

U.S. DEPARTMENT OF AGRICULTURE
TRANSPORTATION AND MARKETING PROGRAMS

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NATIONAL ORGANIC PROGRAM

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NATIONAL ORGANIC STANDARDS BOARD MEETING

+ + + + +

TUESDAY

MAY 20, 2008

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The Meeting of the National
Organic Standards Board convened in the
Chesapeake Room, Holiday Inn Inner Harbor,
Baltimore, MD, pursuant to notice, at 11:00
a.m., Rigoberto Delgado, Chairman, presiding.

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BOARD MEMBERS PRESENT:

RIGOBERTO I. DELGADO, CHAIRMAN
JEFFREY W. MOYER, VICE-CHAIR
KATRINA HEINZE, SECRETARY
HUBERT J. KARREMAN
KEVIN ENGELBERT
JENNIFER M. HALL
JULIE S. WEISMAN
DANIEL G. GIACOMINI
GERALD A. DAVIS
KRISTINE ELLOR
TRACY MIEDEMA
JOSEPH SMILLIE
STEVE DeMURI
BARRY FLAMM

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1 P-R-O-C-E-E-D-I-N-G-S

2 11:07 a.m.

3 CHAIRMAN DELGADO: So, we do have
4 quorum and I'm calling the -- the meeting will
5 come to order.

6 And On behalf of my colleagues, and
7 as Chair of this Board, I want to welcome all
8 of you to this, the 36th meeting of the
9 National Organic Standards Board.

10 At this moment, Board members, I'm
11 assuming you had time to review the agenda,
12 and I want to call for any changes or comments
13 on your part.

14 (No response.)

15 Hearing none, I will call for a
16 motion to approve the agenda as is printed.

17 MEMBER HALL: I move to accept the
18 agenda as printed.

19 VICE-CHAIR MOYER: I second that
20 motion.

21 CHAIRMAN DELGADO: It is moved and
22 seconded to approve the agenda for today as

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1 printed. And we will take a vote viva voce.

2 Those in favor say aye.

3 (Chorus of ayes.)

4 Those against?

5 (No response.)

6 Okay, we have an agenda. Thank you
7 very much.

8 By way of a welcome, I just want to
9 say how proud I am of all the Board members.
10 For the past four months, we have worked
11 extremely hard. We have some changes in
12 deadlines. And I want to appreciate that
13 work.

14 I know we all were extremely
15 focused on our work plans. We were able to
16 resolve our differences of views in a
17 extremely constructive manner. And I think we
18 were able to work and participate with the
19 program and the public in a most productive of
20 ways. In short, I think this Board is a
21 working unit to be proud of.

22 You might not know this, Board

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1 members, but we clocked over 100 conference
2 calls in the last four months. Each one of
3 those calls was for sure at least two hours.
4 We had several participants, in some cases up
5 to 10 or more participants in those calls.
6 There were heated debate going on.

7 And It doesn't take a lot of
8 knowledge to make the math and realize that we
9 accumulated very close to a thousand hours. I
10 know you hate me to say this, and I consider
11 myself the MBA, in-house MBA, but if you put
12 numbers to those hours, pretty soon they add
13 up to several thousands, if not millions, of
14 dollars.

15 But the important thing is that all
16 this is volunteer work, and that is highly
17 appreciated. I know that's time away from
18 your work, added pressure to your agendas, and
19 most importantly, it is time away from your
20 families. So thank you very much for that.

21 Right, a quick announcement on my
22 part: our Board member, Mrs. Bea James, won't

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1 be able to join us for personal reasons, so
2 she sends her apologies.

3 And I would also like to introduce
4 our newest member of the Board, Mr. Barry
5 Flamm. We are very happy to have him. He has
6 been with us for several months now, but that
7 hasn't kept him from being an active member.
8 He is actually forms part of the -- he is the
9 Chair of the Policy and Development Committee,
10 and I appreciate your effort, courage, and
11 dedication, Barry.

12 Right, on that note, we can proceed
13 on to introductions, unless there are other
14 announcements.

15 MEMBER HEINZE: Catherine has asked
16 that we remind the public, if you haven't
17 signed in in the registration book, to please
18 do so, so we know who has attended. Thank
19 you.

20 CHAIRMAN DELGADO: Any other
21 announcements?

22 (No response.)

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1 Okay, let's proceed with
2 introductions, and we will start on the window
3 side of the aisle with Dr. Hugh Karreman,
4 please.

5 MEMBER KARREMAN: Good morning.
6 Thank you, Rigo.

7 My name is Hubert Karreman. I'm --
8 I sit in the Environmentalist/Resource
9 Conservation seat on the Board. In daily
10 life, I am a dairy veterinarian, working with
11 organic dairy farms in Lancaster County,
12 Pennsylvania, and I've been doing that for the
13 last 12 or 13 years and --

14 MEMBER ENGELBERT: Thank you, Hugh
15 and Rigo.

16 I'm Kevin Engelbert. I'm a farmer
17 representative on the Board. I operate a 120-
18 count dairy farm in upstate New York. We've
19 been organic for about 30 years.

20 I want to thank my sons, as I
21 always do at these meetings, for carrying the
22 load for me while I am away from the farm,

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1 especially during this crucial month of the
2 year for us.

3 I sit on the Livestock Committee,
4 the Crops Committee, and the Materials
5 Committee. I am very, very honored to be in
6 this role. Thank you.

7 MEMBER HALL: Hi, I'm Jennifer Hall.

8 I live in Spokane, Washington, and I sit on
9 the Board as a consumer representative on both
10 the Livestock and the Certification
11 Committees.

12 In my regular life, I direct an
13 effort right now to open a consumer co-op in
14 Spokane, Washington.

15 MEMBER DeMURI: Hi, everybody. My
16 name is Steve DeMuri. I hold one of the
17 handler positions on the Board.

18 For fun, I work for Campbell's Soup
19 Company, and there I direct organic
20 manufacturing for our company.

21 I have been on the Board now for
22 about a year and a half, and it has been an

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1 honor to be on this Board.

2 MEMBER WEISMAN: My name is Julie
3 Weisman. I'm the other handler on the Board.

4 I'm currently the Chair of the Handling
5 Committee, and this is my -- it's the
6 beginning of my fourth year. Time flies when
7 you're having fun.

8 In my regular life, I am an owner
9 of Elan and Flavorganics, which involves me in
10 flavor ingredients, both organic and
11 conventional. I am also the mother of two
12 girls who I would -- I hope to get to a
13 meeting before the end of my term.

14 MEMBER GIACOMINI: My name is
15 Daniel Giacomini. I sit in one of the
16 consumer seats.

17 I'm from the Bay Area in
18 California, and my daily -- the rest of my
19 daily work is now taken up with issues of the
20 Board. I am also an animal nutritionist and
21 dairy consultant.

22 And I sit on the Board -- this is

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1 my third year on the Board. I'm Chairman of
2 the Materials Committee and on the Livestock
3 Committee.

4 MEMBER HEINZE: Good morning. I'm
5 Katrina Heinze. I am in a scientist slot on
6 the Board with formal training in chemistry.
7 I also have the honor of being the Secretary
8 for the Board.

9 I'm a long-time active organic
10 consumer and mother of two children. So this
11 certainly fits some personal passions.

12 Like everybody else, my day job, I
13 work for General Mills in our Regulatory
14 Affairs Group and have most of my experience
15 in food safety and manufacturing.

16 CHAIRMAN DELGADO: Before we
17 continue, I would just ask you, when you
18 finish talking, please turn off your
19 microphones. That will avoid the echo that we
20 are listening to. Okay?

21 VICE-CHAIR MOYER: My name is Jeff
22 Moyer. I hold a farmer position on the Board.

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1 My day job is the Farm Director for
2 the Rodeo Institute, a 333-acre research and
3 education facility in Pennsylvania.

4 I am on the Livestock Committee.
5 I'm the Vice-Chair of the Crops Committee.
6 I'm on the Materials Committee, and I'm the
7 Vice-Chair of the Board.

8 Thank you.

9 MEMBER DAVIS: I am Gerald Davis.
10 I am a producer representative on the Board
11 and the Chair of the Crops Committee, and I'm
12 on the Handling Committee.

13 I work for Grimmway Farms in
14 California. Long-time, 15-year organic farm
15 advisor and agronomist.

16 MEMBER ELLOR: I'm Tina Ellor. I'm
17 filling one of the environmentalist slots on
18 the Board. I've had the honor this year of
19 working with the Crops Committee and the
20 Livestock Committee, and I can't tell you how
21 much I've learned and how nice it is to see so
22 many familiar faces out there.

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1 MEMBER MIEDEMA: Good morning. I'm
2 Tracy Miedema. I live in Oregon and work for
3 a sustainable and organic farm there and
4 manage the Consumer Products Division, and I
5 sit in the consumer -- one of the three
6 consumer and public interest seats.

7 My committee work is Handling
8 Committee and Certification, Accreditation,
9 and Compliance.

10 MEMBER SMILLIE: My name is Joe
11 Smillie. I hold the certifier seat on the
12 NOSB. I'm Chair of the Certification,
13 Accreditation, and Compliance Committee and a
14 heavily-worked member of the overworked
15 Handling Committee.

16 (Laughter.)

17 I have been a certifier officially
18 since about 1998. I'm the Senior Vice
19 President of Quality Assurance International.

20 Before that, I was an organic inspector for a
21 number of organizations. I was a consultant
22 specializing in industrial compositing and

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1 orchard management. And before that, I was a
2 organic farmer.

3 I have been on the Board for three
4 years and, you know, like everyone else, the
5 reason -- one of the reasons I took the CACC
6 job was because that was the Committee that
7 didn't have much work, and I thought, well,
8 I've got a pretty heavy work schedule, so I'll
9 try that one. But that was a mistake because
10 all of a sudden we got a load of work.

11 So I just want to testify what
12 everybody else has said, that serving on the
13 NOSB is a real commitment and it takes a lot
14 of time. A lot of the people on this Board
15 spend a lot of time doing reviews and many of
16 the other tasks we have. It's an amazing
17 Board to work for.

18 We have definitely differences of
19 opinion all the time, but we work really well
20 together as a group, and I'm especially proud
21 of that fact.

22 MEMBER FLAMM: As Rigo announced,

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1 I'm the newcomer on the Board.

2 I live in Polson, Montana on the
3 beautiful Flathead Lake. I always have to do
4 a little advertising for Montana.

5 I have spent my life, vocation and
6 avocation in conservation, particularly in
7 natural resources and environmental work.

8 On the Board, as Rigo mentioned, I
9 am currently Chair of the Policy and
10 Development Committee. I also serve with Joe
11 on the CAC Committee and also the Crops
12 Committee.

13 I, my -- briefly, my background, as
14 I mentioned, is in conservation and natural
15 resources, environmental work. Currently, I
16 am primarily an international consultant on
17 conservation in different parts of the world.

18 And I just recently sold my organic
19 cherry and apple orchard.

20 And I'm extremely pleased to be
21 part of the NOSB and have worked with a great
22 group of people. I'm real happy to be here

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1 and hear your comments and meet you
2 individually.

3 CHAIRMAN DELGADO: Well, thank you
4 very much.

5 I do want to make an announcement.

6 Board members and members of the public, if
7 we do hear a cell phone go off, we'll take
8 your name down and you will have to buy drinks
9 for all the members of the Board. So please
10 take this time to turn those off.

11 I would like also to continue --
12 thank you very much for -- with members of the
13 program, if you were kind enough to introduce
14 yourselves and tell us something about your
15 background. Then if we can start with Dr.
16 Robinson?

17 MS. ROBINSON: Oh, I'm sorry, what
18 do you want?

19 CHAIRMAN DELGADO: Introductions,
20 please.

21 MS. ROBINSON: I'm sorry.

22 Barbara Robinson, Deputy

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1 Administrator for Transportation and Marketing
2 Programs and presently the Acting Director for
3 the National Organic Program.

4 Do you want me to introduce the
5 whole staff, or do you want --

6 On my right is Richard Mathews. To
7 his right is Katherine Benham, then Toni
8 Strother. On my left is Mark Bradley. Next
9 to Mark is Bob Pooler, and next to Bob is
10 Shannon Nally -- at your service.

11 CHAIRMAN DELGADO: And lastly, we
12 have our Executive Director, Ms. Valerie
13 Francis. Could you tell us something about
14 your background and the most funniest thing
15 that has happened in the last three hours?

16 (Laughter.)

17 MS. FRANCIS: Long-time organic
18 person, nutritionist by training, worked on
19 farming, marketing, retail, wholesale,
20 research, a lot of different activities,
21 certification even more recently.

22 And glad to be here. This will be

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1 my third year in this role, and it has just
2 been a blast. I love working at the Board.

3 And the funniest thing that has
4 happened in the last three hours is we've had
5 a heck of a time with our projector. And so
6 we are trying to get that worked out, but it
7 has just not wanted to cooperate. So we have
8 a back-up plan for later. I don't know how
9 funny that is.

10 CHAIRMAN DELGADO: Thank you,
11 Valerie.

12 Okay it's part of the tradition
13 here on the Board is for the Chair to read the
14 Board's mission, and that is what I am going
15 to do at this point. It reads as follows, and
16 it is found in the Policy Manual:

17 The mission is to provide effective
18 and constructive advice, clarification, and
19 guidance to the Secretary of Agriculture
20 concerning the National Organic Program and
21 the consensus of the organic community. All
22 right?

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1 And let's move on, then, to the
2 Secretary's report. Dr. Heinze, if you would
3 be so kind?

4 MEMBER HEINZE: Okay. It has been
5 a while since anybody has called me "doctor".
6 It's a little bit shocking.

7 Okay we have two matters to take
8 care of as part of the Secretary's report.
9 One is the meeting transcripts from our
10 November meeting, and the other is our meeting
11 minutes. So we'll take those in order.

12 So I have -- I believe the
13 transcripts are in order and there's no
14 discussion unless anyone on the Board has
15 discussion on the transcripts.

16 (No response.)

17 Okay, hearing none, I move that we
18 accept the November 2007 meeting transcripts.

19 CHAIRMAN DELGADO: Any second?

20 MEMBER ELLOR: Second.

21 CHAIRMAN DELGADO: It is moved and
22 seconded to accept the November 2007 meeting

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1 transcripts.

2 Discussion?

3 (No response.)

4 All right, ready for the question?

5 The question is on the motion to accept the
6 November 2007 meeting transcripts, and we'll
7 take a viva voce vote.

8 All those in favor please say aye.

9 (Chorus of ayes.)

10 All those against?

11 (No response.)

12 Okay, the motion is approved here.

13 Any abstentions?

14 (No response.)

15 Thank you for the correction.

16 None. So, thank you.

17 We'll continue on.

18 MEMBER HEINZE: Okay, the second
19 matter is the November 2007 meeting minutes.
20 Typically, that is a combination of the
21 Secretary's minutes as well as the vote
22 summary. Due to the transition in Secretary

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1 and a technical error, the Executive Committee
2 has not voted on the vote summary. So we'll
3 have to handle those at our next meeting. So
4 this is just the minutes from our November
5 2007 meeting.

6 Any questions or discussion on
7 those?

8 (No response.)

9 Okay. I move that we accept the
10 November 2007 meeting minutes.

11 VICE-CHAIR MOYER: I'll second
12 that.

13 CHAIRMAN DELGADO: It is moved and
14 seconded to accept the November 2007 minute --
15 meeting minutes.

16 Any questions? Discussion?

17 (No response.)

18 Hearing none, we are ready for the
19 question. The question is on the motion to
20 accept the November 2007 meeting minutes, and
21 we'll again take a viva voce vote.

22 All those in favor please say aye.

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1 (Chorus of ayes.)

2 All those opposed say no.

3 (No response.)

4 Any abstentions?

5 (No response.)

6 Okay, the motion is approved.

7 MEMBER HEINZE: That ends the
8 Secretary's report.

9 CHAIRMAN DELGADO: Thank you very
10 much.

11 Well, it is 11:29, and it is now
12 the turn for the National Program to provide
13 us with their report. And I'll ask Dr.
14 Robinson to do so at this point.

15 MS. ROBINSON: Good morning.

16 First of all, I would like to
17 welcome Dr. Flamm to the Board.

18 Barry, we certainly do appreciate
19 you accepting this appointment. And we have
20 for you a plaque and your letter of
21 appointment, signed by Secretary Edward
22 Schafer. So I want to present that to you now

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1 with appreciation for accepting the call to
2 serve the Nation and the United States
3 Department of Agriculture as a member of the
4 National Organic Standards Board.

5 (Applause.)

6 Okay. Well, we've had some good
7 things happen to us this year. One was we got
8 a lot of extra money. And with this program,
9 every little bit helps.

10 The FY08 budget increase was almost
11 a 100 percent increase in our budget, which
12 for the size of this budget is -- I guess you
13 could say that's not saying much, but for us
14 we jumped up and down for joy. We're up to
15 \$2.6 million in program funding.

16 And last fall, when I talked with
17 you -- with the Board and with the industry --
18 I told you that we were going to make some
19 changes if we got some new money, and so we
20 have. At that time I talked with you about
21 trying to increase transparency in this
22 program. So we think that we are on the road

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1 to doing that.

2 I also told you that we would
3 probably, you know, scrape our knees a little
4 bit when we did it. But we have done some --
5 made some changes, and I am pretty pleased
6 with those.

7 Because of the additional funding
8 that we have received, we are now to the point
9 we have been able to actually create some
10 structure in this program. Whereas, before we
11 always had kind of the situation that I like
12 to call, you know, seven or eight people,
13 just, you know, get up there and do some work,
14 now we have been able to create three branches
15 in the program for the first time.

16 We have a Standards Review and
17 Development Branch. We have a Accreditation,
18 Auditing, and Training Branch, and we have a
19 Compliance and Enforcement Branch.

20 Rick Matthews heads up the
21 Standards Review and Development Branch. Mark
22 Bradley heads up the Accreditation, Auditing,

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1 and Training Branch, and at the moment we
2 don't have anyone heading up the Compliance
3 and Enforcement Branch.

4 But for the moment, and until we
5 fully get staffed up, we are trying to staff
6 up to 15 or 16 people this year, and we hope
7 that we will be able to do that. For the
8 moment, if you are in either the
9 Accreditation, Auditing and Training Branch or
10 the Compliance and Enforcement Branch, my
11 expectation is that you wear both hats.

12 We also have changed our website,
13 which I am sure -- in fact, I know -- that
14 many of you have noticed. We now look like
15 the USDA home page. If you've ever been on
16 that site, we now look like that.

17 We have been waiting a long time to
18 be able to do that. So we're very happy that
19 we now look like the USDA home page, and we
20 had to come into compliance with that
21 directive.

22 But when we did that, it enabled us

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1 to take advantage of some things and begin to
2 create what I talked to you about last fall,
3 which was to start to build more transparency
4 and create this glass house for the NOP to
5 begin to publish everything that we can
6 publish for this program and put it on the
7 website.

8 So we are beginning to publish all
9 the information that we can relative to our
10 certifying agents. We started something
11 called NOP Access, where we are trying to put
12 up questions and answers that we receive from
13 outside parties.

14 We know that you are reading it
15 because you let us know where we don't do it
16 right. I'm not going to apologize for the
17 website or for the fact that you point out our
18 mistakes because that lets me know you are
19 reading. So I'm very happy for that.

20 Like I said before, Access is new.
21 The website is new. Like anything new, it's
22 not perfect. We'll get there.

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1 We are engaged in equivalence
2 discussions with Canada. We have had two
3 technical meetings with them. We are coming
4 up on a third discussion with them. We are
5 very optimistic and we remain so. It is a
6 priority for us because it is a priority for
7 you. So it is high on our list of things to
8 accomplish.

9 Yesterday I met with officials from
10 Japan, after they were meeting with
11 representatives from the U.S. Trade
12 Representative's Office. We presented them
13 with a letter of recognition. So they are now
14 one step closer to requesting equivalency
15 discussions with us as well.

16 We understand that they have
17 removed restrictions on potassium bicarbonate
18 and lignin sulfonate. They still have
19 problems with fuming acid. That will be a
20 problem if they request equivalency
21 discussions with us.

22 We understand that the EU has also

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1 backed away from their concerns about
2 potassium bicarbonate as well, which is good.

3 As for regs, the materials dockets
4 are moving through clearance, as they need to
5 be, and we will get them done. The sunset
6 dockets, everything will move through and get
7 there on time.

8 The pasture rule is still working
9 its way through clearance, and we remain
10 optimistic that we will have something for the
11 industry.

12 That's all that we have for the NOP
13 update, unless you have questions.

14 CHAIRMAN DELGADO: Are there any
15 questions? Kevin?

16 MEMBER ENGELBERT: Two questions,
17 Barbara: Do you have any idea what the
18 pasture rule is going to look like? Will it
19 resemble the NOSB recommendations at all?

