and spend lots of money while you're here. So thank you very much.

(Applause)
CHAIR MIEDEMA: Thank you very much, Director Newhouse for that warm and kind welcome to the state of Washington. It is three minutes before 10:00 and we are going to take a 15-minute break which puts us back here in this room at 12 minutes after the hour. And we will start right up as soon as we have quorum and 10 members seated, so we'll start sharply at 10:12 and give a little bit of direction and dive right into public comments. Thanks, everyone.

(Whereupon, the foregoing matter went off the record at 9:56 a.m. and resumed at 10:16 a.m.)

CHAIR MIEDEMA: We have quorum and we'll go ahead and get started. Will members of the audience please be seated or feel free to carry on those conversations out in the back. All right, thank you everyone. We have now reached the portion of our agenda that is most important and that is our opportunity to hear from the public. When the NOSB is
operating at its best we are a conduit for the organic community to channel information into the rulemaking and decision-making process. Just a few housekeeping notes on how public comment will be run. Public comments are to be limited to three minutes. We will have to kind of give you the hook at the 3-minute mark so try to do your best to stick to that three minutes. We are limiting the NOSB member portion of the repartee to two minutes. And I'd like to just speak hopefully for everyone in the room and say that we absolutely appreciate hearing from every single one of you and it's very kind that so many of you take a moment to thank us for our service. If we could have that be an understood shared appreciation then that would give you all back some time at the podium and that would give us back some time to ask salient questions. NOSB members, I would urge you not to use our very precious bit of time to say that you agree or that you disagree. The purpose of that two
minutes is to ask very distinct clarifying questions that are on the specific material that the commenter presented. We will have an entire day to have our committee discussions and that is really the appropriate time to talk about the topics in general. So let's, you know, take lots of notes on things that we want to bring up on our committee presentation day so that we really stick to - stick to questions. The information about who is up next at the podium is going to be posted on the board here. Lisa Ahramjian is going to be managing that for us. The first name that's at the top of the list is the person speaking. The next name on the list is the person who is standing by. And Lisa, you have something to say.

MS. AHRAMJIAN: Unfortunately our projector bulb seems to have expired so we are attempting to resolve that as quickly as possible. So we will have a brief break in projecting and I will just be announcing names
and next up if that's okay with you, Tracy,
until we get that fixed.

CHAIR MIEDEMA: Yes, that's just
fine. Yes, any questions from NOSB?

Colehour.

MR. BONDERA: I don't exactly
apologize, but as a new member I just - and it
seems like maybe this is a new process in
terms of some of the time issues. Since I'm
not familiar with this public comment process
I just would like at least for my sake and/or
for everybody's sake to better understand what
the two minutes for NOSB member discussion
and/or questions means in logistical terms.
In other words, like you said we could quickly
ask a direct question rather than make some
comments about something but does that two
minutes also include the public speaker's
response to those questions in addition to us
asking the question? And is that - sorry, the
second part of that question is is that two
minutes total for all NOSB members or is it
per each person asking a question? So those are unclear details from what you shared that I don't know how to work with yet.

CHAIR MIEDEMA: Great questions, Colehour. That two minutes needs to include questions and answers, and we all need to be very economical here. We might be dredging back to our high school debate and coaching in that regard that we put a very fine point on what we're trying to say and just cut right to the chase. So with - okay, another questions. Katrina.

MS. HEINZE: And I know we talked about this in the executive committee. I would just ask that where appropriate we have flexibility if there's still information that the board is trying to gather. I get not debate, but responses to questions.

CHAIR MIEDEMA: This will not be monolithic, but it is the protocol for today so let's do our absolute best to you know keep the trains running on time. Lisa, will you
please announce our first public speaker today.

MS. AHRAMJIAN: It's - the projector is actually working again, so. But first is Meghann Quinn. On deck is Paige Tomaselli and I apologize in advance for butchering anyone's name.

MS. QUINN: All right, everyone ready? My name's Meghann Quinn and I am the executive director of the American Organic Hop Grower Association. I'm here today to give the NOSB and the NOP a quick update on organic hop production. In January the AOHGA distributed its first ever organic hop market report and brewer survey. The report presented information on the NOSB's recommendation, the unsold inventory of certified organic hops and current and projected acreage data. In this report we estimated that while 127 acres of hops were in certified organic production last year, 300 acres are certified and available for
production this year and 362 acres will be certified and available for production in 2012. One thing I want to make clear is that this additional acreage I mentioned is already certified so the 3-year transition period that some people are concerned with does not apply to this acreage. So that shows that the industry has the potential to triple in size just by 2012.

Along with the report, we sent out an informational brewer survey which gave the brewers an opportunity to let the growers know which varieties they demand and in approximate quantities. We're very pleased with the participation we received and we learned that many of the hop varieties in demand by organic breweries are already being produced organically, such as Cascade, Centennial and Magnum. Now it's just a matter of connecting the supply with the demand.

The spring planting season has already passed, but here are a few things we'd
like to report. Over 50 new acres of certified organic hops were planted this year and many existing acres were converted to varieties in demand. At least eight new varieties were planted this spring including Ahtanum, citrus - sorry, Chinook, Newport, Perle, Simcoe, Sterling and an experimental high alpha variety. These eight varieties will be grown in addition to the plethora of varieties that are already grown organically which includes Cascade, Centennial, Fuggle, Golding, Magnum, Nugget, Palisade, Summit and Willamette just to name a few.

The last thing I want to reiterate is the importance of communication and contracting between grower and brewer. Although the industry has the potential to triple in size before January 1, 2013, it won't without market information being supplied to the growers by the brewers. The only way for the brewers to ensure access to the desired varieties in the proper quantities
is through contracting. We ask that all the certifiers be sure to remind the breweries that they work with of the importance of contracting for their organic hop needs and to make sure the breweries fully understand what this rule change will mean for them. Like we've said before, it's not economically feasible for growers to plant hops solely based on speculation. The dialogue needs to begin now to ensure the desired varieties and quantities are available on January 1, 2013.

So lastly we just want to commend the NOSB for recommending the removal of hops from the national list. Although there's still room for improvement your recommendation is already leading to a healthier and more efficient industry.


MR. FELDMAN: Thank you, and thank you Meghann for all the work you did leading up to this. I would just like to know if you
could distill for us what the learning experience was in terms of impacting future decisions on shifting synthetics out of organic as a result of commercialization of the organic form. And are there any sort of structural changes, process changes that would have made it easier for the farmers you represent to have made this process smoother and apply it more broadly to other processes in the future?

MS. QUINN: You mean the NOSB process? I guess I would just say - I mean the more open the process could have been, the more transparent it all could have been would have made it a lot easier on our end over the last couple of years. Really, it's a very complicated process and so I think that would have helped. Did that answer your question?

MR. FELDMAN: Yes.

CHAIR MIEDEMA: Any other questions? Thank you, Meghann.

MS. QUINN: Thanks.
CHAIR MIEDEMA: Next up is Paige Tomaselli and standing by is Urvashi Rangan.

MS. TOMASELLI: Good morning. My name is Paige Tomaselli and I'm a staff attorney at the Center for Food Safety which is a non-profit organization working to protect human health and the environment by curbing the proliferation of harmful food production technologies and promoting organic and other forms of sustainable agriculture. Our true food network members include over 200,000 people across the country who support organic food and farming, grow organic food and regularly purchase organic products. It is essential that the NOSB function in an open and publicly transparent manner regardless of who is on the board or what institution they represent. This maximizes its effectiveness as a respected NOP advisory board. As such, NOSB members who have a financial stake in an issue on the agenda must fully disclose their interest prior to its being discussed and
again prior to its being voted on by the full board. CFS urges NOSB to support the National Organic Coalition's conflict of interest recommendation.

CFS supports the Materials Committee recommendation to sunset streptomycin and deny the petition to remove tetracycline sunset date. Antibiotics are prohibited in organic animal agriculture and we believe it's crucial that the same prohibition apply to produce, especially with the antibiotic resistance epidemic this country now faces. Consumers view organic as a healthy alternative to the many highly processed foods on the market today, many of which contain synthetic additives, preservatives, hormones and dyes. They certainly do not expect the use of antibiotics in organic apple and pear production. After 10 years of use in organic it's time to remove them from the national list. We urge you to vote against allowing the extension of
antibiotics in organic.

CFS strongly believes that corn-steep liquor should be considered a synthetic substance under the organic rules. The addition of the synthetic chemical sulfur dioxide stimulates the desired chemical change in the countercurrent wet milling process of CSL and renders the final product a synthetic. We support the minority report's conclusion that corn steep liquor clearly meets OFPA's definition of synthetic.

CFS does not support the animal welfare recommendations as they do not promote animal welfare. To meet consumer expectations animals must be well fed, healthy, have true access to the outdoors and be raised in an environment that allows them to engage in natural behaviors. This will minimize if not eliminate the need for physical alterations and other inhumane practices currently used to curb aggression in animals. In our detailed written comments CFS provides many
recommendations to improve the draft board recommendations. Most importantly, instituting training programs for animal handlers that perform physical alterations to animals, increasing the stocking rates for animals - for instance, the current regulations allow some chickens to be raised in an area little more than the size of this piece of paper. This is unacceptable. This does not provide enough space for a bird to turn around, let alone spread its wings. Finally, prioritizing enforcement for all welfare standards is crucial. CFS has brought copies of the book Capo for all of the National Organic Standards Board members and we will distribute them to you this week.

CHAIR MIEDEMA: Paige?

MS. TOMASELLI: Yes.

CHAIR MIEDEMA: Your three minutes is up.

MS. TOMASELLI: Oh, that was the last thing I was going to say. We brought
books for you as a gift.

CHAIR MIEDEMA: Thank you. Any questions for Paige Tomaselli? Thank you.

MS. TOMASELLI: Thank you.

CHAIR MIEDEMA: Next up is Urvashi Rangan.

MS. RANGAN: Good morning, everybody.

CHAIR MIEDEMA: Oh, excuse me, Urvashi. Standing by is Sam Earnshaw. Excuse me, Urvashi, go ahead.

MS. RANGAN: No problem. Good morning. My name's Urvashi Rangan, I'm the director of technical policy at Consumers Union. We publish Consumer Reports magazine. I'm a toxicologist. We'd like to extend our welcome to the new board members. We're very excited to have you on the board and I'm going to dive right in. We've been to a lot of these meetings and I want to just start with a couple of top overarching things. This job's board while I appreciate the
clarification that the NOP provided that it is to review materials including synthetic substances, it's also to ensure that within that review consistency of standards and integrity of those standards is maintained over time. We have some concerns in many deliberations that that is not happening especially when it comes to materials review by this board and we want to discuss that a little bit.

We think that materials review needs to have a scientific basis to it so that it can be applied in a consistent fashion. We feel that the deliberations on corn steep liquor have been anything but that. They are not scientific discussions. And when we review the science behind anything we are looking for the independent science behind that, and we rely on that at Consumer Reports in order to inform our decisions. The science that has underwritten the majority opinion deeming corn steep liquor as a non-synthetic
is simply biased scientific opinion. It is not based on the independent scientific opinion that is highlighted in the minority opinion. The fact that you use a synthetic substance and you get a chemical change means that you have a synthetic ingredient.

The fact that this board's had so much trouble classifying that ingredient gives us at Consumers Union a lot of pause and we are really concerned about the deliberations that have been taking place. As a result we are here to inform you all that we want to educate the public on the deliberations going on with this board and as such, after each of these meetings we will be providing more enhanced dissemination to the public about how the board - how the board is voting on these issues, not just as a board but by individuals on the board. And for that I'd like to echo the sentiments generated by the National Organic Coalition and the Center for Food Safety on disclosure of conflicts of interest
in making decisions on the board. The public needs to know that these decisions are being made in the most non-biased fashion possible.

Diving into the rest of the issues. In terms of the nutrient supplements it's a little confusing for the public to have this topic be off-deck, on-deck, off-deck. I think it's fine if these are essential nutrients looking as what we had before, that seems fine to Consumers Union. I would just caution though that a lot of those substances are synthetic and if there are natural alternatives available or more organic ones available those incentives should be created over time. So if there's a way to ask for that allowance we would appreciate that. We've made extensive -

CHAIR MIEDEMA: Thank you, Urvashi.

MS. RANGAN: - in the written comments. Thank you.

CHAIR MIEDEMA: Any questions for
Ms. Rangan?

MS. RANGAN: Thank you.

CHAIR MIEDEMA: Thank you. Next up is Sam Earnshaw and standing by is Joanna Kappele.

MR. EARNSHAW: Hello. My name is Sam Earnshaw. I work for the Community Alliance with Family Farmers, a California non-profit. With my wife we farm 10 acres of organic vegetables in Santa Cruz County for over 10 years. I'm here to speak to the issue of biodiversity in organic farming. As you know, in 2009 the NOSB recommended to the National Organic Program that biodiversity conservation be fully implemented in the organic system plan, such implementation requiring action by farmers, inspectors, certifiers and trainers. We all know there's a global biodiversity crisis and agriculture with its large footprint on the land has the capability of mitigating this crisis by providing an actual land base to increase
biodiversity. This does not mean taking farmland out of production. Every farm has non-cropped areas where hedgerows, wind breaks, the grassed waterways, filter strips and - can be planted.

Increasing biodiversity equally contributes to the health and resilience in many well-documented and scientifically studied ways. Since 1996 we have installed over 200 miles of hedgerows, wind breaks, grassed waterways and filter strips on farms. In conjunction with these plantings we have conducted biodiversity farm plans with over 50 farmers and they all are very positive and interested and excited about how their farms were and could be part of larger local and regional ecosystems and equally how their farms would benefit from increasing biodiversity. I have many stories to tell about how farmers have sometimes joyously reacted to the addition of this biodiversity to their farms and to their lives. Habitat
brings beneficial insects, pollinators, insect-eating birds, rodent-eating snakes, coyotes and raptors, not to mention a more diversified landscape that protects soil, water and air resources. While the food safety issue has presented challenges of perception, scientific studies are showing that conservation plantings can filter and neutralize air and water-borne pathogens and thus lead to a healthier and more safe environment not provided by sterile, scorched-earth farmscapes. Additionally, consumers expect organic farming to have biodiversity and expect what is in the rule to be implemented.

So in conclusion we have seen farmers be positive and enthusiastic about incorporating biodiversity into their systems and we encourage you, the NOSB, to keep the implementation of biodiversity conservation as a priority issue. You are welcome to contact me through the CAFF website, caff.org, if you
have any - if you need any further information
or inputs. Thank you.

CHAIR MIEDEMA: Thank you, Mr. Earnshaw. Any questions? Is Joanna Kappele
in the galley? Okay. Next up - excuse me, Lisa?

MS. AHRAMJIAN: I just want to remind everyone that when the person before
you is speaking please come up and sit next to me so that we reduce time between comments.
Thank you.

CHAIR MIEDEMA: Next at the podium then is Will Fantle and standing by is Deborah Carter. Please proceed, Mr. Fantle.

MR. FANTLE: My name is Will Fantle. I am the co-director of the Cornucopia Institute. We're based in Wisconsin. We have a national membership consisting primarily of farmers, most of those being organic farmers and their consumer allies that support them in their activities.
First, I just have to say I'm a little bit
disappointed and distressed by the reductions in time that's being allotted and provided to everyone. You've heard people speed up their testimony to try and get it in. I'm sure you find that helping you comprehend what's being said. I think it's important that the board receive meaningful testimony and I'm not going to suggest that I'm the only one or would be one of those presenting that. I think all the public has the ability to do that. I'd like to see you have time to digest and factor that in.

That said I want to go first to salmonella and the poultry issue. I want to address the regulation that was released by the FDA as it pertains to poultry. And in that regulation which was published in the Federal Register and we will be providing that particular citation to you. I don't have the full text with me. The preamble says referring to stray animals, the potential to infect poultry operations, "Therefore, in the
final rule we have changed the requirement for
stray animals so that it applies only to
poultry houses rather than the entire
grounds." Important distinction. I think
that's very important for the discussion that
you're going to be having on the poultry
issue, particularly as some of the larger
growers as we suspect will try to use that
rule to argue against outdoor access for
poultry.

Secondly, I want to talk about
briefly the rule change or the change that we
suggested to the NOP and to you for
mislabeling of products that has occurred in
the marketplace. We in particular looked at
one product this year that we found multiple
instances of retail establishments still
selling this product labeled on their shelves
as organic. It was no longer organic, hadn't
been for several years. We are suggesting
that a UPC bar code change be mandated and
required for product manufacturers when they
exit the organic business so that retailers
are alerted to that. It's not up to the
retailer to figure that out, it's up to the
product manufacturer to make that clear to
retailers. This will ensure consumer
confidence when they go into stores that
they're purchasing a product that is truly
organic and not something that is pretending
to be organic.

Third thing I want to comment on
is the analysis that we have done which I
provided to you which has been passed around
of the large volume of public comments that
were received in advance of this meeting. It
causd the Handling Committee to pull the
nutrients recommendation from the agenda and -

CHAIR MIEDEMA: Mr. Fantle, that's
three minutes. Thank you.

MR. FANTLE: Okay. Please review
this.

CHAIR MIEDEMA: Does anyone have a
question for Mr. Fantle? Katrina?

   MS. HEINZE: I was reading what
you had handed us as you were talking. Am I
understanding correctly that you would support
re-listing of nutrient vitamins and minerals
as it is on the list right now?

   MR. FANTLE: Well, we are
interested in potentially exploring options
that may include an annotation and I'm going
to defer that question to be answered by one
of our staff members who will be testifying
later. She has been addressing and
researching this issue.

   CHAIR MIEDEMA: Jay?

   MR. FELDMAN: Will, I wanted to
ask you to comment on something Urvashi Rangan
said about the availability of non-synthetic
forms of any of these nutrients or vitamins.
As far as I can tell the proposal before us
doesn't differentiate between synthetic and
non-synthetic. Are you - do you concur with
her comment? Do you have any thoughts on
that?

MR. FANTLE: Well, we clearly think that synthetics need to be reviewed. And in particular, the one material that we have been talking so much about, one approved synthetic that we suggest is - and know is in some organic products. These are the types of concerns we have that we want you and the NOP to look closely at these materials to assure and verify that they are appropriate for use in organics.

MR. FELDMAN: Just a follow-up. In the case where we're depending on these citations, fortification rules that FDA has established, FDA doesn't distinguish between synthetic and non-synthetic. In those categories do you think the board should be distinguishing?

MR. FANTLE: And again I'm going to defer that to our staff member who will be coming up later who was looking at that list and - last night in advance of this meeting.
CHAIR MIEDEMA: Thank you, Mr. Fantle. And all NOSB members, please make sure you wait to be recognized before asking any follow-up questions, just so that we give everybody a chance. Next up, Lisa, may I see the list? We won't count this on your time.

MS. CARTER: Thank you.

CHAIR MIEDEMA: Next up is Deborah Carter. Standing by is Leika Suzumura.

MS. CARTER: I'm Deborah Carter, Northwest Horticultural Council of Yakima, Washington and I represent about a thousand organic growers and shippers of apples and pears from California, Idaho, Oregon, New York and Washington. And they're a part of about 15 different fruit organizations, including U.S. Apple Association which is a national organization representing 40 states. The five states that I mentioned are about 93 percent of the pounds of organic apples and 94 percent of the organic pears grown in the United States.
I just want to make three quick points. Number one, the decision to remove tetracycline from the organic list has put the new variety apples and pears, all variety of pears in jeopardy. Antibiotics do not end up in the fruit and fire blight does not affect just one tree. If unchecked it will destroy an entire orchard and you'll see that in these pictures. I wish it was clearer for you because you'll see hundreds of acres that are burned from fire blight. It's been suggested that the industry should use fire blight-resistant root stocks. Well, they're not commercially available, nor are they the immediate answer. Resistance does not mean that it will stop fire blight. There's millions of dollars that have gone into the research by the industry and the USDA over 20 years and there hasn't been a commercial root stock produced. In an economy that we're having now we would not want to wait four to seven years to get a paycheck and that's
what's going to happen if some of these organic growers have to do without tetracycline. If it is a severe fire blight year, if there's a severe strike, organic orchards will likely have to go commercial and save their livelihood.

The second point I want to make is that research is not - has not identified a commercially viable alternative to oxytetracycline after working on fire blight for over 20 years. You're going to hear later on today from researchers who have the most experience in fire blight throughout the country and they can scientifically verify that there are not any commercially available alternatives. And what's important about it is that conventional and organic growers have paid for research in the area to treat fire blight and nothing has been identified in 20 years. And finally what I want to tell you is that there is not a viable alternative to oxytetracycline that is commercially available
to control fire blight. The science has spoken, the grower industry has spoken, oxytetracycline is required to treat fire blight. Antibiotics to treat fire blight are only used under high risk, high fire blight conditions. They're not used carelessly or without forethought and organic growers are intelligent, thoughtful of their environment and careful with their resources. So therefore we request the NOSB remove the expiration date from tetracycline and reinstate to the product - to the national list. Thank you.

CHAIR MIEDEMA: Thank you, Deborah. I have a question. What does fire blight do to organic apple and pear trees?

MS. CARTER: It's not just organic, it's conventional and organic pears. It's an infection. It gets into the flower, actually gets into the flower of the tree and will actually - it's a systemic bacteria and will actually go all the way through the tree
and will kill the entire tree. And if you saw some of those pictures it'll start at the top where the infection takes place and it'll work its way through the branches all the way into the tree. It'll totally kill the entire orchard. And you'll see two, three, four hundred acres of orchards that are dead from fire blight.

CHAIR MIEDEMA: Thank you. Jay Feldman?

MR. FELDMAN: Thank you.

MS. CARTER: Yes.

MR. FELDMAN: And know that I think everybody on this board wants to find a solution to this.

MS. CARTER: Absolutely.

MR. FELDMAN: I - my question goes to the use of streptomycin. Why is streptomycin no longer used in the Northwest? What happened to that use as an effective tool, I understand, for fire blight control?

MS. CARTER: Not as a researcher,
but I'm going to leave that - defer that to one of the researchers, but I can tell you that many chemicals become resistant to a variety of pests and that's what's happened with streptomycin. It has become resistant.

CHAIR MIEDEMA: Nick Maravell?

MR. MARAVELL: Yes, I had a question.

MS. CARTER: Yes.

MR. MARAVELL: Yes, I was wondering if you had a little bit more detailed information about the research that has been conducted over the past 20 years and how much has been spent on it from the various sectors that are involved in this question. And if you don't have that right available you can supply it later.

MS. CARTER: I don't have that available, but there are two researchers coming on later who have been working 20 years with fire blight. They will have that information for you. Thank you.
MR. MARAVELL: Thank you.

CHAIR MIEDEMA: Thank you, Ms. Carter. Next up is Leika Suzumura. And my apologies in advance to any of you I mispronounce your name. Is Leika Suzumura in the room?

MS. CAUGHLIN: She is not and I believe there was a mixup in terms of her understanding of when she was scheduled, but I'll have to see if I can -

CHAIR MIEDEMA: We can make accommodations if there was a mixup. Next up would be Robin Shurtleff. Next up, David Bruce. And standing by is Buzz Hoffard.

MR. BRUCE: All right, thanks for this opportunity. My name is David Bruce and I work for Crop Cooperative where we market eggs for 78 farmers from Organic Valley ranging in size of flocks from 650 to 16,000. We've always been strong supporters of meaningful outdoor access for poultry. Our policy from the beginning of our program in
1994 has been 5 square feet outdoors per bird in the Midwest and the East. In the West we've modified our proposal and gone with the NOP standard because other elements of the housing out there and the conditions provide for excellent animal welfare.

We've been at the table for this discussion on organic poultry outdoor access since 1993. We understand the complexities of disease risk, environmental impact and manure management. Just as the ruminant pasture standard illustrates, there's no one-size-fits-all solution, and yet certainly there's a minimum threshold for all organic egg producers so that we can differentiate organic eggs in the marketplace. We believe outdoor access for laying hens means outside on the ground scratching and pecking.

That being said we feel strongly that the current animal welfare proposal from the Livestock Committee contains language that is far too prescriptive. The paperwork burden
on organic farmers today has already gone too
great. Some certification forms are
approaching 60 pages. The proposal on the
table from the Livestock Committee sets a
precedent we're not comfortable with with
again much too detailed information
requirements that further lead to constraints
on farmers so that they can't make the choices
in daily management that they need to. We
encourage the withdrawal of the current
Livestock Committee proposal in consultation
with farmers, scientists and the human animal
welfare community in order to develop
standards that reflect the realities of
production agriculture while holding the
highest organic integrity as our constant
goal. Particularly in light of the FDA's
salmonella control guidelines that will
require further clarity on how to maintain
food safety controls in the context of organic
management systems, we would ask an advisory
group of organic egg producers work hand-in-
hand with the NOSB, the NOP and the FDA. Scientists and all - and experienced organic egg producers can work cooperatively together to carefully develop language that will provide a stable platform going forward. Thank you.

CHAIR MIEDEMA: Thank you very much, Mr. Bruce. Any questions? Joe Dickson.

MR. DICKSON: Hey. You mentioned that the Livestock recommendation was far too prescriptive and I'm just curious are there specific parts of it that you feel are too prescriptive? Is it about the specific stocking densities, or are there other issues you have?

MR. BRUCE: Stocking densities in particular, yes.

MR. DICKSON: Thank you.

CHAIR MIEDEMA: Any other questions? Thank you. Next up, Buzz Hoffard and standing by is Don Gibson.

MR. HOFFARD: Is it too late for a
visual?

CHAIR MIEDEMA: Let's go ahead and switch their order if you don't mind, if you have something that needs to be loaded.

MR. HOFFARD: Sure.

CHAIR MIEDEMA: Okay. Mr. Gibson, would you be ready to go ahead and switch places with Mr. Hoffard? You have a slide? Okay. Folks, if you have materials that need to be loaded to a computer please bring those to Lisa at the next break or kind of creep up here and do that, please. And in the meantime I'd like to go ahead even one more person. Can - Lisa, can you put the list back up?

MS. AHRAMJIAN: After Don Gibson was Patrick Leavy.

CHAIR MIEDEMA: Patrick Leavy, are you ready? Okay. Patrick Leavy is going to go ahead and come on up to the podium while the two gentlemen - okay. Come on up. You can stand by.

MR. GIBSON: I believe it was
scheduled for 11:20.

CHAIR MIEDEMA: Yes, and for everyone in the gallery here, we're doing our best to be precise but please know that your comment can run in a pretty big window of when you were confirmed.

MR. GIBSON: Perfect.

CHAIR MIEDEMA: Thank you. Okay, so just to make sure we know who we're speaking with please do introduce yourself so we have it on the record.

MR. GIBSON: Okay. My name is Don Gibson. I'm here to request that the board remove the expiration date from tetracycline and reinstate it on the product - reinstate this product on the national list. Next slide, please.

I'm an orchardist, an owner of a pear orchard north of White Salmon, along the White Salmon River. We've been farming 168 acres of organic pears since about 1998. I believe it's about - that includes the three
years of transition. Our company has been sustainably farming the same orchard since the 1940s. Next slide, please. Many of our trees are over a hundred years old. The orchard was originally planted in 1905 through 1907. The trees here in this picture are over a hundred years old. Next slide, please. Our environment is unique. As the pictures show, which will be the next slide, we're surrounded by fir trees and forest. It is a wet environment. It is humid. It is one of the reasons that we can grow the quality of pears that store well and don't have calcium deficiencies and other disorders is because of the Hood River and White Salmon districts have some climatic advantages. But one of the disadvantages is our susceptibility to fire blight. Next slide. In 1987 we were using streptomycin, only streptomycin and we lost over one-third of our acreage to fire blight infection. I don't know if you can see there but there's some major areas that were pulled
out and as a result - next slide please - just a little bit of information.

Every 10 acres of organic pear production equals a full-time job. That's about 17 jobs in our local economy related to the organic production. The cost to replace a Bartlett pear orchard is now estimated to be over $28,000 per acre. That's per the WSU 2010 cost study. It takes seven to eight years for a modern pear orchard to reach full production and profitability. Next slide. We have new yeasts to control fire blight being tested that are promising. However, we cannot put at risk our $28,000 per acre investment in the interim. We rely on tetracycline for consistent fire blight control. Next slide. Without the use of tetracycline we do not plan to farm organically in 2012. The risk of tree loss is simply too great. Again, a request that the board remove the expiration date for tetracycline and reinstate this product on the national list. Yes, sir?
CHAIR MIEDEMA: Excuse me. Does anyone have any questions? Nick.

MR. GIBSON: Shoot.

MR. MARAVELL: Yes. What other crops, if any, do you produce or is it all in pears so this would affect your entire -

MR. GIBSON: Cherries, apples and pears. It would also affect our apple trees as well. But pears are our biggest concern.

MR. MARAVELL: Thank you.

CHAIR MIEDEMA: Jay Feldman.

MR. FELDMAN: Thank you. You became certified in 1998 or started transitioning?

MR. GIBSON: I think transitioned about '98.

MR. FELDMAN: And this, the fire blight that wiped you out was before that transition, right? 1987?

MR. GIBSON: It was conventional use but we were using streptomycin at the time.
MR. FELDMAN: Okay. In that time frame how many new trees have you planted, do you figure, out of your orchard? What percentage?

MR. GIBSON: In the organic area, I would guess that with our tetracycline control it's been very few. Most of that orchard is older orchard but we are - we do have younger, new trees which are more susceptible.

MR. FELDMAN: I was going to ask you do - I'm sorry. Can I ask these follow-ups?

CHAIR MIEDEMA: Please proceed.

MR. FELDMAN: Thank you. I was going to ask you if you saw a difference between the younger trees and the older trees in terms of susceptibility.

MR. GIBSON: Absolutely. Every growth union from one year to the next create a barrier of sorts. So a one-year-old tree is more susceptible than a two-year-old tree and...
subsequently.

MR. FELDMAN: Thank you.

CHAIR MIEDEMA: Any other questions from the NOSB? Thank you very much.

MR. GIBSON: Thank you.

CHAIR MIEDEMA: Okay, next up is Buzz Hoffard. And Patrick Leavy is standing by.

MR. HOFFARD: Good morning. My name is Buzz Hoffard. I'm speaking as a trustee for PCC Natural Markets, a certified organic chain of nine stores here in the Puget Sound area and the largest consumer-owned natural foods co-op in the country. In addition to representing 47,000 active members we also serve more than 100,000 customers a week. As leaders of Salmon Nation we ask you to revise your previous recommendations for organic aquiculture, prohibit certification of carnivorous migratory species and limit certification to closed land-based systems with vegetarian diets. Fish that spend their
lives in floating ocean feed lots suffer unhealthy conditions just like cattle in CAFOs and chickens in battery cages. Most ocean fish have strong instinctual drives. Wild salmon migrate thousands of miles before returning to the streams of their birth. Confining these fish in cages prevents them from exercising their natural behaviors, violating a core organic principle. Organic standards also prohibit antibiotics, yet aquiculture today consumes more antibiotics per pound than any other feed lot industry. CAFOs at sea are no healthier than those on land. The board's recommendation would encourage aquiculture to continue harvesting enormous volumes of wild fish for feed. This practice is both ecologically unsustainable and unhealthy for consumers. Feed pellets made of wild fish contain high concentrations of PCBs, dioxins and other contaminants which are then passed on to consumers. These chemical contaminants further violate organic
principles.

Floating feed lots violate the organic principle of protecting the natural environment by annually flushing millions of pounds of unfiltered fish waste directly into surrounding marine environments. Salmon farms expose wild salmon to diseases and parasites, threatening their survival. Every year scientists report elevated levels of sea lice on wild juvenile salmon near salmon farms resulting in declining populations of wild native species. Native fish like our prized wild salmon already struggle for survival against ever-increasing environmental threats. Fish farms threaten the long-term viability of these populations. We strongly encourage you to prohibit certifying migratory carnivorous fish and limit certification to fish raised in closed land-based systems with vegetarian diets. Thank you very much.

CHAIR MIEDEMA: Thank you, Mr. Hoffard. Any questions? Next up is Mr.
Leavy. Standing by is Charlotte Vallaeys.

MR. LEAVY: Thank you. My name is Pat Leavy and I'm with the American Organic Hop Growers Association. Just wanted to make a quick comment that I appreciate the comment period and I know that the hop growers benefitted greatly from that system and would hope that physically you guys can withstand that system. As far as the openness that Jay, you mentioned the question, I think it is critical that things are done in the open. I think it helps everybody to understand the decisions and it also helps you improve your position if something didn't go your way. You would understand why and what the industry or what somebody would need to do. I agree that - I think Jay alluded a little bit to I think subcommittee minutes should be available to the public. I think that's also critical to the process.

One other thing as far as when you do file a petition and it has an impact on
business which I think most of this ultimately that your decisions, many have impacts, economic impacts on businesses. And in this process with hopes of talking about the supply and all that, of course there are people who disagree with you. So many times I think the petitioners - to remove especially - do have some blowback in the marketplace. There are people who are not happy with me because of what I was involved with. So I appreciate the time and I know that it's difficult to do all this, to create the letter of the law that handles all situations. Thank you.

CHAIR MIEDEMA: Any questions for Patrick Leavy? Okay. Next up is Charlotte Vallaeys and standing by is Leika Suzumura.

MS. VALLAEYS: Good morning. My name is Charlotte Vallaeys. I'm director of farm and food policy at the Cornucopia Institute. I would like to comment about nutrient vitamins and minerals. We do encourage the board to re-list nutrient
vitamins and minerals. We do, however, feel
that a very specific annotation is necessary
so that certifiers know exactly what falls
under this - this - the rule. And therefore
we have suggested the following annotation.
Vitamins and essential minerals restricted to
vitamins identified in 21 CFR 107.100 and
essential minerals identified in 21 CFR
101.9(c)(8)(4). So these are specific tables
that list specific minerals and vitamins so
that everybody can be on the same page about
what can be in organics. We also suggest
adding in nutrients that are required in
infant formula limited to those under 21 CFR
107.100(a). So again, that would ensure that
an organic infant formula has all of the
nutrients that are required by the FDA to be
in infant formula.

We are very concerned with the
lack of enforcement. Currently there are
products on market shelves that have the
organic label containing substances that have
never been reviewed by the board and approved,
and that's a serious concern for the organic
integrity and consumer trust in the organic
label. They expect when they buy something
with the label that it - that everything in
there has been - if it's synthetic has been
reviewed and approved. There is nothing in
the law that protects people who are violating
the organic standards from being protected
from enforcement action. So we urge immediate
enforcement action, especially given the FDA
clarification letter which makes it very clear
that the current rule can be enforced.

Finally, I'd like to address the
Martec petition to add DHA and ARA. This is
a perfect example of a substance that needs to
be reviewed before it is put in organics. We
have serious concerns. We urge the Handling
Committee and the board to look at the adverse
reaction reports that have been filed with the
FDA. There are consumers, in this case
babies, who get sick from consuming these.
That's a serious concern and needs to be addressed. There are alternatives to these substances. They don't have to be these novel algae that are very highly processed.

And last we - I'll just end it right here.

CHAIR MIEDEMA: Thank you, Ms. Vallaey. Any questions? Katrina.

MS. HEINZE: I wanted to get your perspective. One of the things that the Handling Committee has discussed is the fact that we posted that we weren't going to vote on nutrient vitamins and minerals and obviously transparency is a really important goal of ours. We did that because at the time we were under the impression that there would be enough time if we voted in November. So as an advocate for consumers what are your thoughts if we did vote at this meeting to re-list and then what would be your thoughts if we voted with an annotation such as the one that you proposed? I think we're very
concerned about making sure that we do the
process right so that we are transparent. So
I thought as a consumer advocate you could
perhaps give us your perspective on that.

MS. VALLAEYS: Right. So, we
would support re-listing with the current
annotation because given the FDA clarification
letter that has come in it's very clear in
there that, for example, DHA and ARA are not
essential nutrients covered under 104.20. So
given that letter by the FDA we would support
re-listing and then - but we would expect
enforcement action. That's the missing key.
I mean, that's the missing part of this is
that there is no enforcement action. And we
would also support re-listing with the
annotation that I read which is another very
clear example of a list by the FDA of
essential nutrient vitamins and minerals.
Does that answer your question?

CHAIR MIEDEMA: I'm going to take
Jay Feldman's question next.
MR. FELDMAN: Thank you. Again, a follow-up. Urvashi Rangan mentioned that there should be some considerations as to the source of the nutrient or the vitamin, and if organic or non-synthetic forms were available they should be considered. Are you concerned that if we simply cite in an annotation a CFR notice that we would then escape or we would waive the responsibility to evaluate the availability of non-synthetic forms?

MS. VALLAEYS: Yes, I mean that's certainly a concern. We would expect processors to look for natural sources, but given that it is a very restricted list, just vitamins and minerals, it doesn't open the door to other sources, to other nutrients. So since those all would have to be individually petitioned I think it would be the board's responsibility to reject petitions of nutrients that are synthetic but that are available in natural form.

CHAIR MIEDEMA: Thank you, Ms.
Vallaey.

MS. VALLAEYS: Thank you.

CHAIR MIEDEMA: Next up is Leika Suzumura. Katrina. We'll catch it at the Handling Committee discussion. Standing by is David Granatstein.

MS. SUZUMURA: Good morning, my name is Leika Suzumura and I'm here speaking as a consumer. I'm also a registered dietician. I'm a community nutrition educator for PCC and I'm also a mother and that's I think the biggest stance that I have here today. So I want to thank you for this time to come and listen to our comments.

I want to speak specifically about synthetic additives in organics as well as the nanotechnology. And I would say that the biggest reason why I personally choose to support organics and eat organics is because I trust the food that I'm eating, and I think it's because the base principle that organics is really put on is what nature has always
provided us and I trust that. And when it comes to synthetic additives and particularly the Martec additives in the baby formula I'm very concerned that it didn't necessarily go through the process that it needs to to ensure that it's safe and really falls under the standards of organics, and so that when a mother is going to choose that to give to their baby that it is something that she can trust is going to be safe. And I think from the research that's been done and some of the effects that we've seen that it is not necessarily safe, and especially when it's being put under organic. So I would really highly encourage you to reconsider how those synthetics are added in and that the proper testing is done and the procedure that is taken to do that.

And as far as nanotechnology I also have a lot of concerns there, again, looking at the principle of trust and looking at nature as our way to really show us what
has been safe throughout time and knowing that things do change of course and the complications of organics is that there do need to be rules and regulations. But as an educator in the community a lot of people look to us to give them education about what is and is not safe and that many, many people are concerned about organics. And nanotechnology is one of those things that many people don't know about and I think it's because there's not any labeling about that. And I don't feel that it's safe, that we know that the long-term testing has really shown that it's safe. And in particular, something like titanium oxide where, granted you know nano particles is something in nature no doubt, but when we create something to be that small we don't know how that's going to affect the cells on a very nuclear level and that is something that I don't feel is safe under organics especially, and that if it is going to be something that is included that we need to
have safety tests as well as proper labeling
so that people understand what they are and
are not consuming. So I appreciate you
considering these issues and as a mother I
really trust and look to organics as a way not
only for my children to be safe but also my
great-great-great-grandchildren. And I trust
that every time that we make these decisions
that we're not just thinking about ourselves
and our children because we can't necessarily
always say our children are the leaders of
tomorrow because we still have to live today,
and that is what we need to look at in all the
safety issues right now. So thank you for
your time and I appreciate it.

CHAIR MIEDEMA: Any questions for
Leika? Thank you. And I inadvertently jumped
and skipped right ahead to Leika. We still
had one more question for Charlotte Vallaeys.
If you would be willing to come back up to the
podium for one brief question from one NOSB
member? Thanks.
MS. HEINZE: Thank you, Tracy.

Thank you, Charlotte. You didn't exactly answer my question.

MS. VALLAEYS: Okay.

MS. HEINZE: What I was trying to understand is if you had any concerns if we handled the re-list or the annotation change at this meeting given that we had said we were taking it off the table.

MS. VALLAEYS: You mean procedurally?

MS. HEINZE: Transparency-wise.

MS. VALLAEYS: We would be okay with that.

MS. HEINZE: Thanks.

CHAIR MIEDEMA: Okay. Next up is David Granatstein and standing by is Phaedra Morrill.

MR. GRANATSTEIN: Good morning. I do have some slides if you want to watch them while I speak. My name is David Granatstein. I'm with the Center for Sustaining Agriculture
and Natural Resources at Washington State University where I work extensively with organic fruit producers. I've been involved with organic agriculture since 1975.

Organic fruit growers in the U.S. have expanded their production to meet the steadily growing demand for organic fruit. With the help of new technologies such as pheromones as well as older tools like oxytetracycline. The allowance for antibiotic use on fire blight in organic apple and pear production as part of the national list has been very important for these producers. This bacterial disease which is native to North America is not well controlled by other materials and can devastate an orchard as you've heard. Next slide, please. Truly resistant commercial varieties do not exist. Red Delicious apple is perhaps the least susceptible of the varieties but still suffers 45 to 65 percent infection of blossoms if untreated. All pears and newer apple
varieties are more susceptible than Red Delicious. In Washington, 90 percent of organic apple acres are other than Red Delicious. They are the newer, more susceptible varieties because that's what consumers are interested in buying. Breeding for fire blight resistance is under way but it will be years until a new variety is available and likely the use of biotechnology in the process may prohibit some of these varieties from being accessible to organic growers. Common dwarfing apple root stock such as Malling 9 which are the most common root stock used in modern orchards are also highly susceptible to fire blight, making it more likely that a blossom infection will kill the entire tree. Geneva series root stocks do have considerable resistance to fire blight but they are not yet commercially available. Next slide.

Researchers have been developing potential bio controls for fire blight since
the 1980s but so far these products have not
had the efficacy of antibiotics. A new yeast
bio control agent from Europe shows promise
but it needs extensive testing, it needs EPA
registration and grower training. In a survey
that I did of organic orchardists, 80 percent
said they could not control fire blight
without oxytetracycline in a severe infection
year, and a similar number plan to exit or
reduce their organic apple and pear production
once oxytetracycline is no longer available.
Since other regions such as South America and
Australia do not have fire blight a likely
consequence of the loss of oxytetracycline
without a suitable alternative will be
increased reliance on imports. So given the
risk - next slide please - that fire blight
poses I request that oxytetracycline be re-
listed and considered under the sunset process
as other materials are. Next slide. Next
after that also.

I also support the continued
listing of pheromones for insect control and
the use of fabric mulches for weed control.
Fabrics and perennial crops provide a viable
alternative to tillage which degrades soil
quality and damages crop roots. Fabrics are
increasingly used by our organic producers and
can last 10 to 15 years. Thank you.

CHAIR MIEDEMA: Thank you, Mr. Granatstein. Any questions? Steve.

MR. DEMURI: We've heard from a
couple of you now that there's some promising
research under way. How much longer do you
think you need past the 2012 date in the
regulations?

MR. GRANATSTEIN: Dr. Ken Johnson
will address that later, but it is promising.
Other materials that have been developed were
promising but were not stand-alone
replacements and that's the issue why we need
the testing. So you know, we can say two to
three years but it could turn out that it's
not a viable solution.
CHAIR MIEDEMA:  Nick?

MR. MARAVELL:  Yes.  What's the
source of the funding for the research and how
much do you feel that there's been adequate
funding for research into alternatives?

MR. GRANATSTEIN:  A good share of
the research has been on biological control.
Again, Ken Johnson can address that because
that's specifically his field.  The research
is a mix of USDA funds and probably in
Washington State we do have some state - some
funds from the grower through the Tree Fruit
Research Commission which is a grower-funded
organization in which organic growers also
contribute.

CHAIR MIEDEMA:  Colehour?

MR. BONDERA:  David, I'd just like
to ask you to briefly address the question
that we've heard before of resistance
regarding these antibiotics.

MR. GRANATSTEIN:  I'm going to
defer to Ken Johnson who has much more
expertise than I do on that subject.

CHAIR MIEDEMA: Jay Feldman.

MR. FELDMAN: Thank you. In terms of the research on alternative varieties, both cultivars and root stocks, what - we in the committee that looked at this were looking at data coming out of Purdue University and a number of varieties were listed as highly resistant, including a number of the Jonathans. We have a long list of them actually which we'll talk about tomorrow I guess. Is this your primary research that you're citing or - in Washington State on different varieties and susceptibility? Or are you citing the literature?

MR. GRANATSTEIN: No, what I'm citing is our apple breeder who I spoke to in advance of this meeting to get her understanding of the current state of availability. And her reply was yes, there's been a lot of work done but virtually all the varieties that have come out are inedible or
unacceptable to the marketplace. That's been
the struggle.

MR. FELDMAN: That's in direct
contradiction with other data from research -
CHAIR MIEDEMA: Mr. Feldman, can
you please wait to be recognized -
MR. FELDMAN: - so I guess I'm -
CHAIR MIEDEMA: - with your
follow-ups? Thank you. And also, let's
please refrain from commenting on the
commenter's response. Let's limit ourselves
to questions, guys. Any other clarifying
questions?

MR. MARAVELL: Yes, you mentioned
that the Geneva root stock was resistant but
not commercially available. What are the
barriers to that particular root stock in
terms of commercial availability or any other
barriers?

MR. GRANATSTEIN: There have been
some major problems with propagation that
they're trying to work out at Cornell and
apparently they are making progress but there's just been not enough material propagated to be put into the breeding pipeline by nurseries.

CHAIR MIEDEMA: Any last questions for Mr. Granatstein? Okay. Thank you very much.

MR. GRANATSTEIN: Thank you.

CHAIR MIEDEMA: Next up is Phaedra Morrill. Standing by, Bruce Riggle.

MS. MORRILL: Hi, my name is Phaedra LaRocca Morrill and I am second generation LaRocca Vineyards. I'm here because there's a petition to allow the synthetic sulfur dioxide sulfites to wines that carry the USDA organic seal. There are several wineries out there that are successful viable wineries that are selling over 4 million bottles a year of wines that carry the USDA organic seal without the synthetic additive sulfur dioxide. Allowing this toxic chemical preservative in wines goes against
the core meaning of organic. There's a packet that's going around and there's documentation representing that it's a neurotoxin, it's a highly poisonous gas when handled and it's - it's very toxic with immediate and serious effects which meets criteria for disclosure. The FDA requires food manufacturers to declare the use of preservatives on labels of processed foods with sulfites after receiving reports of allergic reactions following consumption of these products. So this is a preservative that people actually do have adverse reactions to. If you go to the TTB website, ttb.gov, it clearly states that a sulfite declaration is required on any wine intended for interstate commerce that contains 10 parts per million of sulfur dioxide or more.

One might say that there are naturally occurring sulfites in wine and that can be true. We do get vintages that have no sulfites detected. Naturally what Mother
Nature intended is under 10 parts per million. It's basically zero parts per million. The petition is requesting up to 100 parts per million of the synthetic additive. It's really imperative that you understand that there's an obvious difference between the natural occurring and the synthetic sulfite that can be in very, very small amounts in organic wine.

Also in the packet I've included lots of documentation about the increase in organic grape production, wine grape growing production and the continuous increase in organic wine production in general. CCOF came out and said that between 2007 and 2010 there was over 77 percent growth in the organic wine grape production. Like I mentioned earlier, there's over 300,000 cases of no-sulfite-added wines being sold on the market. They are award-winning wines, they are just like any other wine, cabernet, merlot, zinfandel.

CHAIR MIEDEMA: Thank you,

MR. RIGGLE: Thank you much. I'd like to thank the committee for the opportunity to address the growers' concerns on the continued use of oxytetracycline on organic apple and pear trees for control of fire blight. I'm a representative here for New Farm Americas, Inc., that holds the Mycoshield label. I've worked in collaboration with Bernie Amundsen (phonetic) and Debbie Carter in preparing the petition that requested the reinstatement of tetracycline for organic use and follow-up rebuttal document to the committee's response to the petition. This work was done for the Washington State Horticultural Association. I will cover the committee's concerns involving the regulated use of oxytetracycline on apple and pear trees, particularly for the Pacific Northwest.

First, regarding the committee's
concerns on environmental contamination during manufacturing use, misuse and disposal. It is important to understand that EPA has strict rules and regulations regarding these matters as they are listed in the labels with specific language backed up to the full extent of federal law. EPA lists specific remediation steps. It's understood that not following these listed procedures has consequences, one of which a person cannot intentionally damage environment. Given this, the committee should have little concern for these issues.

Second, regarding the committee's concerns as to human toxicity and/or other adverse effects following exposure to the material or breakdown products of these of having harmful human health issues involving the use of oxytetracycline in orchards, these including effects on human development, EPA addressed the potential risk to workers by requiring personal protective equipment, referred to as PPE, to minimize exposure to
workers. Such PPE is described in detail on the labels regarding human toxicity. EPA did not find tetracyclines to be human development toxins and determined that the materials posed a medium risk to the general public with regards to antibiotic resistance. With regard to dietary intake EPA estimated the pharmaceutical oxytetracycline exposure to a user from a typical therapeutic dose is 50,000 to 200,000 times greater than the estimated dietary dose exposure resulting from the consumption of treated apples or pears. The fact of the matter is is that apples and pears have no detectable residues of this material. Finally, we hope and trust that the NOSB will remove the expiration date for tetracycline and reinstate this important product back onto the national list.

CHAIR MIEDEMA: Thank you. Any questions for Mr. Riggle? Okay.

MR. RIGGLE: Thank you.

CHAIR MIEDEMA: Okay. Lisa? May
I have the list? Go ahead and get started, sir, and introduce yourself and then we'll talk about who's standing by. Oh, here we are, here we are. So next up is Matt Perrin at the podium, and standing by, Tyler Shannon.