20 Two, where does the origin of
21 livestock stand?

22 MS. ROBINSON: We're writing the

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1 origin of livestock rule right now, Kevin. We
2 haven't put it through clearance yet, but we
3 are writing it.

4 Yes, I do know what the pasture
5 rule will look like because we wrote it, not
6 to be flippant or anything, but I do know what
7 it will look like.

8 What was the other part of your
9 question? Will it look anything like the NOSB
10 recommendation? Yes, it will meet everyone's
11 needs. Yes.

12 CHAIRMAN DELGADO: Any other
13 questions for Dr. Robinson?

14 Kevin, was that clear? Satisfied?

15 (Laughter.)

16 Never mind. Well, we'll move on.

17 Mr. Smillie?

18 MEMBER SMILLIE: Any timeline on
19 the head of the third branch of the NOP, for
20 hiring that person?

21 MS. ROBINSON: I'm hoping this
22 summer.

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1 CHAIRMAN DELGADO: Any other
2 questions? This is your chance.

3 MS. ROBINSON: Oh, it's not your
4 only chance. I'm here for the whole meeting.

5 CHAIRMAN DELGADO: Absolutely.
6 Yes, I must recognize that, and thank you for
7 participating with us every month on the
8 conference calls. You have been extremely
9 supportive, and I want to recognize that.

10 Very well. Thank you very much for
11 your report.

12 MS. ROBINSON: You're welcome.

13 CHAIRMAN DELGADO: And it is 20
14 before the hour. That concludes our first
15 section of the meeting. The next part is very
16 interesting. It is lunch. So we'll take a
17 recess and come back at quarter to 1:00.

18 We have a total of 47 public
19 commenters. We'll start with Mr. Ed Maltby.
20 We need to be here promptly. So I'll ask you
21 to be here at quarter before the hour.

22 Yes? Is the room going to be

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1 locked? Can we leave our valuables here? It
2 will be locked and you can leave your
3 valuables.

4 Yes?

5 MS. FRANCIS: Rigo, I'm not sure we
6 can really start before we say we're going to
7 start when it comes to accepting comment, to
8 be sure that a commenter does not miss their
9 opportunity.

10 CHAIRMAN DELGADO: I stand
11 corrected. You're absolutely right. So we'll
12 start at the listed time, which is one o'clock
13 local time.

14 Any other clarifications?
15 Questions?

16 (No response.)

17 Okay, we are in recess.

18 (Whereupon, the foregoing matter
19 went off the record for lunch at 11:38 a.m.
20 and went back on the record at 1:05 p.m.)

21

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1 the record." And I will be reminding all
2 speakers of that.

3 I'll just skip to the next one.

4 "No person will be allowed to speak
5 during the public comment period for more than
6 10 minutes."

7 And the most crucial I think is the
8 following: "Individuals providing public
9 comment will refrain from personal attacks and
10 from remarks that otherwise impunge on the
11 character of any individual on the Board or
12 the members, on the program, or the public."

13 So I'll be asking that of the
14 public, and I'll be very careful with that.

15 All right, on that note, we have
16 some other groundrules on the part of our
17 Secretary.

18 MEMBER HEINZE: Part of my duties
19 as Secretary are to assist those speaking with
20 their time management. So I have my timer.
21 Five minutes. When you have one minute left,
22 a big yellow sign. When you have used up your

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1 time, stop sign. So, hopefully, everyone will
2 be able to see those.

3 CHAIRMAN DELGADO: Thank you very
4 much.

5 There is one clarification there on
6 the part of our Director.

7 MS. FRANCIS: I didn't hear if you
8 actually said this; I was talking to someone
9 up here, but I just need to make sure that, if
10 you have written comments that you want passed
11 out, that when you come up here, check in with
12 me before your comment time, and bring me the
13 comments, I will pass them out.

14 I guess you'll bring the first
15 person up, and then there will be someone on
16 deck each time?

17 CHAIRMAN DELGADO: Yes.

18 MS. FRANCIS: And you also need to
19 state your name and your affiliation for the
20 record at the beginning of your talk for
21 purposes of the transcript. That would help
22 us a lot.

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1 CHAIRMAN DELGADO: Good. Thank
2 you.

3 All right, any other comments,
4 announcements?

5 (No response.)

6 Let's move on to our first speaker,
7 Ed Maltby, representing NODFA.

8 After will be Charlotte Vallaeys as
9 a proxy for Mark Costell.

10 MR. MALTBY: My name is Ed Maltby.
11 I'm the Executive Director of the Northeast
12 Organic Dairy Farmers' Alliance and
13 Administrator for the Federation of Organic
14 Dairy Farmers, which is a national umbrella
15 organization for dairy farmers across the
16 country.

17 What I am going to, I should say,
18 read -- but nothing I'm going to say today is
19 in any way new, and that is the problem. We
20 have an access to pasture rule that isn't due
21 to come out for quite some time. We have an
22 industry that is split. We have an organic

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1 consumer which is questioning the integrity of
2 the organic seal in a very public way, so much
3 so that once the integrity of the seal is
4 diminished, then the consumer, the farmer, the
5 marketer, the industry as a whole will lose
6 the credibility necessary to justify the
7 increased profitability for every sector of
8 the industry.

9 Now in looking at the access to
10 pasture rules -- and I was on a conference
11 call last week with organic dairy farmers
12 across the country, and they had a few
13 suggestions as to how I might present myself
14 today, 100 percent of which I ignored because
15 your caveat in starting was to be polite and
16 not insulting.

17 One of the suggestions was I should
18 bring some stale milk and put it around the
19 room, so that you wouldn't forget the crisis
20 that organic dairy farmers are in.

21 To get back to the necessary
22 regulations, and this is nothing new, 120

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1 days, 30 percent dry matter has been out there
2 now for two years, three years, four years.
3 So we're not suggesting anything different
4 from what the NOSB recommended many years ago.

5 We're not looking for anything new. We're
6 looking for something to be published.

7 To that extent then, we continue
8 our lobbying at the USDA. Last month myself,
9 a representative from the National Organic
10 Coalition, and Horizon Organic met with the
11 Under Secretary for Agriculture and expressed
12 our deep concern with what was happening and
13 the delay. We need something out. We need
14 something that recognizes exactly what the
15 NOSB put out there, not in part, but 100
16 percent, so that will retain the confidence of
17 farmers who have been struck not just with one
18 crisis, but with three or four different
19 crises.

20 You all know the price of diesel,
21 \$4.80 or \$4.90 a gallon. You know the price
22 of health insurance. You know that farmers are

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1 suffering. You know that farmers are going
2 out of business and going back to
3 conventional, and now is the time to act.

4 We need to have clear direction to
5 the certifiers: This is how you measure
6 access to pasture. Many certifiers are doing
7 that now, but we don't have a level playing
8 field across the country.

9 That should be a relatively
10 straightforward thing to do. It is welcomed
11 by both small farmers, not small farmers but
12 farmers who have small herds. Most of the
13 farmers with small herds are rather large, but
14 -- one minute left. But it is welcomed by
15 small and large farmers across the country in
16 arid areas where land is irrigated,
17 California, in the Midwest, in the Northeast.

18 Anytime any of you need any
19 substantiation of that, go to the NODFA
20 website, and it's a bit easier to navigate
21 than the USDA NOP website, which is, of
22 course, coming along very nicely, and thank

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1 you very much.

2 But before she shows me the yellow
3 stop sign, which when I'm driving I disobey
4 routinely, origin of livestock, last third of
5 gestation, we need it; we need it now. We
6 have to stop farmers who are going to enter
7 the industry doing so under false pretenses.

8 We have to have enough information
9 so organic dairy farmers can plan for the
10 future, can invest in livestock, can invest in
11 the land base they need to farm sustainably
12 for the future.

13 Thank you very much.

14 CHAIRMAN DELGADO: Mr. Maltby,
15 please --

16 VICE-CHAIR MOYER: Ed, can you
17 return to the podium? Thank you.

18 CHAIRMAN DELGADO: We have a
19 question here from Dr. Karreman.

20 Go ahead, please.

21 MEMBER KARREMAN: Ed, regarding the
22 farmers in economic crisis, one of the things

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1 that I read about definitely on some of the
2 LISTSERVs, one in particular, is that because
3 of the large certified organic dairy farms,
4 the small certified organic dairy farms are
5 getting -- you know, they don't have the
6 economies of scale and whatnot, and if there
7 weren't that many, it would be a lot better.

8 So how many, roughly, how many of
9 those large organic dairy farms do you think
10 there are that are actually -- do you have any
11 numbers somewhere that show that the large
12 organic dairy farms are actually, you know,
13 truly affecting directly the small farms?

14 That is one of the reasons for the
15 pasture rule, of course, is that all the cows
16 will be out, and apparently the larger farms
17 might not be able to make that. Therefore,
18 there will be smaller farms left.

19 So I guess I'm just asking, do you
20 have any clue about how many of those large
21 farms that you feel or your group feels that
22 might not be in compliance with the current

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1 rule that are affecting things right now?

2 MR. MALTBY: I think the problem is
3 that they probably are somewhat in compliance
4 with the current rule. The current rule is
5 not specific enough.

6 If you look at the reasons why you
7 need an access to pasture rule that defines
8 quantifiably just how much grass or forage
9 crops that need to be grazed is what consumers
10 expect. That is what is on every carton of
11 milk.

12 So you need the cows out there in
13 their hobbie-fours. They need to be out there
14 grazing.

15 If you look at the number of large
16 dairies coming online, then we are talking
17 perhaps eight to ten 5,000-plus cow dairies
18 which are going to come online unless some
19 regulation comes out that clearly defines what
20 they need to do and what land base they need
21 to have.

22 Now if you look at 5,000-cow herds

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1 and multiply that by 10, that's 50,000. The
2 most conservative estimates, we've got under
3 200,000 organic dairy cows in the country. So
4 the math is quite simple.

5 When there was a surplus a year
6 ago, people were talking about a wall of milk.

7 Well, unless we get definition on exactly how
8 many acres you need to sustain a large dairy
9 herd, then we will have a wall of milk coming
10 from the West and the Midwest that is going to
11 drive small family farmers out of business.

12 CHAIRMAN DELGADO: Mr. Engelbert?

13 MEMBER ENGELBERT: Yes. Ed, I
14 think I may resemble one of your remarks.

15 (Laughter.)

16 MR. MALTBY: It wasn't directed at
17 you, Kevin.

18 MEMBER ENGELBERT: I have a number
19 that I heard of family farms in the Northeast
20 who have gone out of business. But do food
21 farmers in NODFA have an official number? Do
22 you know how many farms have gone out of

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1 business in the last year?

2 MR. MALTBY: We don't exactly
3 because it is very difficult to calculate. We
4 know that at least 25 organic dairy farmers
5 have stopped shipping organic milk. Some have
6 gone back to conventional. Some have gone out
7 of business.

8 What we do know is that one
9 supplier of organic feed in the Northeast said
10 his receivables went from 500,000 back in
11 September of '07 to 1.5 million. So you are
12 seeing farmers who are in debt. You are
13 seeing farmers who have used their savings.
14 You've got farmers whose line of credit has
15 run out, and expect something catastrophic to
16 happen this fall, which is not going to do the
17 integrity of the seal any good.

18 MEMBER KARREMAN: I guess I have
19 one follow-up question, if I may. My
20 question, more specifically, is perhaps, do
21 you have any numbers about the amount of
22 consumers that have backed off buying organic

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1 dairy products because of this perception out
2 there with the large farms skirting the rules,
3 or whatever, you know, like you all say?

4 MR. MALTBY: Right, and we don't
5 have those figures yet, but if you look at
6 anecdotal accounts in newspapers, you see that
7 people are backing off from apparently paying
8 extra for organic milk.

9 Our study shows that the retail
10 price of organic milk in the marketplace is,
11 in fact, slightly less than it was two years
12 ago. So it is not price.

13 So if you take that information,
14 then it is questioning the integrity of the
15 seal, and whether they should pay extra for
16 that, and what does it do to benefit their
17 environment, their children's environment, and
18 in my case my grandchildren. I don't look
19 that old, but I had kids when I was young.

20 (Laughter.)

21 MEMBER KARREMAN: Thanks.

22 CHAIRMAN DELGADO: Any other

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1 questions?

2 (No response.)

3 Thank you very much.

4 MR. MALTBY: Thank you.

5 CHAIRMAN DELGADO: Up next is
6 Charlotte Vallaeys. After her is Mitch
7 Johnson.

8 MS. VALLAEYS: Hi. My name is
9 Charlotte Vallaeys. I'm a Farm and Food
10 Policy Analyst at the Cornucopia Institute,
11 and I have a proxy statement for Mark Castell,
12 who is the Co-Director of the Institute.

13 Mark would like me to share with
14 the Board our concern for the lack of
15 enforcement of the organic regulations for
16 these large dairy farms and the apparent
17 favoritism toward certain corporations at the
18 compliance level.

19 He has asked me to read the
20 following sections from a press release issued
21 by the Cornucopia Institute earlier this
22 month:

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1 "The Cornucopia Institute has filed
2 a formal legal complaint with the USDA
3 claiming that one of Dean's Horizon suppliers,
4 a dairy in Snelling, California, was skirting
5 the law by confining the majority of their
6 cows to a filthy feedlot rather than allowing
7 them fresh grass and access to pasture, as the
8 federal organic regulations require.

9 "Cornucopia has also asked the
10 Inspector General at the USDA to investigate
11 appearances of favoritism at the agency that
12 has benefitted Dean Foods.

13 "Cornucopia charges that past
14 enforcement of the Organic Foods Production
15 Act, the law governing organic food labeling
16 and production, has been unequally applied
17 toward major corporate agribusiness by the
18 USDA.

19 "We are asking the USDA, once
20 again, to investigate serious alleged
21 improprieties at dairies that produce Horizon
22 organic milk.

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1 "Besides the legal issues that
2 Cornucopia raised, they suggest Dean Foods has
3 seriously injured the value of its Horizon
4 label and the reputation of organic milk. In
5 the eyes of consumers, factory farms with
6 questions about humane animal husbandry and
7 records of endemic pollution do not meet the
8 ethical litmus test.

9 "Cornucopia's most recent complaint
10 is the third filed with the USDA alleging Dean
11 Foods has broken the federal law that governs
12 organic production. Prior complaints also
13 charged Dean with confining cattle on their
14 two corporate-owned dairies, managing as many
15 as 8,000 head of cattle each.

16 "Although the USDA, based on
17 Cornucopia research, sanctioned or decertified
18 two independent factory farms supplying
19 Horizon, the federal agency dismissed both
20 legal complaints against Dean Foods itself.

21 "According to documents obtained
22 under the Freedom of Information Act by

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1 Cornucopia, the USDA never investigated or
2 even visited Dean's largest corporate-owned
3 industrial dairy in the desert-like conditions
4 of central Idaho.

5 "It appears that Dean Foods has
6 more political clout in Washington than the
7 two independent factory farm operators that
8 were found to have been abusing the trust of
9 organic consumers.

10 "According to FOIA documents, Dean
11 Foods hired lawyers at Covington and Burling,
12 one of the Capital's most powerful and
13 influential legal and lobbying groups, to
14 plead their case.

15 "The USDA closed complaints we
16 filed in 2005 and 2006 without ever having
17 visited the Horizon dairy in Idaho and warned
18 Dean Foods in advance before inspecting their
19 Maryland farm.

20 "In a letter to USDA Inspector
21 General Phyllis K. Fong, Cornucopia asked her
22 to investigate why the agency arbitrarily

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1 chose to adjudicate some of the formal legal
2 complaints filed by Cornucopia, but looked the
3 other way when it came to the largest
4 corporate dairy processor and marketer in the
5 country for almost identical alleged offenses.

6 "Cornucopia's letter stated
7 conditions on the 8,000-head factory farm
8 operated by Dean in Idaho were very similar to
9 the factory farms that the USDA has already
10 sanctioned. The only discernible difference
11 appears to be how much money Dean Foods has
12 spent on lobbyists and campaign contributions
13 in Washington."

14 We would like to stress that the
15 current rules are enforceable, as evidenced by
16 the enforcement actions against Aurora and
17 VanDrake. So we ask the Board to be on record
18 to support strong and even-handed enforcement
19 against all marketplace players no matter how
20 large and powerful.

21 Furthermore, we urge the enactment
22 of the new regulatory language controlling

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1 pasture and the origin of livestock. These
2 must be no less strict than the standards are
3 today, only easier to understand and enforce.

4 Thank you.

5 CHAIRMAN DELGADO: All right, thank
6 you.

7 Any questions from the Board?

8 Dr. Karreman?

9 MEMBER KARREMAN: Just a simple --
10 not a simple point, but it's conventional and
11 organic. Regarding animal welfare and how
12 animals are kept, I've got to say that on some
13 of the larger farms, animal welfare is better
14 than on some of the small farms I see. I'm
15 just saying that. You can't just take a broad
16 brush and say large farms, 1,000-2,000 head,
17 conventional or organic, have bad animal
18 welfare.

19 I'm in the industry. I just want
20 to correct you on that.

21 CHAIRMAN DELGADO: Okay. Ms.
22 Miedema?

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1 MEMBER MIEDEMA: I just wanted to
2 add to my colleagues on the Board and to our
3 Chair, I do take exception to this pulpit
4 being used as a forum for unfounded
5 allegations, and we're going to have a really
6 long three days if this is the type of
7 information that flows to us.

8 CHAIRMAN DELGADO: Okay. Well, I
9 do have to remind the member of the Board that
10 this is public comment, and we are obligated
11 to listen to those comments. Whether we agree
12 with those or not, or whether we think those
13 comments are appropriate for our mandate, it's
14 another story.

15 MEMBER MIEDEMA: I question whether
16 enforcement is under the purview of this
17 Board.

18 CHAIRMAN DELGADO: Absolutely.

19 Okay, any other comments?

20 (No response.)

21 Thank you very much.

22 Up next we have Mitch Johnson,

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1 please, and after Mr. Johnson is Patty Lovera.

2 MR. NEWCOMB: Actually, I'm Harold
3 Newcomb, and I'm a cattle tech services
4 veterinarian for Intervet/Schering-Plough, the
5 petitioner to add Fenbenzadole to the National
6 Organic Standards as a parasiticide --

7 MEMBER HEINZE: Could you spell
8 your name, please?

9 MR. NEWCOMB: Ma'am?

10 MEMBER HEINZE: Could you spell
11 your name, please?

12 MR. NEWCOMB: N-E-W-C-O-M-B.

13 MEMBER HEINZE: Thank you.

14 MR. NEWCOMB: Anyway, we wish to
15 add Fenbenzadole to the National Organic
16 Standards as a parasiticide to be used as an
17 emergency treatment in dairy and breeder
18 stock.

19 We appreciate by unanimous vote the
20 NOSB Livestock Committee recommended
21 Fenbenzadole to the National List in
22 accordance with Section 205.238 of the

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1 National Organic Standards.

2 We also want to acknowledge the
3 National Organic Program's decision to allow
4 the petition to be advanced under the 1999 TAP
5 review of Fenbenzadole, Ivermectin, and
6 Albendazole.

7 Parasite control today stands as
8 perhaps the major factor limiting development
9 of certified organic livestock production.
10 Fenbenzadole addresses this need in a manner
11 much more compatible with the principles of
12 organic agriculture than can be offered by
13 Ivermectin or Moxidectin.

14 Certainly management practices are
15 the foundation for parasite control in organic
16 livestock production, but the same section
17 that requires organic producers to maintain
18 preventative livestock health practices also
19 requires producers to use appropriate
20 medication to restore an animal to health when
21 methods acceptable to organic production fail.

22 In addition, animals on pasture

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1 naturally have more exposure to parasites than
2 those in confined situations. Current
3 biological and natural parasite controls are
4 not always effective to control emergency
5 outbreaks of internal parasites.

6 While Diatomaceous Earth is
7 effective in controlling external parasites,
8 there is no scientific evidence regarding the
9 efficacy of this product on internal
10 parasites.

11 Controlling internal parasites
12 should never be the main motivation for adding
13 Diatomaceous Earth to the feed.

14 Organic livestock producers
15 approached Intervet a couple of years ago to
16 request that we petition Fenbenzadole as
17 marketed under the commercial name of
18 Safeguard for approval as an allowed
19 parasiticide under Section 205.603 because
20 Fenbenzadole offers three major advantages.