MR. PERRIN: Hi, my name is Matt Perrin. I milk a hundred cows with my dad and sister outside of Woodburn, Oregon. Quality of milk is our biggest priority along with the health of our cows and our land. And we have a free stall barn and we'd like to recommend that you change the regulations from 50 square feet per cow to one cow per stall in a free stall barn setup. We use chlorine and copper sulfate on our farm to protect the quality of our milk and the health of our cows and we would like you to vote to continue to use these products. Vitamin A and D are critical for milk products and I would also like to see the use of DHA in our milk products to continue. The consumers really enjoy having this product on the market and it helps
organic farmers in the end, so thank you.

CHAIR MIEDEMA: Short and sweet.

Does anybody have any questions for - I'm sorry, say your name again.

MR. PERRIN: Matt Perrin.

CHAIR MIEDEMA: For Matt. Thank you. Nick?

MR. MARAVELL: Matt, what amount of space do you think you have in your free stall for a cow?

MR. PERRIN: I haven't calculated it. It's, you know, we have less cows than we have stalls so - and then they have a lot of walking space around the barn and they can go outside the barn a little bit. And so they have quite a bit of space to move around and not bump into each other and whatnot.

CHAIR MIEDEMA: Pardon me. What is a free stall?

MR. PERRIN: They have a raised stall, they can go in and lay down and then they can get up and go eat and drink water,
you know, at their leisure.

CHAIR MIEDEMA: Any other questions for Matt? Thank you very much.

MR. PERRIN: Thank you.

CHAIR MIEDEMA: Tyler Shannon, you're up, and Gregg Buckwalter is standing by.

MR. SHANNON: I'm here with Food & Water Watch and I'm submitting this comment on behalf of Food & Water Watch Consumers Union, Suzuki Environmental Foundation, George Strait Alliance and the Living Oceans Society. This wasn't submitted electronically but I have written copies.

Since the NOSB approved final recommendations on aquiculture in November 2008 new information has emerged on these topics that we believe is worthy of the NOSB's consideration. We submit the following information based on recent academic literature as well as reports from several of the open water finfish aquiculture facilities
operating throughout the world in order to
ensure that this new information is considered
by the NOSB. We believe that this information
is significant enough to give the NOSB reason
to reconsider its 2008 recommendations. We
also urge the National Organic Program to
consider this information before it pursues
formal rulemaking to develop organic standards
for aquiculture products.

Since 2008 more information about
the impact of open net pens on surrounding
ecosystems and the use of wild fish as feed
has come to light, calling the 2008
recommendations into question. These studies
are outlined in here but I'm not going to go
over them now. The significant and long-term
impacts of open net pens on the surrounding
environment and ecosystems are incompatible
with the principles that organic production
should minimize environmental harm and promote
biodiversity. Open net penned finfish
aquiculture has too many risks associated with
the industry to be considered for the organic label. Also, any reliance on ecologically sensitive forge fisheries for fish meal and fish oil as a source of feed for farmed fish even in the short term is wholly inappropriate for an organic product. Because of this new information we urge the NOSB to reevaluate the recommendations on aquiculture products. A more appropriate standard would require, (1), closed recirculating systems that do not release waste or water into the environment, (2), no use of wild fish or fish meal as feed. These criteria can only be met by systems raising vegetarian fish such as shrimp or Tilapia. That is an appropriate place for the organic aquaculture industry to start. Building on this foundation could allow the industry to create a system of organic fish that can be used to generate truly organic fish-based feed or fish meal that could be used as a feed source for organic carnivorous fish as long as those fish are raised in
closed recirculating systems. Thank you for
your consideration.

CHAIR MIEDEMA: Thank you very

MR. BONDERA: Thank you, Tyler.
You said something just now that I wrote down
because it wasn't clear enough for me and I
don't know if it was what you said that you
didn't have time to talk about, but I'd like
to ask you. Which is you said - you alluded
to the penned fish processes have too many
risks, but it wasn't clear to me what those
risks are. I wonder if you could clarify
that.

MR. SHANNON: Right and those are
- there's environmental risks with the longer
term studies that have come out since 2008
that the previous recommendations about the
time that it's left fallow and the distance
away from the land is not enough. And it's
open and uncontrolled. So again, these
studies are outlined in here and our assistant
director Patty Lovera will be commenting later this week and can add more details on that.

CHAIR MIEDEMA: Any other questions? Thank you very much. Next up is Gregg Buckwalter and Steve Sevadones is standing by.

MR. BUCKWALTER: Good morning. I'm a producer in Pennsylvania of organic and cage-free eggs. I'm in support of the proposed standards for outdoor access and inside stocking rates. The previous and current standards are too nebulous in that they don't specify what can and cannot be - constitute outdoor access. It is reasonable that an informed person can understand that the true intent of the organic law is to let chickens out on pastures so they can scratch and engage in natural behaviors. Some think that it's not possible to have birds with outdoor access, at the same time produce a food-safe quality egg and have healthy birds. We have six different farms with approximately
95,000 birds overall and all of them are on the PEQAP Pennsylvania Egg Quality Assurance Program and they are - which the program that FDA paralleled for their egg program is a lot of what the - that's a part of the PEQAP program. We also are producing eggs in this state that is watched closely for avian influenza and we are used to biosecurity protocols with live bird markets and waterfowl flying ahead. I also believe that this is what the customers want and what they expect from us. In my opinion if most of the consumers saw how a majority of the organic eggs are produced I think they would either become vegan or would go back to eating caged eggs or they would lose trust in the organic standards nonetheless. They are not picturing this kind of production. They're picturing what the standards will entail.

I'd also like to see a cutoff date of a year and a half or some timetable of all production has to move to the 2 square foot
outdoor access for all birds in the house, not a square foot based on percentage of the house capacity. If you do percentages or a number of flocks for a phase-in or a depreciated house complex you can play around with those numbers and calculations. There can be grandfathering of usefulness of a facility. People can remodel things and continue to do what they are doing currently if you don't set a date. Unless there is a clear, defined time or objective people will bastardize the law like they have currently done. That is why in this - that is why we are in a situation of defining outdoor access now because there was no clear definition of it. In conclusion, I would support the changes to the organic standards and provide outdoor access as it was originally intended. That's what our consumers demand and the expectations are.

you in the room?

MS. CAUGHLIN: Yes.

CHAIR MIEDEMA: Thank you, Goldie.

And then standing by is Lindsay Fernandez-Salvador. Goldie, please come on up.

MS. CAUGHLIN: Thank you. I'm here today - my name is Goldie Caughlin. I'm a former member of this body from 2001 to 2006 so my sympathies to all of you and my thanks. I'm also here today as a consumer, but also as a longtime educator with PCC Natural Markets and I am the third hat if you want to put it that way and a very important hat to me is my service as a member of the board of Cornucopia Institute. I want to first of all comment on something that a little while ago I believe - no, let me just back up. It was one year ago today that - I believe that it was announced by Mr. McEvoy that indeed there was a decision that he concurred that there was a presence of accessory nutrients currently in organic products - and that does include DHA and ARA -
that those were based upon, in his words, a
faulty interpretation. I think that's a
charitable way of defining it. But the fact
of the matter is that was one year ago today
that he had said that there would be
forthcoming from the NOP a draft guidance. So
let me just say that at least - and obviously
nothing has come forth. No actions have been
taken in terms of removing these substances
being in labeled and USDA sealed products that
are on the market. I find that appalling as
a consumer. I find it appalling as a mother
and a grandmother. I find it appalling as an
educator and I certainly find it sad as a
former member of keeping organic standards
organic. And I know that it is painful to all
of us. I have heard a great deal about the
fact that there will be economic disruption
and that that seems to me to be today more and
more the driving force of decisions is what
will be the economic disruption of these
companies. A lot of hand-wringing, agonizing
about that. What about the fact that those consumers who think they are buying something that has gone through the entire process having the benefit of the congressionally mandated review that's given to you. Tracy, you mentioned yesterday in another meeting that this body is an exceptional body. We as FACA members on this body have authority to do various things that are not given to other FACA members and that really concerns me if we let go of that and don't exercise it. Guard it, guard that ability to be the final viewers of what shall and shall not come into organic.

I'm also very concerned to see the animal welfare -

CHAIR MIEDEMA: Thank you, Goldie, we are at the -

MS. CAUGHLIN: Thanks. All right. I also have a petition from - at this moment over 1,500 printouts of a petition that consumers are saying keep questionable synthetics out of organics. There's another
several hundred that we saw today.

CHAIR MIEDEMA: Thank you. Please submit that to the National Organic Program and it will be registered to regulations.gov.

MS. CAUGHLIN: We will do so.

CHAIR MIEDEMA: Who has a question? Any questions for Goldie Caughlin? Thank you very much, Goldie. Okay. We have had a range of sign-ups for walk-ins for public comment and that's an important part of our public comment process, to allow people to come in this morning and put their name on the list and at this time we would like to see whether any of the walk-in sign-ups are in the room and available to come and speak. Okay. Next up is Lindsay Salvador-Fernandez. Fernandez-Salvador. And - okay. And sir, if you're a walk-in come on up and please check in with Lisa Ahramjian. Lindsay Fernandez-Salvador, please proceed.

MS. FERNANDEZ-SALVADOR: Thanks.

Well, I depend on public comment to get way
behind to prepare my public comments so I was right in the middle of it. So I'm surprised. But here I am and I was almost done so phew. At any rate, my name is Lindsay Fernandez-Salvador. I'm speaking on behalf of OMRI today. I'd like to thank the CACC for taking on the very complex subject of material review organizations. This was a long time coming for OMRI and it of course is very important to our core mission and we care about it, we're passionate about it in our office. I'm really actually especially thankful because it means that I don't have to talk about corn steep liquor either and that's a good thing too.

I wanted to elaborate a little bit on our written comments and why we called for a guidance for material review organizations and ACAs as opposed to an accreditation scope. We're not opposed to an accreditation scope by any means, but what we are interested in is more action in the short term in the form of guidance and additional audits on the part of
the NOP with ACAs and OMRI if we ever get to that point and then enforcement on that guidance and - during those audits. We support our ACA peers and colleagues in their efforts and their capability to review materials on behalf of their clients and in the context of the OSP. We understand that materials can range from a very simple limestone or manure source to a blended fertilizer that I just saw had 57 ingredients on our list the other day. So that can be very complex and we need a guidance to just really give us the basics of how to get there and everything in between. We also recommend that the NOP spend more significant time and energy during their audits on the material review processes of the ACAs that are seeking continued accreditation.

And finally, we would like the NOP to provide increased enforcement regarding material review. We think that the guidance and audits and enforcements may fix many of
the challenges and the problems that you've cited in your discussion document. And then although I am a biased source I consider OMRI to be the gold standard for material review organizations. We review every ingredient, every additive, every manufacturing process for both the ingredient and the final product and we collect analyses for heavy metals, pathogens, and we analyze MPK content based on the ingredients to make sure that it in fact makes sense based on what the ingredients are and the final product is. My colleague - I'm going to end there. I made it for three minutes out of nowhere.

CHAIR MIEDEMA: Thank you, Lindsay. Any questions? I have one. You mentioned inert materials and you mentioned that OMRI reviews the constituent parts of the approved materials. This goes back to Emily's presentation earlier this morning on the inerts working group. We know now that about 179 of these inerts. Can you just walk us
briefly through what - how you approve inerts
to be used in crop production? And the
combinations.

MS. FERNANDEZ-SALVADOR: Yes, yes.
Well, thankfully for - in terms of pesticides
we also collect a lot of information that the
EPA collects, including what they call the
confidential statement of formula. And which
contains everything from what we would
consider impurities that are just naturally
occurring in the inerts or the active
ingredients and also formulated inerts. This
is very common as well. You'll get something
called maybe Tween 60 which in fact is not
some chemical, it's a formulated set of
chemicals that we are able to ask the company
to divulge that proprietary information to us.
So what we do is we get a complete list of
every single inert ingredient and then we
compare that to the List 4(a) or 4(b)
including the cast number. And something that
people don't realize is that cast numbers can
have synonyms to them so we spend a lot of
time sorting through that kind of data and
that's how we review them. We make sure that
they're compliant with Lists 4(a) and 4(b).

CHAIR MIEDEMA: Thank you. Any
further questions? Okay.

MS. FERNANDEZ-SALVADOR: Thank
you.

CHAIR MIEDEMA: All right. Next
up is Blair Busenbark. And it looks like we
are shifting some timelines around here or
some staging of public comments so on deck is
Patti Bursten. Go ahead.

MR. BUSENBARK: Good morning. My
name is Blair Busenbark. I'm with Sun Gro
Horticulture and we have been a longtime
subscriber to having a group of our products
OMRI listed. And I'm coming here to give
comment in support of working towards a more
coherent and more discernible process for
input review. We are a - have been a strong
supporter of OMRI and we continue to have and
use OMRI as a marketing advantage against our competitors. We produce - we're the largest producer of peat moss in North America as well as we produce commercial grow mixes to commercial growers as well as consumer products. And we use our OMRI listed listing status as a marketing advantage. And I think it's crucial that just like consumers have when they go into the produce section of a store they can see the OMRI logo - not the OMRI logo, the USDA NOP logo on the approval of the product that they can be confident that the product has gone through a rigorous review process. I think that we still - we need that same process with the inputs and that at Sun Gro we recognize that the input review process is important and that we use that, as I said, as a marketing advantage but we believe that that process should be up for review and that all agencies should have a transparent process that's similar to OMRI if they're going to do that, and that those agencies all follow the
same process just like all of the certifiers
for a product that is NOP-approved have the
same process.

The last part that I think is that
I think it's crucial that everything is
science-based and I know that many of the
concerns and processes that we are submitted
to because we are a national manufacturer of
products, it seems that there's a lot of
duplication in the processes and anything that
I think could facilitate a company that's
trying to do the appropriate activities but at
a national level where obviously the sourcing
and ability for inputs that we combine
together for our products is not the same,
that would make it flow to our system better
at the same time producing top-quality
products that do live up to the organic
standards we would appreciate.

CHAIR MIEDEMA: Thank you. Any
questions? Thank you, sir. Next up is Patti
Bursten.
MS. BURSTEN: Good morning. So I'm sort of slightly unprepared as well. I moved my time, so I'll just be reading right from the script. In 15 years as an independent organic inspector, technical reviewer and consultant I've witnessed a broad range of strategies for becoming and successfully staying certified. There's a profound difference in an inspections outcome between a company that is proactively managing its certification and one that simply relies on annual organic inspections to find its non-compliances. Operations that pay attention to the regulations, embrace the concept of an organic system plan, train their employees to the procedures and perform self-audits are usually not far out of compliance. Following a quick and efficient inspection, the exit interview generally only takes - only identifies finer points of compliance and commonly they are fixed before the report makes it to the certifier. The other end of
the spectrum is unfortunately more the norm in which the OSP is handled as an application for certification never to be revisited again. In this common scenario the mitigation of non-compliances that could be avoided with proactive management become stifling to the certification and renewal process which results in several concerns, delays to updating certificates, loss in business opportunities, increased cost to the certification agencies and the NOP, and non-compliant products either entering or staying in the marketplace.

Currently, most global and U.S. food safety and quality standards pertaining to farm production and processing include specific requirements for personnel training and internal audits. Right now the NOP is not as explicit. The regulation only hints at proactive management of certification in 205.201(a)(3) which states that the organic system plan must include a description of
monitoring. I can't keep repeating it because
you all know what it says I hope. The
language nods towards a need to ensure
activities described are actually carried out
and documented, but that is actually not the
case. The way to do this is to require
training and internal audits. Skipping,
skipping, skipping. I turned in some proposed
guidance language as public comment and I hope
you all have an opportunity to look at it.
And I'll skip ahead to say I hope if you have
questions about it you will come to me with
it. The guidance document stresses that
regardless of size an operation must strive to
educate and inform all of those who are
relevant to be informed of what the document
says and how to actually carry out and
implement those critical components relevant
to the activities that organic represents for
the company. In addition, they have to be
actually trained - am I done? Okay. I could
go on and on and extol the virtues of my plan,
but thank you.

CHAIR MIEDEMA: Don't go away, Patti. Any questions for Patti? Okay, I guess we're set. All right. Mr. Bob Baker is up next. And once Mr. Baker is done and we've had a chance to ask him questions it will be right about the noon hour and we will be recessing for lunch.

MR. BAKER: Hello. My name is Bob Baker and I'm a dairy farmer about 40 miles out of town here. And we ship our milk to Organic Valley. Just a couple of things I want to comment on. I think there's been a proposal that free stalls should be widened to about twice what they are normally widened to and that would be bad policy. You probably don't understand free stalls real well, but I hope you do. But anyhow, a free stall is in a loafing barn or a sleeping barn if you want to call it that where cows go and lay down. And these stalls are normally about 4 feet wide and about 8 feet long and so a cow goes
in and lays down and her rump is over the back
so any defecation that she does goes into the
alley behind her so she doesn't end up laying
in it. If the free stalls were widened then
cows could be laying crosswise or any
direction and it would be not - it would not
be clean and just a policy I think whoever
suggested it didn't understand.

I'd also like to comment on the
one stall per cow. I think that's a little
too restrictive at least in my herd. There's
usually at least 20 percent of cows that are
not lying down at any one time and I think a
20 percent over-population over stall is not
a problem at all. Another comment would be
regarding the DHA which is added to milk.
There are approved products that can be added
and I don't see any reason to add others, fish
oil for example I believe is an approved
product. Why do we need to add something
else? Sometimes I think these proposals are
perhaps made by corporate interests rather
than people interested in true organics.

Thank you.

CHAIR MIEDEMA: Thank you very much, Mr. Baker. Does anyone have any questions? Okay. We are now going to recess for lunch and let's all be back at 1:15 to resume.

(Whereupon, the foregoing matter went off the record at 11:57 a.m. and resumed at 1:21 p.m.)

CHAIR MIEDEMA: The National Organic Standards Board is now back in session. First, an announcement. We have a videographer here named Brenda Asterino from Seattle Community Access Network, Puget Sound Public Television. If you have any questions for her feel free to approach the videographer directly.

We are going to start out our next round of public testimony by reviewing the NOSB mission statement. And then one more announcement just before that. We do have
some spots for walk-in sign-ups. We - I've just been notified that we had several cancellations today and so a few more spots opened up. So if you would like to go and sign up for one of those walk-in spots please do so and then check in with Lisa. A question from the floor?

MS. CAUGHLIN: It turns out that reasonably early on if you decide that you do not get that sort of response can you still - in your time frame would it be possible for maybe a lottery or whatever of those of us who might want additional time.

CHAIR MIEDEMA: Let's cross that bridge if and when we get there. Okay. I'd just like to refresh everyone's memory on what the NOSB statutory mission is. And Miles alluded to and mentioned some of these responsibilities. The statutory mission, the law is to assist in the development of standards for substances to be used in organic production and to advise the Secretary of any
other aspects of the implementation of this title. It's also been tradition here at every NOSB meeting to read the NOSB mission statement into the public record as part of our shared understanding of the purpose of the National Organic Standards Board. To provide effective and constructive advice, clarification and guidance to the Secretary of Agriculture concerning the National Organic Program and the consensus of the organic community. In carrying out the mission, key activities of the board include assist in the development and maintenance of organic standards and regulations, review petition materials for inclusion on or deletion from the national list of approved and prohibited substances - the national list - recommend changes to the national list, communicate with the organic community including conducting public meetings, soliciting and taking public comments, provide timely information and education on the NOP, making reasonable use of
a variety of communication channels; communicate, support and coordinate with the NOP staff. Thank you, everyone.

All right, we'll go ahead and get started with our next round of public comments. And first up is Troy Aykan. Thank you, Mr. Aykan, come on up.

MR. AYKAN: Good afternoon. I'm Troy Aykan. I'm a food scientist and an attorney. I work for Hain Celestial Group. I also teach food laws and regulations at Cal Poly Pomona since 2002. Next slide, please. I'll be making some comments about the accessory nutrients. Currently they are allowed under 605(b) so long as they are in accordance with 21 CFR 104.20. And I made another presentation on the last meeting and we don't need to go over all that stuff again, but I will address the developments and what we think should be done. Next slide, please. One of the biggest concerns is organic infant formula. Obviously many consumers wouldn't
want - the moms have their organic infant
formula have less beneficial nutrients than
the counterpart, conventional counterparts.
So should it be - the question is whether the
nutrient addition to organic infant formulas
be limited to those expressly codified in 21
CFR. Then we would have to obviously worry
about nutritional impurity of organic infant
formula to conventional one. Next slide,
please.

We support re-listing of nutrient
vitamins and minerals to the national list,
support revising the annotation to allow
nutrients listed in 21 parts 101.9 and
107.100. For those of you who don't know what
they are, 101.9 establishes essential
nutrients and 107.100 is for the nutrient
specifications of infant foods by FDA. Next
slide, please. And since they all have to
conform to 104.20 under the current annotation
this subsection F states that any nutrient may
be added to food if they are permitted or
required by applicable rules and regulations. This section also shows that it's not just the vitamins and minerals, but any nutrients. Next slide, please.

So in summary, regulations allow a wide range of nutrients to be added to food. The Hain Celestial Group supports organic regulations that allow organic foods to be nutritionally equivalent to conventional foods. And we also ask the board that sufficient time should be allowed for petition process while allowing the continued use of nutrients. Thank you very much. Any questions?

CHAIR MIEDEMA: Thank you very much.

MR. AYKAN: Thanks.

CHAIR MIEDEMA: Next up is Harold Austin, Joan Moyer standing by.

MR. AUSTIN: Good afternoon. My name's Harold Austin. I'm the director of orchard administration for Zirkle Fruit
Company in Selah, Washington. I also serve on the Science Advisory Committee for the Northwest Hort Council and I'm on the WSDA Organic Board of Directors. Zirkle Fruit is a family-owned business. We grow, pack and sell our own fruit plus that of numerous other growers and several other packers. We currently farm both conventional and organic apples, cherries, pears and blueberries in Washington State representing over 2,000 acres of organic pear production within the state. Oxytetracycline is an extremely important part of our fire blight control program both for apples and pears. During the last 15 years we have seen a dramatic change in the types of apples now being farmed within the Pacific Northwest. We have gone from varieties such as Red, Golden Delicious, Romes and Granny's that were not very susceptible to fire blight to the newer varieties, Gala, Fuji's, Pink Lady, Junami's, Honeycrisp, Lady Alice that are extremely susceptible to fire blight.
infestation.

Pear production, organic or conventional, in Washington State would not exist without the use of oxytetracycline as part of a spray program within that commodity. Other products are also used as part of a fire blight program. These are copper which is used post harvest and also in the delayed dormant to control over-wintering canker. BlightBan A506, one of the biologicals, is applied at bloom time. Serenade post bloom and then oxytet is applied during the bloom or early post bloom timing. As David Granatstein mentioned earlier this morning we do have some products in the pipeline but it's going to take time for those to get registered and then once they are registered it's going to take time for the growers to effectively be able to figure out how to use those in their spray programs.

One of your published comments made - mentioned that organic farmers that
export seem to make it work without the use of oxytet. That is not a true statement. We have on three different occasions been forced to remove blocks of fruit, Pink Lady's, Gala and Honeycrisp from IOP production certification because of the severity of fire blight infestation that we experienced. One of these three situations we had to replace almost three-quarters of our trees because they got infected and died before we could properly get them treated. For our export organic production we must be very careful on what we farm, where we farm and what we farm around those blocks. We must also farm with fire blight reduction in mind. When we farm fire blight susceptible varieties we must take into full consideration everything that we do on our farms and what effect it may have on our ability to control or not control fire blight infestation.

Zirkle Fruit could very easily look to remove as much as 500 acres from our
organic program if we should get into a severe
fire blight infestation period without the use
of tetracycline. We have come too far now to
allow ourselves to take and risk such a huge
step backward. We would like to request that
the NOSB remove the expiration date from
tetracycline and reinstate it on the national
list until a suitable replacement can be
found. Also I would like to add that we are
in support of your recommendations to re-list
chlorine compounds with the proposed change to
the annotation as suggested and to re-list
coppers, both fixed and sulfate, with the
additional language regarding periodic
testing. I'd like to thank you for the
opportunity to share our views and for your
time and consideration as they were presented.

CHAIR MIEDEMA: Thank you. Any
questions? Mac.

MR. STONE: Are you all using any
predictive modeling on potential for fire
blight on a given year?
MR. AUSTIN: It's in part of the non-condensed version, the 5-unit version rather than the 3, but yes, we are. WSU has put together a Cougar Blight model which we can get on versus our phones or our computers and most of the consultants in the state use that. It predicts monitoring the weather, moisture, bloom conditions, temperatures and allows the growers and the consultants to know when is the most appropriate time to make that oxytet application or any other product that they're using at that given time. So we've taken it into the new era of using the tools that are now at our disposal in order to take and make the most effective use out of oxytet application. So that we're not just randomly applying it, but we're applying it when the science says it's the best time to apply it.

CHAIR MIEDEMA: Thank you. Barry.

MR. FLAMM: Why did you move from - excuse me - less susceptible varieties to more susceptible varieties?
MR. AUSTIN: Market demand. We've seen steadily the decline in sales across -
global for Reds, Goldens, Romes and Granny's. Gala's probably the most preferred variety
right now, Honeycrisp is becoming a very popular variety, Fuji's, Pink Lady's, the Junami's. It's consumer-driven and there's no sense farming a variety that you can't market.

CHAIR MIEDEMA: Barry?

MR. FLAMM: Was that really consumer-driven or was it the marketing approach that was used?

MR. AUSTIN: Kind of a combination of both, but I mean it truly was consumer-driven, especially if you take the variety like Honeycrisp which I think that's probably the one variety that we collectively farm that has really truly been pushed by the consumer for us to expand the production of that apple. It truly has.

CHAIR MIEDEMA: Any further questions? Thank you very much.
MR. AUSTIN: Thank you.

CHAIR MIEDEMA: Next up, Joan Moyer, Chris Pierce standing by.

MS. MOYER: Hello. My name is Joan Moyer and I work for Island Spring Organics. Island Spring is a tofu manufacturer here in the Puget Sound. We've been here for about 35 years and have been organic the whole time. We would like to see the organics program require spot testing for - at the farmer level to ensure that crops are actually non-GMO as well as organic. One of the things that we're running into is a lot of our customers don't understand that NOP guidelines actually state that organic - that NOP regulation already prohibits the use of GMOs and there is confusion in our customer base about that. We believe this confusion has resulted in two things. One, that the customer doesn't really have faith that organic actually means pure and unadulterated, and secondly, it's creating another tier of
certification of non-GMO certifying bodies. And from our perspective this adds additional
cost and effort to our product that we're
trying to market. We believe that in order to
protect the integrity of the organic label the
NOP needs to ensure that organic products do
not contain GMOs and that there's spot testing
done to encourage this. Thank you.

CHAIR MIEDEMA: Any questions for
Joan?

MS. MOYER: Thank you.

CHAIR MIEDEMA: Chris Pierce is up
next and Gerry Davis standing by.

MR. PIERCE: Ready? Okay. Good
afternoon NOSB and NOP and distinguished
guests and visitors. My name is Chris Pierce.
I serve as president of Heritage Poultry
Management Services. We're located in
Annville, Pennsylvania. I also serve as
chairman of the Pennsylvania Egg Quality
Assurance Program which is an SC risk
reduction program involved with egg
production. We started as a pilot program
with FDA in 1992 and have been continuing
since. Last week I had a chance to visit with
a number of our senior NOP leadership, NOSB
representation, Tina Ellor, as well as FDA had
a representative, Jerry Ramirez, and
leadership from my accredited certifier. We
got to spend a day visiting three different
egg production facilities, organic egg
production facilities, that varied in much
scale. So I appreciate that we had that
opportunity. And a lot of the discussion was
- as my role as the chairman of the
Pennsylvania Egg Quality Assurance Program,
we've implemented organic eggs, organic flocks
have been part of that PEQAP program, our
first flock since 1997. So we're 12 years
into it and we've been following the PEQAP
program which served as the model for the FDA
federal egg rule. And we have been able to
meet and exceed the requirements of the PEQAP
program so we personally believe that there
should be opportunity for USDA's organic standards to meet FDA's compliance. We also support that part of that compliance is going to be rigorous standards that strong management, detailed accountability at farm level need to be in place so that farmers can control and reduce salmonella risk, meanwhile complying with the welfare standards that this board and thus the administration will put forward.

In addition, I also support that we are looking at putting meaningful poultry welfare science-based standards in place such as density and scratch area and perching and roosting, but I recommend that we use and try to follow similar programs that are science-based that are already in the marketplace, such as humane farm animal care to certify humane program. We've had flocks in compliance with that program since 2003. I would rather see that the 205.239 Livestock Living Conditions for Avians would replicate
existing science-based programs. I'm not in favor of having pullets, organic pullets be mandatorily required at 12 weeks of age for outdoor access. Our salmonella monitoring - our salmonella vaccination program as well as our other vaccination programs would go into contrast to that.

In closing, I strongly support that the NOP and the NOSB are on the proper course of strengthening organic consumers' confidence by clarifying the standards of how organic eggs are produced and now including hen welfare as an important component in the definition of what organic eggs mean. In the past, organic did not mean welfare, it meant feed and no prohibited substances. It must mean welfare and we support that. Wow, three minutes, I did it.

CHAIR MIEDEMA: Thank you. Any questions? All right, thanks very much.

MR. PIERCE: Thank you.

CHAIR MIEDEMA: Gerry Davis is up
next and Jo Ann Baumgartner standing by.

MR. DAVIS: Gerald Davis, former NOSB member and expert on the use of sodium nitrate in organic farming. I have 18 years experience working for Grimmway Cal Organic Farms on more than 30 different vegetable and grain crops that benefit from the material as well as experience with many fruit, vegetable and forage crops in which we choose not to use it when it is not suitable or necessary. We believe that the 20 percent of in-use restriction for sodium nitrate has proven to be a sustainable approach for our farm soil health. In order to work within the 20 percent guideline we balanced that use rate with 80 percent organic amendments. To do this, we grow many thousands of acres of waist-high legume green manure crops each year and apply generous amounts of compost to every field as well. These nitrogen fertilization practices are much more economical than sodium nitrate, but are entirely dependent on warm
soils to convert the materials to nitrate in sufficient quantities for the crop. This fact alone limits our use of sodium nitrate to specific crops that must have it to attain marketable yield and quality, such as vegetables grown in cool soil, fresh market russet potatoes or wheat grown for bread flour.

We are not asking for permission to continue using a synthetic material. This is a natural that the rule has limited in its use pattern to protect against improper usage that could be harmful. The OFPA framework gives the ability to place restrictions on sodium nitrate use by placing it on the prohibited naturals list, 205.602, with annotation describing the use limitation. A huge reason why the European and Canadian rules do not allow the material is that their system of rules is not conducive to this kind of flexibility. In their rules a material is allowed or it is not with no mechanism to
limit usage.

Some bullet points. One, the 20 percent of crop-in-use restriction of sodium nitrate successfully minimizes harm to human health or the environment. Just the paperwork load involved to document a grower's usage keeps most growers from using it. Number two, the stereotypical objections most commonly put forth against sodium nitrate are unmerited when considered in light of this annotated use restriction. These objections set up a straw man of unlimited usage and then proceed to knock it down with all the potential negative effects of the material. Three, complete prohibition of sodium nitrate will lead to a constriction of supply of domestically grown fresh vegetables during the winter months. Vegetable marketers will respond by increasing imports from Mexico. By the way, referring to the written comments from Beyond Pesticides, Sweden and Norway get by without using sodium nitrate because they import fresh produce from
Israel and North Africa during the winter.

Please don't be pressured to capitulate to the equivalency argument put forth by the NOP staff. The equivalency problem with Canada is the only new development since the last sunset review of sodium nitrate. International equivalency is irrelevant to your deliberations. Only the nature of the material in relation to the OFPA guidelines that you follow during your review. In my opinion you have no new information to justify rescinding the previous NOSB decision. For the sake of the growers who market locally or have adequate U.S. domestic markets for their crops as well as for the sake of wintertime consumers - last sentence - of organic fresh leafy greens these people do not trust the veracity of the organic claim attached to produce coming from Mexico. Please vote to keep the current listing.

CHAIR MIEDEMA: Any questions?

Katrina.
MS. HEINZE: Did I hear you correctly that the materials used for the 80 percent are more economical?

MR. DAVIS: Yes. By far.

MS. HEINZE: Thank you.

CHAIR MIEDEMA: Any more questions for Gerry Davis? Thank you. Jo Ann Baumgartner up next, Doriandra Smith standing by.

MS. BAUMGARTNER: Hi, I'm Jo Ann Baumgartner with the Wild Farm Alliance. We've been assisting the organic community in addressing biodiversity conservation for the last seven years. In 2005 the NOSB recommended adopting a set of biodiversity inspection questions in the model organic system plan and in 2009 many of you probably remember that the board recommended biodiversity conservation be comprehensively addressed, including when reviewing materials, when - and in lots of different ways for the organic system plan, for producers outlining
their strategy, for inspectors being trained, certifiers adopting the OSP that addresses biodiversity natural resource requirements so that the producer is actually doing that. And the NOP conducting trainings and revising its audit review compliance checklist so that questions about natural resource standards are in every audit. And Wild Farm Alliance has developed materials to help support some of these efforts. Since that time the NOP has slowly begun to integrate provisions for biodiversity conservation. For example, access to pasture regulations explicitly require protection of natural wetlands and riparian areas. With regard to the OSP the program is currently updating it and now there will be two pages on natural resource management. And the NOSB is addressing materials with regard to biodiversity. So all that's good but there's still a lot left to do. So we are in the process now of developing draft guidelines for consideration
in the NOP's handbook and we welcome review of
our materials by members in the organic
community. Such guidance is needed so that
all certifiers and farmers clearly understand
what is required to implement biodiversity
standards.

We are concerned about another
aspect of your recommendation, the decision
for the ARC, the audit review compliance, to
assess only the process of certification, not
the standards themselves when performing
audits on organic certification agencies.
Since there is already a lack of all
certifiers properly implementing biodiversity
standards this deficiency in the ARC audit
methodology further undermines the NOP's
ability to ensure growers' compliance with
biodiversity standards as well as
certification agency implementation of them.
The ARC staff now relies solely on file checks
and witness audits to assess certification
agency's implementation of the NOP standards.
In other words, ARC does not do a document
review to compare certifier standards against
standards in the NOP regulation. And not just
for 205.200, the natural resource standard,
but for all 200 and 300 standards. Is it
possible to get clarification of this from the
program? NOSB spends a huge amount of time -

CHAIR MIEDEMA: Jo Ann.

MS. BAUMGARTNER: Last sentence -
on the standards. And as I understand it, the
accreditation process does not back you up.

Thank you.

CHAIR MIEDEMA: Thank you. Any
questions for Jo Ann? Thank you very much.

Oh, I'm sorry. Barry.

MR. FLAMM: Not a question I can
answer, but I think Jo Ann posed a question to
the program. I don't know if Miles is
prepared to answer that or if he'd like to.

CHAIR MIEDEMA: Would the program
like to respond to any of the questions asked
by Wild Farm Alliance?
MR. MCEVOY: So the question was what - about the accreditation process and what the ARC auditors review as part of the accreditation process. We have - is that right?

MS. BAUMGARTNER: Yes.

MR. MCEVOY: Okay. So we have been revising the focus of the criteria that the auditors are looking at during that accreditation process and in order to - I'm not prepared to go into all the details of what that's about, but the focus of the audit is to see that the certifier is complying with their responsibilities, the accreditation components within the National Organic Program regulations. And as well as the certification components. So that is the focus of the accreditation process. The certifiers need to be reviewing applications, conducting inspections, issuing certificates as per the certification sections of the regulations and they need to be following the requirements as
an accredited certifier under the accreditation sections having to do with conflict of interest, having to do with qualifications of their staff that conduct the work. And in the process of doing those accreditation audits the auditors are looking at case files as well as accompanying the certifiers during inspections, what we call witness inspection, to verify that certifier is doing what is required under the regulations. So that's the process that - a very brief overview of the process of what they're doing when they're doing the onsite audits. So it's - the audit is not to look at so much the implementation of the standards, it's the - to look at how the certifier is doing their job as - to meet the accreditation criteria and the certification criteria. Part of that is that if they're doing - when they're doing that review they have to be interpreting and following the criteria - excuse me - that are in the regulations, in
the crop and livestock and handling and labeling sections of the regulations. So it's kind of a long-winded answer, but the focus is really on the certification, the accreditation part during the accreditation process and the audit process.

CHAIR MIEDEMA: Thank you, Miles. Any further questions? Thank you, Jo Ann. Is Doriandra available? We'll move on to Dan Giacomini, Bruce Scholten standing by.

MR. GIACOMINI: Thank you, NOSB. My name is Dan Giacomini. I'm an animal nutritionist. I'm a former member of the board and last year the chairman of this group. As Tracy said she will miss the work done by the board. I agree with her. I try to miss it as often as possible. I'd like to thank for the opportunity to make public comment, but today I am - my public personal comments have been posted on the website. They are number 1702 if you at any point in time would like to look that up because it's
awful hard to search. Today I'm here
representing a number of organic dairy farmers
in northern California and the Southwest who
have their milk bottled, processed or brokered
by as many as nine different processors.

The first subject that I'd like to
discuss is the stocking rate chart in the
livestock animal welfare document. The way it
is written and posted these rates in the
charts could be used to apply to all loose
housing - are meant to apply to all loose
housing which is the way I believe they're
intended, but facilities utilizing free stalls
and tie stalls would also be included. The -
in the 2009 Livestock Committee animal welfare
recommendation in 239(c)(5) it called for a
one stall per animal requirement or limit.
That was put into the NOSB's version of that
document in section 4 but it would bring back
- and the charts were deleted. In bringing
the charts back it's important that you be
clear that this is two versions of density and
not an "in addition to" format where they
would both be required and both be enforced,
one animal to a stall but you're requiring two
stalls per animal at the same time.

Overall I support the animal
welfare document. I encourage the board to
move ahead with it except for some of the
things that I mentioned in comments regarding
soil, 2010 amendments in particular, soil
definition. The transport document, the terms
disallowing transport at certain times is
exactly at some times when the animals need to
be moved and that needs to be readdressed.

As far as the CACC recommendation
regarding material review, I understand many
of the problems involved in this process but
please don't limit the dynamics of the
process. There's a lot of cases where once
things have been reviewed by OMRI they are
repackaged and reformulated particularly in my
case with animals and supplements, animal
nutrient supplements. If we would then need
to go back through an OMRI type review for
every one of those it would be extremely
cumbersome and very expensive.

Third, outside of the amendments -
outside of your intent to tweak annotation
changes. It's very important that you
reassert the current listings, animal nutrient
vitamins and minerals and a number of other
things. If there's any questions, reassert
and deal with them later.

CHAIR MIEDEMA: Okay. Thank you.

Dan. Any questions for Dan Giacomini?

Katrina.

MS. HEINZE: On your last point,
as a former Materials chairs could you explain
what you think the consequences are if we
don't do that?

MR. GIACOMINI: I will try but I
obviously can't because I tried doing that for
two years and I couldn't get the board to see
my point. Right now sunset - when sunset
rulemaking goes through its process it's
considered essentially non-significant
rulemaking. It's just re-listing of
everything that's there, maybe dropping a
thing or two. Once you go to annotation
changes and amending what's there it's going
to create a lot more oversight and review.
That's already been established. And anytime
that happens you're risking an extremely drawn
out timeline for when those documents will go
through final approval. If the only thing
that this board has done is to vote for an
annotation change that is the only authority
that the Secretary and the NOP have to proceed
with. If they have not re-voted to reassert
a sunset listing and that process from
rulemaking gets dragged out they do not have
the authority in any form to do anything
except drop it off the list. Because this
board did not reassert that listing. That's
the authority of this board, that's the
responsibility - one of the responsibilities
of this board and you didn't take it. The -
I don't know where it's written in that they can assume certain things. You didn't reassert the existing listing.

CHAIR MIEDEMA: I'm glad you're here, Dan. Any other questions?

MR. GIACOMINI: Thank you.

CHAIR MIEDEMA: Thank you very much. Bruce Scholten is next and Bridget O'Brien is standing by.

MR. SCHOLTEN: Hello. My name is Bruce Scholten and I was raised on a family diary farm that grew from 20 to 100 cows, more than 100 cows in my lifetime near Lynden, Washington. Now I'm a geographer at Durham, England and my PhD study called Food and Risk in the U.S. and UK on organic food comparing it to - between Seattle and Newcastle is on Amazon.com. It records what I call the USDA organic grazing war or pasture war in which pasture rules of minimums of 120 days and 30 percent dry matter intake were finally formalized by the NOP and I thought that that
was a great occasion.

Now one of the main topics before us all is synthetics and some companies apparently are adding synthetic omega-3 fatty acids to infant formula without prior NOP approval. To me this seems a very dangerous precedent and I think it endangers consumer confidence. In England, I live near Newcastle University's Nafferton Farm which has got a lot of press in the last year or two for showing that milk has increased omega-3 if it comes from cows on grass. But no science that I know shows that synthetic omega-3 offers the same health benefits as more naturally occurring. So please enforce the law. If non-organically produced synthetics have a place I think it's what Professors Tim Lang and Mike Heasman call the food sciences paradigm which belongs in the conventional market.

Now shifting the subject to stalls, I've been asked by Mark Kastel and
Cornucopia to comment on this to give them space in their slots to talk about something else. But it happens that my views coincide I believe exactly with theirs. So I think that the mooted rules requiring 8 foot by 8 foot stalls are worrying. My family did much consultation in designing the stalls in our loafing shed of around 1963 and I've cleaned thousands of stalls and I can tell you that most organic cows I know fit just fine in 4x8 or 4 foot by 7 I think are even safer stalls. Larger ones are less sanitary and larger ones risk the cows panicking, trying to turn around, breaking legs and other ugly, ugly wounds. So small can be beautiful and healthier too. I've become a little bit of an advocate for family-scale dairy farms and I hope you continue to support regulations that honor the letter and the spirit of the 1990 OFPA Act. Thank you.

CHAIR MIEDEMA: Thank you. Any questions for Bruce Scholten? No questions.
Okay, thank you. Bridget O'Brien, are you in the room? Okay. Liana Hoodes is up next and Gary Middleton is standing by.

MS. HOODES: Good afternoon all. I'm Liana Hoodes with the National Organic Coalition. As always I have a lot to talk about related specifically to the docket and some overarching pieces. The workload and the pace has been increasing at an alarming rate, I don't need to tell you that. We fear it's becoming unsustainable. And this is not because either you or NOP are poor at time management or priority-setting whatsoever. I propose that this is a systematic failure of the agriculture and food policy community to step up to the plate and make organic food and agriculture successful and to make this process, transparent process a reality.

Okay, on the docket. Could you - we really appreciate having the committee recommendation chart and evaluation criteria checklist in all proposed recommendations
including sunset at the time of posting. That helps us to see your work and our comments can specifically address that. Corn steep liquor, get on with it. Declare it a synthetic and petition it as such. It's neither reasonable nor correct to declare CSL a non-synthetic just because it may cause the reevaluation of other materials. That would doom the future of materials review to just such a chaotic decision-making process as we've seen on CSL during the past year. If other materials must be reevaluated to comply with the law and with science then so be it. Conflict of interest you'll see, we propose a more deliberate approach to the declaration and transparency to the conflict of interest policy.

We support the re-listing of nutrient vitamins and minerals with an additional annotation originally proposed by NOP, refined by Cornucopia and OTA as well. We do think that where synthetic vitamins, minerals and nutrients are allowed we need to
find a way to incentivize the development of non-synthetic forms. Not sure how to get there, but we need to try. Refer to our detailed comments on both streptomycin and tetracycline in fruit production. Lynn Coody will be speaking to that. It's very serious and we hope we've come to a partway on it.

Okay, the big picture. The challenge is to get all pieces of the organic pie to take responsibility for the success of the system. When we do not look at it comprehensively then it's all too easy to blame any one part and significantly it's often the farmer that takes the brunt of this. It's fundamentally disrespectful to farmers to require them to comply with an extensive system with constant oversight and not give them the support in U.S. federal ag policy or in the marketing system that is making huge profits on their work. So what are the pieces of that pie? Government, specifically USDA above NOP needs to acknowledge the multiple
benefits and support organic in all farm programs. Steve Etka will go into that more later. The industry must also support the high standards and acknowledge the multiple benefits of organic rather than just as a profit-making label. Industry needs to look for alternatives, not just input substitutions but system solutions as in root stock varieties on fruit trees to fulfill the taste profiles that are the marketing - what they need to market. It is their responsibility to step up to that plate. And - okay. There I am.


MR. FELDMAN: Thanks, Liana. You've referred to corn steep liquor as a foundational issue.

MS. HOODES: Yes.

MR. FELDMAN: What do you mean by that and how do you frame that in the context of integrity?
MS. HOODES: Well, basically the definition of synthetic. I think that it's clear that with the sulfur dioxide it is a synthetic and that definition and the process you use to get to the decision-making needs to be clear enough so that you don't get bollocks ed up in strange - I'll call them strange definitions that really aren't scientific. Once you get to that place of having a consistent definition and a way to get there then the other materials will fall in place more. I do believe that there were some mistakes made by earlier administrations in sort of not being clear there. Unfortunately I think that means that you're going to have to fix that. I think you have some discretion in the speed that you're going to do it, but I do think it's foundational to look at the definition of synthetic and CSL is one of those. I hope that answers it.

CHAIR MIEDEMA: Any other questions? All right, thank you.
MS. HOODES: Thanks.

CHAIR MIEDEMA: Next up is Gary Middleton. Scott Doughty is standing by.

MR. MIDDLETON: Good afternoon.

My name is Gary Middleton and I am both an owner and grower of Middleton Organic Orchards. I also represent Small Organic Tree Fruit Growers of the Northwest. We have a 100-acre family orchard in which we grow organic apples, cherries and blueberries. At issue is our 16-acre block of Gala. Over the past five to seven years fire blight has decimated between five and six acres throughout this block. This represents an annual revenue loss of $75,000 to $90,000. Without oxytetracycline available there is no doubt whatsoever those numbers would have been substantially higher. This year we replanted the missing trees in order to fill the blocks since the growing costs were the same per acre irregardless. We were not expecting our only viable product to sunset. This is
detrimental. We have replanted a somewhat resistant root stock Bud 9 trees with marginal success. The one root stock that is resistant to fire blight is the Geneva type root stock. However, after much research and speaking to several prominent nurseries I was informed that these trees would not be available for several years. It's important to note that not all varieties of apples are susceptible to fire blight. Pink Lady, Gala, Jazz, Honeycrisp and Fuji are susceptible, especially along the dwarfing root stocks. There would not be widespread usage of oxytetracycline as these represent only a few of the many varieties grown. We have utilized bacteria control such as BlightBan and BloomTime, but once again the results were unsuccessful. Two other products have been suggested are paretic acid with an FSC of 32 to 40 percent and pseudomonas with about 50 percent FSC. Neither one is acceptable. I would be hard pressed to find any one person
in this room would be willing to accept these percentages in their annual income. The orchard is consistently being monitored on fire blight as necessary. Meantime this entire tree becomes infected. It's not uncommon for the adjoining trees to be infected as well. We utilize the WSU Cougar Blight model to ensure that antibiotics are applied only when the infection is high to extreme. The infection period primarily occurs during bloom time. However, fire blight carries throughout the entire season. Without products such as Mycoshield it's highly probable that our entire Gala block would need to be destroyed or grown conventionally and that is not acceptable. Like other orchards, we are looking forward to having more products available for combating fire blight. However, until that time comes our primary tool is oxytetracycline. The aforementioned susceptible varieties are consumer-driven and will be grown somewhere
else. Who is willing to give us market share
to foreign nations? I am not. And if so, who
will be enforcing the products that they use
or might be using? Statements such as "Go
back to fire blight-resistant varieties" is
simply absurd. We have a block of Golden
Delicious apples and it's a financial
challenge for profitability. It is our
request that the NOSB remove the expiration
date for tetracycline and reinstate this
product until a transitional equivalent
product has been identified for usage as the
removal of this product will result in
ramifications that will result in greater
hardships for a small family farm. Thank you.

CHAIR MIEDEMA: Thank you very
much. I see a couple of questions. Let's
start here with Nick.

MR. MARAVELL: I have two
questions. First, do you have sufficient
information that would make you feel
comfortable using the alternative root stock
Geneva in your operation? In other words, do you have enough information that, you know, you would willingly adopt that? If it were available. All right. And then the second part of that is how would you integrate that into your operation. In other words, how would you integrate that root stock.

MR. MIDDLETON: Well, let me just say briefly that the reason we waited to replant all these blank spots at our orchards, we were waiting for the Geneva root stock and my feelings as far as my research and other researchers can speak more to this, but it certainly has fire blight and replant resistant qualities that I am seeking. I have not found anything that's even closely resembles that. The problem is is again it's hard to propagate the nurseries and so I've been waiting for like five years and it's still not available. They said it's still five years out. And your second part?

MR. MARAVELL: The second part is
what would you actually do? In other words, if that root stock were available today how would you integrate that into your operation?

MR. MIDDLETON: Probably as I had additional mortality and I certainly would have replanted the ones - 1,800 trees I just replanted. But as the mortality continues because it probably is in some of those that are infected because it actually truly infects the entire tree and it takes time for it to die, I would implement that root stock into the plantings that I have now.

CHAIR MIEDEMA: Okay. Barry and then Jay and then Katrina.