21 No. 1, Fenbenzadole is not a
22 macrolide antibiotic. Fenbenzadole is part of

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1 a class of compounds called Fenbenzadole. By
2 contrast, Ivermectin and Moxidectin are both
3 macrolide antibiotics. As such, they are
4 inherently inconsistent with organic
5 management practices. In fact, the Secretary
6 of Agriculture in 2006 initially refused to
7 accept the NOSB's recommendation to add
8 Moxidectin to the National List for that
9 reason.

10 Secondly, Fenbenzadole is benign to
11 dung beetles, earthworms, and other beneficial
12 microorganisms. Dung beetles recycle
13 nutrients in pastures and control horn flies
14 and face flies. A single manure pat can
15 generate 60 to 80 adult horn flies if
16 protected from insect predators such as dung
17 beetles. Fly populations have been shown to
18 decrease significantly in areas with dung
19 beetle activity.

20 Ivermectins have a broad range of
21 activity in nematodes and arthropods as well.

22 By contrast, Fenbenzadole only targets

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1 nematodes. Studies cited in our petition
2 document the benign impact of Fenbenzadole on
3 the dung beetle, earthworms, and other
4 beneficial microorganisms.

5 Third, parasite resistencies grow
6 into the Avermectins or Ivermectin. The
7 repeated use of the same drug class
8 contributes to the development of resistance
9 by parasites. Parasite resistance to
10 Ivermectin compounds is well-documented. In
11 contrast, little resistance to Fenbenzadole
12 has been shown during the past 20 years.

13 In summary, Fenbenzadole represents
14 a viable resource that will allow organic
15 producers to have access to an appropriate
16 medication that will not violate the
17 principles of organic production. We strongly
18 urge that NOSB adopt the recommendation of the
19 Livestock Committee and recommend the addition
20 of Fenbenzadole to 205.603 of the National
21 Organic Standards.

22 CHAIRMAN DELGADO: Any questions

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1 from the Board?

2 (No response.)

3 Okay, I hear none.

4 Thank you very much.

5 So Ms. Lovera, and after that is
6 Harriet Behar.

7 MS. LOVERA: Hi. My name is Patty
8 Lovera, and I'm the Assistant Director of Food
9 and Water Watch, which is a consumer
10 organization based in Washington, D.C. I'm
11 here today to speak about the aquaculture
12 recommendation.

13 I just want to start off by saying
14 that we represent consumers, and our members
15 especially communicate with us that they have
16 very high expectations of the organic standard
17 in general, and the credibility of that
18 standard is what I am here to talk about, and
19 aquaculture is no exception.

20 So Food and Water Watch has
21 longstanding concerns about aquaculture in
22 general, especially done in the open oceans.

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1 So the issue of open net pens and wild fish
2 used in meal or oil are two practices we are
3 very concerned about. We think they have such
4 high environmental impacts that it makes them
5 incompatible with the principles of organic
6 production.

7 So, therefore, with the
8 recommendation you all are considering at this
9 meeting, we were pleased to see Section 252(b)
10 that says there will be no use of wild fish
11 meal or oil in feed, but we have concerns
12 about a couple of the other sections in the
13 recommendation.

14 The first concern we have is with
15 Section 252(a), which allows the use of fish
16 meal and oil from carcasses, viscera,
17 trimmings from processing of foreign certified
18 organic farmed aquatic animals to be used in
19 fish feed for domestic organic production.

20 We have concerns about this on a
21 couple of levels. One is as a process
22 question, whether it is really good precedent

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1 just to declare a foreign process basically
2 equivalent to a U.S. process that doesn't yet
3 have a standard. So we are very concerned
4 about the order of events there if we don't
5 have a U.S. standard yet, but we're allowing
6 foreign organic products to come in and be
7 used in organic production here.

8 Then we have very specific concerns
9 about some foreign standards for organic that
10 allow things like antibiotics and
11 parasiticides to be used that we feel don't
12 match up with the livestock standards we have
13 here.

14 The other section we are concerned
15 about is 252(1), and we're a little bit
16 confused about this one because it specifies
17 where you can't get fish meal and oil from.
18 You can't come from fisheries that are
19 overfished or at risk, which doesn't seem
20 compatible with Section (b) that says you
21 can't use it. So we are a little bit confused
22 about why that is in there. We think that

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1 that is unnecessary if Section (b) says you're
2 not to use wild fish meal or oil.

3 The final point on aquaculture I
4 need to make is we are very concerned about
5 any proposal to allow a transitional or a
6 made-with-organic ingredients label for
7 aquacultured fish. We don't feel like that is
8 an acceptable interim solution while we are
9 still having this debate. We need to figure
10 out what the standards are going to be, come
11 up with a good standard, and we don't think
12 that an alternative label or an interim label
13 is an adequate solution to the current debate
14 that we are having.

15 So I think, rather than repeat the
16 comment I made six months ago, I will just say
17 that we are very concerned about kind of the
18 sense we get from this recommendation and from
19 some previous debates, that there is this
20 pressure to have a standard for carnivorous
21 fish. We don't think that that is the way it
22 is supposed to work with organic if organic is

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1 going to remain credible with consumers.

2 We don't want to see the standard
3 stretched to meet current practice. The
4 industry practice has to come meet the
5 standard, and the standard has to remain very
6 high for organic to be credible with
7 consumers.

8 Finally, I will just say, to save
9 some time, we are a member of the National
10 Organic Coalition, and you are going to hear
11 comments from them later that we fully support
12 about grower groups and the need to maintain
13 that issue for growers, and also for the issue
14 of materials and the national lists. We think
15 that this is a huge issue of credibility for
16 organic consumers to trust the standard, and
17 we think there's a lot of process issues that
18 have to be cleared up with the way materials
19 are being added to that list before we add a
20 lot more.

21 Finally, I just have to also point
22 out that the issue of pasture and figuring out

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1 that pasture rule is another huge credibility
2 issue with consumers.

3 Thanks.

4 CHAIRMAN DELGADO: Okay, thank you.

5 Questions? Yes, Ms. Hall?

6 MEMBER HALL: On the fish meal and
7 oil, in the interest of trying to reduce the
8 burden on wild stocks, and also try to
9 preserve a natural diet for piscivorous
10 species, where would you suggest they get
11 their diet?

12 MS. LOVERA: We think that it isn't
13 going to be an automatic that carnivorous fish
14 immediately can be organic. So I know there's
15 some companies exploring raising fish
16 organically, herbivorous fish organically, to
17 then turn them into feed for carnivorous fish.

18 If that takes longer, that is the sequence of
19 events. We just don't see wild fish being an
20 acceptable bridge to that because of the
21 environmental impact that it has.

22 CHAIRMAN DELGADO: Yes?

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1 MEMBER SMILLIE: Patty, since
2 you're the first aquaculture person, I thought
3 I would take the opportunity to forget about
4 the details for a second and try to figure out
5 where your group, what you want out of this.
6 Because I had participated in the beginning on
7 the aquaculture debate, and to me the
8 recommendations that the Livestock Committee
9 has come up with have really gone through a
10 lot of the details and they've gotten down to
11 like what they consider the barest minimum,
12 and a possible future organic aquaculture
13 industry may or may not even be able to grow
14 or survive or even start with what currently
15 is being recommended.

16 The end game for your group, surely
17 you want to support an organic aquaculture
18 industry because most of your complaints,
19 which are valid and legitimate, are against
20 conventional aquaculture. Don't you feel that
21 we have to find a middle ground, a compromise
22 position, so that we can start an organic

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1 aquaculture industry that can be replaced,
2 hopefully, by consumers voting at the
3 marketplace with an organic aquaculture
4 industry?

5 But if we kill, if we don't allow
6 this organic aquaculture industry to start,
7 then there won't be really a real competitor
8 to the conventional aquaculture industry that
9 seems to be at the core of most of your
10 issues.

11 So I just wanted to ask you
12 philosophically, has your group thought about
13 the strategic end game in this? Do they want
14 to support an organic aquaculture industry to
15 compete in the marketplace with the
16 conventional industry that causes all of these
17 problems that you have noted?

18 MS. LOVERA: I think that the
19 definition of organic is what we are talking
20 about, and if it is only able to be done for
21 certain fish, then it is only able to be done
22 for certain fish. I don't think we want to

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1 sacrifice the credibility of the organic
2 standard for all foods to deal with the issue
3 of aquaculture, and that is a concern that we
4 have.

5 So we don't think that this is the
6 only way to deal with the negative impacts of
7 conventional aquaculture. We're doing plenty
8 of other stuff to try to deal with that as
9 well. There are fixes that need to be made
10 there, and it is not only going to be duked
11 out in the market with organic versus
12 conventional.

13 I mean we have to stop the
14 environmental impacts of conventional
15 production and we have to have organic
16 production when it is appropriate and when it
17 meets the criteria of what people expect of
18 organic.

19 MEMBER SMILLIE: Right.

20 MS. LOVERA: I mean I don't think
21 we have any reason to bend that in some kind
22 of short-term battle.

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1 MEMBER SMILLIE: One of the
2 problems we face is that it is such a
3 different thing to deal with. In the
4 conversations with the Aquaculture Working
5 Group and many, many others, we have realized
6 that some of our organic rules, which we hold
7 steadfastly to, don't seem to fit, and we need
8 to spend more time in trying to figure out
9 what organic and aquaculture mean. Because if
10 you just take livestock rules or the current
11 feed rules we have, sometimes they just don't
12 fit with the aquaculture realities. We are
13 working off a terrestrial basis.

14 I mean you will hear more at this
15 meeting about hydroponics, how it can't
16 possibly be organic, and aquaculture is a very
17 hydroponic operation in many ways.

18 So what we are looking at in
19 aquaculture is trying to figure out how
20 organic integrity fits with aquaculture. If
21 we hold a strict terrestrial definition, it
22 will be problematic, but I understand your

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1 point. It was a good answer. You answered my
2 question.

3 MS. LOVERA: Yes, but we just have
4 the concern that in the short term I
5 sympathize; I don't envy you guys the job you
6 have to do, but there are bigger credibility
7 issues at risk to solve this one problem of
8 aquaculture. I don't think that that is worth
9 it for organic as a whole. I mean we have to
10 put that integrity first.

11 MEMBER SMILLIE: Like the foreign
12 fish example?

13 MS. LOVERA: It makes us very
14 nervous, yes.

15 MEMBER SMILLIE: Okay.

16 CHAIRMAN DELGADO: Jennifer?

17 MEMBER HALL: I would share that I
18 have equal concern about the integrity of the
19 label and aquaculture as a whole. However, I
20 do think, like Joe suggested, that there does
21 need to be some point at which we can start,
22 and that if it is all noes, then the

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1 legitimate concerns you bring up about
2 conventional aquaculture, consumers do respond
3 to that. I do worry that then that just
4 hyperinflates the demand on wild stocks which
5 are already in great jeopardy.

6 CHAIRMAN DELGADO: Hugh?

7 MEMBER KARREMAN: If the Livestock
8 Committee were to amend its position on the
9 foreign organic fish such that they cannot
10 have had parasiticides or antibiotics, would
11 that be helpful?

12 MS. LOVERA: Compared to some
13 people in this room, I'm a newcomer to
14 organic, but my understanding is that to
15 declare a foreign standard equivalent, you
16 have to have a U.S. standard. So I'm a little
17 bit confused about the order of events of
18 allowing that in.

19 MEMBER KARREMAN: Yes, I'm not
20 trying to get to that point right now. I'm
21 just saying that if there were foreign fish
22 coming in, let's just say, and they were

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1 certified not to have had antibiotics or
2 parasiticides, would that allay some of your
3 -- there's one point that you mentioned on
4 that?

5 MS. LOVERA: Yes, I mean that would
6 be a start, and we would have to then go look
7 at, are they using that and some of the other
8 concerns that we have that just aren't on the
9 table for this agenda.

10 CHAIRMAN DELGADO: Any other
11 questions?

12 (No response.)

13 Thank you very much.

14 MS. LOVERA: Thanks.

15 CHAIRMAN DELGADO: Ms. Harriet
16 Behar, and on deck we have George Lockwood.

17 MS. BEHAR: Hello, everyone. I'm
18 Harriet Behar, a certified organic grower, an
19 organic inspector, and an educator with the
20 Midwest Organic Sustainable Education Service.
21 I have a few comments on a few different
22 things.

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1 Commercial availability of seed
2 recommendation, the proposal as written puts a
3 tremendous burden on producers, seed
4 suppliers, and certifiers. For agronomic
5 crops, the vast majority of the organic corn,
6 beans, small grains, and legume seeds are now
7 certified organic. However, the availability
8 of organic vegetable seeds is limited.

9 The marketplace would be better
10 served by having the seed breeders survey the
11 needs of organic farmers and produce seeds to
12 meet those needs. This would get more to the
13 heart of the issue than producing voluminous
14 lists from each certifier.

15 On aquaculture, the proposal
16 allowing foreign-certified wild-caught fish
17 meal to be used as feed for NOP organic fish
18 puts our domestic producers at a disadvantage,
19 stating that a lower standard certification
20 from a foreign entity is allowed while
21 requiring a higher standard from any domestic
22 producers.

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1 The proposal to test the wild-
2 caught fish for contaminants also takes us
3 down the slippery slope of having the organic
4 label be based in a testing regime and not in
5 a production system.

6 The NOSB and the NOP should not be
7 pushed by the marketplace to come up with
8 something to meet the marketplace demand for a
9 cleaner fish. The final standard should be
10 consistent with all other NOP standards;
11 otherwise, we risk the lowering of consumer
12 perception for all categories of organic
13 labeling.

14 Grower groups: Calling this a
15 multi-site certification process goes beyond
16 the original issue brought before the NOP and
17 does not take into account fundamental
18 differences between farmers and
19 retailers/handlers. Farmers are part of a
20 community where there is peer pressure to
21 remain true to production standards set by
22 that community. Farmers manage their land

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1 from year to year, and it remains within the
2 family as well as for generations.

3 Handlers are hourly or salaried
4 employees who may lose their jobs if they do
5 not perform their work satisfactorily, but
6 would not lose their homes and livelihoods if
7 they do not follow their organic protocols.

8 The retail environment is notorious
9 for employee turnover, losing the consistency
10 needed from year to year to continuously
11 improve the organic management system.

12 This proposal to improve internal
13 control systems should be returned to only
14 include farmer producers with any discussion
15 of multi-site certification for retailers or
16 handlers to be part of a completely different
17 document which would address the significant
18 differences between the two types of
19 operations.

20 TAP reviews: At this time, TAPs
21 are not needed for items on 205.606. It
22 appears that the decisions on these 606 items

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1 are being made solely on the petitioner's
2 statements without any further impartial
3 analysis done in the marketplace. There is no
4 review of the environmental or health effects
5 of the conventional farming or processing
6 practices to produce these items on 606, which
7 is clearly required by OFPA.

8 After Harvey, there was a tight
9 deadline to have items on 606, and for
10 expediency TAP reviews were not done.
11 However, this should not become the status
12 quo. With the increased funding of the NOP,
13 these TAPs should be instituted.

14 The presence of okra on 606 and
15 petitioner's justification is one example. I
16 also noted that there was no TAP done on the
17 cheese wax to be reviewed during this session.

18 Again, the NOSB is relying only on those who
19 support the petition to support them with
20 their information, which inherently will be
21 one-sided and not impartial.

22 Q&As on the NOP website: It is

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1 impossible for the NOP staff to have deep
2 knowledge on every subject, resulting in
3 errors on the website.

4 One example is whether honeybees
5 can be certified organic. Comparing honeybees
6 to poultry shows a great lack of knowledge in
7 the biology of honeybees.

8 There is a good NOSB recommendation
9 on apiculture which addresses not only the
10 origin of honeybees, but also the beeswax
11 within the hive which will need to be
12 transitioned. Many entomologists suspect the
13 high concentration of toxic substances used in
14 beehives is a cause of colony collapse
15 disorder, and ignoring the honeycomb issue as
16 well as lack of understanding of bee biology
17 makes this an unworkable answer.

18 Q&As should be verified as correct
19 by running them by a knowledgeable person,
20 such as Nancy Ostiguy or a member of the NOSB
21 Apiculture Task Force for this specific
22 question.

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1 Methionine, I would hope that some
2 dollars could be found to fund the research on
3 a methionine replacement. Relying only on the
4 marketplace to do this is resulting in a
5 continual extension of the sunset of this
6 clearly prohibited substance. All synthetic
7 amino acids are prohibited in the OFPA.

8 Lastly, I ask the NOSB to request
9 from the NOP to hire employees with strong
10 technical backgrounds, especially in the
11 materials area, from the increased funding
12 which all of us worked very hard to get in the
13 2008 farm bill.

14 Thank you.

15 It is a big handful. You have a
16 lot of things on your docket that we have to
17 comment on.

18 CHAIRMAN DELGADO: Thank you.

19 Questions from the Board? We'll
20 start with the Vice-Chair.

21 MS. BEHAR: Hi, Jeff.

22 VICE-CHAIR MOYER: Hi, Harriet.

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1 You did a good job reading very
2 fast.

3 (Laughter.)

4 MS. BEHAR: And you have it in
5 front of you.

6 VICE-CHAIR MOYER: We do. Thank
7 you.

8 On your comments on commercial seed
9 availability, you said the proposal as written
10 would be a tremendous burden. Can you explain
11 more about that, how tremendous that burden
12 is?

13 MS. BEHAR: Well, you are asking
14 certifiers to keep lists of all the items that
15 they are approving as not commercially-
16 available. At this point, that's done at the
17 inspection level. It's not always present in
18 a database of the certifiers.

19 I personally am a certified organic
20 grower. I probably have purchased 30 percent
21 of my organic vegetables or my seeds as
22 organic for my vegetable operation, but 70

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1 percent not organic because I couldn't find
2 it. That is probably about 250 kinds of
3 seeds.

4 So imagine if a certifier has a
5 hundred vegetable growers. Do the math. They
6 are going to have to maintain these lists. We
7 are asking the seed suppliers to respond back
8 to every vegetable grower that they don't have
9 these 300 vegetable seeds. It is just a
10 tremendous paperwork burden.

11 VICE-CHAIR MOYER: But as a grower,
12 do you not already make a list of the seeds
13 that you have or that you purchase?

14 MS. BEHAR: Yes, but I don't have
15 it electronic. They would have to enter it in
16 some kind of database. There would be these
17 voluminous lists done by the certifiers,
18 basically, to service a marketplace demand,
19 where I think the seed people, they should be
20 surveying their marketplace to see what
21 producers want. It may not only be by
22 variety.

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1 The vegetable producers may want
2 certain characteristics; there isn't even a
3 variety available right now. So the
4 marketplace would actually get more
5 information that they need from a survey
6 rather than just finding out that they can't
7 get tyee spinach organic, because they are not
8 finding out from the producer why do they want
9 tyee.

10 CHAIRMAN DELGADO: Mr. Davis?

11 MEMBER DAVIS: Harriet, I just
12 wanted to point out that your assertion that
13 certifiers would have to collect and make a
14 list and compile all this, that is not
15 correct. That is not what the recommendation
16 suggests.

17 So the recommendation purely is
18 that certifiers act as the channel for the
19 growers' list just to collect them, not
20 compile them into a further list. So I just
21 need to point that out.

22 MS. BEHAR: But the inspector is

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1 usually seeing that on site. It is not always
2 going back to the certifier because, again, of
3 the large amounts. You know, there is a kind
4 of long list there.

5 And in the areas where we haven't
6 had a problem, I know in the Midwest -- I am
7 not sure about the East Coast, but I would say
8 65 to 70 percent of all the corn, soybeans,
9 small grains are organic seeds at this point.

10 Really our lack is in the vegetable area.

11 CHAIRMAN DELGADO: Any other
12 questions?

13 (No response.)

14 Okay, thank you very much.

15 Mr. Lockwood, and after that is
16 George Leonard.

17 MR. LOCKWOOD: Thank you, Mr.
18 Chairman. It is, indeed, a great pleasure to
19 be here today. I'm appreciative of this
20 opportunity.

21 I would also like to say that,
22 since we began this journey with the National

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1 Organic Standards Board in 2005, we greatly
2 appreciate the attention, the interest, the
3 patience, and the diligence that you have
4 provided, and particularly your Livestock
5 Committee. It has been a pleasure working
6 with them over the last several years and a
7 multitude of a conference calls.

8 You mentioned the number of calls
9 that you have had. I think the Livestock
10 Committee must have the record of the majority
11 of them.

12 We have carefully considered the
13 proposal after working with the Livestock
14 Committee, what they have proposed, and we are
15 very concerned that perhaps it is not the most
16 workable solution.

17 I would point out that, since 2006,
18 the Board has been involved in many different
19 meetings and discussions, including a
20 symposium. Our 12-member professional group
21 has participated in all of these. We have
22 carefully considered what the proposal is, and

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1 we, frankly, believe that it is just too risky
2 at this time to place all of aquaculture in
3 what is being proposed.