MR. FLAMM: Thank you. I have a double-barreled question. First of all, you mentioned that you would see an individual tree infected and then it would spread throughout the orchard. My first question is what actions do you take with an individual tree? Like do you do any culture. And the second question is did you place an order at
a nursery for your variety to be grown on
Geneva root stock.

MR. MIDDLETON: Yes, I have placed
an order with some of the premier nurseries
here in the Northwest. I won't utilize the
names, I don't think it's appropriate, but one
of the things what we do is we - each day we
go out and scout the block for strikes,
especially after bloom period because that's
when it's most susceptible. What we will do
is we will go out there and physically cut
that strike out, sterilize not only the
pruners but also the strike itself and then
gingerly move that out of that canopy of that
tree so it doesn't touch other parts and
become infected. Then it's taken to the edge
of the field or to another location and it's
physically burned. One of the things we've
found over time now is that as those become
more predominant, if we get more, say a
multitude of strikes in there that somehow
we've missed them, then we just simply pull
the tree out because it's going to die anyway.

CHAIR MIEDEMA: Jay.

MR. FELDMAN: I forget how long you said you were - you've been farming.

MR. MIDDLETON: I've been farming 36 years.

MR. FELDMAN: Thirty-six years.

So you've gone through the transition of variety. You went from - what varieties did you transition from and could you give us some insight into the decision-making process when you did that?

MR. MIDDLETON: When I - I've been farming for 36 years. I've been an orchardist for 15. When I first started growing orchard I planted Golden Delicious, Granny Smith and Gala. And as time has progressed obviously the demand for the Golds and the Granny's has been diminished substantially. And as - it's consumer-driven which means that basically you know nobody drives a horse and buggy anymore, we all drive cars because that's what people
want. And so as the industry has changed I haven't had the ability to change all my varieties out. I would like to take the Golden Delicious out but it's not economically feasible for me at this time. But I'm looking at something that will potentially return some profitability to this family farm.

CHAIR MIEDEMA: Katrina.

MS. HEINZE: My question is about streptomycin. We've heard a considerable amount of public comment on tetracycline, but we also have a sunset renewal for streptomycin and I was wondering if you could comment on the need for that material.

MR. MIDDLETON: I won't comment extensively because I'm not a researcher, but I do know that it has developed resistance here in the Northwest. And oxytetracycline or tetracycline is a softer product. But I'd hate to take a researcher's position on that, so that's how I'll answer that.

CHAIR MIEDEMA: Any other
questions? Thank you.

MR. MIDDLETON: Thank you.

CHAIR MIEDEMA: Next up is Scott Doughty and then standing by, Paolo Bonetti. Scott - doesn't look like Scott is here. Okay. Paolo. And then standing by is Steve Pierce.

MR. BONETTI: Hello, my name is Paolo Bonetti from Organic Vintners. Thank you for allowing me to present our petition to amend the annotation in organic wine-labeling. This label you see here was issued by the TTB and NOP in June 2009 in an effort to clarify confusion over wine-labeling. Has anyone seen this new organic category? Under NOP regs 205.301(f)(7) there's a basic, fundamental longstanding principle that one cannot mix organic and non-organic forms of the same ingredients. Next slide. Simultaneously, Canada passed its own organic regulations adopting most NOP regulations except those in wine. In Canada, Australia and New Zealand,
organic wines with added sulfites are called organic wines as they should be.

How has this impacted the U.S. market? The negative results were quite vast. I have a few examples. How is a consumer supposed to know that a wine made with organic grapes is 100 percent organic because it does not have the USDA seal and because it does not say organic wine? Slide 3, please. Organic milk I was told commands 40 percent premium at the farm. And even though wines made with organic grapes consistently rate higher than their conventional counterparts, bulk organic wine grapes actually have a negative premium of 7 percent. Slide 4, please. As a result, rampant greenwashing has emerged. Winemakers tend to use anything but the USDA seal. Look at the list of logos consumers are faced with. Okay? The California Sustainable Wine-Growing Alliance actually allows for the use of Round-up and sophisticated retailers are even confused and they're calling their organic
wine sections "sustainable" or "eco-friendly."

They don't call it eco-friendly milk, do they?

And the next slide, please.

The growth of our industry - this is the most important part - has been completely stunned. Although organic products on average enjoy a healthy 3.5 percent market share in the food segment while organic wine according to Ms. LaRocca's testimony this morning is up to 0.1 percent of U.S. wine sales, lagging behind by a whopping 35 times the average. Next slide, please. It took an act of Congress, the Boxer-McConnell Amendment to the OFPA in 2000 to allow sulfites in organic wine. I believe that the intention and the spirit of this amendment was to make organic wine a competitive and healthy category in the organic industry, rather than putting us in a "made with" box. The "made with" experiment protecting a single handful of domestic wine producers has clearly been a failure and it's time to make change for the
benefit of the entire industry and for consumers who simply want organic wine without harmful pesticides and herbicides. Next slide, please.

The legal solution is a petition which was accepted by your board last July. Please consider deleting the annotation for sulfur dioxide on the national list. Next slide. I quote, thanks to sulfites, the organic industry - excuse me, the wine industry is being excluded from the organic market niche and penalized for something without which it cannot make a long-lasting product. Dr. Waterhouse will be speaking on this issue at 5:05 p.m. Any questions?

CHAIR MIEDEMA: Thank you.

MR. BONETTI: Thank you.

CHAIR MIEDEMA: Steve Pierce. And -

MR. PIERCE: Good afternoon. I -

CHAIR MIEDEMA: Just a moment, sir. Thank you. Scott Rode standing by.
Please proceed.

MR. PIERCE: I passed out handouts earlier that I do not think - they're coming to you right now. If you'll turn to page 2 of those it has the slides that I'm getting ready to show. Three minutes is not a lot of time so let's start moving. Number one, the act is the law. Let's go with reality here. It says that the national list may be provided the use of certain substances for organic farming or handling that would otherwise be prohibited according to the chapter if the Secretary determines that the use is necessary, blah, blah, blah, because of the unavailability of wholly natural substitute products. In 2007 I spoke before this board and I let you guys know that there was a wholly natural substitute commercially available in the marketplace. And oh by the way it is certified organic and it is certified 100 percent organic. In that same year as you can see kind of along the bottom it says that the
Missouri delegation, senators and representatives, sent a letter to the Secretary of Agriculture checking and kind of indicating that he seemed to be out of compliance with the act on the 2007 re-listing of silicone dioxide. Next slide, please. Six weeks ago the committee - or the Handling Committee requested information from processors on this exact subject. Here's the chart that I submitted then. I submit it again to you today talking about the six categories. I don't know why my pointer's not pointing. The six categories that are relevant to the recent TAP review on silicone dioxide. Please note in there that the wholly natural substitute does work in the first four areas, one is being tested. Number five is one we said that the de-foamer. We are not claiming to work in that area. Notice that there are other items on the national list, both anti-caking and filtration aid. Next slide.
Looking at the public comments and
I was amazed to hear the committee mention
this morning that we now need more public
comments. We've had three to five public
comments over the last two years. Here's how
they break down. The last 28 comments came
from processors. Next slide, please. If you
look at those you can see where you've got a
column on the left saying remove it, a column
on the right that says keep it.

What ingredients go into an item
is personally confidential. The only people
that know exactly what's going into the items
are the certifiers and the manufacturers. In
order to give some insight to the committee
and the board I gave two pages of information
that's publicly on the website that talks
about the listing of the wholly natural
alternative that is being used commercially as
a replacer to silicone dioxide. We export
this product to probably 18 or 20 countries
around the world and we are selling across the
United States both natural and organic. Originally this product came out as only organic. Next slide, please. We had some natural food companies that were buying the organic version just because they did not want silicone dioxide in their food items. Solution to this to try to bring justice back into balance. One, I told you what the act said. I didn't write it, I'm just trying to comply with it and would request that you do the same. When a wholly natural substitute is available the synthetics aren't supposed to be there. Bottom line, please comply with the act.

Next slide if I may where I ask two questions of the board. Disappointed in the agenda change. We're not voting on this, we're simply discussing. What information are you seeking that you haven't received? I'm here ready, willing and able to communicate. Allegedly we're supposed to communicate through the NOP. Nobody's asked me a single
question about this issue over the last year
and a half since we petitioned.

CHAIR MIEDEMA: Katrina.

MS. HEINZE: You are proposing
that we change the annotation to silicone
dioxide only as a de-foamer. Could you speak
to filtering aid? I see in the data that you
provided that the wholly natural substitute is
being tested as a filter aid and we did - I
like your summaries by the way - and we did
receive public comment that we needed to re-
list silicone dioxide as a filtering aid. So
I'm wondering why you didn't include that in
your recommended annotation.

MR. PIERCE: It's one of the items
that is being tested right now, mainly looking
at the beer industry. I spoke with someone
this morning that's using it in another
product and process. They are using
diatomaceous earth which is approved. They
said they don't use silicone dioxide
specifically. Not necessary there. Work has
been done in the reduction of the cloudiness in beer, the filtration aid that silicone dioxide is typically used for. They had used whole rice, the hulls, the bran and the white portion of the rice. What the wholly natural alternative is is the rice hull. Where the whole grain rice worked and worked properly and effectively in that capacity scientists told me, or some scientists have told me that it would have been the hull that was acting as that filtration aid to cause the proteins to precipitate out. We are now in contact with some beer manufacturers providing samples to them, asking them to do some testing so that we can come back and say we're not just testing, we would like to find out what does industry need and how do we make that happen with compliance with the act.

CHAIR MIEDEMA: Katrina.

MS. HEINZE: So today it's not an alternative for a filtering aid, did I understand that correctly? It's in the
process, but today it's not.

MR. PIERCE: If we were voting
today I would say no.

MS. HEINZE: Okay, thank you.

CHAIR MIEDEMA: Jay.

MR. FELDMAN: I have several
questions. I'm going to have to ask them all
up front unfortunately. But I'm interested
for you to reiterate, please, what uses you
feel you have a commercially viable
alternative for in the non-synthetic form.

I'm interested in knowing whether you feel you
had an adequate hearing before the decision-
making process at the committee level and what
could have contributed to better information
getting to the committee quicker. Did you not
know what was going on? Did you feel excluded
from some conversation? What could have
facilitated a more - a quicker access to the
decision-making process. Three, what impact

has this lack of a decision had on your
business and the opportunity to improve
commercialization of your product and I'll leave it at that. Thank you.

MR. PIERCE: Three good questions and I'll hit them quickly. Slide number two that I showed showed the six areas where the product is viable. One we're in testing on the filtration aid. Again, I would vote no on that today if we were voting. The anti-foaming I'd say no, it doesn't work. The other areas, I'm not claiming that it works. I will say we've got commercial product on the shelves using it today in the other four areas, the anti-caking, the flavor carrier, the tableting aid, the four items that are listed there.

Your second question was did we receive an adequate hearing? I think there's been good dialogue. I want to say maybe the system's a little bit broken or we've only got three wheels on the cart. Never has there been any dialogue and one of my questions that I asked at the end is what would the committee
like to hear that they haven't heard. The
definition of insanity is doing the same thing
over and over and expecting different results.
If there's something that they're seeking let
us know what it is. Every letter I've sent,
and I've sent letters to the NOP as well as
public comments every time it's come open. If
you need additional information let us know.
If we're supposed to facilitate through the
NOP, happy to do it. Let's do a conference
call with the stakeholders or the lead person
- that's a new word I learned today - the lead
person on the Handling Committee that's
dealing with this. Let's get the facts on the
table because I've got nothing to hide. But
all I have done is responded to public comment
and I'm shooting in the dark which I think is
a time-killer.

Third one, impact from no
decision. I think it's American jobs. I
think it's the lack of rewarding American
ingenuity, farming creativity. You've got a
synthetic on the list, some small company out in the middle of St. Louis comes up with a way to use a byproduct from the rice industry, finds it, identifies it, makes it commercially available. We didn't wait on anybody. In 2007 we started selling. We're competing with silicone dioxide. Hey, guess what? We've got a list of probably well over a hundred plus customers in probably 20 different countries that are using this product. It's cost us American agricultural exports which I know is one of the President's highlights. Forty percent of our product is exported. Europe, Australia, New Zealand, all across North America, Korea, we're shipping these products everywhere. If it were - if the committee did take action as we've proposed all of the countries that are producing products to export back to the U.S. with the organic logo on it, if silicone dioxide were outlawed the rice concentrate would be a part of it and that would be more food that we're shipping.
overseas to ultimately come back raising more 
jobs, more demand, more good for the economy.
Thank you and I'm sure I've gone over the two 
minutes.

CHAIR MIEDEMA: Any further 
questions? Thank you.

MR. PIERCE: Thank you.

CHAIR MIEDEMA: Next up is Scott 
Rode. A few more cancellations it looks like.
Okay. Edward Maltbe, you are up at the podium 
and Ashley Swaffar is standing by. Ashley, 
are you in the room? Okay, thank you.

MR. MALTBE: Good afternoon.
Sorry about my voice. Ed Maltbe, executive 
director of Northeast Organic Dairy Producers 
Alliance and coordinator for the Federation of 
Organic Dairy Farmers which is a national 
association of dairy producers. It's always 
good when there's another industry marveling 
at the benefits of dairy. I drink a lot of 
wine as well so, but at least the wine 
industry doesn't have animal welfare. Except
if - who you get to stomp your grapes. We do
get serious sometimes.

From the point of view of the
recommendation to the Livestock Committee we
would ask that you don't bring them to a vote
right now but combine them with the
recommendations for your fall meeting. We
support the need for transparency,
accountability when considering the welfare of
livestock that are entrusted to our care. We
strongly believe that the organic welfare
guidance and standards must be sensible, based
on reasonable regulations and are determined
by the realities of good farming, good
husbandry, grazing, natural animal behavior
and natural healing. We also are facing a
crisis within farming, organic dairy farming
especially, of excessive regulation. The
number of dairy - organic dairies who are no
longer organic because of excessive regulation
is increasing. We are seeing a loss of
organic farmers partly through the
profitability side but also the increasing
regulation. My extensive comments, 20 pages,
are all posted.

From the point of view of the
stocking rate chart we've come up with three
different criteria that we would like to use
going back to the 2009 recommendations to the
committee. During non-grazing season or
during times of temporary confinement the
following space should be provided for dairy
livestock in confined housing free stalls, tie
stalls. At least one stall must be provided
for each animal in the facility at any given
time. The size of the stall must be enough to
meet the requirement of herd health or the
herd health plan, recognizing the different
requirements of different breeds, stage of
lactation and the age of livestock.
Operations - secondly, operations can make a
choice to have some or all of their livestock
out wintered or not housed or not in an
outside run or pen during non-grazing season
so long as livestock has adequate shelter, clean water for drinking and direct sunlight suitable to the species' stage of life, the climate and the environment. Thirdly, in loose housing bedding packs, dry lots, coveralls, the following table which was within the recommendation can be used.

Quickly moving on to the - straight on to the - oh the requirement to have certification of transporters. We feel that that would unfairly be an unfair burden on small- to mid-size operations that transport a small number of animals at a time. Simply having the animal separated within the livestock trailer and then the trailer cleaned out at the end should be sufficient.

CHAIR MIEDEMA: Ed, that's your three minutes. Any questions for Ed Maltbe? Nick.

MR. MARAVELL: Ed, I don't know - I haven't reached your 20-page statement yet so it might -
MR. MALTBE: I'm not sure if I can answer your question then. Go ahead, sorry.

MR. MARAVELL: You mentioned some reservation about excessive regulation on dairy farmers. Could you just give us - and you were indicating that perhaps some dairy farmers were leaving organic production. Did I understand that correctly?

MR. MALTBE: Yes, that's correct.

MR. MARAVELL: And I don't know if also you feel that it's getting harder to attract dairy farmers into organic production. But I was wondering if you could just give us one or two anecdotal or concrete examples of the excessive regulation and how that impacts the dairy farmer. Just so we have something that we can keep in our mind.

MR. MALTBE: I can give you two specific areas. Recently we did a survey of all our members and one of the - about 90 percent of the comments that came back in answer to "What is your significant time
burden?" is regulations, filling out the forms and the fact there isn't one standard form from every certifier. Every certifier has a different form, different requirements and depending on the qualification of the inspector then the interpretation of the different requirements will be varied and some require more paperwork, some require less. It takes up a significant amount of time after a very busy 10- or 12-hour day. Anecdotally it's - from the amount of questions I've had in the last three months, you know, what is our return for this amount of work, for this amount of regulation. Why don't we get more back in the marketplace? How much more regulation is going to be forced upon us in order to continue doing our farming?

CHAIR MIEDEMA: Any other questions? Thank you. Next up is Ashley Swaffar. Erin Moore is standing by. Erin, are you here? All right. Bob Anderson, standing by.
MS. SWAFFAR: Good afternoon. My name is Ashley Swaffar and I'm the quality assurance manager for Arkansas Egg Company and we manage around 200,000 organic laying hens. The Livestock Committee has proposed recommendations for animal handling, transport and slaughter, and I would like to point out a few topics in which I feel they have grouped all species of livestock and it should not apply to poultry.

Transport conditions. Bedding provided as needed should not apply to poultry due to the fact they are moved in coops or racked and it would be very impractical for poultry producers. Transport time exceeding 12 hours requiring feed, water and time for rest. Many hatcheries are more than 12 hours away from any producers. On longer trips from the hatchery the chicks are provided nutritional gel supplements and arrive with very low DOA counts. We are only nine hours away from our hatchery. But if we were to buy
pullets from a producer in Wisconsin like we've done in the past the driver would have to stop 30 minutes away from our farm and feed and water the pullets. And it would be very impossible to feed and water the pullets due to the size of the coops and racks. And when dealing with spent hens, processing plants require a feed withdrawal time of 8 to 12 hours. If you stopped one hour away from the plant to feed and water your chickens you would have to let the chickens set on the truck another 8 to 12 hours to let the feed pass through the bird before being unloaded for processing.

Certification of transporters. It is the NOSB's intention that the transport operators would need to be certified in order to transport organic livestock. The transportation company we use had this to say. This would put a hurt on all trucking companies with a significant rise in cost to the producer. So I ask why would a trucking
company need to be certified organic if all
they did was truck the bird. This would be
like certifying a tractor to cut hay. Fitness
for transport. This section should be clearly
defined as a slaughter only section. It could
be easily misinterpreted on this section less
than 48 hours old to possibly include any
animal no matter where the destination cannot
be transported less than 48 hours of age.

On the animal welfare proposed
recommendation, pullet outdoor access should
not be granted until pullets receive all their
necessary - or all their recommended
vaccinations. We do not finish giving our
vaccinations until arrival at the lay house.
The reason for such late vaccination is to
ensure immunity through the entire life of a
hen against diseases such as fowl cholera,
salmonella enteritidis and E. coli which can
be detrimental to the hen resulting in loss of
production and ultimately loss of the hen.
Thank you for your time. Any questions?
CHAIR MIEDEMA: Thank you very much. Laura, I see you coming up to the podium.

MS. BATCHA: I'm not Bob Anderson, but my colleague Bob Anderson and I have swapped spots and Lisa's made the change. You'll be hearing from Bob on Thursday, so.

CHAIR MIEDEMA: Thank you.

MS. BATCHA: Thanks for your flexibility. So good afternoon. I'm Laura Batcha with the Organic Trade Association and I first wanted to introduce OTA to some of the new board members. We're a membership-based business association for organic agriculture and products in North America and our membership is as diverse as the sector itself. We have over 1,200 members representing over 6,500 certified operations in 49 states across the country. Our board of directors is democratically elected by the membership, one vote per member.

The first thing I want to do is
make the board aware of our comments regarding
a suggested annotation change for lignin sulfonate. We're passing that around and it's
a topic that Bob Anderson is going to speak to you all on Thursday about. It has to do with international trade barriers. But given that the committee will have their discussions tomorrow we just wanted to make sure it was available to you before your deliberations and he'll elaborate more on that on Thursday.

The second area that I want to focus on right now is nutrient vitamins and minerals in the 2012 sunset recommendation. OTA fully supports the continued allowance for vitamins and minerals in NOP-certified organic foods. We support the 1995 NOSB endorsement of accessory nutrients and we support the national list process and the statutory authority of the board to review materials for inclusion on the national list. Our written comments that we submitted to you all include data supporting the consumers' acceptance of
and desire for fortified organic foods and I encourage you to take a look at that data in the written comments we've already submitted. So the heart of this is that in addition to voting on the re-listing of the nutrient vitamins and minerals per the status quo annotation which we urge you to do at this meeting, OTA requests that the board consider voting at this meeting as well on a clarified annotation that creates a clear and transparent list of materials allowed for use in the fortification of organic foods. As we stated in our written comments, we support the following annotation. Vitamins and minerals identified as essential in 21 CFR 101.9 or as required for infant formula by 21 CFR 107.100 or 107.10. Unlike the current reference to 21 CFR 104.2, this proposed annotation change represents all of the essential nutrients that were included in the 1995 TAP reviews. In addition, it includes several minerals the FDA has codified as essential since that time. We
believe it's certifiable and enforceable and as demonstrated by the public comment today it has broad support across the organic community as well as the support of the program and apparently the FDA based on this morning's presentation. So we respectfully ask that the board consider getting this vote done at this meeting.

Beyond the sunset 2012 decision, OTA is fully in support of the use of an allowance for accessory nutrients in NOP-certified organic products.

CHAIR MIEDEMA: Laura, that's your three minutes.

MS. BATCHA: Is that three minutes? Okay.

CHAIR MIEDEMA: It went fast. Any questions for Laura Batcha?

MS. BATCHA: No questions.

CHAIR MIEDEMA: Thank you very much.

MS. BATCHA: Okay.

MS. SMITH: I'm not Jennifer, I'm Kyla. Okay, so - and I'm also not going to be speaking about GMOs. That's an error. Okay, so good afternoon. My name is Kyla Smith and I am the policy director at Pennsylvania Certified Organic. I am here to give voice to our tree fruit producers regarding the Crops Committee's recommendation to not re-list streptomycin for the use of fire blight control in apples and pears. I will also only be speaking about streptomycin because more of our producers grow apples and tetracycline is not labeled for use on apples in Pennsylvania. And just to be clear, Pennsylvania Certified Organic is not taking a position one way or another on this material. I am simply conveying the opinions of our producers.

Most of our producers have
indicated that they do use other means to fight fire blight such as planting resistant varieties in order to not have to rely only on the use of antibiotics in their organic system plans. It should also be noted that most of our farmers do not apply streptomycin willy-nilly in their orchards. However, due to the somewhat mysterious disease they do use this material when models indicate a severe infection is probable in an effort to save their orchards. It was stated in many written comments that more research should be done by the USDA through its research programs and the NOP to help producers find alternatives to antibiotics in treating this disease in plants. Our producers agree with these sentiments. As other commenters have indicated this research is under way but has yet to result in a viable commercially available alternative. Many of our producers have indicated that if this backup tool is not available to them they will likely have to
begrudgingly give up organic production as to
not face the alternative of losing their
livelihood in order to preserve their organic
certification. And I'll just end by thanking
you all for all of your time to address not
only this difficult issue but all of the
important issues on the docket. Thank you.

CHAIR MIEDEMA: Thank you, Kyla.

Questions? All right. Thanks very much.

Okay, Jennifer Hillman? All right, next up
then is John Hyer. Next up after John, it
looks like he's not here, Katharine Rode.

Lots of cancellations today. Next up will be
Lynn Coody and Marty Mesh standing by.

MS. COODY: Hello all. My name is
Lynn Coody and today I'm presenting testimony
on behalf of National Organic Coalition. And
my testimony is on limited use of antibiotics
for fire blight. In principle NOC is opposed
to the ongoing use of antibiotics in organic
agriculture. However, while NOC applauds the
Crop Committee's recommendation of a complete
prohibition, after consultation with multiple stakeholders NOC proposes a plan for limited continued use of antibiotics for controlling fire blight. Specifically, NOC proposes a time-limited extension for the use of antibiotics coupled with an immediate restriction of the materials' use. In addition, NOC proposes a series of policies designed to mitigate difficulties related to the eventual prohibition of antibiotics. NOC's plan has four main points. I'll be discussing three of them and my colleague Steve Etka will take the fourth.

So the first point I'd like to bring up is we urge the NOSB to include an annotation on the national list for both antibiotic materials that includes two topics. The first is extending the period of use for both antibiotic materials for three years until January 2014 so that tree fruit growers have a chance to gain experience with using the new protectant products that are being
developed and to begin planting root stocks
and varieties that are resistant to fire
blight. Secondly, we urge the annotation to
restrict antibiotics - the use of antibiotics
to cases in which the grower has implemented
both monitoring and management practices
consistent with NOP's pest control hierarchy
in section 205.206 that includes choices of
appropriate varieties for, quote, "resistance
to prevalent diseases" unquote.