4 In what we had proposed back in our
5 interim final report in the year 2007, which
6 was basically adopted with some exceptions, we
7 were of one mind. There was no minority
8 report, and we still are of one mind, that we
9 are unanimous in what we are recommending.

10 To make our recommendations short,
11 sir, what we simply would like to suggest is
12 what we originally suggested, what we
13 originally proposed to be adopted. We think
14 that there is merit to what the Livestock
15 Committee is proposing here, and perhaps it
16 could be included as Item Q that fish meal and
17 oil from carcasses, viscera, and trimmings
18 from the processing of foreign certified
19 organic farmed aquatic animals will be
20 considered organic for the use in fish feed
21 only.

22 And the risks are simply this has

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1 never been done before. The equivalency part
2 of the law gives us great concern that the
3 Secretary is going to have to determine a
4 foreign certifier to be equivalent to what we
5 have in the United States. The only way we
6 can possibly see this working is if a grower
7 is to grow to, say, a Natureland standard and
8 to your standards simultaneously, so that that
9 fish could possibly be used as a source of
10 feed.

11 A second big concern we have is in
12 oil. Right now there are no ways of producing
13 the equivalent of fish oil. That may come,
14 but it is far from certain at this particular
15 stage.

16 So that is our recommendations,
17 sir. We are just concerned whether or not the
18 equivalency requirement really can be met in
19 an expedient way.

20 I would also say that at one time
21 the Livestock Committee was considering a
22 phaseout of fish meal and oil. We support

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1 that. If that is what the Board wants to do,
2 we think that is a workable condition.

3 But when it comes back to what we
4 really recommend, we all feel what we
5 originally proposed was, indeed, the best way
6 to make a viable aquaculture industry organic
7 or to make organic aquaculture viable.

8 Thank you, sir.

9 CHAIRMAN DELGADO: Thank you.

10 Any questions? Yes?

11 VICE-CHAIR MOYER: Thank you for
12 your comments, George.

13 A question: If I go down to the
14 supermarket today and buy organic fish, where
15 and how is that produced?

16 MR. LOCKWOOD: Well, Natureland and
17 the Soil Association are certifying fish that
18 come into the United States under very
19 different standards. As one of the previous
20 speakers pointed out, they allow antibiotics
21 and other prohibited things that we don't
22 allow here.

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1 VICE-CHAIR MOYER: I understand
2 that. So what our position was is that we're
3 trying in some way to accommodate your needs
4 and also the needs of the previous speaker.
5 So when we have an aquaculture working group,
6 an industry, that's not 100 percent happy, and
7 we have an environmental group that's not 100
8 percent happy, I think we are working on the
9 right track here as a Board, because it is a
10 fine line for us to try to walk.

11 What we are also trying to do is
12 make it possible to remove that organic fish
13 from the marketplace and substitute it with a
14 U.S. standard that I think is going to be
15 quite a bit higher than what you are seeing
16 there. They would not be able to sell that
17 fish today in the marketplace if this standard
18 that we have proposed would be in place. In
19 fact, they would only be able to use the
20 trimmings of that fish to feed these fish at a
21 very low percentage, 12 percent fish meal and
22 12 percent fish oil. So that is our goal.

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1 MR. LOCKWOOD: Well, first of all,
2 Jeff, we're not unhappy. We are very, very
3 pleased with the progress that has been made.

4 VICE-CHAIR MOYER: Good.

5 MR. LOCKWOOD: We just want to make
6 sure that what is finally adopted here is
7 workable, and we have serious questions, as
8 the 12 of us who are professionals in this
9 field, seven PhDs, we are just very concerned
10 that it may be very difficult to implement.

11 VICE-CHAIR MOYER: Okay.

12 MR. LOCKWOOD: That is our concern.

13 CHAIRMAN DELGADO: Yes, Dan?

14 MEMBER GIACOMINI: George,
15 regarding the foreign fish meal and fish oil,
16 if that were to go through, meet muster, meet
17 legal challenges, whatever else, would that
18 create a disadvantage to the U.S. aquaculture,
19 fish farmers, as far as getting access to that
20 or do you think that would all just be staying
21 in country and shipping out the fish at the
22 end?

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1 MR. LOCKWOOD: Dan, I have heard a
2 number of people, U.S. growers, who are very
3 concerned about what you just mentioned, that
4 this is discriminatory against the U.S.
5 farmer.

6 My feeling is that if a U.S. grower
7 wants to get Natureland to certify their
8 crops, that they could probably grow to these
9 standards. I think that is unprecedented. I
10 have never heard of it being done. Maybe you
11 all who are in the business know how that is
12 being done. But, yes, it is a concern.

13 CHAIRMAN DELGADO: Yes, Kevin?

14 MEMBER ENGELBERT: Yes, George,
15 briefly, I just want for the record to know
16 that we have done the best we could with what
17 our parameters were. We were told that wild-
18 caught fish oil and fish meal simply will not
19 be allowed when the OPIA writes the rule.
20 When it says organic, it's got to be organic.

21 Hugh brought up the suggestion,
22 well, there are foreign-certified operators

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1 selling fish in the United States. If we
2 added onto that recommendation that no
3 prohibited substances be allowed, would that
4 be something that you think would be workable?

5 As Jeff said, we've got to have
6 some way to get these -- and that you have
7 said, too -- we have got to have some way to
8 get these oils into the system to start the
9 process. Maybe it won't start all at once,
10 but we've got to do something. If we are
11 going to have an organic aquaculture, we've
12 got to bring them in some way.

13 MR. LOCKWOOD: Kevin, let me say I
14 know how frustrating it has been for all of
15 you, and we share the frustrations and we,
16 again, have great appreciation for all that
17 you have done in that area.

18 Our biggest concern, again, is
19 workability and equivalency. This has never
20 been done.

21 What you are saying is, if you were
22 to proscribe antibiotics, and so forth, would

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1 this be equivalent? I don't know. It really
2 boils down to the equivalency concern.

3 MEMBER ENGELBERT: Equivalency
4 wasn't our main objective. We were simply
5 looking for a source of these fish meals and
6 fish oils that would still qualify as at least
7 some type of organic. Because there are fish
8 processors, from what we understand, being
9 certified by foreign entities. That would
10 provide a source for these oils.

11 We are not saying that their
12 standards are equivalent, but we are looking
13 for something that would qualify as organic,
14 even though it is not USDA. But once our
15 standards are in place, then everyone would
16 have to meet those.

17 MR. LOCKWOOD: Well, again, the law
18 requires that the foreign standards be
19 equivalent, whatever that means. It is my
20 understanding that has never been tested in
21 terms of putting it into rules and
22 implementing it. That is one of our major

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1 concerns.

2 CHAIRMAN DELGADO: Okay, we have
3 Dan, followed by Jennifer.

4 MEMBER GIACOMINI: I just feel I
5 want to respond to what Kevin just said. We
6 did receive in our discussions, we felt we
7 were receiving pushback from the program when
8 we were discussing the step-down
9 possibilities.

10 But I think we need to recognize
11 that the discussions that go into rulemaking,
12 for instance, using pasture as an example, the
13 discussions that went into the original
14 rulemaking of pasture is far different than
15 what has gone into the discussions of the
16 pasture document that they are working on
17 right now.

18 I think whatever we send to the
19 program will be reviewed within the entire
20 scope of the law and the regulation. If
21 Congress felt that it was okay to put into the
22 law, into OFPA, that the Secretary would be

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1 able to consider wild-caught fish to be
2 certified or labeled as organic, knowing that
3 they also had in there the restriction on the
4 feed side of the issue, I think it is prudent
5 of us to put forth the best document we can.
6 If we want to try to see this industry go, we
7 put forth the document that we think might do
8 it and let those kinds of issues be resolved
9 by the NOP. I think we are putting the cart
10 before the horse.

11 CHAIRMAN DELGADO: Jennifer?

12 MEMBER HALL: I just want to
13 respond to your comment that, in relation to
14 equivalency, that this has never been done
15 before. I would suggest that this whole
16 recommendation as it relates to aquaculture
17 has never been done before.

18 So I think we really took the time
19 to sit with that and give ourselves the
20 opportunity to think creatively, given it is a
21 whole new realm. In so doing, the suggestion
22 of using foreign-certified seemed like a good

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1 certain step-up, knowing that those same
2 suppliers, once we have a rule in place for
3 aquaculture, they will be stepping up their
4 own production to meet that regulation, so
5 that they can have access to not the fish feed
6 market, but the human feed market. So it
7 would be a pretty short-lived window that
8 perhaps a lower margin might be the source of
9 feed for the bulk of the species, that over a
10 pretty short window it would be not out of the
11 realm to think that most of the supply would
12 meet our standard anyway.

13 MR. LOCKWOOD: Our biggest concern,
14 Jennifer, as I said, has more to do with oil
15 than with meal. Farmed tilapia may well be
16 the first source of fish meal. Unfortunately,
17 farmed tilapia is not a high oil fish, and
18 salmon and shrimp require larger, substantial
19 amounts of oil in order to be healthy.

20 Let me also comment, Kevin. I
21 appreciate that perhaps you have been told
22 that wild marine resources are not going to be

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1 allowed. We've considered that, and simply,
2 as your professional group has sat back and
3 said what we proposed originally is workable
4 and it's still, we think, the only way we can
5 see a viable organic aquaculture industry
6 develop.

7 We have tried, you all have tried a
8 number of different approaches, and we have,
9 too. We are most appreciative of that.

10 When we sat back, all of us said
11 what we originally proposed we thought was
12 pretty good and that we have seen nothing that
13 would be workable that is better at this time.

14 CHAIRMAN DELGADO: Any questions?
15 Kevin?

16 MEMBER ENGELBERT: Just one real
17 quick. To Dan's point, we have to make sure
18 we make the distinction between feed that's
19 being produced for human consumption and feed
20 that's being produced for livestock. It all
21 comes back to, well, if you can feed it to
22 humans, why can't you feed it to livestock?

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1 And you can. As authors of OFPA, we are still
2 concerned about human consumption in that
3 respect, just like we are right now with this
4 fish oil and fish meal.

5 CHAIRMAN DELGADO: Any other
6 comments? Questions? Joe?

7 MEMBER SMILLIE: I would just like
8 to thank George and his working group for
9 spending the time with us. I know it was very
10 frustrating for you at many times. Our group
11 certainly appreciated working with you. It
12 was a very valuable collaboration, and
13 hopefully, we will get somewhere with it.

14 MR. LOCKWOOD: Well, as Jennifer
15 just said, we're all plowing new ground here
16 or charting uncharted waters.

17 CHAIRMAN DELGADO: Okay, Kevin,
18 please.

19 MEMBER ENGELBERT: Thanks for that.
20 I meant to do that with my comments. I
21 forgot. But right, we thank you a great deal,
22 George, in all your patience with us and

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1 working with us and explaining things, the
2 whole nine yards. You've been great.

3 MR. LOCKWOOD: Well, you're
4 welcome, and it has been our privilege, too.

5 CHAIRMAN DELGADO: Okay, any other
6 questions?

7 MR. LOCKWOOD: We'll also be here
8 tomorrow.

9 CHAIRMAN DELGADO: Great. Thank
10 you, George.

11 Next is George Leonard, followed by
12 Becky Goldberg.

13 MR. LEONARD: Good afternoon.
14 My name is George Leonard. I'm with the Ocean
15 Conservancy.

16 First, I want to thank the NOSB,
17 the Livestock Committee, and George Lockwood
18 and the Aquaculture Working Group for these
19 challenging issues on aquaculture. As you all
20 know, this is hard stuff. This is the
21 intersection of sustainability and organic
22 principles. If it was easy, I think we would

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1 have been done long ago. But I think we are
2 making good progress.

3 We have submitted some comments to
4 you in writing, myself and Cory Pete from the
5 Monterey Bay Aquarium in California.

6 We were also participants in the
7 Symposium you put on in the fall, where we
8 tried to present some performance metrics on
9 the issue of fish meal or fish feed and this
10 issue of net pen aquaculture and the
11 intersection of organic principles.

12 In preparing some comments this
13 afternoon, I took a look at the comments that
14 had been submitted. In many of those
15 comments, particularly on the industry side,
16 there's a lot of discussion of this issue of
17 practicality; that is, can we do this? What
18 are the implications in terms of industry
19 development?

20 I think what this really boils down
21 to is two issues that are at play. One is the
22 practicality aspect, but the other is this

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1 fundamental principle of organic and what
2 organic means and being true to the label.
3 These are sort of in some cases fundamentally
4 at conflict.

5 I guess I would suggest that our
6 comments kind of come at this from, if you
7 need to make a decision going forward about
8 which of those is going to persevere, I think
9 we ought to probably start with principle and
10 then bring practicality in secondarily.

11 I think the reason for that is the
12 potential long-term damage to the brand itself
13 if we focus too much on practicality, maybe
14 something that it is difficult to recover
15 from.

16 So given that, with the concept of
17 starting first with principles, I would
18 suggest that the work that the Livestock
19 Committee has done is good progress. The
20 exclusion of wild-caught fish meal and fish
21 oil we think is a good thing. It is a very
22 strong stance against this concept that wild-

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1 caught fish can be declared organic. It is a
2 strong stance for conservation. It is a
3 strong stance that 100 percent of the
4 ingredients in organic farm fish themselves
5 have to be organic.

6 So all of that I think is good
7 progress. It is a strong stance. We are in
8 support of that.

9 The flip side, of course, is this
10 issue of the use of foreign-certified
11 products. That, obviously, causes some
12 trouble. I think it causes trouble on a
13 couple of fronts.

14 One is there's a real potential to
15 confuse consumers if the standards on the feed
16 inputs are different than the standards on the
17 product coming out of that system.

18 In addition, I think there are some
19 concerns about the standards of foreign
20 certification, including the use of
21 antibiotics, parasiticides, and those are the
22 primary drivers. There are some other issues

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1 as well.

2 So we remain concerned about that,
3 and that is the reason we have been generally
4 supportive of trying to come up with a U.S.
5 standard that sets the bar for the rest of the
6 world.

7 So, in a sense, I think that the
8 desire on the practicality side to get a
9 source of meal and oil for the industry to
10 start off perhaps puts too much emphasis on
11 the practicality issue and too far sacrifices
12 the principal concept.

13 Now perhaps a way to move forward
14 on this would be to focus more on sources,
15 domestic sources of U.S.-certified oil and
16 meal from byproducts of farm fish. I realize
17 this potentially gets us into a bit of a
18 circular argument, but that gets us away from
19 the foreign certification issue.

20 I suppose secondarily you could
21 work to a situation in which you allow the
22 foreign-certified products with a phaseout

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1 much as the Aquaculture Working Group was
2 suggesting for wild-caught feed, as a
3 potential to move away from that in the long
4 run.

5 Either way, I think we recognize
6 the fact that many producers are concerned
7 that there simply won't be sources for
8 certified meal and oil to get the industry up
9 and running. I think that is a legitimate
10 issue, but is one in which we need to stick by
11 standards first.

12 I think, finally, we would just
13 take exception in the minority opinion on this
14 issue of farm fish generally eat wild fish,
15 and as a consequence, we ought to use that as
16 sort of a reason to continue to use wild fish
17 meal and farmed fish -- I'm sorry -- wild meal
18 and oil in organic fish.

19 We have put together a table for
20 you from some basic literature on the wild
21 diets of many of the common farmed fish. You
22 will see that there's a whole diversity of

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1 food products in the wild, including things
2 like zoplank and phytoplank and algae,
3 microinvertebrates, macroinvertebrates, and of
4 course a number of small fish as well.

5 So I don't think we should use the
6 idea that wild fish eat regular old wild fish
7 as an excuse to continue the use of wild-
8 caught fish meal and fish oil.

9 So thank you for your time. I
10 appreciate it today.

11 CHAIRMAN DELGADO: Thank you.

12 Any questions? Joe?

13 MEMBER SMILLIE: I hear all of your
14 comments and I tend to agree with a lot of it.
15 I just wanted to do -- the equivalency thing
16 is problematic.

17 MR. LEONARD: Yes.

18 MEMBER SMILLIE: We recognize that.
19 I'm not sure how it is going to work.

20 But, again, equivalency doesn't
21 mean identical. There's certain rules about
22 judging equivalency that may be useful if the

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1 National Organic Program wishes to follow
2 them.

3 The second thing is just grouping
4 all foreign certification standards together.

5 They're not all the same. There's some that
6 are much better than others.

7 Having reviewed, for example, soil
8 associations, and Naturelands in particular,
9 there's not indiscriminate use of
10 parasiticides. Yes, they are allowed under
11 certain conditions which we wouldn't allow,
12 agreed, but those -- I didn't want to paint
13 them as free use of that.

14 If you look carefully at those
15 standards, they are very limited, limited use
16 once in a while in certain stages of early
17 growth and all that.

18 So it is absolutely correct there
19 are prohibited substances under our rule and
20 couldn't be allowed, agreed, but they are
21 extremely limited. Those organizations have
22 in the past said that, if there are additional

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1 requirements needed to meet the U.S. market, a
2 gap study can be done, and every prohibited
3 substance can be pointed out in those
4 standards. They would sign onto an additional
5 requirements declaration that in this case for
6 this load none of these prohibited substances
7 were used, because they aren't used
8 indiscriminately even on those standards.

9 It's a minor point, but it is
10 something that we could possibly work through
11 with additional requirements on prohibited
12 substances.

13 MR. LEONARD: Well, I think that's
14 right. Can I just respond to that?

15 I didn't mean to imply that it is
16 indiscriminate use of parasiticides and
17 antibiotics. I certainly didn't mean to imply
18 that.

19 The other thing I think it is
20 important to recognize in the context of this
21 issue with aquaculture is aquaculture is not
22 just one species. There's a broad diversity

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1 of things that might be farmed organically,
2 including seaweeds, obviously the bivalve
3 issue, and then a range of fish.

4 So in many cases this issue itself
5 is boiling down to a couple of species. Most
6 dominantly, farmed salmon is the one that
7 would be most likely influenced. So although
8 there may be some restrictions in terms of the
9 ability of farmed salmon to be declared
10 organic under U.S. regulations, certainly a
11 broad diversity of other species would be just
12 fine.

13 CHAIRMAN DELGADO: Any other
14 questions? Hugh?

15 MEMBER KARREMAN: Where do you
16 think the marine fish oil should come from to
17 start the industry?

18 MR. LEONARD: I know that's the
19 hard nut to crack here.

20 I appreciate the issue that
21 certainly species like tilapia may not be not
22 be able to provide all the oils we need. I'm

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1 intrigued by the concept, and I don't know how
2 this would fit under the rubric, but a series
3 of many marine algae are producing oils that
4 apparently are quite good in terms of
5 nutritional qualifications. Whether those
6 could be produced or farmed in a way that
7 would be declared organic, I haven't looked
8 into that enough, but I think there's some
9 opportunities there that probably haven't been
10 explored in detail yet.

11 MEMBER KARREMAN: You know, when we
12 were thinking about this at the Symposium in
13 November, there was a fellow from South
14 Carolina who was talking about some kind of
15 insect production. Maybe you remember that --

16 MR. LEONARD: Yes, right.

17 MEMBER KARREMAN: -- and how that
18 could work.

19 We're just trying to look at
20 various inputs, not to lay it all in one
21 basket, so to speak, to get the marine fish
22 oil, but from various inputs. So maybe

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1 algae -- do you have information on that you
2 could send?

3 MR. LEONARD: Yes. I mean I can
4 get you some of that. I think certainly the
5 insect idea is a good one. Annelid worms is
6 apparently a good source and is becoming
7 commercially available.

8 I like the idea of a diversity of
9 diet, feed ingredients. Certainly that is
10 consistent with wild diets for sure.

11 CHAIRMAN DELGADO: Any other
12 questions?

13 (No response.)

14 Okay, thank you very much.

15 MR. LEONARD: Thank you.

16 CHAIRMAN DELGADO: Next is Becky
17 Goldberg, followed by Sebastian Belle.

18 MS. GOLDBURG: Thank you very much.

19 I am Becky Goldberg. I am a former
20 member of the NOSB and also a member of the
21 Aquaculture Working Group. I would like to
22 talk about two related issues today with

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1 aquaculture. One is feed and the other is use
2 of composite in aquaculture ponds.

3 First of all, let's start out with
4 the issue that is receiving the most
5 attention, fish meal and oil and feed. George
6 Lockwood presented comments from the
7 Aquaculture Working Group just now, asking
8 that the NOSB go back to the AWG's earlier
9 recommendation concerning fish meal and oil.

10 I want to make clear that at issue
11 is not the major goal that we all share, and
12 that is going to organic sources only of meal
13 and oil, which means byproducts from farm fish
14 and potentially other sources of protein and
15 lipids for fish diets, looking to alternatives
16 like George Leonard just talked about with
17 marine algae, worms, insects, and so on.
18 We're all there.