Point two of NOC's plan is for the
NOP to provide guidance to be implemented at
every level of NOP's oversight system which
would include providing detailed requirements
for phasing out antibiotics. For operators,
NOP would specify specific information that
must be included in operators' OSPs to
demonstrate good faith, comprehensive efforts
to comply with the pest control hierarchy
designed to prevent or limit use of
antibiotics. For certifiers, the guidance
would include requirements to increase
verification of efforts by growers to prevent
or limit use of antibiotics for controlling
fire blight and within its accreditation
system NOP would provide instructions to
auditors for increased assessment of
certifiers' efforts to oversee implementation
of section 206 by growers. For example,
through auditors choosing tree fruit
operations for file checks and witness audits
during their visits to certification bodies.

    The third point I'd like to
address is a fire blight task force. NOC
proposes that during this additional period in
which antibiotics would be allowed that the
NOSB convene a fire blight task force that
would include participants from the industry
as well as agricultural resources and that the
task force would report annually in person to
the NOSB. And we gave a bunch of information
about the topics, et cetera, in our written
comments. That's it, thank you.

    CHAIR MIEDEMA: Thank you, Lynn.
Any questions for Lynn Coody? We'll start with John Foster, then Jay Feldman, then Nick Maravell.

MR. FOSTER: Thanks, Lynn. Do you - when you were proposing kind of the annotation that included mandatory preventative and monitoring functions.

MS. COODY: Yes.

MR. FOSTER: Do you have personal knowledge of anyone not doing that right now?

MS. COODY: I think that most growers are doing that now as far as the growers that I know about. Of course, I'm from the Pacific Northwest where we already have a very difficult problem with the resistance of fire blight bacteria to streptomycin. That's already been reduced, you know, it's been taken out of our toolbox so now it's very - we have to use Terramycin very carefully. So I think most growers that I'm aware of personally are using those things. What's not happening though is the
use specifically of the varieties that are resistant to fire blight. The industry has generally moved away from that and I feel that it's not - that is an area where the certification bodies as well as operators and the accreditation body could be implementing the pest control hierarchy more successfully.

CHAIR MIEDEMA: John with a follow-up question.

MR. FOSTER: How did you arrive at the date you propose? What is - is there science there and if so, what is it?

MS. COODY: No, not really science. What it is is before it would be sunsetting again. We went through a bunch of different scenarios. It's - there have been - we didn't want it to go out five years because that's basically sunsetting again. We wanted it to be a restriction, a further restriction as we stated on the process. So basically it's a policy decision as opposed to a scientific one.
MR. FOSTER: Thank you.

MS. COODY: You're welcome, John.

CHAIR MIEDEMA: Next up, Jay.

MR. FELDMAN: Thanks, Lynn. As you know - well, tell us what you know.

MS. COODY: Everything that I know?

MR. FELDMAN: Tell us everything. You have three minutes or two minutes. I'm trying to present this as a question.

MS. COODY: Okay, go for it. It's like Jeopardy.

MR. FELDMAN: Yes. The issue of consumer expectation is - how deep is that in the statute? The report language and the statutory history on OFPA. How deep is the consumer expectation which we haven't heard much about, but I know NOC has consumer groups in its membership. How deep is that consumer expectation issue in terms of our decision-making process here and how do you reconcile public expectation, what some people have
discussed as public expectation on the use of this, including Maria Rodale's book Organic Manifesto which identifies no antibiotics used in organic production. How do we - those of us that are trying to bridge consumer-farmer interests, how do we reconcile the expectation issue here on no use of antibiotics in organic food production?

MS. COODY: Well, the issue of antibiotics in organic systems has certainly been controversial since we were writing the OFPA, you know, many years ago. I think that it's - there is provision for - obviously for use of these materials for many years because there hasn't been an alternative. What NOC is trying to do is to push the NOSB to move forward on a restriction so that it's not just the same thing over and over again, the same repeat of the sunset period similar to methionine. We're trying to propose kind of a compromise solution to move forward and to give, as Steve will speak about in a few
minutes, policy tools to help this be implemented. So we're trying to come to a compromise between concerns of consumers and the needs of farmers. And NOC did so after carefully listening to a number of different stakeholders over multiple meetings and trying to listen to everybody. So this is our best shot at a middle ground that could be workable and also move the industry forward.

CHAIR MIEDEMA: Thank you. And one more question.

MS. COODY: Oh, one more. Sorry.

CHAIR MIEDEMA: Nick Maravell.

MS. COODY: Nick, okay.

MR. MARAVELL: I'd like to find out a little bit more about the task force that you're talking about and maybe I could break it down into a few little questions so you get an idea of what my curiosity is about.

MS. COODY: Okay.

MR. MARAVELL: One is does - is this something that necessarily needs to be
convened by the NOSB because you're suggesting
that we convene such a task force. And I'm
going to say that have you considered that
that task force could be convened by the
industry as opposed to the NOSB. The second
question - well, maybe you can answer that.
Would that be?

MS. COODY: I think that there
already is kind of a de facto task force both
on the east side of the country, the west side
of the country and in the middle of
researchers and growers working together on
this problem for a long time. What's been
missing I feel, or one piece that's been
missing is the will of the USDA and the NOP to
really enforce or to support that with money
and with political will to really make this
happen. And again, this is Steve's thing to
talk about, not mine, so you can even ask him
more about that.

MR. MARAVELL: Well, then tell me
if my next question is more for Steve. You're
suggesting status reports to the NOSB.

MS. COODY: Yes, that's true.

MR. MARAVELL: And that might be helpful, but I would think that recommendations more broadly directed to USDA seems more of what you're talking about. And I was just wondering if that could be recast, that this task force might perhaps be recast to be oriented in that direction to influence a broader USDA policy. And then my final question is probably for Steve then is what are we talking about here in terms of necessary resources. Is there any handle on that?

MS. COODY: Well, if I can remember these questions. The first - one of the reasons we suggested this task force is that there is kind of a previous precedent for it with the methionine task force where they came and reported their progress. It was not only a good exercise for the producers and the researchers, it was also great for the NOSB to
be continually prodded to think about the
policy implications and gosh, now it's three
years, now it's two years, now it's one year,
uh oh, you know, you have to make a decision.
So for that reason we felt like it was
important for annual quick updates similar to
what Emily gave this morning about the inerts
process to come directly to the board.

You're really going to like what
Steve has to say because I think you're really
talking a lot about these policies that we're
proposing that are very specific and clear.
We've actually seen some places where funding
was actually considered but not given to a
project that was designed to help finding
alternatives for fire blight. So Steve will
be welcomed by you I'm sure. Okay, thanks so
much.

CHAIR MIEDEMA: Thank you, Lynn.
And after Marty we are going to take a short
recess.
MR. MESH: You could do that now if you want. Because I hadn't written the final draft. Don't start the clock yet. Okay. So, Marty Mesh. No time to say thanks to the program, welcome to the new board members and absolutely no time for humor. I started farming organically in '72, Bellevue Organic Gardens formed in '76, FOG we formed in 1987 as a non-profit and we operate QCS, a certification program that certifies nationally and internationally.

I'm increasingly concerned that the program in its strict yet sensible approach has lost the balance and needs to focus some more attention on the sensible side. We have revoked certification and pulled land out of organic production because of an innocent mistake that did not affect organic integrity, something certifiers would have never done before the National Organic Program and accreditation audits that don't think past regulatory words to the intent and
common sense, part of the NOP's instructions according to the auditors. A farmer whose kid gets sick and sends a worker to pick up and apply Bt could find their whole farm receiving a death sentence of the Bt is the wrong kind. Almost no farm can survive going back through transition, growing organically and selling conventionally again. Every responsible certifier has stories, inputs that have had a material used as an inert in an ingredient in another ingredient that ultimately could result in the whole herd of cows or the whole vegetable farm or the whole orchard losing its organic status. A sticker, an inert, there's plenty of examples. Let's look at willful violations, the severity, the intent and not issue farms death sentences because of an unintentional application.

The program needs a board recommendation I believe because they're running scared from what will happen if consumer and environmental organizations react
to it. But all the consumer and environmental organizations that I've talked to understand the issue and support some type of common sense approach. The use of requirements ISO 65 as a basis for certifiers to determine major and minor violations, maybe asking three or four questions. Does it affect the product integrity? Was it willful? Can it be fixed? And is it a repeat violation? There could be verification through the accreditation system.

The - so the non-organic okra status update is available upon questioning. I'd be happy to give it but I don't want to waste my time now. Oh, that's hard. The - I'm concerned how the program will interact with FDA's leafy green marketing association proposed rule that'll be put out this week. And NOP will have a seat at the table and whether or not they truly represent all organic leafy greens growers and the work being done by FDA relating to compost is on the table and will be heard soon I believe.
Business decisions based upon the NOP saying that you could certify organic shrimp and you know people implemented those business decisions are still being felt like the program itself was supposed to engage in expedited rulemaking. That was many years ago. All those farms are bankrupt now.

CHAIR MIEDEMA: Marty, we're at the 3-minute mark.

MR. MESH: I didn't even see the one minute. Sorry. Man. Well. So maybe we'd have the proxies now that we're ahead of schedule?

CHAIR MIEDEMA: Let's have that talk at the break. Anyone have a question for Marty Mesh?

MR. MESH: Like the organic okra thing, Katrina? I'm telling you.

CHAIR MIEDEMA: It's 3 o'clock on the button right now and we will take a 15-minute break and I see Lisa flagging me down here.
MS. AHRAMJIAN: If we skipped over anyone because you weren't in the room please come up and see me at the break and we'll insert you back into the list of speakers.

CHAIR MIEDEMA: Thanks, Lisa.

Okay, let's make it about 17 minutes after.

(Whereupon, the foregoing matter went off the record at 3:02 p.m. and resumed at 3:20 p.m.)

CHAIR MIEDEMA: We're back in session and I just broke the gavel. All right. A couple of announcements. If you missed your time slot earlier please do approach Lisa Ahramjian at the front table here and we'll get you shifted back into a spot. Right now we're about 45 minutes ahead of schedule which ties out pretty closely to the number of cancellations we've had today. So what we will do if we have a little time left over at the end of the day is we'll ask NOSB members to please stick around for some amount of time and allow for a first-ever
informal ability to visit with one another, ask questions of NOSB members directly. Something like that sound agreeable to folks here on the NOSB? Okay. All right. So we are going to go ahead and resume our public testimony and begin with - Lisa, would you mind scrolling down, please? Our first speaker is Matt O'Hare. And standing by, Jackie Bowen. Thank you.

MR. O'HARE: Hi, my name's Matt O'Hare with Vital Farms. We are made up of eight family farms raising laying hens on pasture for organic egg production. Our birds live outdoors. We have the - Lisa? You got my - stop the clocks. There we go. Wow, that's weird. Wrong color. You can go on to the next slide. Our birds live outdoors during daylight hours with indoor access instead of indoors with outdoor access. I'd like to start by dispelling the notion that 2 feet, 5 feet, even 20 square feet outdoor access per birds will allow for any vegetative
cover at all. It's been our experience that hens consuming approximately 20 square feet of pasture per bird, each bird will consume about 20 square feet of pasture each week. If left on the same 20 square feet that area will resemble a moonscape after between 5 and 14 days and will remain barren from that time forward. On this photo on the screen you'll see that the birds on the left, they consume 20 square feet per bird in about five days. There's pasture on the right is what it looked like five days earlier. The pasture - birds also have to be rotated frequently in order to stay in a vegetative - for the pasture to stay vegetative. This means that it takes at least 100 square feet to 400 square feet per bird outdoors to provide adequate pasture. Otherwise, either the birds - either they're not going outdoors at all or they're living on a barren moonscape. So in the terms of outdoor access that the Livestock Committee has proposed, we support any increase at all
in the fixed housing in the outdoor access standards, but we firmly believe that the proposals do not go far enough.

While outdoors, hens often interact with wild birds as nature intended. It's not natural or necessary to separate the two, especially if the hens are not living a stressed lifestyle from overcrowded factory farm conditions. Humans are more likely to get sick after spending just a few hours in a crowded airline than they are being outdoors in the fresh air. We ask the NOSB to ask the FDA to remove any wild bird separation requirements on outdoor areas. And the newly enacted egg law makes it pretty impossible.

The use of confined cages, including so-called aviary devices we believe should be forbidden by the NOSB if the birds are confined. Calculation of the square foot space should be the floor space only. And also for mobile poultry units used outdoors, these provide birds with a place to sleep only in a lot of
cases and with options for the birds to
instead sleep elsewhere. There should be no
minimum space requirement on these types of
structures.

Lastly, the NOSB, we hope that
they would enact some type of egg testing
program that would determine if a producer is
in fact producing and/or selling organic eggs
versus a mislabeled one as we've been hearing
a lot of lately. Such a program could
eliminate fraudulently sold eggs from entering
the market and could lead to legal action
against any producer who does so. Such cases
have arisen in the EU. A number of cases,
including a recent UK case where the violator
received a 3-year prison term and 3 million
pound fine. The EU takes adherence -

CHAIR MIEDEMA: Sorry.

MR. O'HARE: - to the organic
standards very seriously and we would hope
that this committee does as well. Thank you.

CHAIR MIEDEMA: Thank you. Any
questions? Thank you very much. Next up, Jackie Hodge.

MS. HODGE: Good afternoon. I'm here to talk yet again about antibiotics and fire blight. I'm here representing the Midwest Organic Tree Fruit Association. It's about 50 farmers that are working together to look at being able to continue to grow organically in the Midwest different tree fruits. I'm also representing my family's farm which is about 45 acres and we have about 50 varieties of apples along with strawberries, raspberries, blackberries, blueberries, plums, apricots, grapes, chickens, pigs, many things. We want to work with the NOSB to be sure that there's a balance between the challenges of developing and maintaining organic standards with the reality of farming tree fruits organically. One of the major challenges that you've been hearing about today is the bacterial disease called fire blight. There are horticultural
practices that can greatly reduce the risk of fire blight but if an infection occurs an antibiotic is currently the only cure. The Crops Committee has recommended that streptomycin, an antibiotic that we have used for fire blight infection, sunset and no longer be available for fire blight control in pears or apples.

The Organic Tree Fruit Association agrees with the Crop Committee that the use of antibiotics in tree fruit production should be phased out. We feel the integrity of organic fruit production requires this synthetic substance be limited and eventually - and the key word is eventually - be banned. The industry has had time to find alternatives and products to protect the trees and develop root stocks that are field immune to fire blight. Now we need the time to implement these new products and programs and get the resistant root stocks on the market. During this additional time we request that - we feel that
streptomycin should be used in only post infection curative applications. So what that means is we use the disease modeling but still only spray after a proven infection, not in anticipation of an infection. So the Organic Tree Fruit Association requests an annotation to the current streptomycin rule to limit the use of the antibiotic to post infection use only. We would like this limited use to be allowed for five years while growers learn to use the new protectant products and begin planting field immune root stocks.

The Crops Committee cited four issues in their recent decision to remove streptomycin. The first issue was evidence that streptomycin can contribute to antibiotic resistance in human pathogens when used as pesticides on a plant. Limiting the application to post infection will reduce the number of applications used to treat infections. Additional products are available and you've heard about those and that they're
getting close and we'll be able to use those. The choice of resistant root stocks was another point you made and they are available but really limited available and what we've had to do is order root stock and try to graft our own trees which then takes even longer to get into production. And fire blight resistant to streptomycin in some apple productions is widely found, so you've heard a lot from the West Coast producers. And in my area streptomycin works. I'm able to use a post infection spray rather than a preventative spray so I would prefer to use streptomycin. And so I guess I can end there because my three minutes is just about up.


MR. FELDMAN: Thank you. You heard the National Organic Coalition proposal for the transition, the 3-year.

MS. HODGE: I could live with that. In fact, we participated in some of
their conference calls related to the issues when she talked about the fact that there were people from the west and the east and in the middle, we were the ones in the middle.

MR. FELDMAN: Right. Thank you.

MS. HODGE: So that would be okay.

MR. FELDMAN: Thank you.

CHAIR MIEDEMA: Thank you. Next up is Steve Etka and Madelyn Rode is standing by.

MR. ETKA: Hello. My name is Steve Etka. I'm legislative -

CHAIR MIEDEMA: Steve, I'm sorry to interrupt. I need to make a correction.

MR. ETKA: You want Michael instead?

CHAIR MIEDEMA: Let's see. I'm going to go ahead and let you go. I just want to make sure the person who's on deck knows that they're on deck.

MR. ETKA: Okay.

CHAIR MIEDEMA: So Michael Sligh,
you are on deck. You in the room?

    MR. ETKA: He's right back there.

    CHAIR MIEDEMA: Okay. Thank you.

I'm sorry, please proceed.

    MR. ETKA: No problem. My name is Steve Etka. I'm legislative director for the National Organic Coalition. I want to build on the comments made earlier by my colleagues Liana Hoodes and Lynn Coody also on behalf of NOC. I'd like to argue that the situation in which we find ourselves in terms of the antibiotic use issue on tree fruit is a teachable moment for the organic community and that the NOSB is in a very influential position to help us learn from these mistakes and to prevent similar future mistakes.

    The question is how did we get as an organic community to a place where apple and pear growers have no alternatives but to use antibiotics in order to fight fire blight in spite of the strong concerns of consumers to the use of antibiotics in food production
because of the relationship with antibiotic resistance in humans. Organic is a demand-driven label and if we're not attentive to the concerns of consumers we threaten the integrity of the label and the growth of the industry. Fire blight is not new, consumer concerns about antibiotic use in food production is not new, the sunset process is not net and yet we're faced with this awful dilemma of either responding to consumer concerns or threatening the viability of organic apple and pear growers as if these problems had not been anticipated. There are things we can do to get ahead of these situations and there are things that USDA can do to help that process as well. For example, USDA has research funding focused specifically on organic agriculture whether it be the OREI program or the Organic Transition Program. USDA should be able to support research into alternative ways of treating fire blight. And yet we've heard that a proposal to OREI to
fund research on a yeast-based alternative was
turned down. And we also in the organic
community have been pushing USDA to fund
classical plant and animal breeding through
the AFRI research program to develop new
locally adapted cultivars for many crops and
yet USDA has been resistant and reluctant to
do this. USDA research funding should be able
to help in the process of breeding new
cultivars and root stock that are resistant to
fire blight. But NOSB's main role obviously
under the OFPA is to focus on materials, but
I believe your voice can be quite influential
at USDA as well in making recommendations in
areas where USDA research can have a positive
impact on the materials decisions that you all
are having to make.

Therefore, NOC is recommending
that the board write to the Secretary and urge
that USDA research programs such as OREI and
Organic Transitions Program and the AFRI
program be used to help find alternative
treatments for fire blight and to help develop
fire blight-resistant apples and pear
varieties. And since we'd be foolhardy to
think this situation will not repeat itself in
the future in the context of some other
disease or some other crop I hope that we can
all get ahead of the curve to see what similar
problems are coming down the pike and to work
with the industry and with USDA to give the
resources - to get the resources to breed and
release new resistant cultivars and to develop
natural treatments when the disease can't be
avoided.

CHAIR MIEDEMA: Thank you. Any
questions for Steve Etka? Jay and then Nick.

MR. FELDMAN: Thanks, Steve. I
have a question about the flip side of this is
the consumer side. And knowing USDA the way
you do what could USDA do to educate consumers
about their food choices and the impact they
have on the pressure that growers feel to grow
certain varieties? Is there anything that you
could creatively imagine a government could do
to combat what many have characterized to us
as a consumer-driven problem?

    MR. ETKA: Well, I think many
consumers would be surprised to know that
there are antibiotics being used on apples.
I think there's very much a big demand for the
Fuji and Gala varieties. But I think they're
also surprised to learn that growers don't
have any alternatives if they want to provide
those varieties in an organic way. I think
it's possible to use the OREI program or some
of these other research programs to try to
bring the consumer understanding and - and the
producer understanding together and to work
with consumer groups to try to get them to be
part of the solution in terms of pushing USDA
to help develop alternatives.

    CHAIR MIEDEMA: Nick?

    MR. MARAVELL: Steve, I'm trying
to get a handle on what level of resources
would be needed over the next five or ten
years to address this. And I know this is - you're not the research expert here, but have you heard of anything - or let me rephrase that somewhat differently. You and I have had some communication about how much USDA research is devoted to organic research right now. Are you suggesting that the additional effort would come out of those funds and what size do you see those funds and what would be an appropriate effort out of those funds? I'm trying to get a handle on how realistic is this in today's budget environment.

MR. ETKA: Well, I think it's very realistic because the organic community as a whole is making a point about fair share of research dollars going to organic and that's the big overall umbrella. What I'm talking about is related to that but much more specific in that the last farm bill within the AFRI program which is the big competitive grants research program at USDA, it's not organic-specific, it's overall umbrella, there
was a requirement that one of the priorities in that program be focused on development of new cultivars using classical breeding techniques. And USDA has really not done that. They've given some lip service to that but it has not resulted in any new cultivar development work. And that's exactly the type of situation that apple-growers are facing now is that they don't have the varieties. And we used to do a lot more research on developing locally adapted varieties that are continually evolving to get ahead of these diseases. And we're in the position now where we're behind the eight ball and it's as a result of the lack of funding. And what we're saying is prioritize these issues within the existing funding that's there and then additionally do more overall.

CHAIR MIEDEMA: All right, thank you very much. We are at our five minutes here.

MR. ETKA: Thanks.
CHAIR MIEDEMA: Is Jennifer here?

MR. MCEVOY: Sorry for the interruption. I'd like to introduce Jennifer Taylor, the new - newest I guess NOSB board member. So welcome, Jennifer, and thanks.

(Applause)

CHAIR MIEDEMA: Welcome, Jennifer.

You're catching us deep into day one. Thanks for being here and weathering your travels today. Earlier today we each went around the room and gave a very brief biologic - or biographical - whoa. Biographical introduction, just a, you know, a minute or so. Would you mind introducing yourself?

Thank you.

MS. TAYLOR: Hello. Thank you so very much for the opportunity to become a member of the National Organic Standards Board. Thank you so much. And thank you for the opportunity to work with you and to serve you as well. My name is Jennifer Taylor. I'm from Florida A&M University. I'm coordinator
of Small Farm Programs at Florida A&M University.

CHAIR MIEDEMA: Thank you. All right.

(Applause)

CHAIR MIEDEMA: Let's go ahead with our public testimony. Next up is Michael Sligh and we have John Hyer standing by.

MR. SLIGH: I'm a southern boy so I get a little more time, is that right? We talk slower. A couple of you agree. Thank you for this opportunity. I sat in your chair in the last century, 1992, and I wish to both thank you for answering this call to service and to help the organic community. I know well the sacrifices that you make in doing so.

We've just celebrated the twentieth anniversary of the Organic Foods Production Act. I thought I would use this milestone as an opportunity for us to all remember why this board is so unique and what
ourselves in. Why is this law the way it is and what is our duty and where does it lie? We are a citizens board with the duty of being stewards and guardians of organic integrity. The NOSB and the OFPA Act are indeed unique on purpose because of a very lively public debate we had during the legislative process in the late 1980s on how to create checks and balances to prevent any one segment of the community from dominating, how to keep the NOP from running wild, how would we have a partnership that was both public and private that did not reinvent the wheel but actually steered off this largest organic community in terms of its needs and draws on its wisdom. You need to maximize your transparency and sunshine, and you need to get ahead of the curve. The longer the window of public access to comment and longer window you have of deliberations, the better the outcome. I strongly urge you to make public the committee deliberations, your committee recommendations,
your TAP reviews, your TRs, get that out there, make it public in a timely manner.

You also need to publicly declare and formally check for any conflicts of interest prior to you voting on any materials. You're here to ensure the continuous quality improvement of organic and to grow the market, but you can't get lost in the weeds. You must ground your decisions and your debates around the principles of organic. We are here to promote this and to create this safe haven for consumers, for farmers, for handlers who want a healthy, sane alternative. Your debate must be grounded in this bigger context. Don't vote any material if you don't have a full TAP, if all your criteria haven't been fully answered. This is your touchstone to look at this system of sustainable agriculture. That's one of the most important criteria. That's really your touchstone when you get lost, you know, is it compatible. We're not here to generate a random list of materials or
inputs, but to create a rational appropriate system that is the sane alternative to agribusiness as usual. To be clear, the NOSB does have the sole responsibility for adding materials, but the NOP can also take it away if you get it wrong.

CHAIR MIEDEMA: Michael? Thank you.

MR. SLIGH: Use both. So -

CHAIR MIEDEMA: Does anyone have a question for Mr. Sligh? Jay Feldman.

MR. FELDMAN: Michael, just a little more detail on what you're recommending on the disclosure, you know, conflict of interest disclosure. What's the mechanics of that and how should it be -

MR. SLIGH: Well, you have it in your policy but you need to actualize it in the public domain, in the meeting itself. And I would suggest that you would have an annual form that each of you would fill out to declare any conflict you might have over a
particular material. And then when the vote comes someone, maybe the chair, someone, maybe USDA would say are there any conflicts and you guys would be transparent about that. It's very important because you have statutory authority. You will be held responsible and so you really want to do this in a way where we are not in any position being threatened because of a conflict of interest.