19 What is at issue is how we get to
20 having a viable industry. There's no perfect
21 solution here. People put forward in good
22 faith a lot of alternatives. We happen to

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1 feel that a transition is probably more
2 workable than going to a system that depends
3 heavily on foreign-certified byproducts from
4 organic aquaculture, which is problematic, for
5 reasons others have described today.

6 I also want to comment briefly on a
7 couple of Livestock Committee's other feed
8 recommendations. One is an issue that Patty
9 Lovera pointed out. The way the current
10 recommendation from the Livestock Committee is
11 written, there is a Section (l) concerning
12 fish meal and fish oil from wild fish in a
13 recommendation that is otherwise about not
14 using wild fish and feed, and it is just
15 really confusing. That section doesn't belong
16 there. It's about the status of fisheries. I
17 think it was just a mistake it was included,
18 and I urge you to eliminate it.

19 My other comment, a little bit more
20 substantive, concerns Section (m), which talks
21 about contaminants in fish meal and fish oil.

22 This is not a section that we in the

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1 Aquaculture Working Group got to in our
2 discussions of the Livestock Committee
3 recommendations. So I am offering my own
4 perspective here.

5 One is that this section requires
6 monitoring of contaminants in fish meal and
7 oil, and says essentially that all pollutants
8 must be removed if there are above regulatory
9 levels in commercially-available meal and oil.

10 Well, it is really unclear to me
11 what this recommendation means because there
12 are, in general, no regulatory levels for
13 these contaminants in feeds. FDA doesn't have
14 set tolerances or action levels for these
15 contaminants in feed, and even ACCO lacks
16 standards for many of them, especially
17 Lipophilic compounds, which are the ones we
18 worry about most in meal and oil, things like
19 dioxins.

20 So I am quite concerned that this
21 recommendation, while really well-intentioned,
22 is not particularly workable. I think that

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1 using the original language recommended by the
2 AWG, which essentially says that the
3 contaminant levels in meal and oil have to be
4 comparable to the lowest in the marketplace,
5 probably makes the most sense at this point.
6 It is not a totally satisfactory
7 recommendation either, but it reflects the
8 reality of current U.S. regulations.

9 Finally, on the feed topic, I would
10 like to note that while we on the AWG favor a
11 transition over using foreign-certified
12 materials, one element of the Livestock
13 Committee recommendation that I personally
14 like is the step-down process for a
15 transition, where you set some intermediate
16 levels of meal and oil that are allowed in
17 feed, because that ensures that people are on
18 the road to getting where we want them to go.

19 With that said, I would like to
20 turn to the topic of compost and say how
21 strongly I support the Crops Committee
22 recommendation. It is essential to my mind

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1 for truly organic systems for producing shrimp
2 and some finfish species like tilapia and
3 carp, which are naturally scavengers and
4 grazers in nature.

5 Basically, what the Crops Committee
6 recommendation says is that manure from
7 terrestrial animals may be used to fertilize
8 aquatic plants intended to feed organic fish
9 in aquaculture ponds, provided that the manure
10 is composted in compliance with 205.203, the
11 standard composting recommendations.

12 Conventional aquaculture producers
13 often fertilize their ponds now to produce
14 blooms of algae and other microbes and the
15 zoplank that feed on them all, and these
16 organisms provide a significant part of the
17 feed for the shrimp or other fish being raised
18 in the pond, essentially building a pasture,
19 if you will, in your pond.

20 Without a provision allowing the
21 use of compost in aquaculture ponds, organic
22 aquaculture producers, who cannot, of course,

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1 use synthetic fertilizer, will not be readily
2 able to create such, quote/unquote --

3 CHAIRMAN DELGADO: Becky?

4 MS. GOLDBURG: Yes?

5 CHAIRMAN DELGADO: I'm afraid your
6 time is up. Can you just sum up?

7 MS. GOLDBURG: -- okay, I'll
8 complete in two seconds -- on "pasture-based
9 pond systems". Rather, their systems will be
10 more like feedlots. I think that is really
11 undesirable and it would be great if you
12 supported the Crops Committee recommendation.

13 Thanks.

14 CHAIRMAN DELGADO: Thank you.

15 Any questions for Becky? Hugh?

16 MEMBER KARREMAN: Just as far as I
17 think you mentioned the residues, or whatever,
18 in the fish meal/fish oil possibly, in OFPA
19 2107(a)(6), that is where we based that on. I
20 am sure you are aware of that section there.

21 MS. GOLDBURG: Yes, I'm well aware
22 of that section, but then you have to go and

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1 see what the underlying EPA or FDA structures
2 are. In this case, they are not there.

3 CHAIRMAN DELGADO: Gerry?

4 MEMBER DAVIS: Becky, on the
5 compost as the guidelines that are in the rule
6 now with the CN ratios and stuff that are
7 there, would a compost like that be adequate
8 for aquaculture pasture, as you call it?

9 MS. GOLDBURG: You know, I think
10 that's an open question. I have discussed it
11 with a couple of people, and the answer is not
12 entirely clear, but my sense is we've got to
13 start somewhere. By at least allowing the use
14 of compost in ponds, I think --

15 MEMBER DAVIS: And there's not a
16 lot of nitrogen there.

17 MS. GOLDBURG: Yes.

18 MEMBER DAVIS: But I don't know
19 anything about aquaculture to speak of,
20 either.

21 MS. GOLDBURG: Yes, it is a really
22 good question and one I've thought about and

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1 asked questions about. The literature is very
2 scarce. There's a small amount of literature,
3 but not a whole lot.

4 MEMBER DAVIS: If you ever hear
5 anything, if you come across any information
6 that would be helpful to the Committee.

7 MS. GOLDBURG: Yes.

8 CHAIRMAN DELGADO: Right, the Vice-
9 Chair, followed by Jennifer.

10 VICE-CHAIR MOYER: Becky, I would
11 value your opinion on this question: If fish
12 are declared livestock, and livestock need a
13 100 percent organic feed, how can you justify
14 your step-down version over seven years, where
15 they would for seven years not be fed 100
16 percent organic feed? How do you do that?

17 MS. GOLDBURG: That's a really good
18 question. I think it probably is confusing
19 for consumers, and it is one of those things
20 where you justify it, that it is for purely
21 practical purposes, to initiate an industry.
22 We are making real progress toward where we

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1 want to go, and this is the way forward.

2 VICE-CHAIR MOYER: But it is
3 clearly against the rule, and the rule says,
4 once something is declared livestock, it must
5 be fed -- it doesn't say it should be or could
6 be -- it says it must be fed 100 percent
7 certified organic feed.

8 MS. GOLDBURG: Yes. Well, what had
9 been discussed with Valorie and among the
10 Committee was potentially creating a
11 transitional label for the farmed product, so
12 that it was clear that products weren't fully
13 meeting the rule.

14 I realize that is not a perfect
15 solution, either; none of these are. I'm
16 really open to other ideas. No one has come
17 up with quite the right answer, but at least
18 from the perspective of creating an industry,
19 the transition seems to offer the most
20 promise.

21 CHAIRMAN DELGADO: Thank you.

22 Jennifer?

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1 MEMBER HALL: On the contaminant
2 levels, where do you access the information
3 about the lowest level in the current
4 marketplace?

5 MS. GOLDBURG: There is actually a
6 lot of testing right now of feed going on
7 because Europe, the EU actually does have
8 regulatory levels. So you would have to ask
9 feed suppliers about the levels, which are
10 almost certainly being looked at in order to
11 sell feed in Europe.

12 CHAIRMAN DELGADO: Any other
13 questions? No?

14 (No response.)

15 Okay, thank you, Becky.

16 MS. GOLDBURG: Thanks.

17 CHAIRMAN DELGADO: Next is
18 Sebastian Belle. No Sebastian?

19 Well, after that is Tom Hutcheson,
20 proxy for Neil Sims from Kona Blue.

21 We have some changes. We've got
22 the monopoly here, so trust us.

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1 (Laughter.)

2 That clarified, Tom, please.

3 MR. HUTCHESON: Thank you, yes,
4 proxy for Neil Sims of Kona Blue.

5 Dear Board members:

6 I would like to offer the following
7 comments on behalf of Kona Blue Water Farms,
8 LLC.:

9 Kona Blue is the first integrated
10 open ocean fish farm and marine fish hatchery
11 in the U.S. We're growing sashimi-grade Kona
12 Kampachi in waters over 200-feet deep using
13 innovative hatchery techniques and advanced
14 ocean engineering. We are committed to
15 environmentally-sound aquaculture, and we
16 believe that open ocean fish farming can and
17 should be organic.

18 Monterey Bay Aquarium's Seafood
19 Watch Program recently ranked U.S. yellowtail
20 as a good alternative. This demonstrates that
21 open ocean aquaculture of marine fish can be
22 undertaken in a sustainable manner. We simply

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1 have to ensure that it is done right.

2 The development of an achievable
3 organic label for marine finfish will provide
4 such assurances and will, thereby, provide
5 real benefits to marine ecosystems and real
6 benefits to consumer health.

7 The organic label will also provide
8 a widely-recognized imprimatur of quality that
9 will encourage more conscientious farming
10 techniques to be adopted as the industry
11 grows, but we need to create a regulatory
12 climate that will allow an organic offshore
13 industry to grow.

14 The nutritional needs of marine
15 fish and the low levels of critical fish oil
16 in most other aquacultured species decree that
17 an alternative source of organic fish meal and
18 fish oil needs to be identified to allow
19 development of an organic marine fish culture
20 industry.

21 We have reviewed the Livestock
22 Committee's recommendation for allowing fish

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1 meal and fish oil from processing byproducts
2 of foreign-certified organic aquaculture and
3 the Aquaculture Working Group's recommendation
4 for a stepwise decrease in the allowable
5 levels of fish meal and fish oil from
6 processing byproducts from sustainable edible
7 seafood processing.

8 Both hold merit, yet each of these
9 alternative sources may yet present
10 challenges. Therefore, in the interest of
11 providing the best chances for growth of an
12 organic marine fish culture industry, we would
13 recommend that both the Livestock Committee's
14 and the Aquaculture Working Group's
15 recommendations be accepted together.

16 We see the best benefits to be
17 gained for consumers and for the ocean by
18 accepting both recommendations; i.e, both the
19 Aquaculture Working Group's recommendation for
20 a limited introductory and diminishing period
21 of using edible wild seafood trimmings at
22 about 12 percent and concurrently the

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1 Livestock Committee's recommendation for
2 allowing fish meal and fish oil from
3 processing byproducts of foreign-certified
4 organic aquaculture.

5 We recognize that the proposals
6 before us may not be perfect, but we place our
7 faith in the guiding principle of continuous
8 improvement, the same principle that is a
9 foundation of the terrestrial organic
10 industry.

11 Please remember NIH studies,
12 Mozaferian and Rem, 2006, have shown that
13 modest increases in seafood consumption could
14 result in a 17 percent reduction in overall
15 mortality and a 35 percent reduction in
16 mortality from heart disease. These are lives
17 that could -- that must -- be saved.

18 Organic standards for marine
19 finfish can encourage better marine fish
20 farming practices and improve national health
21 and the health of our oceans. To do this,
22 however, the organic standards must be

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1 achievable and the products must be available.

2 We commend the NOSB, the Livestock
3 Committee, and the Aquaculture Working Group
4 for their continuing hard work toward
5 establishing regulations for organic
6 aquaculture, and thank you for your
7 consideration.

8 Sincerely, with aloha, Neil Sims.

9 CHAIRMAN DELGADO: Well, thank you.

10 Any questions for Mr. Hutcheson?

11 Yes, Dan?

12 MEMBER GIACOMINI: Just for
13 clarification there, I think in the step-down
14 that he is talking about, and I understand
15 you're reading his statement, but he talking
16 about the Livestock Committee's step-down
17 rather than the Aquaculture Working Group 12
18 percent set amount.

19 MR. HUTCHESON: I take your
20 comment. Thank you.

21 (Laughter.)

22 CHAIRMAN DELGADO: Any other

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1 questions?

2 (No response.)

3 Thank you, sir.

4 Next is Barbara Blackstone from
5 National Fisheries Institute, followed by Mr.
6 Jim Riddle, Organic Outreach Coordinator for
7 the State of Minnesota.

8 MS. BLACKSTONE: Good afternoon.
9 I'm Dr. Barbara Blackstone, Director of
10 Scientific Affairs for the National Fisheries
11 Institute in McLean, Virginia.

12 NFI is the Nation's leading
13 advocacy organization for the seafood
14 industry. Its member companies represent
15 every element of the industry, from fishing
16 vessels at sea to the national seafood
17 restaurant chains. NFI and its members
18 support and promote public policy based on
19 scientific research.

20 NFI greatly appreciates the
21 opportunity to speak to the NOSB on behalf of
22 the seafood industry.

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1 As we all know, aquatic foods are
2 the final major category of food not yet
3 approved for U.S. organic certification.
4 Though only 1 to 2 percent of food produced in
5 the U.S. is produced by organic methods, 20
6 percent of the consumers queried in focus
7 group research sponsored by the New Jersey
8 Department of Agriculture said they were
9 committed to purchasing organic seafood while
10 52 percent said they would buy it
11 occasionally, and 72 percent, significantly,
12 said they would buy organic seafood if
13 available.

14 Mark then that the industry must
15 have an organic seafood rule to serve
16 consumers who are asking for it, and many of
17 them are asking for it.

18 Salmon is No. 3 of the top 10
19 seafoods enjoyed by American consumers, and
20 therefore, should be available for organic
21 labeling.

22 Supplements of fish meal and fish

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1 oil to feed pisciverous finfish such as salmon
2 is a good agricultural practice that will
3 expand the availability of organic salmon at a
4 reasonable price.

5 NFI is very concerned because the
6 feed industry has no alternative to fish meal
7 and fish oil for finfish, though it seeks
8 such.

9 Results in alternative feed
10 research to date are not encouraging, and
11 nothing is on the distant horizon. Sunset
12 clauses will not make feed alternatives happen
13 and will in time prohibit use of fish meal and
14 fish oil to feed salmon and other pisciverous
15 finfish, thus eliminating organically-labeled
16 salmon from the consumer's menu.

17 USDA will most likely have to
18 extend the sunset clause and provide immediate
19 research dollars for alternative feeds to be a
20 reality within seven years. In the meantime,
21 NFI supports the recommendation of the
22 Aquaculture Working Group that fish meal from

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1 wild fish as a feed additive or supplement may
2 not exceed 12 percent by weight of feed, and
3 fish oil from wild fish used as a feed
4 ingredient may not exceed 12 percent by weight
5 of feed as averages over the production cycle
6 of the fish.

7 Two notes of concern in the
8 Aquaculture Working Group's recommendation
9 found in appendix A:

10 One, as just stated, the
11 Aquaculture Working Group's prediction of
12 seven years of research may not be sufficient
13 to find fish meal and oil alternatives.

14 And, two, exclusion of the use of
15 genetically-modified organisms, GMOs, as a
16 feed ingredient or as an aquatic livestock
17 enhancer represents today's Pollyanna myopic
18 view of aquaculture.

19 Without the assistance provided by
20 GMOs directly to aquatic animals and to the
21 feeds they consume, seafood may not be a
22 sustaining industry tomorrow.

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1 Our opinion is one shared by the
2 Biotechnology Industry Organization, a
3 worldwide association of over 1100
4 biotechnology companies, academic
5 institutions, and state technology centers.

6 In conclusion, NFI urges completion
7 of the current work on organic standards for
8 farm-raised seafood, so that work can begin on
9 standards for those seafoods currently
10 excluded, wild-caught and mollusk.

11 Further, with our concerns about
12 appendix A just stated, NFI is generally
13 pleased with the recommendation of the
14 Aquaculture Working Group. The organic label
15 for seafood can happen when we remind
16 ourselves that the label is a venue for
17 practices that use and steward natural
18 resources, not rigid conservation practices.

19 Organic labeling is not about
20 addressing activist issues, but is about
21 defining USDA best practices in production of
22 safe, healthy seafood for the consumer.

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1 Thank you for the opportunity to
2 speak to the Board.

3 CHAIRMAN DELGADO: Thank you.

4 Questions? Joe?

5 MEMBER SMILLIE: Well, it is not
6 really a question. The U.S. organic
7 regulation which you're supporting excludes
8 GMO methods from organics.

9 MS. BLACKSTONE: Yes.

10 MEMBER SMILLIE: And speaking as
11 Pollyanna, as I recall the movie, she had the
12 rest of the village smiling pretty well by the
13 end of that movie. Now it may be Disney
14 World, but we oftentimes want to remake the
15 world in our image, which excludes GMOs.

16 Therefore, I think that any
17 proposal or thing that we hear that talks
18 about confirming the regulations has to take
19 that into account.

20 MS. BLACKSTONE: I think you can
21 smile for a few years and then we are going to
22 get to a point where there just isn't anything

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1 available that doesn't have a GMO in it.

2 MEMBER SMILLIE: Well, we are going
3 to do our very best.

4 MS. BLACKSTONE: Okay.

5 CHAIRMAN DELGADO: Any other
6 questions?

7 (No response.)

8 Thank you very much.

9 MS. BLACKSTONE: Okay.

10 CHAIRMAN DELGADO: Next is Mr.
11 Riddle, and I take this opportunity to explain
12 that Mr. Ram Balasubramanian has rescheduled
13 his presentation for another day. So we will
14 take care of him.

15 Mr. Riddle, followed by Tom
16 Hutcheson again.

17 And you, I understand, are doing a
18 proxy?

19 MR. RIDDLE: Right, from Alex
20 Stone, Oregon State University. Ten minutes,
21 please.

22 Thank you.

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1 Well, thank you for the opportunity
2 to speak. My name is Jim Riddle, Organic
3 Outreach Coordinator with the University of
4 Minnesota, former NOSB member. It is good to
5 see all of you once again.

6 I am also on the leadership team
7 for eOrganic, which is a multi-state project
8 funded by USDA, CSREES, that is bringing the
9 best scientific information on organic
10 agriculture to the internet through land grant
11 universities and cooperative extension.

12 I have handed out a brochure about
13 eOrganic, just in summary, a web community
14 where farmers, researchers, and educators can
15 exchange objective research and experience-
16 based information about organic agriculture.

17 We have a lunch planned for this
18 fall. This is part of a larger e-extension
19 initiative where universities across the
20 country are working together to consolidate
21 information. It is not limited to people
22 working in land grant universities. It is

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1 open for anyone with organic agriculture
2 experience to contribute and become a part of
3 the community of practice.

4 So I encourage you to check it out.

5 We are working in cooperation with the
6 Sustainable Ag Research and Education, or
7 SARE, ATRA, the National Ag Library, New Farm,
8 OFRF, and other organic information providers.

9 So we are trying not to duplicate, but to
10 rather maximize the use of resources and make
11 the best information especially available to
12 farmers and extension agents that is research-
13 based information.

14 We will be having our own
15 frequently asked questions that will be rule-
16 compliant and searchable and follow a
17 chronological order of the organic
18 regulations. It will be built in as part of
19 this website.

20 I would like to thank you all for
21 the hard work you do in preparing for this
22 meeting. I see some of you still are

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1 suffering from conference call ear and elbow.

2 I know the feeling well. It is certainly a
3 challenge, the work you do.

4 We've got a lot to celebrate right
5 now with all of the very strong organic
6 language that is in the recently-passed farm
7 bill. I want to celebrate that and
8 acknowledge the efforts of so many people in
9 this room to make that a reality.

10 But we also have some cause for
11 concern with these recent polls showing for
12 the first time ever an erosion in consumer
13 confidence in the integrity of organic.
14 There's various reasons for that, but I think
15 it is something that we need to take seriously
16 and do what we can to address that.

17 In addition to promoting the
18 eOrganic project, I am here today speaking on
19 my own behalf. Even though I live in
20 Minnesota, I am here to defend organic okra.

21 I strongly disagree with the
22 Handling Committee's recommendation that okra

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1 be added to 205.606. When I look through the
2 decision sheets, I find the strongest
3 justification being the petitioner presented
4 voluminous information and references that
5 organic okra in commercial quantities was not
6 available, especially near or transportable to
7 an IQF facility. Maybe the petitioner should
8 move the IQF facility nearer to organic okra
9 fields or possibly transition land near an IQF
10 facility to grow organic okra, or label the
11 products that contain non-organic okra as made
12 with other organic ingredients.

13 There's a lot of options here, but
14 there's no entitlement to the use of non-
15 organic ingredients.

16 The recommendation appears to rely
17 solely on the information provided by the
18 petitioner, and I am concerned that that
19 petitioner is a client of the person who made
20 the motion to add okra to the list.