MR. FELDMAN: Is that before the vote? May I ask.

MR. SLIGH: I think it would be. I mean that's -

MR. FELDMAN: Before the debate or where in the process?

MR. SLIGH: Well, I think clearly before you would vote, but I think you would probably do it - I don't know, to be honest, Jay, exactly where you should start, but if you did it on an annual basis and it was transparent and you should ask each other where is your comfort level. We did that in
the past. Sometimes we would say well you
know, that's not really a conflict, you know,
but you should do that and be transparent.
That's what I'm seeing not happening and I
think it would be important to demonstrate
that formally.

CHAIR MIEDEMA: Katrina.

MS. HEINZE: Okay, so I get how
conflict of interest works for someone like
me, right, because I work for a handler, we
use ingredients. How has that worked in the
past for folks who work perhaps for
organizations or represent groups that
advocate for certain positions? I remember,
you know, we've had this conversation while
I've been on the board for five years and
every time it comes up there's an
acknowledgment that we're here because we have
a bias and we represent those biases. So I'm
just trying to figure out what this means in
real life for all of us.

MR. SLIGH: Yes, I think one of
the main points that I didn't get to say because of the three minutes is that really the way we designed the board to not have any one sector predominate was because we named these different sectors. And so if you're here as a consumer rep then that's the voice that you need to be echoing and you need to reach out to the consumer community and be that advocate for that community in your slot on the board. And that's the challenge I think we have because if you don't play the role that you were given in the slot it does become problematic in terms of the conflicts of interest. I mean, there's all conflicts but I'm really getting down to whether or not - and I don't know the fact, it may not be a conflict. Maybe no one on this current board has a conflict. Maybe none of you do, but we don't know that and you need to convey that absence to the public in a way that is removing even the perception of conflict.

CHAIR MIEDEMA: Thank you,
Michael.

MR. SLIGH: Good luck with your deliberations. Thanks.

CHAIR MIEDEMA: Okay, next up is John Hyer and Bridget O'Brien is standing by.

MR. HYER: Thank you. And I'll disclose my conflict. I'm a farmer, I'm an organic farmer, so you know my bias and where I'm coming from. Fourteen years in organic production, family farm, father, brother, myself. Potatoes, carrots, peas, sweet corn, small grains, so you have an idea of what we're looking at. Specifically sodium nitrate and removing the annotation. I'm in favor of retaining the annotation, retaining the 20 percent level and the reason for that is that we've used sodium nitrate in the past on potatoes, carrots, sweet corn and find it to be an effective source of nitrogen. We've used other sources of nitrogen and have not found them to be as effective when the plants are in that growth stage when they need a
quick shot of nitrogen to help them along. As part of the recommendation you indicated that there should be crop rotation, use of cover crops such as mustards, clovers and vetch, and application of plant and animal materials all of which we do in our system plan, in our organic system plan in our farming. We still find the need for sodium nitrate to be used from time to time. The other - we have used the other products. It's mentioned there's other products out there. We've used other products and not found them to be as effective and to get the same result from them. And so with that said I would ask you to retain the 20 percent annotation on sodium nitrate.

In terms of coppers we use copper materials and they have proven very effective as a late blight preventative in potato production. We live in an area that that's a prevalent problem and a concern and I do support the re-listing of coppers. In our particular system a field, a given organic
site is receiving coppers once every eight to ten years. I view the testing requirement as excessive because I just don't see how we're going to build up that fast, but I do support the re-listing. Thank you.

CHAIR MIEDEMA: Thank you, Steve.

MR. DEMURI: What part of the country do you farm in?

MR. HYER: We farm in eastern Washington. So 180 miles from here due east.

CHAIR MIEDEMA: Go ahead, Steve.

MR. DEMURI: And does - is sodium nitrate more necessary in the west than it is the rest of the country?

MR. HYER: Well, since I've only ever farmed in the west I can only speak to what we've found to be effective in our system plan. I can't speak to the rest of the country.

CHAIR MIEDEMA: Nick.

MR. MARAVELL: You said you use the sodium nitrate for a quick shot of
nitrogen. Specifically which crops are you using and at what stage of development and at what time of year just so we have an understanding of where your need comes in?

MR. HYER: What we find specifically, I'll use sweet corn as an example. You can have plenty of nutrients in the soil be it from animal products, plant products, cover crops and at the three to four leaf stage the corn plant at least in our climate conditions has a problem synthesizing the available nitrogen and that sodium nitrate which is three to four leaf stage when it would be applied, it tends to get that plant growing and allows the roots to go deeper, pick up the nitrogen that is in the soil. We also use it on potatoes prior to row closure which would be about two months into the growth cycle of the plant.

CHAIR MIEDEMA: Any more questions?

MR. HYER: Thank you.
CHAIR MIEDEMA: Next up is Bridget O'Brien. Bridget, are you in the room? Madelyn Rode is standing by. Then Michael Cox is standing by. Michael, are you here?

MR. COX: Yes, I'm here.

CHAIR MIEDEMA: Thank you.

MS. O'BRIEN: Hi. My name's Bridget O'Brien. I don't work on a farm or for an organic producer, I'm just a highly opinionated private citizen that buys a lot of organics, mostly organics actually. So I realize that the synthetics topic has been delayed and isn't going to be voted on at this meeting and I find that a little bit concerning since as I understand doing it is creating an indefinite grace period in which food processors can keep unapproved ingredients in their products. So therefore I'd like to urge you to move forward as quickly as possible and for the USDA to begin enforcement action to ensure that organic foods are free of unwanted ingredients and
unapproved ingredients even if they're nutrients. I believe the majority of organic consumers don't want synthetic ingredients of any kind in their food, not even if they are supposedly nutrients. As an organic consumer if I want Vitamin C I eat an orange. If I want beta-carotene I eat a carrot. If I want iron I'm going to have a cheeseburger. You know, it's real food. And I strongly suspect that, you know, other organic consumers feel the exact same way. So - and I suspect that the actual motivation for synthetics being proposed for inclusion in organic standards is you know not due to them wanting to be able to make our food healthier with their artificial nutrients, but more so that the chemical companies providing them can jump in on the massive organic market and get their piece.

On a different topic I realize genetic engineering is not on this agenda either, but since they will inevitably petition for inclusion at some point in the
future again and since I have you here as a captive audience I would simply like to say that as a consumer I would never and I'm sure most other organic consumers will never either accept GMO inclusion into organics. So without going off on a tangent which I easily could just please keep that little nugget of information in your mind when the subject does come up because I believe it inevitably will with the biotech pressure that squeezes down on the USDA and the FDA to promote their agenda we cannot depend on them to keep genetically modified, untested, unproven healthy items out of our food supply. So we are reliant on you to at least keep them out of the organics.

CHAIR MIEDEMA: Thank you. Any questions for Bridget? All right. Michael, you're up next, Michael Cox, and Ken Johnson is standing by.

MR. COX: Okay. I had a nice 5-minute speech but since we went to three I
threw it away and threw some random thoughts together. My name is Michael Cox. I'm the president of Arkansas Egg Company. We're a dedicated organic egg operation in Summers, Arkansas. My family's been in the egg business for three generations. I appreciate all your time and effort in ensuring that the organic process is one that the consumers feel worthy of. My primary concern is the manipulation and erosion of the organic standards in shell egg production. The egg business in general is a highly fragmented, rapidly consolidating, cannibalistic market and the organic egg market is quickly on its way to that. Egg producers operate on low margins and high volume. It's the adoption of this principle that is the main reason that several major caged egg producers have utilized aviary housing for organic production. Furthermore, the absence of specific standards pertaining to stocking densities, indoor and out, as well as a lack
of definition for soil has also contributed to
this and fueled the fire.

There's a variation in organic egg
production today that's alarming. It ranges
from 85,000 birds in one house, 500,000 birds
on a farm, all the way down to 2,000 to 3,000
birds on a small family farm. The board needs
to follow with a proposed recommendations on
animal welfare. This is the only way to
ensure the spirit and intent of the law is
met. We have a unique opportunity to preserve
an environment where a producer with one barn
can compete with a producer who has a hundred
barns apples to apples. Anything less would
destroy the market for the consumer and the
producer alike. There's a vast majority of
producers who support change. They support
outdoors on soil and stocking densities at set
limits. These thoughts are echoed by probably
well over one hundred producers and well over
30 percent of the production. We need your
help to stand firm in the marketplace.
Lax standards have created an environment where in the last five years we've seen 3 to 5 percent of producers exploit certain aspects of the standards and grow to represent about 30 percent of the total marketplace. If not stopped, this trend will continue. It's ultimately - ultimately we will begin to produce least cost or get out of the business. A vast majority of grocery buyers will speak with their pocketbooks and their ideals second. We've got to get a standard in place that allows for uniform and consistent supply.

And with my last few seconds I'd just like to say that I think welfare does matter in organic livestock production. I think that's why eggs and milk have a higher penetration than other items. Consumers can speak with their emotions when they buy that product and outdoor access is a part of that. I also think that the FDA program should focus on their objective inside the house and not on...
the pasture, and that you guys should echo
that opinion to them. Thank you.

CHAIR MIEDEMA: Thank you. Any
questions?

MR. COX: Thank you, guys.

CHAIR MIEDEMA: All right. Ken
Johnson is up next and Phil Spiegel is
standing by. Phil, are you in the room?

MR. JOHNSON: Hi, I'm Ken Johnson.
I'm from Oregon State. I've worked on fire
blight research now for 20 years and much of
it on alternative products. I just want to go
through the OMRI list for the alternatives we
have and why we're pessimistic about control
with those products that we have now. And if
you look at the screen there I've got stigmas
circled as one target of a product and the
floral cup circled as the other target of a
product. And next slide, please.

We have these beta bacteria Blight
Ban bloom time there. They're targeted early
bloom and we're looking to colonize the
stigmas. That's where the pathogen increases itself and then spreads flower to flower from those populations that develop there. Then that slides down into the floral cup. These help to control fire blight but they're not stand-alone products, they're about 30 to 50 percent effective generally. Next slide.

Late bloom is where oxytetracycline fits in. In the Pacific Northwest here it's our niche product. We want it to sit down in the floral cup and it does a good job of preventing infection. Alternatives we have are Serenade Max and it by itself is a very poor product. And we have guys out there now slamming - in the IOP program slamming trees with Serenade Max and getting some results, but it just is not a good product on its own. And then we have this yeast that's coming along, Blossom Protect, and we think it's also fitting into this window. Next slide.

We get better control if we put
the two products together, a stigma product
and a floral cup product. The examples I've
got up there are Bloom Time biological and
oxytetracycline, or a Bloom Time biological
and then the yeast which is sliding off the
screen there. Next slide. Here's an example.
Water is that blue bar on the bottom, almost
200 fire blight strikes on a tree.
Streptomycin is the top, it's a standard.
We're using a streptomycin-sensitive strain.
We see one Bloom Time, one oxytet giving
pretty good control. Then we see two Bloom
Times and two Blossom Protects giving really
pretty good control in our research blocks.
So you can see there that we've doubled the
number of treatments but with non-antibiotic
approaches we're getting pretty good control.
Next slide.

All right, so this is the issue we
have right now. We just started working with
the yeast and we don't really understand why
it's effective. That's number one. Number
two, it's yet unregistered. Number three, we've got a learning curve, lots and lots of individuals are going to have to learn a new way to control fire blight. There's many, many people out there. Number four, the cost of control is probably going to go up and I don't know what impact that's going to have on production but that's going to happen. And then finally and it may be the most important is this distribution of biologicals. And when antibiotics go out to growers they get almost the same product that we do as researchers. When it comes to biologicals we're always working with the very best products and I'm not always sure that growers get the best products when they get it on their farm from the companies. And biologicals are much harder to handle and they - and we get really good stuff and I'm not sure that's always what happens out there in the distribution chains. So reinstating oxytetr on the NOP list would provide time to work through these issues.
Thank you.

CHAIR MIEDEMA: Thank you. Any questions? Okay, we'll start with Nick.

MR. MARAVELL: I'd like to ask two questions. One is you've been working on this for 20 years so this is going to be a continuum for you in terms of continuing to work on it. Where do you see the timeline in terms of the effectiveness of what you've already identified in this presentation? Do you need five years to bring that to a better fruition? Do you need ten? And then the second part of that is how many parts of the country need to participate in the same type of activity and what's your rough idea of resources? In an order of magnitude. Are we talking millions? Are we talking tens of millions? What are we talking about?

MR. JOHNSON: I don't think we're talking even millions. We've done pretty good on this I think to date with pretty much a shoestring budget over the years. We've been
funded by grower groups in the Northwest here and also by the USDA through these competitive grant processes. And I think that grant they're talking about is probably mine that didn't get funded last year, but I don't know. But I got it in again this year, right? So the funding part of it isn't such a big issue to me, it's more getting it to work at the industry level on the big scale. I mean, we are working in small plots, we're working with quality materials and getting the materials to work out there at the level of the, you know, hundred acres or two hundred acres or whatever you're talking about, that is a bigger trick I think.

MR. MARAVELL: And the timeline that you're seeing here?

MR. JOHNSON: Well, I think with this yeast has been the most promising thing. That kind of flew in the door here a couple of years ago and it was really eye-opening to us. It's not yet registered so the fact that we
can't yet go out there and do these big-scale trials and see what kind of colonization in the flowers we're getting, that's probably the most important thing. And then what is it doing to the pathogen populations out there. And this proposal everybody's talking about, that's what this proposal's about and it sort of is relying on the fact that this company is going to get this material registered next year to do these kind of evaluations.

MR. MARAVELL: So you might see like a 5-year to 10-year horizon on this? Or 2-year to 5-year?

MR. JOHNSON: I would say somewhere in the three to five years would be reasonable.

CHAIR MIEDEMA: Go ahead, Jay.

MR. FELDMAN: Thank you. I have a couple of questions. May I ask two? What is the time to resistance for tetracycline that you suspect from your experience?

MR. JOHNSON: I would say it's
practically impossible. That's - I'm not
going to say it's impossible, completely
impossible, but we tried to select resistance
by mutation to the fire blight pathogen to
tetracycline and we can't do it. So it's not
something where like streptomycin about every
billion cells or so you get a mutation to
streptomycin resistance and that mutation also
doesn't harm the organism very much so they
can go out there and cause disease and be out
there and be resistant to strep. With
tetracycline we practically don't - we don't
see that, and it's been used now since the -
it's actually in the '50s was when oxytet was
first used. And people over the years have
suspected that they've had resistance to it
but no one has ever definitively shown it.
And the reason I think sometimes people
suspect it is that it doesn't work as well as
streptomycin does and as one grower that was
up here said, it's kind of a soft product but
it's still the best we have. But I don't
think you can practically select resistance to streptomycin. Or to tetracycline, excuse me.

MR. FELDMAN: And this phenomenon we've heard about of the younger trees being more susceptible than the older trees, is that -

MR. JOHNSON: Absolutely true.

MR. FELDMAN: Absolutely true.

Thank you.

CHAIR MIEDEMA: Mac?

MR. STONE: What's recommended for disposal of the plant material that's cut out or rogued out?

MR. JOHNSON: Generally it's taken to a burn material and moved to - at the edge of the orchard and allowed to dry out or doused with, you know, petroleum and then burned. Yes. That is the recommendation.

CHAIR MIEDEMA: I have a question. Mr. Johnson, your expertise on this matter has been referred to many times today. Will you be available tomorrow during committee
deliberations?

MR. JOHNSON: I can do this. This is actually - with our late spring this is actually fire blight season and my plots are going right now, but I can stay one more day.
I can do that, yes.

CHAIR MIEDEMA: Thank you very much. Okay. Next up is Phil Spiegel and Edward Gildea is standing by.

MR. SPIEGEL: Hi, my name's Phil Spiegel. I thank you very much for allowing me to have a few minutes of fame here. I'm the owner of Small Planet Organics currently located on Vashon Island, Washington, and I've been producing organic tofu for over 18 years starting in eastern Washington and now residing in western Washington, and I produce along with Island Spring Organics also on Vashon Island which has been doing organic tofu for over 35 years. So between the two of us we have over 50 years of experience and we've been committed to organics from day one,
and certified as soon as certifying was part of our program. And we've been working with the WSDA as our certifying agency, and as most people know that was pretty much part of the pilot for getting the national organic standards put together.

And what I wanted to come and address today was the issue of GMOs which everybody's real aware of now but over 90 percent of the soybeans grown in this country are now GMOs so we pretty much have the most threatened crop that we know of. And but it doesn't mean we're taking it sitting down. But there seems to be some confusion now. The NOP states that non-GMOs are part of the excluded methods on the list and everything, but what's happening is there's other agencies now that are coming up and saying that they have to confirm that the products are non-GMO but the organic standards from the NOP says we're not supposed to have GMOs. So the consumer's getting confused, the producer,
we're not as confused but we're a little miffed that now we've established long working relationships with our organic certifying agency and now - and putting together a lot of time and energy for our documentation and working relationships, and now there's another agency, the non-GMO project, that's coming up and saying well, you need to work with us so that we can ensure consumers. So the consumers are getting confused like wait a minute, organic means non-GMO, but there's this non-GMO project that says you've got to be certified non-GMO. So there's some confusion out there and I'm really here to try to point out that maybe the NOP could empower more the certifying agencies to work more closely with us producers so that we can totally assure people that if it's organic it's non-GMO. If it's non-organic, sure, another agency should be able to step in and help that out, but if we've made this commitment to being organic and non-GMOs is
part of our stand on it, then working with the agencies could be real helpful. And I've worked very hard to establish working relationships with the farmers that grow my soybeans. I've been to their farms, I know them personally and break bread with them all the time and they're on the front lines trying to protect our food. And we're doing everything to support them and we need - we need to just be able to take that and carry it through so that producers can assure -

CHAIR MIEDEMA: Thank you.

MR. SPIEGEL: - stores.

CHAIR MIEDEMA: Thank you very much.

MR. SPIEGEL: Thank you.

CHAIR MIEDEMA: Any questions for Mr. Spiegel? Okay.

MR. SPIEGEL: Thank you.

CHAIR MIEDEMA: Edward Gildea is up next. Are you here, Mr. Gildea? Okay.

Perry Clutts. And Andrea Caroe is standing
MR. CLUTTS: My name is Perry Clutts and thank you for the opportunity to comment. This is my first visit to an NOSB meeting and while I'm a member of several organic farmer organizations and support the recommendations to the NOSB, I feel it's important for the board to hear personal comments from individuals. My goal for the meeting is to attend, watch the process take place, participate in the process and decide if the open producer position is something I should pursue in the future. Our family's organic dairy farm is in south central Ohio, just south of Columbus, where we milk about 150 cross-bred cows on 430 acres of grass. My family has been at this farm since 1899 and we began participating in the program in 2007. I concur with the eloquent description of the problems with materials, vitamins and nutrients sunset described by Deputy Secretary Merrigan and appreciate the compromise and
path forward laid out by Deputy Administrator McEvoy in his subsequent speech.

As a livestock producer I would also like to express concerns I have with livestock living conditions. Specifically, farmers should have the ability to size free stalls and tie stalls specifically for individual herds and cows, one stall, one cow. Incorrectly sized stalls are detrimental to livestock welfare. It's appropriate that loose housing and bedded pack barns should conform with the chart at the end of that section. Having access to feed simultaneously during the grazing season is not an animal welfare concern. What is of concern is that all cattle maintain good body condition. Organic inspectors will be checking body condition scores to verify adequate diet. Therefore, space and competition are not issues for cattle with good body condition scores. Thank you for the consideration and I appreciate the valuable work that NOSB does
for the program.

CHAIR MIEDEMA: Thank you. Any questions for Mr. Clutts? Andrea Caroe is up next and Titus Roth is standing by.

MS. CAROE: Good afternoon. I'm Andrea Caroe and I'm a former chair of the NOSB. And it's a pleasure to see a lot of my good friends here. Congratulations to you, Tracy. It's an honor to hold the gavel in your hand and I am delighted to see you in that position. The broken gavel. So I guess I'm going to find out what it feels like to be on the other side of the podium here.

First, a short comment. I support the Handling Committee's recommendation to allow fortification of organic food with what I will call FDA-approved materials. I have always believed that the board should approve fortification materials as a category and do so in a manner that conforms to FDA's judgments just as we have done in the past with other materials that are listed on the
national list. However, the inclusion of 104.20 was a mistake. It was never any part of the recommendation from the NOSB and should not have been added. I agree that postponing the decision to allow for greater input and gathering the information about fortification products consumers would want is helpful, particularly in the areas of infant and toddler products.

My comment is more of a question and it is posed to the NOP. Because I don't understand the rush to judgment on this important topic, let me be brief. In 2005 the 1st Circuit Court of Appeals declare that synthetic materials in processed organic foods were not authorized by the OFPA. The USDA responded, exercising enforcement discretion while the industry debated and eventually obtained a change in the statute to correct the OFPA. That took nearly a year to do and during that time USDA obviously did not remove products from the shelves until - despite the
court ruling. Based on this precedent it seems clear that the USDA can follow - can allow the debate to continue and fix this deeply flawed annotation once and for all. So my question is if the board votes in the fall and the NOP can't get the simple rulemaking done before the sunset of this material would NOP remove products and exercise - or exercise its enforcement discretion like it has in similar situations in the past? Thank you.

CHAIR MIEDEMA: Nick.

MR. MARAVELL: With regard to the last example you gave, the 2005 decision, was USDA directed by that court decision to not have a transition period?

MS. CAROE: The - from my understanding the 1st Circuit Court of appeals decision did not allow for that - did not designate an enforcement time frame.

MR. MARAVELL: That was not my understanding but I'm not an expert.

MS. CAROE: If the program wants
to respond.

MR. MARAVELL: I don't know if the program wants to address that. I'm not an expert in that but it was my understanding that there was always the intention on the part of the litigants as well as on the part of USDA to have an orderly transition and -

CHAIR MIEDEMA: I see Miles reaching for his microphone so let's recognize Miles McEvoy.

MR. MCEVOY: I'm not familiar with what happened in 2005 in terms of whether or not the program used regulatory discretion. If it did use regulatory discretion I'm not familiar with the details of that or the court decision to really have anything to add to the conversation at this point. It is a good question, however, of whether or not that could be looked at in regards to this issue as we move forward over the next couple of years.

MS. CAROE: If I can just respond to that. My concern is moving quickly and
making the wrong decision instead of moving
with caution and making the right decision and
allowing for discretion that, you know,
obviously is there based on the decision that
was made in 2005.

CHAIR MIEDEMA: Any further
questions for Ms. Caroe? Thank you. Titus
Roth is up next. Mr. Roth, are you in the
room? Okay. Andrew Waterhouse. And Paul
Beveridge, you are standing by.

MR. WATERHOUSE: Good afternoon.
My name is Andrew Waterhouse. I'm a wine
chemist and professor and chair of the
Department of Viticulture and Enology at UC-
Davis. Our wine program is considered perhaps
to be the best in the world. Sulfites are a
very simple product made by taking elemental
yellow sulfur powder, the same stuff that's
sprayed on organic crops, and burning it.
This simple process has been used for hundreds
or thousands of years and the traditional
practice of burning sulfur candles in barrels
continues up to today. It includes the makers
of biodynamic wine and even organic wine in
many countries outside the U.S.

At UC-Davis, we don't give our
students recipes on how to make wine, but we
do inform them about the risks of certain
practices. Sulfites are used to reduce or
eliminate the risk of unwanted yeast and
lactic acid bacteria, microbes normally
associated with cheese, kimchi, pickle or
yogurt fermentations, and the aromas of those
to foods. Sulfites also reduce problems from
oxidation that would make a wine taste like
nuts, sherry or cooked vegetables. Today
these problems and these defects are never
found in commercial wines, but have easily
found consumer comments on organic wines that
could be linked directly back to the faults I
mentioned, including references to other
fermented foods in combination with oxidation.
Without sulfites, wine is extremely perishable
and should be refrigerated for its entire 1-
year life cycle between harvest and then from the winery to consumer. Unfortunately, this is impossible in today's national wine distribution system. So wine made without sulfites, especially the white wines, continue to show very serious flaws. I am convinced that these persistent flaws are the reason the organic wine market is miniscule today and will continue to be so.

On the health front, sulfite labeling has eliminated the public danger of sulfite use, but some wine drinkers still have allergies, allergic reactions and asthmatic reaction to wine. The latest medical research by scientists studying sensitive asthmatic patients is now calling into question whether sulfites are the cause of these reactions. Some exciting new papers have suggested alternative hypotheses, including the presence of wasp or bee venom as published in the New England Journal of Medicine or that wine grapes might have allergenic components
themselves. At this point it's clear that
more work is needed to find the actual cause
of allergic reactions to wine.

In closing I wanted to say that
while investigating organic wine I was
surprised to see that a number of websites,
including the world's largest website,
snoop.com, and my local Davis food co-op, a
bastion of organic food, are now using the
term "organic wine" to classify mostly if not
all wines that actually lack USDA organic wine
labeling. It seems to me though I'm no expert
in market analysis that the market is rapidly
abandoning the term as defined by this board,
perhaps because it is too restrictive to be
useful. Thank you.