21 The petition and the recommendation
22 contain no market analysis and no information

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1 from organic okra growers, and it exemplifies
2 some of the things that have gone wrong with
3 this rush to add materials to the list and the
4 review process, and this particular
5 recommendation should be rejected.

6 The items that go on 606 need to be
7 rare exceptions. They must be well justified
8 with neutral objective analysis and TAP
9 reviews, not just relying on information from
10 the petitioner.

11 On a positive note, I support the
12 Livestock Committee's recommendation to add
13 Fenbendazole to the National List. However,
14 it is time to remove Ivermectin, which is not
15 compatible with organic principles and organic
16 production.

17 I support the allowance of
18 DL-Methionine for two more years only. I
19 think the research can be concluded and
20 alternatives commercialized in that time.

21 I support the Crop Committee's
22 recommendation to add cheese wax with the

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1 annotations and to reject Dextrin and
2 Tetracycline.

3 I urge the NOSB to table the
4 Livestock Committee's draft on aquatic plants.

5 I think it is a good starting point, but it
6 doesn't have any background information. It
7 has not been subject to discussion and
8 shouldn't be brought forward to a vote until
9 there's been more thorough discussion of this
10 draft recommendation.

11 There's a discussion document on
12 hydroponics. Really, the two are so similar
13 that they should be considered together, not
14 separately. It all needs to be done in the
15 context of what the law allows. So looking
16 back at OFPA and requirements for the use of
17 soil and land-based production.

18 I support the Crops Committee's
19 additions to the existing recommendation on
20 organic seeds. I think there are some
21 problems with that language, but as any
22 guidance gets implemented on this, the NOP

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1 needs to work very closely with accredited
2 certifiers to make sure that standardized
3 protocols are implemented that really work
4 without being an unfunded mandate or overly
5 burdensome.

6 I do urge that the existing organic
7 seed requirements be better addressed during
8 accreditation audits. There already are
9 requirements.

10 One thing I like about the
11 Committee's draft on organic seeds is that it
12 followed a good model by building on an
13 existing Board recommendation and amended that
14 recommendation. Well, that is not the case
15 with the discussion document posted by the
16 CACC on multi-site certification.

17 Instead of building on the existing
18 202 NOSB Grower Group recommendation, which
19 was recognized by the NOP for guidance, which
20 is a highly unusual thing, and that should
21 have been the starting point -- instead, the
22 CAC chose to expand a previous discussion

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1 document which was never adopted by the Board.

2 So you are building on a discussion on a
3 discussion of something that has never been
4 adopted instead of resolving the issue of
5 grower group certification when you've got a
6 solid recommendation to be amending and
7 working from.

8 This draft on multi-site
9 certification, it appears to justify one
10 agency's sample inspection program for retail
11 chains by extending grower group protocols to
12 cover retailers and other types of handling
13 operations.

14 The draft from the Committee, the
15 discussion document makes no mention of OFPA
16 2107(a), which states, "A program established
17 under this title shall provide for annual
18 onsite inspection by a certifying agent of
19 each farm and handling operation that is
20 certified under this title."

21 And OFPA defines handling operation
22 to mean any operation or portion of an

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1 operation that receives or otherwise acquires
2 agricultural products and processes packages
3 or stores such products.

4 Farm is not defined in the OFPA or
5 the rule. This gives USDA more flexibility in
6 how that term "farm" is applied to a grower
7 group operation.

8 The Board should direct the
9 Committee, CACC, to discontinue work on the
10 discussion draft, take some of the advice that
11 will be offered here by the National Organic
12 Coalition, the Organic Trade Association that
13 is focused on grower groups, respond to the
14 concerns that were identified by the NOP in
15 the appeals decision and revise the 2002 Board
16 recommendation to strengthen language on
17 inspector qualifications, conflict of
18 interest, and risk assessment protocols.

19 In addition, the NOP should
20 consider establishing a separate accreditation
21 category for certifiers who conduct grower
22 group certification.

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1 I would just like to let you know
2 that the University of Minnesota will be
3 converting our 70-cow dairy herd to organic,
4 have committed to that.

5 Also, next week there will be a
6 signing ceremony for a new MOU on organic
7 agriculture with three state, four federal,
8 and three universities in Minnesota, all to
9 service the organic sector.

10 Thank you. Viva la okra.

11 (Laughter.)

12 CHAIRMAN DELGADO: Any questions
13 for Jim? Kevin, please.

14 MEMBER ENGELBERT: Jim, I know you
15 have your hand on the pulse of everything
16 organic.

17 MR. RIDDLE: I wouldn't say that.

18 (Laughter.)

19 MEMBER ENGELBERT: In your opinion,
20 what's the best way to introduce fish oil and
21 fish meal into the --

22 (Laughter.)

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1 MR. RIDDLE: Oh, thank you. Yes,
2 right, I love to fish. You're dangling that
3 hook in front of me.

4 Well, I think starting with the
5 herbivorous fish that can be fed an organic
6 diet, you know, let's start there. That can
7 be done. Everyone agrees that can be done.

8 Let's have standards for that and
9 let's build from there. That's what I would
10 say.

11 It may take going to Congress. I
12 mean, otherwise, this predicament of 100
13 percent organic feed is always going to be a
14 problem.

15 I mean the other is -- and there
16 has been some consideration about this phasing
17 -out allowance, temporary with a built-in
18 phaseout for the non-organic fish meal and
19 fish oil as feed supplements, which non-
20 synthetic supplements are allowed under the
21 rule, but that it still is a phaseout to allow
22 the industry to adapt.

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1 But I think focus on the low-
2 hanging fruit, which are the herbivorous fish,
3 is really the place to start. Let's have some
4 standards, but don't jump into this, the Board
5 equivalent with some provisions that go beyond
6 a foreign certifier's norm -- I just think
7 that's really problematic.

8 I don't know if you've gotten
9 feedback from the NOP on that proposal. I
10 think it is a good idea just to talk about,
11 but I don't know that it would fly.

12 CHAIRMAN DELGADO: Kevin, if we can
13 stick to the comments by the speaker, and
14 before you proceed, let me give the
15 opportunity to Joe. You wanted to talk? Or
16 Dan? And then if you need to expand further,
17 you will have the opportunity.

18 MEMBER GIACOMINI: Thanks, Jim.

19 You recommended relisting of
20 Methionine, and let's remember this is not --
21 for poultry.

22 MR. RIDDLE: Yes.

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1 MEMBER GIACOMINI: And let's
2 remember this is not continuation as in
3 sunset. This is considered a new petition.

4 But you would have probably been
5 here three years ago when it came up the
6 second time --

7 MR. RIDDLE: Right.

8 MEMBER GIACOMINI: -- this being
9 now the third time.

10 Are you aware, either then or now,
11 of any significant real data, not
12 hypothetical, not what happens if there's no
13 Methionine in the diet, but real data showing
14 in practical diets impact on health, immunity,
15 feathers, cannibalization, whatever, in real
16 data, with a practical diet of no Methionine,
17 with no added Methionine in it, that we can
18 really hang our hat on?

19 Because what they gave us in the
20 petition is performance data. I'm not aware
21 of anywhere else where it would just throw
22 bones to an industry like we have done with

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1 Methionine for the ability to maintain more
2 conventional growth.

3 Can you give us -- do you know
4 where that data is? Are you aware of it? Do
5 you remember it? Or is somebody going to come
6 up with it to help us out on that?

7 MR. RIDDLE: Yes, well, I could
8 come up with data showing that Methionine is
9 an essential nutrient for poultry. I would
10 have to do a lot of research to try to come up
11 with the rest of the answer, and I'm not aware
12 of that either.

13 But I am aware of very promising
14 research on high Methionine corn varieties,
15 for instance, or other feed ingredients that I
16 think are very promising, but we need a lot
17 more research flocks, feeding that, to
18 establish some of that data of how well they
19 perform.

20 But they do need to have outdoor
21 access. It needs to be real, and they are
22 going to gain Methionine if they do have

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1 access to earthworms, insects, and fresh green
2 grass and seeds in their diet. A diversified
3 diet provides a lot of different sources of
4 Methionine.

5 CHAIRMAN DELGADO: Any other
6 questions? Joe?

7 MEMBER SMILLIE: Well, I'll jump
8 into the gumbo with you, Jim.

9 MR. RIDDLE: Hey!

10 (Laughter.)

11 MEMBER SMILLIE: 606 is a whole new
12 process caused by the Harvey lawsuit. It
13 wasn't anticipated when we were setting up TAP
14 reviews and for quite a while.

15 The NOSB was forced to get into the
16 606 listing, and I just want to point out that
17 the procedures that we're following for 606
18 are different than the other procedures. I
19 don't know if it is significantly different or
20 not, and I don't want to steal Julie's thunder
21 because I know tomorrow she is going to talk
22 in general about 606 quite a bit. It is

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1 problematic. It is a little complicated.

2 But one of the things the NOSB is
3 charged with is examining the fragility of
4 supply and doing sort of a risk analysis, to
5 jump over to a different topic, of the
6 situation. Our job is not to determine
7 commercial availability. That is the
8 certification agent's job, because, again, it
9 is a two-step process.

10 You can't use an agricultural
11 ingredient unless it is on 606, and even if it
12 is on, that doesn't mean you have license to
13 use it. You must prove it is not available.

14 So it is a two-step process, not
15 that that limits your argument. I mean your
16 argument still stands. Once it gets on 606,
17 then there is more of a chance.

18 But our job on the NOSB is to look
19 at the risk of the supply side and the
20 fragility, and that is what we did in that
21 case.

22 The other thing is that when you

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1 say it needs no market analysis and no
2 information from organic growers, in filling
3 out those documents we have been talking among
4 ourselves that we are going to give more
5 information to the public at large about what
6 went into that decisionmaking. I agree with
7 that, and we are just going to have to do
8 that.

9 The volume of materials we had to
10 deal with really limits your ability to go
11 into extremely great depth, but that research
12 was done, market analysis and information from
13 organic growers, freezing facilities, and
14 certification organizations. They were
15 polled, and we can go into the details perhaps
16 later or off-session, if you want to.

17 That having been said, I think
18 tomorrow and during the thing when that comes
19 up, we can get into great detail on the gumbo
20 controversy. Because as soon as that passed,
21 I said, "We are going to catch it on this one,
22 guys, guaranteed," because it doesn't look

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1 good.

2 MR. RIDDLE: Yes.

3 MEMBER SMILLIE: And I understand
4 that. I mean I grew okra. Heck, I grew okra
5 in northern climates.

6 But when you look at it really
7 carefully and you look at the petition and
8 what we went through, you will see why our
9 Committee justified it and we will see what
10 the Board thinks of that down the road.

11 MR. RIDDLE: Okay, but the larger
12 process issue, the things that go on 606 still
13 have to meet all criteria, and you need to be
14 addressing -- there's not a pass given to 606
15 that it only has to address market
16 fragility --

17 MEMBER SMILLIE: Right.

18 MR. RIDDLE: -- but it has to be
19 reviewed for the environmental, human health
20 impacts, and all of that. I don't see that
21 happening for 606 items because there aren't
22 TAPs. There's not objective neutral research

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1 being conducted for the Board.

2 MEMBER SMILLIE: Yes. Will you
3 handle that tomorrow?

4 MR. RIDDLE: Yes.

5 MEMBER SMILLIE: That's a very good
6 question, and we've spent a chunk of time this
7 morning actually going through that, and I
8 will let Julie handle that tomorrow in her
9 response.

10 MR. RIDDLE: Okay.

11 CHAIRMAN DELGADO: Very well, we
12 will make that clarification tomorrow.

13 Do we have any more questions?
14 Dan?

15 MEMBER GIACOMINI: Going back into
16 that vast mind of yours, we have tartaric acid
17 on both (a) and (b) 605 up for sunset. Any
18 remembrance of how that exactly came to play
19 and any comment or any knowledge of usage or
20 anything?

21 MR. RIDDLE: I'm sorry, I would
22 have to do some review to refresh my mind.

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1 Sorry.

2 And I understand my comments about
3 Ivermectin coming off, that that may take a
4 petition to trigger that, but I do think it is
5 time, and anything we can do to get it off
6 when the other goes on would be a very good
7 step forward.

8 CHAIRMAN DELGADO: Jim, before you
9 leave, I believe Barbara has a comment,
10 question. No? Okay.

11 Kevin, you wanted to conclude with
12 your statement.

13 MEMBER ENGELBERT: No, that's all
14 right. I'll pick Jim's brain privately.

15 CHAIRMAN DELGADO: Fantastic.
16 Thank you very much.

17 MR. RIDDLE: All right, thanks.

18 CHAIRMAN DELGADO: Thank you, Jim.

19 Next is Tom Hutcheson, followed by
20 Jody Biergiel.

21 MR. HUTCHESON: Good afternoon. My
22 name is Tom Hutcheson, and I am the Regulatory

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1 and Policy Manager of the Organic Trade
2 Association.

3 Thank you very much for all your
4 work, and thank you for the opportunity to
5 present these comments.

6 First, I would like to commend to
7 you the work of the Materials Working Group,
8 with which I served and which is posted as a
9 discussion document regarding the definition
10 of the term "agricultural" and related issues.

11 This group dove deep into the
12 issues and has developed a document that can
13 serve well as a foundation for discussing the
14 myriad of issues involved.

15 I believe you received OTA's
16 comments on the certification of multi-site
17 operations, and they should be in your meeting
18 book. These and some replies to the questions
19 that you asked at the end of the current
20 document, discussion document, will be
21 discussed at length by Grace Gershuny and Kim
22 Dietz, Co-Chairs of OTA's Task Force, in a

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1 later comment.

2 In addition to these issues, I
3 would like to offer some other comments.
4 Regarding the proposed aquaculture standard,
5 NOSB has taken the first step toward a useful
6 standard by recommending that new sections of
7 the rule be created for aquaculture in the so
8 far reserved 205.250 series.

9 However, thinking from terrestrial
10 ecological management systems still infuses
11 NOSB thought, and I urge you to acknowledge
12 and celebrate the differences in aquatic
13 ecological management that can make the
14 upcoming recommendation both more useful in
15 growing the organic system and more practical
16 for those wishing to participate.

17 The terrestrial provision should
18 not necessarily apply to aquaculture unless
19 they make sense specifically for aquaculture.

20 Therefore, NOSB should recommend, and NOP
21 should implement, renaming the current rules
22 sections referring to livestock, 205.236 to

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1 239, to refer to terrestrial livestock, to
2 help clarify the situation, with the 250
3 series referring to aquatic livestock.

4 On farmed aquatic plans, some OTA
5 members have indicated support for the NOSB
6 recommendation, and we applaud NOSB for their
7 substantial attention to this field.

8 On seed commercial availability
9 guidance, the Joint Committee has made its
10 desires clear and has laid out a number of
11 practices that could help stimulate the growth
12 of the organic seed trade.

13 The major obstacle for farmers to
14 growth in the organic seed trade cited in the
15 paper, though, was the quality of organic
16 seed, which seems to be left unaddressed. The
17 Joint Committee seems to be proposing a
18 substantial increase in the requirements for
19 certifiers and buyers without necessarily
20 getting at the main cause of the problem.

21 These steps might be helpful to
22 some degree, but the recommendation does not

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1 give much hope that the problem will be much
2 closer to being solved, even with the
3 substantially increased reporting requirements
4 proposed.

5 OTA generally supports the
6 direction of the carefully-crafted and well-
7 thought-out recommendations of the Organic
8 Seed Growers and Trade Association, OSGATA.

9 Thank you.

10 CHAIRMAN DELGADO: Thank you.

11 Any questions for Tom?

12 (No response.)

13 All right, thank you very much.

14 On with Jody Biergiel.

15 MS. BIERGIEL: Hello. Thank you
16 for the opportunity to address you today.
17 This is my first time addressing you. Thank
18 you very much.

19 My name is Jody Biergiel, and I am
20 representing CCOF, Organic Certification.

21 Regarding the materials up for
22 sunset review, generally, CCOF has a diverse

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1 membership, producing many kinds of products,
2 the handlers. We support the relisting of all
3 materials, as we have historically.

4 Regarding the two forms of tartaric
5 acid, we also support the relisting of both of
6 those, understanding that it was some sort of
7 historical typo.

8 (Laughter.)

9 Regarding the 606 additions, we
10 have one client who will be able to upgrade
11 their product from "made with organic" to
12 "organic" based on one of these additions. So
13 they will be happy to hear that.

14 However, CCOF would not be
15 surprised if both of the marsala line and
16 sherry, for example, become available
17 organically in the near future. We would
18 continue to require that thorough commercial
19 availability searches are conducted annually,
20 if not more frequently.

21 Now I would like to comment on the
22 use of materials listed on 605 in or on

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1 products labeled as 100 percent organic.

2 Certifiers are interpreting the 100
3 percent organic labeling category a little bit
4 differently. The regulation states that
5 products sold as 100 percent organic must be
6 processed using organic processing aids. This
7 does not seem to be clear enough direction to
8 certifiers, as in the case of chlorine used as
9 a sanitizer for fresh products.

10 Some certifiers are not allowing
11 chlorine to be used on products labeled as 100
12 percent organic and some are allowing that
13 use, chlorine, over the Safe Drinking Water
14 Act standard.

15 Just last week we informed a client
16 that their product would not be considered 100
17 percent organic by CCOF due to the use of
18 chlorine at levels above four parts per
19 million in water that contacted the product,
20 and the client solicited comments from other
21 certifiers about his product. He provided an
22 email from another certifier demonstrating

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1 that he would be able to call his product 100
2 percent organic if he went to that certifier.
3 On the phone with me, he said he felt he was
4 at a market disadvantage because of CCOF's
5 take on this issue.

6 Certifiers also vary in their
7 allowance in the use of sanitizers on the
8 surface of meat labeled as 100 percent
9 organic. This issue extends beyond sanitizers
10 to many items on 605, including the use of
11 nitrogen gas in bagged salad, Diatomaceous
12 Earth, and juice processing or rice treated
13 with CO2.

14 These examples illustrate a larger
15 issue. Where there is room for interpretation
16 of the rule and certifier interpretations
17 differ, certified operations are figuring out
18 that they can shop around for a desirable
19 answer.

20 In short, CCOF is requesting
21 clarification as to whether items on 605 that
22 directly contact food, not all of which are

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1 necessarily processing aids, are or are not
2 allowed for use on a product destined to be
3 labeled 100 percent organic. Is the intent of
4 the 100 percent organic labeling category to
5 apply to a very limited scope of products or
6 all organic product that may also be using
7 allowed materials? It appears to CCOF that
8 this has become a complicated issue of
9 semantics about what is and is not a
10 processing aid.

11 More generally, CCOF would like to
12 make the NOSB formally aware of the impacts of
13 differing certifier interpretation and
14 encourage the NOSB and NOP to provide rule
15 clarifications in order to prevent this
16 certifier shopping in the marketplace.

17 Lastly, CCOF is requesting
18 clarification as to whether DHA and other
19 omega-3 fatty acids are allowed under the
20 nutrient, vitamin, or mineral listing on 605.

21 CCOF does certify a company using this
22 material as a supplement in baby food. But

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1 recent complaints have surfaced against the
2 use of this material. CCOF would like to know
3 either way if this material is allowed for use
4 in organic production.

5 This question extends to a general
6 discussion of accessory nutrients, like other
7 fatty acids and other health-promoting
8 compounds and their allowance in organic
9 products.

10 Another client has requested the
11 use of DMAE and choline in a product labeled
12 "made with organic". Although we have not
13 allowed the use of these substances, there is
14 increasing market pressure to accept a very
15 wide interpretation of the vitamin and mineral
16 allowance.

17 Please clarify whether nutrients,
18 vitamins, and minerals should be interpreted
19 to include only actual vitamins or whether it
20 can be extended to other substances that could
21 be considered essential for growth and
22 development.

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1 Thank you.

2 CHAIRMAN DELGADO: Any questions?
3 Joe?

4 MEMBER SMILLIE: Right.

5 MS. BIERGIEL: Hello.

6 MEMBER SMILLIE: This 100 percent
7 thing, I'm not sure that all the NOSB members
8 are up-to-speed on this, but as the certifier
9 rep, I have to tell you there has been a great
10 deal of disturbance in the forest on this one.

11 Again, it is an NOP issue, and it
12 hasn't been on our work plan. But the NOP,
13 the current thinking of the NOP seems to be --
14 and please correct me if I am wrong -- seems
15 to be that almost anything is considered a
16 processing aid when it comes to the 100
17 percent claim.

18 That means if you take grain and
19 put it in a silo and add Diatomaceous Earth,
20 totally allowed, and then filter that
21 Diatomaceous and send that grain out, that
22 grain loses its 100 percent status.

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1 If you take CO2 and -- what's the
2 word? -- I hate to use the word "fumigate" --
3 you know, put strawberries through it, those
4 strawberries are not 100 percent organic
5 anymore because the CO2 isn't organic.

6 If you take nitrogen and 100
7 percent olive oil and put that nitrogen as a
8 packaging aid, was our previous
9 interpretation, then that olive oil cannot be
10 100 percent, even though it fulfills every
11 other requirement.

12 This is kind of a bit of a shock to
13 the certification community. It has caused a
14 lot of consternation in the industry, to the
15 point that the 100 percent label has been
16 problematic from the very beginning of this
17 regulation.

18 I can't tell you how many hours I
19 have spent explaining to clients and
20 prospective clients, "No, you can't say it's
21 100 percent, even though everything is organic
22 in it, because the processing aids weren't

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1 organic."

2 It was hard enough; now it has
3 become almost impossible. Basically, I think
4 all of us in the certification world are
5 saying, please, don't make 100 percent claims.

6 It has created this kind of real
7 problem in the industry, and I am not sure
8 everybody is aware of it. It is not on our
9 work plan. I'm not sure what we can do about
10 it, other than conference with the NOP to at
11 least come to a decision of how we're all
12 going to move forward, because everything like
13 this does create this certification shopping.

14 We just about eliminated certification
15 shopping to some extent, based on money and
16 service, and now with these different
17 interpretations coming back in as people
18 explore the regulation, it is coming back.

19 So we need to act quickly to
20 clarify and create that common ground. I am
21 not sure that all of you were aware of this
22 100 percent issue, but we have had to deal

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1 with it. The ACA LISTSERV has had a number of
2 options, and perhaps Pat will speak to that
3 tomorrow or the next day, but it has become a
4 serious issue, but I don't see it on any of
5 our work plans.

6 As far as the second issue of the
7 vitamins, minerals, and other nutrients, as
8 allowed in 104.20, that is, if I am not
9 incorrect, that is going to be on our work
10 plan, Julie.

11 MS. BIERGIEL: Thank you.

12 CHAIRMAN DELGADO: That was yes
13 from Julie.

14 MEMBER SMILLIE: That was a very
15 reluctant yes though.

16 (Laughter.)

17 CHAIRMAN DELGADO: Any other
18 questions? Steve?

19 MEMBER DeMURI: This is in response
20 to you, Joe. No, I was not aware of the
21 issues with 100 percent, but I am glad I am
22 now.

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1 MS. BIERGIEL: Thank you.

2 MEMBER DeMURI: I do think it is
3 something we need to work on pretty quickly.

4 MS. BIERGIEL: Yes, thank you.

5 CHAIRMAN DELGADO: So there we have
6 the action item. Very good. I like to hear
7 that.

8 Any other questions, participating
9 from the program, clarifications? Barbara?

10 MS. ROBINSON: What did you want,
11 Joe?

12 MEMBER SMILLIE: Did I present
13 it --

14 MS. ROBINSON: Yes, you did, and
15 the program will take a look at it.

16 MS. BIERGIEL: Thank you.

17 CHAIRMAN DELGADO: Kevin?

18 MEMBER ENGELBERT: Joe, what about
19 the instances where there are requirements
20 above and beyond organic standards for
21 sanitation, things like that? How does that
22 play into your decisionmaking with 100

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1 percent?

2 MEMBER SMILLIE: Well, to go back
3 to a previous decision, we do not regard a
4 sanitizer as a processing aid, as long as it
5 is rinsed off and does not come into contact
6 with the final product.

7 So, in other words, if you clean
8 your line with a sanitizer, it's a clean
9 rinse, a sanitized rinse, as a manufacturing
10 facility, you have to prove to us that there's
11 no residual left. So we don't think it is an
12 issue. That is our current stance.

13 MS. BIERGIEL: If it doesn't
14 contact the product and there's no residual --

15 MEMBER SMILLIE: Right.

16 MS. BIERGIEL: -- it is not an
17 issue.

18 MEMBER SMILLIE: Right, but the
19 Diatomaceous serves the carbon dioxide. We
20 are talking about nitrogen, carbon dioxide.
21 You know this is like what we breathe every
22 minute, this stuff, you know. You can't see

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1 it.

2 MS. BIERGIEL: Right.

3 MS. ROBINSON: Rigo? Wait a
4 minute, Rigo.

5 CHAIRMAN DELGADO: Barbara, please.

6 MS. ROBINSON: There is a
7 definition of a processing aid in the
8 regulations, and the sanitizer is not a
9 processing aid. It doesn't say -- nowhere in
10 the definition of a processing aid is the word
11 "sanitizer". Okay?

12 MEMBER SMILLIE: But Diatomaceous
13 Earth, carbon dioxide, nitrogen are processing
14 aids under your definition.

15 MS. ROBINSON: Yes, but they are
16 not added to food.

17 We'll look into this further.
18 Okay?

19 CHAIRMAN DELGADO: All right. Any
20 other questions for the presenter?

21 (No response.)

22 Thank you very much.

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1 MS. BIERGIEL: Thank you.

2 CHAIRMAN DELGADO: At this point
3 we're going to take a well-deserved break. We
4 will come back at 3:15, and the next speaker
5 will be Emily Brown-Rosen.

6 (Whereupon, the foregoing matter
7 went off the record at 3:09 p.m. and went back
8 on the record at 3:24 p.m.) CHAIRMAN

9 DELGADO: We are ready to resume our public
10 comment.

11 At this point, Emily Brown-Rosen
12 from the PCO -- we are ready to start our
13 public comment.

14 Emily, thank you for being with us.
15 Please start.

16 MS. BROWN-ROSEN: Okay, thank you.

17 My name is Emily Brown-Rosen,
18 B-R-O-W-N R-O-S-E-N. I work for Pennsylvania
19 Certified Organic as the Policy Director.
20 Thank you very much for the chance to speak to
21 you here again today.

22 Pennsylvania Certified Organic is

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1 an accredited certifier. We have about 500
2 clients. We have filed a number of comments
3 that should be in your book on various
4 different topics, materials, grower groups,
5 seed. But today I am going to focus my little
6 five minutes here on the materials definition
7 issues. I don't think anyone has talked about
8 this yet. When should something be
9 agricultural and when something is non-
10 agricultural? So I will be the first.

11 If you have questions about any of
12 our other comments, feel free to ask me later.

13 Also, we have two other people that will
14 address some of those issues coming along.

15 Previously, I posted a comment in
16 support of option D. I should say, starting
17 out, that I was a member of this Materials
18 Working Group, this collection of different
19 individuals who worked quite a bit on that
20 lengthy proposal that we gave you. I think it
21 was a really good process. It was a really
22 good discussion. We came up with lots of

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1 different ideas. It was a hard one because
2 there was a lot of difference of opinion, but
3 we gave it a shot, and I came out in support
4 of option D.

5 But having thought about it further
6 and having read other people's comments, which
7 is all part of the process, I have now revised
8 my opinion. So I am handing out another one.

9 I have a new option I am supporting, and I am
10 calling it option B-plus. I will explain
11 this. It is not A. It is not perfect.
12 Nothing will ever be perfect, but I think this
13 is good enough. So I will explain where I got
14 this from.

15 This option B is based on the
16 proposal that commercial availability is
17 required for everything on the list that's
18 205.605 and everything on 205.606. I think
19 this really makes it simple. Initially, we
20 had rejected doing this because it seems like
21 it is too much work to prove availability of
22 this other section of the list, but we are

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1 doing this already with 606 as far as
2 certification goes. I think we know how to do
3 that. A lot of the things on 605 will be
4 fairly obvious that they are not possible ever
5 to be organic. So it won't be that much of a
6 stretch to add this to that.

7 From reading CCOF's comments, which
8 I support on this issue, they pointed out this
9 does provide more incentive to develop organic
10 forms of all the substances on the National
11 List. It gives us back that order of
12 preference; we want organic whenever
13 available.

14 And as Oregon Tilth has pointed
15 out, we need to get back to the old, original
16 thinking that there is sort of this order.
17 You know, organic is best; then if you can't
18 find something organic, something natural is
19 best, and then something synthetic on the
20 list. That really fell out when the final
21 rule got published, but it is something worthy
22 of trying to bring back.

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1 So I think this proposal does that.
2 It will keep the section (a) and (b),
3 synthetic, non-synthetic, so that's there for
4 identification purposes, and then people will
5 have to justify that they are not using
6 organic if it is available.

7 Now this also requires that we drop
8 the term "non-agricultural" from the title of
9 205.605. So everything listed on 605 will
10 just be non-organic substances allowed in food
11 processing. So it won't be one way or the
12 other, it's agricultural or non-agricultural.

13 It is just a substance that has been reviewed
14 that is allowed. If you can possibly find a
15 way to make that organically, that is the form
16 of it you should be using.

17 So there's no barrier. It's
18 because it's not classified as non-
19 agricultural, like right now the NOP's Q&A
20 says that yeast is non-agricultural so you
21 cannot make it organically. So that
22 nomenclature problem will just disappear

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1 because we won't identify it one way or the
2 other.

3 Now this is my change here. I
4 suggest that, in addition to this major
5 change, we use the definition of non-
6 agricultural substance that Oregon Tilth has
7 proposed. I will repeat. Gwendolyn nicely
8 wrote up, "A substance that is not raised in
9 or derived from an agricultural system, such
10 as a mineral or atmospheric gas. For the
11 purposes of this part, a non-agricultural
12 ingredient is also anything technically
13 impossible to be organically produced." So
14 Gwendolyn went on to explain that "technically
15 impossible" refers to either a lack of
16 standards or the current production methods
17 available for the substance in question are
18 limited to materials and practices that are
19 not consistent with the standards for an
20 organic product.

21 So this is something that is
22 doable. This is something that I think will

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1 be a very bright, clear dividing line for NOP
2 to say, "We don't have standards for
3 microorganisms. We can keep microorganisms on
4 the list."

5 I'll finish my sentence and then
6 you can ask me questions.

7 CHAIRMAN DELGADO: Yes, if you can
8 wrap up.

9 MS. BROWN-ROSEN: Okay.

10 Keep microorganisms on the list,
11 but you could also put baker's yeast or the
12 types of brewer's yeast that are available
13 organically on 606.

14 I want to point out that attached
15 to my comments I have printed out a page from
16 the AFGO manual listing the 45 different kinds
17 of bacterial and fungal microorganisms that
18 are used in livestock feed. I can't even
19 pronounce these names, but at this point in
20 time I don't see them being available for
21 organic livestock, and therefore, let's just
22 keep microorganisms on the list at 605, and

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1 you could do that with this proposal.

2 All right, any questions?

3 CHAIRMAN DELGADO: Okay. I just
4 want to make sure, did you get a copy of
5 Emily's proposal?

6 MEMBER HEINZE: I was going to
7 point out we had a little miscommunication
8 gap. So this side of the table has the
9 written comments; this side of the table
10 doesn't. So we'll get them to you.

11 CHAIRMAN DELGADO: Thank you for
12 that.

13 Okay, now any questions?

14 We'll start with Dan followed by
15 Gerry.

16 MEMBER GIACOMINI: Just so I
17 understand your B-plus, the clarification on
18 the definition of non-ag, which is a fairly
19 significant change, is coupled with the fact
20 that you're dropping the term non-ag out of
21 the title of 605, correct?

22 MS. BROWN-ROSEN: Correct.

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1 CHAIRMAN DELGADO: Gerry?

2 MEMBER DAVIS: You mentioned that
3 list of all those microorganisms. Do you have
4 any comment on the importance of -- I know you
5 say they are being used, but is there any
6 centering at all on certain ones that are
7 vitally important and others are just
8 occasionally used?

9 MS. BROWN-ROSEN: Well, I will say,
10 from the standpoint of someone who reviews
11 livestock feed additives all the time, that
12 you see all of these in multiple combinations
13 all the time. It is considered a very
14 important part of a healthy diet for ruminants
15 to prevent other medical problems that would
16 require medications or treatment.

17 So I can't judge whether one is
18 better than another one. I know the
19 formulators all have their reasons why they
20 think certain combinations are better for
21 certain purposes. So I would say they're in
22 everything.

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1 We will commonly see a livestock
2 feed additive that has 30 or 40 ingredients,
3 including maybe five or ten microbials and
4 then all the vitamins and the different things
5 for different purposes. So there is a lot of
6 work reviewing those products to begin with.

7 So if we had to get organic
8 certificates for all of them, we could do it,
9 but I don't think it is going to happen any
10 time soon.

11 CHAIRMAN DELGADO: Dan?

12 MEMBER GIACOMINI: Just a comment
13 on that, Gerald, as an animal nutritionist
14 working a lot with dairy cattle ruminants and
15 these types of products, a large part of what
16 these products are trying to do is a balance
17 of enzymes in the rumen. It is very likely
18 that the optimal enzyme supply balance is not
19 even -- it may be three of these bacteria
20 species that are used very minorly now, but
21 they just haven't put them together yet.

22 So you have the regulars now, and

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1 the favorite, the A list. It may be that two
2 or three or four or five from the B list may
3 end up being the best thing in two to three
4 years. So it would be very hard to just try
5 and start splitting hairs on where on this
6 list the best is going to come from.

7 MEMBER DAVIS: So you would concur
8 that there is a vast amount of differing
9 concoctions being marketed in feed? I mean
10 that list is reflective of what's actually
11 being used, just like she said?

12 MEMBER GIACOMINI: Well, the
13 technology of bringing these to the animal, to
14 a great extent, is a technology in being able
15 to get the billions of different species that
16 are in the rumen already fed back to the
17 animal in a product where you are still
18 getting to them in a live state. There may be
19 changes in technology and maybe modifications
20 down the road where this list may be obsolete
21 in five years.

22 MEMBER DAVIS: So it may be a bit

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1 of a shotgun approach that they are using
2 because they don't know precisely which one
3 are the key ones? Am I gathering what you're
4 saying?

5 MEMBER GIACOMINI: Well, the answer
6 is always going to be a shotgun rather than a
7 rifle because it is going to be the balance of
8 amino acids, but what BBs go into that shotgun
9 is going to be changing constantly also.

10 CHAIRMAN DELGADO: Was that clear
11 enough, Gerry?

12 MEMBER DAVIS: Yes.

13 CHAIRMAN DELGADO: Okay. Any other
14 questions?

15 (No response.)

16 Very good. Thank you, Emily.

17 Up next is Gwen Wyard, followed by
18 M. J. Marshall.

19 MS. WYARD: Good afternoon, members
20 of the Board, NOP staff, and ladies and
21 gentlemen of the gallery. My name is
22 Gwendolyn Wyard. I am presenting today on

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1 behalf of Oregon Tilth.

2 We are a membership-based nonprofit
3 organization. Our mission statement is to
4 support biologically-sound and socially-
5 equitable agriculture through research,
6 education, advocacy, and product
7 certification.

8 The topic for this afternoon is the
9 definition of materials, namely, agricultural
10 versus non-agricultural. The comments in
11 their entirety were submitted to
12 regulations.gov, so you should have them and
13 all their gripping details in your book.

14 We also submitted comments in
15 conjunction with PCO on the 606 review
16 process, and I believe those are going to be
17 addressed in later comments, but if you have
18 any questions for me, at the end of my five
19 minutes I will be happy to answer them.

20 I also was on the Materials Working
21 Group, and I have some comments with respect
22 to the options that were offered up in that

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1 document.

2 We start off our comments by laying
3 down five key concepts that should remain
4 central to this discussion. While all are
5 equally important, in the interest of time I
6 will highlight only two.

7 No. 1, the NOP definition of
8 organic production, and No. 2, 205.605 should
9 be reserved for substances that technically
10 cannot be organic.

11 With respect to the Materials
12 Working Group discussion document, we are
13 tossing another option in for discussion. It
14 is referred to as option Tilth. It could have
15 been option DD, it was suggested, because it
16 is largely based off of option D, but we're
17 sticking with option Tilth.

18 There are some significant
19 differences that I would like to point out.
20 Option D adopts a 2005 clarification on the
21 definition of agricultural product. We would
22 like to see only part of that guidance

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1 adopted, namely, the following: Agricultural
2 products are those that are managed by humans,
3 and managed by humans refers to the
4 intentional act of gathering, producing,
5 raising, or growing domestically or in
6 designated wild harvest areas by persons for
7 human or livestock consumption.

8 Oregon Tilth does not agree that
9 lines between agricultural and non-
10 agricultural should be drawn based on an
11 organism's taxonomy. The focus should be
12 whether they are a living organism managed by
13 humans and intended for human or livestock
14 consumption. The focus from there on out
15 should be whether they can or are produced and
16 handled in accordance with the act and the
17 regulations.

18 The definition of non-agricultural
19 should either be revised or removed
20 completely. We feel a revision, rather than
21 complete deletion, is more appropriate because
22 the general concept is very ingrained into our

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1 regulation and is extremely useful when
2 explaining why certain substances such as
3 water and salt are allowed in or excluded from
4 certified products.

5 Therefore, we recommend the
6 following definition: Non-agricultural, a
7 substance that is not raised in or derived
8 from an agricultural system such as a mineral
9 or atmospheric gas.

10 For the purposes of this part, a
11 non-agricultural ingredient is also anything
12 that technically cannot be organic. It is the
13 same definition as B-plus.

14 We support the change in the title
15 of 605 as presented in option D. Drop the
16 word "non-agricultural" and refer to non-
17 organic substances only. This approach
18 provides a place for non-organic inputs that
19 are either non-agricultural substances or
20 substances that do not belong on 606 because
21 they cannot be certified to the organic
22 production or handling standards.

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1 We support retention of
2 agricultural, non-organic non-synthetic, and
3 non-organic synthetic as categories because
4 they cater to the organic preference stepwise
5 approach of using materials which, I might
6 add, has been lost in time.

7 Yeast -- hang onto your knickers.
8 While Oregon Tilth cannot positively point to
9 yeast as being agricultural in a traditional
10 sense, we can say that yeast are living
11 organisms and their production relies
12 primarily on agricultural material that is
13 available in organic form.

14 We recognize that yeast production
15 has definite agricultural and environmental
16 implications, and we feel these should and can
17 be addressed by applying organic principles to
18 yeast used in organic food.

19 Option Tilth offers the following
20 fodder for thought: Retain microorganisms on
21 605 as non-agricultural substances and clarify
22 that yeast products can be produced

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1 organically using non-organic yeast seed
2 covered under the listing of microorganisms on
3 605.

4 While Oregon Tilth strongly
5 believes the handling requirements of 205.270
6 provide adequate standards for certifying
7 organic yeast, we accept that the larger
8 community may feel more comfortable if organic
9 yeast guidelines are further defined. The
10 appropriate place to do this is in a guidance
11 document that would ultimately need to be
12 circulated by the NOP for public comment via
13 The Federal Register, adopted if favorable,
14 and posted to the NOP website.

15 Once processing guidelines for
16 organic yeast products become available via
17 the NOP website, specific products such as
18 baker's yeast and nutritional yeast could be
19 petitioned to 606 as agricultural products
20 subject to commercial availability.

21 Under this working theory, a
22 distinction can be made between a

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1 microorganism classified as non-agricultural
2 substance and the organic processed product
3 that can be produced when the microorganism
4 and substrate are formulated in accordance
5 with requirements of processed organic
6 product.

7 One last sentence?

8 CHAIRMAN DELGADO: One last one.

9 MS. WYARD: This approach would
10 continue to allow direct-fed microorganisms to
11 be allowed as non-synthetic, non-agricultural
12 livestock feed supplements while continuing to
13 support the organic production of yeast
14 products listed on 606.

15 Thank you very much.

16 CHAIRMAN DELGADO: Thank you, Gwen.

17 Any questions? Steve?

18 MEMBER DeMURI: Without having both
19 yours and Emily's proposal side by side, can
20 you explain the difference between yours and
21 her B-plus?

22 MS. WYARD: B-plus applies

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1 commercial availability to both lists. So it
2 merges the list. It doesn't actually merge
3 them, but commercial availability is applied
4 to 605 and 606.

5 I have made a distinction between
6 605, which contains products that cannot be
7 certified organic, and 606, which are products
8 that can be certified organic. I have
9 included these categories, like I said, along
10 with synthetic and non-synthetic. So there is
11 this progression of organic preference.

12 Otherwise, they are very similar.

13 CHAIRMAN DELGADO: Any other
14 questions?

15 (No response.)

16 Thank you very much.

17 MS. WYARD: Okay. Thank you.

18 CHAIRMAN DELGADO: Up next is M.J.
19 Marshall.

20 Julie, you had a comment?

21 MEMBER WEISMAN: Well, no, it was
22 with regard to a different person on the list.

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1 CHAIRMAN DELGADO: Yes.