CHAIR MIEDEMA: Thank you very
much. Any questions? Thank you. Paul
Beveridge. Are you in the room? Okay. Dean
Wesen. All right. As Dean is coming up to
the podium I'll - on standby is Jenneke
Dejong. Go ahead, Mr. Wesen.
MR. WESEN: As you said my name's Dean Wesen. I'm an organic dairy farmer. I live an hour and a half north of here, it's about a half hour from Canada and I came here to talk about free stalls. And as some of you already said that I think it was a big misunderstanding, but I was here to talk about the free stalls and I've been assured that free stalls are allowed in the future. And anyway, what I - since I'm not going to talk about that I would like to talk about the passage of the vitamin and mineral because things get slow in bureaucracies as everyone knows, and if you wait hoping to get it passed and we aren't allowed to sell milk we're not going to be very happy campers. And really that's all I have to say. Is there any questions?

CHAIR MIEDEMA: Any questions for Mr. Wesen?

MR. WESEN: Thank you.

CHAIR MIEDEMA: Thank you.
Jenneke Dejong. And Holly Born is standing by.

MS. DEJONG: My name is Jenneke Dejong and I want to say first off that I appreciate the work it took to develop all the recommendations and I know you will and already have listened to the public input before making any final votes. My husband Ari and our five children milk organic dairy cows on our farm in Bonanza, Oregon. We became certified in 2004. I just completed a 6-year term on the OMRI board of directors on which I served as board chair for two years. While making the transition to organic farming we took understanding the regulations very seriously. We wanted to really know what we were embarking on before we jumped in.

Organic farming is more than just a business venture to us, it is a way of life.

Today I wanted to comment on the animal welfare stocking density recommendation. I believe it is important for
the organic regulations to have some rules in place for the welfare of our livestock. My concern is not around the intent of the document but in some of the particular requirements. In one section of the recommendation the committee suggests that livestock should always be on soil during the grazing season. During the grazing season cattle are let out to open dirt corrals and pastures for grazing. Along with fresh water, cattle do need supplemental feed and additional care and attention. Cattle use places to congregate and clean concrete is much better than wet or dirty ground. Grade A dairy inspectors want to see cattle clean and dry with good conditions for animals. Cows must be milked on smooth and cleanable surfaces. It is easier for cattle to walk or stand on flat concrete than through dirt or mud.

I also was surprised to see the bedded square footage for dairy cattle being
a minimum of 50 square feet of bedded space. Our barn is a free stall barn and earlier today we had some confusion about what a free stall barn was. And I highly recommend that you familiarize yourself with what that is before you vote. Anyway, we have a free stall barn. Cattle need a soft, dry and controlled place to lie down. Cows are cleaner and healthier in smaller controlled areas than in a larger area where they lay in their own manure. Cattle need plenty of room and without good animal husbandry people could not survive in this business. On the other hand, the beds in our free stall barn are 4x8 feet which is 32 square feet and any more room, the cattle can get partly turned around and they can get stuck.

In closing, I would like to say that I strongly agree with the recommendations made by the Food Farmers and Ed Maltbe said that it was 20 pages, but I - they're very good written. Their concerns regarding the
current regulatory processes and regarding the
economic impact on organic farmers of any
changes in the regulations are valid and real.
Without the organic farmer there are no
organic products to sell. Thank you very much
for your time.

CHAIR MIEDEMA: Thank you. Any
questions? Holly Born is at the podium and
William Frange is standing by. William, are
you here? Tony Schilter, are you here?
William or Tony, either one of you? Go ahead,
Holly.

MS. BORN: I'm Holly Born with the
Midwest Organic Services Association and today
we'd really like to encourage you to
incorporate the changes to the proposed animal
welfare recommendations that we detailed in
our written comments so that a workable
recommendation can be produced by the end of
this meeting. If some aspects are considered
to be too species-specific or subject to
debate we'd like to encourage you to address
these aspects in the species-specific guidance
documents that are going to be developed this
fall and I've actually given you copies of a
sheep guidance document which was developed by
our director, Bonnie Wideman, as an example of
how this might be done.

Our two main areas of concern with
this proposed recommendation are outdoor
access on soil and stocking rates. We don't
think that outdoor access must always provide
animals contact with the soil. Ruminants are
on pasture during grazing season but in non-
grazing season we see that concrete-based
lots, yards and so on are important in
preventing erosion and runoff of wastes. We
don't think hogs necessarily need to be on
soil as long as they have enough material to
root in. We do think that poultry should have
contact with soil, but that soil shouldn't be
expected to grow pasture. We also think that
stocking rates for hogs should be increased to
be closer to the Canadian requirements.
Stocking rates for sheep and goats should be consistent with the American Sheep Industry recommendations. Stocking rates for laying hens should be increased consistent with the ACA recommendations.

Finally, we think the proposed livestock transport, handling and slaughter recommendation should be withdrawn and revised. In particular, we think that welfare audits of slaughter plants should be covered under existing regulations and not duplicated by certifiers. However, since poultry is not covered under the Humane Slaughter Act we would like to see humane poultry slaughter audit criteria defined for use by certifiers at plants that are not animal welfare certified. Finally, we also don't think that livestock haulers should need to be certified.

Any questions?

CHAIR MIEDEMA: Thank you. Any questions? All right. Thank you very much. And are you Tony Schilter? Okay. Paul
Staehely, are you in the room? Okay. Please proceed.

MR. SCHILTER: My name is Tony Schilter and I want to thank you for taking the time to listen to everybody's comments today. My dairy farm is in Chehalis, Washington, which is about 90 miles south on I-5 from here and we're a family operation with my wife and my son as a full-time partnership milking 250 cows and we have about 250 heifers. Beside that we farm about 450 acres. We're proud to be organic since 2007. I also sit on the Western Organic Dairy Producers Alliance Board.

And two portions of the animal welfare recommendations concerns me enough to make the drive out here to speak to you in person. During the grazing season we send our cows out, weather permitting, whenever possible. But we also get about 30 inches to 35 inches of rainfall a year. That rainfall happens between November and March and
sometimes carries into April, 28 to 29 inches through that period of time and the other five inches continues on for the rest of the remainder of the year. When the ground is saturated in rainwater we send our animals out on our cement exercise run that is available to the animals year-round. It's optional whether they use it or not. But when it's raining, they're locked into that exercise yard. This recommendation says that the cows need to be on soil during the grazing season. It is simply inhuman treatment during these rainy times and I suggest the board evaluate all regulations of the country before making a blanket recommendation.

My other concern is the 50 square feet of bedding space in the barn which you've heard numerous times today where my stalls are 32 square feet per cow. The exercise yard gives those cows an additional 83 square feet per cow for plus 100 square feet per animal year-round. And when they're out in the field
they've got numerous amount of square foot. But I don't think it makes sense to have to measure the whole barn and divide it by the number of cows to get the bedding space. I think the words should be changed so that free stalls and the tie stall barns must be one cow per stall.

I'd like to comment too on both the crop and the handling sunset materials. As for the sunsetting of nutrient vitamins and minerals I'd like to see those materials already being used in an organic process to continue to be allowed. I agree that the review of these materials should be done to take them through the proper federal registration process and I also think that these materials should continue to be allowed while the petition process takes place. Taking this fortified products off of the store shelves could affect farmers' livelihood and for one I don't want to see a reduction in my paycheck.
CHAIR MIEDEMA: Thank you, Mr. Schilter. That was your three minutes.

MR. SCHILTER: I also want just to put a little comment in is that we believe, we're proud to be organic and happy cows make happy milk, happy milk make happy customers and if we're all organic and the same process we're all going to be happy.

CHAIR MIEDEMA: Thank you.

MR. SCHILTER: Anybody's got any questions I will answer them.

CHAIR MIEDEMA: Any questions? Thank you very much. Paul Staehely and Jason Woosen standing by.

MR. STAEHELY: Hello. My name is Paul Staehely. I have been farming organically in Oregon City, Oregon since 2002. I'm also a member of WODPA. I thank you for allowing me to speak today.

There are several areas - or several sections throughout our animal welfare document that need clarification, specifically
stocking density and the access to outdoor requirements. Some of our outdoor access is cement and some of it is soil. For example, in our holding pen it is cement. In reading the recommendations it sounds like all outdoor access needs to be soil. We get approximately three feet of rain in the wintertime, making outdoor areas extremely muddy. Sending cows out on the mud is dangerous to both the cows and people, not to mention my milk inspector wouldn't be happy to see the cows out in the mud and it's not a very easy cleanable surface. As for stocking density, inside the barn we have free stalls with 32 square feet per animal. To get 50 square feet per cow I would have to take out every other stall. The cows would have so much space they would be standing sideways in stalls, causing yet another cleanliness and safety issue. I think the comfort of the animals and cleanliness of the space is more important than having exactly 50 square feet per animal. I strongly
suggest the board reconsider the wording of this chart to reflect this and maybe acknowledge free stall barns that have beds for all cows but the beds aren't 50 square feet.

As for crop materials, I would like to see the continued listing of chlorine, alcohol and pheromones. And on a final note, I would like to see fortified foods continue to be allowed in organic products, providing those nutrients go through the Federal Register process just like everything else on the national list. To keep business flowing smoothly and to allow organic farmers to keep selling their milk please do pull fortified foods from the - fortified foods on the marketplace. Give companies time to petition and go through the proper process because taking products away doesn't just hurt big business, it hurts me and my farm too. Any questions?

CHAIR MIEDEMA: Any questions for
Mr. Staehely? Thank you. Next up is Emanuel De Merez and Jackie Bowen is standing by.

MR. DE MEREZ: Dear members of the board, ladies and gentlemen, my name is Emanuel De Merez and I'm speaking on behalf of SQM which is the producer of natural Chilean nitrate. As you all know, natural Chilean nitrate has been a topic for discussion for many years, but always reason and common sense, contrary to what happened in other regions in the world, referring to for example Europe, have inspired the board, leading to the current regulation. And I believe that is a good regulation. It meets both farmer requirements, allowing them to produce locally even in adverse conditions and at the same time fully respecting the organic philosophy. Don't forget that natural Chilean nitrate has been around for over a hundred years in times when everything was still organic. And nowadays it's mainly a byproduct of iodine production and also in itself it has a
significant rations of iodine.

We agree with the committee that trade equivalency should not be a valid criterion to evaluate an input. A product should be evaluated on its merits, not on political considerations or international trade arguments. As in the end is it not at the heart of organic farming to produce locally? We have posted an extensive reply to the recommendations so there is no time to go in details now. But I would like to point out that we did not really find new arguments in there.

One concern that was raised is that farmers may become dependent on natural Chilean nitrate. Now, we don't agree with this because at the end the product is self-regulating. First of all, there is a current regulation which has the annotation of a maximum 20 percent use for the crops' requirements so farmers cannot fully rely on it. And secondly, talking to farmers and I
think it was said earlier also at the end of the day it's not the cheap product per unit of n. So farmers will not use it unless they really need it and it's critical to the viability. Also, we don't see any good alternatives to give a complimentary spike of available nitrogen when it's really needed. A lot of products have been tried, but again, talking to farmers none of them perform really well and all of them need nitrogen conversion in the soil, so.

Finally, we want to clarify that the product is not limited to the western U.S. Just to share the sales figures, we sell in 29 different states. We also collected over 300 farmers' testimonials in 40 states talking in favor of the product. And finally, we also did a petition and over 540 farmers in 21 states signed that petition to support the product and to support the status quo. So I would like to urge the Crops Committee and the board not to ignore the position of its most
important stakeholders and to vote in favor of
the status quo. Thank you. Any questions?

CHAIR MIEDEMA: Barry.

MR. FLAMM: One clarification. On
the sales that you show on the map
distribution.

MR. DE MEREZ: Yes.

MR. FLAMM: Is that to organic use
or total use?

MR. DE MEREZ: This product is
only sold for organic use, so yes, it's
organic use.

MR. FLAMM: It's just organic use?

MR. DE MEREZ: Yes. Natural
Chilean nitrate is not used in conventional
agriculture because, again, cost-wise compared
to the alternatives, urea ammonium nitrate,
it's not as efficient.

MR. FLAMM: Okay, thank you.

CHAIR MIEDEMA: Steve.

MR. DEMURI: Similar question on
the petition. Were those organic growers or
conventional and organic or?

MR. DE MEREZ: Those were organic growers. That was a specific requirement for them to sign.

CHAIR MIEDEMA: Any more questions for Mr. De Merez? I see Lisa Ahramjian flagging me here.

MS. AHRAMJIAN: There were several people that we skipped over because they weren't in the room at their scheduled time. If anyone else still wants to give a public comment today please come see me as soon as possible.

CHAIR MIEDEMA: I'll also say if anyone was giving their comment early Thursday morning and prefers to sleep a couple extra minutes and go ahead with their comment this afternoon we would entertain that. So also see Lisa. Lisa, do we have anyone standing by after Jackie Bowen? Okay. Jackie, come on up.

MS. BOWEN: Thank you. My name is
Jaclyn Bowen. I'm the general manager of Quality Assurance International. We're a USDA certifier. Today my comments are going to be limited to the animal welfare recommendations. A colleague of mine, Alexis Randolph, will actually be speaking to QAI's other public comments later on Thursday. Also, as a member of the Accredited Certifiers Association many of QAI's comments regarding the animal welfare recommendations are also reflected within those documents already submitted by the ACA.

Due to the number of areas in which revisions are being suggested by the ACA and other organizations, QAI requests that the committee reissue a recommendation on animal welfare that incorporates all sections of the existing regulation as you intend to maintain them. One of the most helpful documents issued by the NOP regarding the access-to-pasture rule changes was the side-by-side comparison document. Due to the complexity of the animal welfare - of animal welfare being
added to an already new pasture rule, QAI would appreciate the committee creating a similar document that includes the current regulation, including the pasture rule, recommended animal welfare recommendations as currently written, and then the final recommendation the NOP intends to put forward for rulemaking after review of all the comments received to date. Thank you.

CHAIR MIEDEMA: Thank you very much. Any questions? Joe Dickson.

MR. DICKSON: Just, I don't know that I completely understand your request so I just want to ask you to clarify. You're asking the Livestock Committee to put out a comparison of the existing regulation compared to our recommendation as made over the past few sort of iterations?

MS. BOWEN: Correct, just so there's a comparison of past versus potential. It just helps with comparing what is actually changing just with all the changes that are
going - with the new pasture rule as well as
with the pending animal welfare
recommendations.

MR. DICKSON: Thank you.

CHAIR MIEDEMA: Any more
questions? Thank you.

MS. BOWEN: Thank you.

CHAIR MIEDEMA: Next up, Bob
Anderson.

MR. ANDERSON: Thank you. It's a
pleasure to be here. I know many of you, I
know many people in the room. I'm a longtime
organic guy. I've sat in the chair and been
in your chairs here at National Organic
Standards Board in the early days and I want
to recognize that you guys have an awesome
responsibility here. And so as you look at
things and in the grand philosophy of who we
are and what we do and the impact that we have
on consumer expectations but also on the
realities of life on the ground that you weigh
them very, very carefully.
And I want to say that I think sunset was probably a bad term. I wish we had said we're going to have a sunshine rule that meant we'd shine a bright light on everything every five years and say is it good, is it not, is there an alternative, has it been developed, is there a wholly natural substitute or whatever those terms are. But let's look at it in a broad and open way and say is it important and does it allow us to continue to convert and eliminate - convert land to organic agriculture and eliminate and minimize pesticides around the world. It's a very big and important responsibility.

I have no dog in the hunt here, so I'm here - I'm talking from an international trade perspective. I'm a senior trade policy advisor now to the Organic Trade Association, the Foreign Agriculture Service and I work closely with Miles. Actually, the last time I was at the NOSB meeting Miles and I and Margaret made the presentations on aquatic
species. So it's been awhile, but it's good
to be back. From an international perspective
what the decisions that get made here impact
not only domestic trade but international
trade and it's a significant part of our
contribution these days. It's about 8 percent
of all of the organic trade. And there are
two things that have come up. One is that
lignin sulfonate as a flotation agent. Lignin
sulfonate is a binder and fertilizer, we've
already - that's sort of decided. But as a
flotation agent it's only used in pears.
We've had OMRI research this, we've worked
with the Northwest Horticulture Society, our
council and with other producers. I would ask
you to consider adding the annotation for
pears, as a flotation agent for pears. That
would allow everyone who is - right now we're
certifying all the way back to the land for
carrots and other things that it's not used
on. And pears don't float and they're very
fragile. That's why it's important.
Second, that - and second that sodium silicate was - as I read the - or interpreted the recommendation was that it should go off because it is an alternative. There are other alternative flotation agents. Well, lignin sulfonate doesn't work with chlorines. So it's important to understand that all things - one flotation agent doesn't work for all products and that I would urge you to leave on the sodium silicate as a flotation agent, but also as a bleach, as a holder of oxygen.

CHAIR MIEDEMA: Thank you. Any questions for Bob Anderson? Thank you.

MR. ANDERSON: Three minutes goes so fast, doesn't it?

CHAIR MIEDEMA: Thank you very much. All right. Last call for anyone who was signed up today and who was passed over. Oh, it looks like we have another name here.

Katherine Withey.

MS. WITHEY: Hi. My name is
Katherine Withey and I'm here to represent the Washington State Department of Agriculture Organic Food Program. So I originally was scheduled for Thursday morning and I thought I had two days to get this down to under three minutes but my grandfather was a livestock auctioneer so hopefully I can get this taken care of. So forgive me if I just read these.

In 2010 WSDA certified 719 producers. Of these producers, 361 were certified for apples and/or pears, and of these 361 producers 136 used tetracycline and 34 have used streptomycin. As you listen and read comments pertaining to the use of antibiotics in tree fruit production I wanted to provide you with these numbers so that you can get a context for understanding the impact that your decision will have. This is a very important decision for our state organic industry and we encourage the NOSB to be both thoughtful and deliberate as well as informed when making it.
For the evaluation of the material review organizations WSDA has provided written comments to the NOSB in regards to the CACC recommendation pertaining to material review organizations. We'd like to stress one item in our comments. Prior to implementing a plan for oversight, please conduct a thorough survey of all certifiers as it relates to materials review. A thorough survey of material review procedures, decisions and tracking will act to identify what certifiers do well and what we do not do well, and it will assist the NOSB and the NOP in making informed data-driven decisions as you move forward with this ambitious goal.

Okay, corn steep liquor. Yes. WSDA is not going to weigh in on whether corn steep liquor is synthetic or non-synthetic because we don't - it's not just about corn-steep liquor. It's also about the 0.2 percent remaining growth media in microbial products and it's also about ion exchange resins. It's
about so much more than corn steep liquor. What we need is for the NOSB to wrap up the multiple-year conversations around materials classifications and provide certifiers with a clear decision, comprehensive guidance and training on implementation. The corn steep liquor recommendation equates to the implementation of the draft guidance document for classification of materials prior to its finalization and implementation. The process is backwards. We ask first that the NOSB finalizes the proposed guidance and the NOP implements it, and then the CSL decision can fall under those new guidance. We request adherence to a consistent and transparent process, and it's essential that the NOP be proactive on this issue and not continue to be reactive because corn steep liquor is just a symptom of a bigger problem.

And finally, sodium silicate and magnesium sulfate. WSDA finds the removal of sodium silicate and magnesium sulfate in the
absence of requested technical information to be a flawed process. Oh, sodium silicate can be used by organic growers during the dump process for delicate tree fruit and we encourage the NOSB to make informed decisions based on data when making determinations about the allowance of materials.

CHAIR MIEDEMA: Thank you.

Colehour.

MR. BONDERA: Thank you, Katherine, for your quick speech there. But I want to go back to the beginning, the first topic that you raised, because I liked how you threw out some numbers really fast but they raised for me some yellow flags really quickly because I heard, and I may have misinterpreted it because you were speaking quite quickly I admit, that honestly it seemed like quite a large percentage - and I didn't calculate percentages - of the certified organic pear and apple producers are not using the antibiotics. Based on the numbers you
presented and you know, I again, ask you to
comment on that please.

MS. WITHEY: Sure. And I have to
say that our - the way that we gather that
data may be somewhat of a flawed process
because of the way that we input materials
into our database in our systems. So when we
search, we search something like Mycoshield,
or we'll search a generic of tetracycline and
we don't capture typos or spelling errors or
the ways that people may have written Myco
space shield. So what that was was a
preliminary baseline number in 2010 that
doesn't account for spelling errors that I
think we can all agree farmers can be
sometimes famous for. So it is a baseline
number and I would say that if we were to
delve into each file we would probably come up
with higher numbers but what it means is that
one-third of our apple and pear growers are
using tetracycline and less - to a lesser
degree streptomycin.
CHAIR MIEDEMA: Colehour and then Jay.

MR. BONDERA: I guess I'm - I don't want to apologize, but just to follow up then. I'm still hearing, and it's just intriguing to me to contemplate this subject, that the result of what you're saying, even like you said the numbers aren't exactly accurate, is that it becomes pretty clear to me pretty quickly that every single organic pear and apple producer is not using these antibiotics. I would say that you're not even suggesting that the number is down to zero because of these errors, but instead that it's common but it's not what everybody's doing. And I haven't heard that many comments from people today on that detail and I think that intrigues my brain at least.

MS. WITHEY: Correct. Because we certify a wide variety of agricultural systems. So we certify large tree growers and I heard, you know, we've heard comments from
before, but we also certify people who have apples that may only have three trees. So they may not be using antibiotics. So I think that that diversity would probably speak to the fact why 100 percent of our growers are not using antibiotics. Yes.

CHAIR MIEDEMA: Jay Feldman.

MR. FELDMAN: Just to follow up on Colehour's question. Is there other data in that database that might be helpful to this board such as varieties, age of the orchard, other practices that you might collect data on that might be able to tell us why we're seeing some significant percentage not using or not dependent on these antibiotics?

CHAIR MIEDEMA: We're right at about the 5-minute mark and it's a little bit off topic so can you please be brief?

MS. WITHEY: Sure. No. I mean, we don't collect the age of orchards in our database. We do collect varieties and we could get you the varieties of those farms, or
the varieties that are - where antibiotics are being used, but we don't have a way to say the antibiotics are being used on their, you know, not on their Granny's or their Red Delicious but on their Pink Lady's. So we can't really break it out that finely. I wish we could, but yes. When I say "database" I'm using it very loosely.

CHAIR MIEDEMA: All right. Thank you very much.

MS. WITHEY: Yes, thank you.

CHAIR MIEDEMA: Okay. Lisa Ahramjian.

MS. AHRAMJIAN: So there's at least one person who gave me handouts today who did not give their presentation. Is Edward Gildea in the room? Okay. Or anyone else who wants to give public comment today?

CHAIR MIEDEMA: Okay. We have 30 minutes left in the time that we published in the Federal Register and there's a couple of things we can do here. The first thing I
wanted to announce is that tomorrow is completely devoted to committee deliberations. And we don't have the luxury of the same protocols, but I do want to remind board members of Robert's Rules for committee deliberations. I think in past meetings we might have strayed from that a bit which is each committee member is supposed to ask no more than two questions during the deliberations and the second question is really supposed to come after the first question has been asked. So I was pointed that out by our parliamentarian this morning and make sure everyone is sort of ready for that tomorrow.

And then the other thing I wanted to announce was that - Lisa, it looks like you have a follow-up to maybe clarify something I just said.

MS. BRINES: I just saw some inquiry, or some looks that I just wanted to clarify. So yes, according to the rules of
debate every board member would have the
opportunity to provide comment or debate on
any motion. In general, a person can speak
twice on a motion but not until everyone else
has had the opportunity to comment on that
motion. Hopefully that helps.

CHAIR MIEDEMA: Okay, thank you.

Steve.

MR. DEMURI: Just a clarification
question. We're not really making any motions
tomorrow, it's just kind of a presentation
day. Do the same rules apply?

MS. BRINES: Normally under
Robert's Rules you would make the motion first
and then it would be subject to debate. That's not traditionally how the board has
operated, but normally you don't debate
something that's not presented in the form of
a motion.

CHAIR MIEDEMA: Where I was going
with this is if our committee deliberations
tomorrow run long we may have the opportunity
to push some of those deliberations into Thursday. We'll have to check and find out whether that's proper for our agenda, but I just wanted to make a last call for public comments before we recess for the day. Okay. So I'm going to ask NOSB members as a courtesy to please stick around for 15 minutes or so and be available to visit informally with members of the public. Thanks everyone, and we will reconvene at 8:00 a.m. tomorrow.

(Whereupon, the foregoing matter went off the record at 4:59 p.m.)
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Neil R. Gross & Co., Inc. 202-234-4433
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: National Organic Standards Board

Before: US Department of Agriculture

Date: 04-26-11

Place: Seattle, Washington

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]

Court Reporter