2 MEMBER WEISMAN: I don't believe
3 she is in the room, and I do believe that they
4 are signed up tomorrow.

5 CHAIRMAN DELGADO: Tomorrow.

6 MEMBER WEISMAN: As of yesterday,
7 that was my impression.

8 MEMBER HEINZE: Julie, she asked
9 and I told her that that wasn't possible.

10 MEMBER WEISMAN: When was this?

11 MEMBER HEINZE: It was an email
12 late yesterday, and I said that it was too
13 booked, and I'm sorry.

14 MEMBER WEISMAN: Okay.

15 CHAIRMAN DELGADO: So we are
16 skipping M.J. then, and next up is Grace
17 Marroquin, followed by David E. Adams.

18 MS. MARROQUIN: I'm back.

19 (Laughter.)

20 Good afternoon. My name is Grace
21 Marroquin. I'm President and CEO of Marroquin
22 Organic International, based in Santa Cruz,

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1 California.

2 I founded my company in 1991, and
3 we are importers and suppliers of organic
4 ingredients.

5 Before turning to discuss yeast as
6 an agricultural product, I have a brief
7 comment on tartaric acid. Organic tartaric
8 acid is available. At this meeting, the
9 Handling Committee will make a sunset
10 recommendation that tartaric acid remain on
11 the National List both as non-synthetic on
12 605(a) with an annotation "made from grape
13 wine", and as synthetic in 205.605(b) with an
14 annotation "made from malic acid".

15 My company can supply organic
16 tartaric acid made from grape juice extract.
17 Since this organic version of organic tartaric
18 acid is now available from at least one
19 source, and grape juice is an agricultural
20 product, it is my opinion that non-synthetic
21 tartaric acid made with grape juice or grape
22 wine should be listed in 606.

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1 Turning now to the Materials
2 Working Group report, since July 30th, 2004, I
3 have been asking this Board simply to
4 recognize yeast as an agricultural product. I
5 appreciate the work that the Materials Working
6 Group has done. I also served on this group.

7 I am grateful today that Kevin
8 Orell, a former Chair of the NOSB, Goldie
9 Caughlin, former member and officer of the
10 NOSB, Lynn Clarkson, a leader in the organic
11 community, have all submitted comments in
12 support of our request. I am pleased that
13 Dave Adams of Savoury Systems International is
14 joining us today to voice his support.

15 Before organic yeast became
16 available on the market, yeast was classified
17 on the National List as a non-agricultural
18 under 605(a). This means organic yeast cannot
19 be a required organic ingredient.

20 Organic food processors do not have
21 to use it at all. They are free to use
22 conventional yeast and do not have to search

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1 for an organic alternative.

2 Organic yeast uses an organic grain
3 substrate and absolutely no synthetic
4 chemicals in its production process.
5 Conventional yeast, on the other hand, is made
6 using synthetic chemicals. I have to remind
7 you about this every time, but I will.
8 Ammonia is the nitrogen source. Sulfuric acid
9 and caustic soda lyes are used to regulate pH.

10 Synthetic vitamins and synthetic anti-foaming
11 agents are used, and the waste water is a
12 major problem.

13 In the organic yeast production,
14 the waste water is used to further make
15 organic products. Nearly two years ago we
16 thought this matter was on its way to being
17 resolved in September of 2006, when the
18 Handling and Materials Committee voted
19 unanimously, eight to zero, to recommend to
20 the Board that yeast and dairy cultures be
21 listed on 606 as agricultural products. At
22 the Board meeting in October of 2006, the

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1 Board discussed this but deferred action.

2 We all understand the OFPA does
3 include fungi, including yeast and other
4 microorganisms, in its definition of
5 agricultural product. No one on the Board or
6 from the NOP had challenged this.

7 At this meeting, the Board will be
8 reviewing poria fungus extract for listing as
9 an agricultural product on 606. The NOP and
10 the Handling Committee have simply accepted
11 this petition for a fungus as an agricultural
12 product. No one has questioned the status of
13 fungus as an agricultural product.

14 While the Committee voted not to
15 approve this petition, it did so on other
16 grounds. Yet, the Board has still not acted
17 on a unanimous recommendation from the
18 Handling and Materials Committee of 2006. We
19 see it as the principal reason for the impact
20 it will have on livestock feed, which is
21 understandable. Livestock feed is the reason
22 we have a stalemate on recognizing yeast and

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1 other microorganisms as agricultural products.

2 The Materials Working Group report is a
3 reflection of this stalemate.

4 Okay, here we go, option G. Option
5 G is working within the framework of what we
6 have right now, which is OFPA.

7 CHAIRMAN DELGADO: You have one
8 minute.

9 MS. MARROQUIN: All right. Okay.

10 Option G, keeping the existing
11 definition of non-agricultural substances in
12 the NOP regulation, it identifies a bacteria
13 culture as not a product of agriculture. This
14 would mean livestock operators could continue
15 to use non-organic bacterial cultures in their
16 feed as a supplement allowed under 205.237(a).

17 Processors using bacteria dairy cultures
18 could continue to use them without the need to
19 search for an organic alternative.

20 Two, since organic yeast can be
21 available for food and feed, recognize yeast
22 as an agricultural product and transfer yeast

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1 alone to 605(a) -- from 605(a) to 606. A
2 definition of non-agricultural substance, the
3 NOP regulation identifies bacteria cultures as
4 not a product of agriculture. This does not
5 apply to yeast. Yeasts are fungi, not
6 bacteria. This is a well-known scientific
7 distinction.

8 Three, keep the existing listing of
9 microorganisms as non-agricultural in 605(a).

10 This is the same approach the EU has recently
11 taken toward yeast in its regulation of
12 834/2007, blah, blah.

13 CHAIRMAN DELGADO: Okay.

14 MS. MARROQUIN: Yes.

15 CHAIRMAN DELGADO: Thank you,
16 Grace.

17 Any questions? Joe?

18 MEMBER SMILLIE: Grace, we've got
19 to get into the details. So I would like to
20 ask you why, to the two options that we just
21 heard, wouldn't your problem be solved by
22 those options?

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1 MS. MARROQUIN: Yes. I like those
2 options, too, but that is an act of Congress.
3 I might be dead by the time anything happens
4 on that because it has taken four years
5 already. I hate to say that.

6 There's also yeast and other items,
7 ingredients like this, could be certified as
8 processing standards. I think there have been
9 clarifications that said, if 95 percent of the
10 ingredients on substrates are used, they are
11 considered an organic product. So that would
12 be one avenue we could take.

13 I like B-plus. I like the various
14 options. But, again, we are working within
15 the framework of OFPA, and I thought that's
16 what NOSB is to do, is to make and serve and
17 clarify the regulations within OFPA.

18 MEMBER SMILLIE: Well, you join the
19 Pollyanna crew?

20 MS. MARROQUIN: Yes, right, but I
21 do think, you know, these other options that
22 are being presented are good options.

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1 MEMBER SMILLIE: The criticism of
2 them is they take regulatory change.

3 MS. MARROQUIN: They take an act of
4 Congress, which is like an act of God.

5 No, I mean, aren't you talking
6 about changing OFPA in some of those cases?

7 MEMBER DAVIS: Didn't I hear
8 Gwen --

9 CHAIRMAN DELGADO: Hang on a
10 minute, Gerry.

11 Are you done with her?

12 MEMBER SMILLIE: For now.

13 CHAIRMAN DELGADO: For now, okay.

14 MEMBER DAVIS: I'm sorry. I'm
15 trying to sort this out in my own mind,
16 listening to Gwen and Emily. I thought I was
17 hearing them saying they have to redefine the
18 word "agricultural". I heard them dropping
19 non-agricultural out, but I thought -- I guess
20 I am wrong, but I thought I heard them mention
21 that agricultural should mean this. Well,
22 OFPA already says what agricultural is.

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1 MS. MARROQUIN: Is there a lawyer
2 in the room?

3 (Laughter.)

4 CHAIRMAN DELGADO: Can you state
5 your name, please?

6 MR. SIEGEL: Richard Siegel,
7 Washington, D.C., attorney and counsel to
8 Marroquin Organic International.

9 OFPA is a statute -- this Board is
10 assigned in OFPA to advise the Department on
11 how OFPA should be implemented. So this Board
12 has to operate -- this Board and the
13 Department of Agriculture have to operate
14 within the four corners OFPA.

15 Now OFPA says that in order to have
16 an organic product, it must first be an
17 agricultural product. If you blur the
18 distinction between agricultural and non-
19 agricultural, and you make a nice, big, happy
20 list, and you say, "Now here's this nice, big,
21 happy list," and if someone can come up with
22 an organic version of something on this list,

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1 fine, it will be an organic version, but that
2 organic version has to be an agricultural
3 product. So you can't get around the fact
4 that anything that is going to eventually be
5 organic has to pass muster as an agricultural
6 product.

7 That is why we are suggesting in
8 this latest option that we have, option G,
9 consider that yeast is an agricultural product
10 and leave bacteria and the other
11 microorganisms as non-agricultural.

12 MS. MARROQUIN: And again, this was
13 all framed within moving forward from the idea
14 that we have to work within this framework of
15 OFPA. If it was possible that we don't, then
16 all these other options are all very good
17 options. I mean not all of them. I like
18 B-plus. I like Tilth. But again, we're bound
19 by the law.

20 One last thing: Organic preference
21 has been mentioned here, but it is the reason
22 my company is here. Because it was a great,

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1 fun challenge to look at those lists and see
2 what on that list can we make organic, and
3 there are plenty of things. Lecithin can be,
4 glycerin, but why aren't people petitioning
5 these? There must be reasons. It takes away
6 the challenge of producing organic
7 ingredients.

8 CHAIRMAN DELGADO: Very good. All
9 right, the Secretary, please.

10 MEMBER HEINZE: You'll be relieved
11 to know I don't have a yeast question. Now I
12 have a tartaric acid question.

13 So you have that available? Is
14 that what I am hearing you say?

15 MS. MARROQUIN: Yes. We haven't
16 brought it in. It was three years in the
17 making because they were trying to make baking
18 powder, and we have it made with organic
19 baking powder, which no one has to use, of
20 course.

21 But because of that, they had to
22 produce a tartar, and they were trying to get

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1 rid of the phosphates. So they were able to
2 develop this. But again, the issue came up
3 and it was like, oh, dear, do I really want to
4 do this?

5 MEMBER HEINZE: I will admit, as a
6 member of the Handling Committee, sometimes I
7 feel like I'm stuck in a chicken-and-an-egg
8 thing on the sunset. We saw this with
9 lecithin a couple of years ago, that someone
10 did say it was available, but yet it wasn't in
11 a form that industry could use. Yet, what you
12 say is, until it is off the list, industry
13 won't be incented to use it.

14 I do feel a bit stuck sometimes.

15 MS. MARROQUIN: Yes.

16 MEMBER HEINZE: We all have the
17 same goal.

18 MS. MARROQUIN: Right.

19 MEMBER HEINZE: Get things off the
20 list, but it does seem --

21 MS. MARROQUIN: Organic is about
22 chicken and eggs.

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1 MEMBER HEINZE: Okay.

2 CHAIRMAN DELGADO: Dan?

3 MEMBER GIACOMINI: Thank you, Rigo.

4 Not a question, but just a reminder
5 to everybody: We will have a presentation
6 tomorrow by the Materials Working Group.
7 Depending on how long all the presentations
8 fall within our time limit, there will be
9 discussion.

10 CHAIRMAN DELGADO: Very good.

11 Thank you.

12 MS. MARROQUIN: I want to thank you
13 all again for all your patience and
14 understanding and attention to the matter.

15 CHAIRMAN DELGADO: Before you
16 leave, are there any other questions for
17 Grace?

18 (No response.)

19 Okay, thank you.

20 Okay, I understand that M.J. is
21 present at this moment, M.J. Marshall. Is
22 that the case?

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1 MS. MARSHALL: That's it.

2 CHAIRMAN DELGADO: Okay, you're up.

3 After M.J., we'll have David Adams.

4 MS. MARSHALL: Sorry I was late.
5 The train was a little late, believe it or
6 not.

7 I'm M.J. Marshall. I'm the
8 Director of Government Relations for the
9 Flavor and Extract Manufacturers Association.

10 Along the lines of the discussion
11 that you were just having with respect to ag
12 versus non-ag, I just wanted to give you an
13 update as to where the flavor industry is with
14 respect to those discussions.

15 Certainly, FEMA shares the concerns
16 for the integrity of the program and the
17 tremendous efforts that have gone into all of
18 these discussions of late. We have made
19 enormous progress, I think.

20 We have had our own internal FEMA
21 Task Force looking at this issue. We have had
22 twice monthly meetings with more than 20

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1 company participants. Then at our recent
2 annual meeting, which was just a couple of
3 weeks ago, we had some presentations on the
4 organics issue, and we have been giving these
5 to a wider audience within our organization to
6 try to educate the members as to the concerns
7 that we have about the definitional issues.

8 Certainly FEMA wants to help reach
9 a solution to ensure business continuity in a
10 way that will satisfy the producers of organic
11 products, the certifiers, and the regulators.

12 I would also stress that we have
13 also been working with the certifiers very
14 closely on this issue as well. I think that
15 is an important point.

16 We will also continue to work
17 closely with the Materials Working Group and,
18 as I said, the certifiers. We want to help
19 try to resolve any outstanding concerns with
20 the definitional issues by achieving a
21 solution that we believe will provide a
22 consistent approach to the challenges that we

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1 face.

2 On a final point, we believe that
3 the solutions must support the program and
4 ensure the integrity of organic products.

5 CHAIRMAN DELGADO: Well, thank you.

6 Any questions? Barbara?

7 MS. ROBINSON: M.J., I'm glad you
8 came. I just would like to say that, as a
9 matter of fact, I got an email the other day
10 and it was not from FEMA, but it was from
11 someone -- I can't remember his name now.

12 MS. MARSHALL: A member of FEMA?

13 MS. ROBINSON: I'm not sure. It is
14 a gentleman out in California who has been
15 working with flavors for quite some time.

16 It was an extremely educational
17 communication about natural flavors, the way
18 actually that they are annotated on the
19 National List and kind of problems with the
20 original annotation, linking it back to FDA's
21 definition of a natural flavor.

22 So, unfortunately, I was on my way

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1 here, and I didn't really have time to -- it
2 was like a three-page email when I printed it
3 out. So I want to go back and look at that
4 and then go back and look at the regulatory
5 citation at FDA, and then we probably do need
6 to talk. Because like I said, it was really
7 educational about the FDA regulations
8 governing natural flavors.

9 MS. MARSHALL: Which FDA has said
10 that they are not going to define, "natural"
11 that is.

12 MS. ROBINSON: Actually, there is
13 some regulatory history there.

14 MS. MARSHALL: Well, there's
15 definitely history --

16 MS. ROBINSON: Yes, right.

17 MS. MARSHALL: -- but what I'm
18 saying is that they've come out recently and
19 said they weren't going to try to define
20 natural --

21 MS. ROBINSON: Right.

22 MS. MARSHALL: -- any further than

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1 they already have.

2 MS. ROBINSON: But I guess what I
3 am saying is that we still have more work to
4 do delving into this.

5 MS. MARSHALL: I agree. So that is
6 why I wanted to come and participate today --

7 MS. ROBINSON: Right.

8 MS. MARSHALL: -- just to give the
9 Board a status report on where we are --

10 MS. ROBINSON: Right.

11 MS. MARSHALL: -- and to reiterate
12 our concerns and our goal of trying to find a
13 workable solution.

14 MS. ROBINSON: And so is ours. So
15 is ours. I just wanted to reaffirm that with
16 you.

17 MS. MARSHALL: Yes. Well, if
18 that's an email you would feel comfortable
19 sharing with me --

20 MS. ROBINSON: Oh, I would,
21 absolutely.

22 MS. MARSHALL: Yes, that would be

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1 great.

2 MS. ROBINSON: Because I would like
3 your feedback on it.

4 MS. MARSHALL: Yes, okay, and we
5 can have some followup after that.

6 CHAIRMAN DELGADO: Okay, thank you.
7 Joe, you had a question?

8 MEMBER SMILLIE: Yes. A member of
9 FEMA participated in the Working Group.

10 MS. MARSHALL: Okay.

11 MEMBER SMILLIE: Has FEMA looked at
12 that document, and do you have any comments to
13 make on that document about which option you
14 may be leaning toward at this point?

15 MS. MARSHALL: I am really, Joe,
16 not comfortable commenting on that. I would
17 say that, yes, we have looked at the document,
18 but we are still having some internal
19 discussions about it.

20 CHAIRMAN DELGADO: Any other
21 questions?

22 (No response.)

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1 Good. Thank you very much.

2 MS. MARSHALL: Thank you.

3 CHAIRMAN DELGADO: Up next is David
4 Adams, followed by Kelly Shea.

5 MR. ADAMS: Good afternoon. Thank
6 you for the hearing. I'm Dave Adams from
7 Savoury Systems, President and owner. We are
8 a natural ingredient company working with
9 products for the food industry.

10 We are making organic baker's yeast
11 extract. This is a natural flavoring
12 material. It is a very stable product. It
13 has been around for centuries really, baking
14 yeast and reliable low allergen.

15 We have been making this for about
16 three years now in the U.S. It is
17 sustainable, as you grow it on a carbohydrate
18 source, molasses and sugar, which yields a
19 nutritious, protein broth for flavor and
20 nutrition, kind of like chicken broth, if you
21 will, but it is vegetarian. So it has a big
22 benefit and it is a sustainable product.

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1 We respect the efforts of the
2 members of the Materials Working Group and
3 look forward to a decision on the issue here.

4 We have looked at options also. We
5 wrote a letter about (c), but really it
6 doesn't resolve the issues with all the dairy
7 cultures and the microorganisms and everything
8 else that are a bit complicated.

9 Yeast is a little simpler product
10 and reliable. So what we have come up with
11 also is the option G. Tilth also suffices for
12 the same program to sort it out, but I think
13 that would work well.

14 Comparing it to EU, there is a
15 similarity if we used the other issue, the
16 production standards for organic yeast. The
17 EU recognized yeast as eligible for organic
18 certification in food and feed and had issued
19 production standards.

20 So if we need standards, the EU are
21 pretty standard; we could use those as a
22 model. Here again, standards should not be an

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1 obstacle.

2 Also, if the NOP continues to keep
3 yeast as a non-agricultural substance, NOP-
4 certified manufacturers will continue to rely
5 on conventional instead of organic yeast,
6 while the EU could soon start blocking organic
7 imports from the United States unless they
8 contain organic yeast.

9 Again, I think you've got a fast
10 program from Grace Marroquin on the option G
11 and its similarities. So I won't belabor that
12 issue.

13 But the purpose of NOP regulation
14 is that new organic ingredients are developed
15 for processed products. There is an organic
16 preference that should favor the use of these
17 ingredients, and we see option G as the best
18 one now that would be in perfect interest of
19 strengthening the organic integrity of
20 processed food products by finally requiring
21 the use of yeast in organic form if it is
22 commercially available.

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1 Thank you.

2 CHAIRMAN DELGADO: Thank you.

3 Any questions?

4 (No response.)

5 All right, thank you very much.

6 MR. ADAMS: Good.

7 CHAIRMAN DELGADO: Next up is Kelly
8 Shea, followed by Zea Sonnabend.

9 MS. SHEA: Hi, Everybody. I'm
10 Kelly Shea with WhiteWave Foods, better known
11 to most of you as Horizon Organic Dairy and
12 Silk Soymilk.

13 I want to thank the people at
14 USDA's Egg Marketing Service, NOP, and members
15 of the NOSB for all the effort you put into
16 preparing for this meeting. For a lot of us,
17 we travel here for the meeting, but we know
18 how many hours and days have gone into
19 preparing for the meeting.

20 As well, a welcome to Mr. Flamm to
21 the Board.

22 So I am here today to offer public

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1 comment on a number of issues of importance to
2 the organic community.

3 No. 1, we want to show our
4 continued support for the renewal and
5 reaffirmation of the following materials to
6 the National List: Karaginan, Agar Agar, and
7 cellulose.

8 As noted in the Handling
9 Committee's reaffirmation of the above
10 materials, numerous comments in favor of
11 relisting, with no comments opposed, were
12 received in the months following the November
13 2007 meeting.

14 Secondly, we thank the Board and
15 the public for the discussions around the
16 definitions of ag, non-ag, non-synthetic,
17 synthetic. Proper definitions will allow for
18 consistent interpretation of the rule and
19 transparent decisionmaking. As well, it will
20 encourage further production and availability
21 of organic inputs.

22 So I would ask the Board that you

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1 request the Materials Working Group continue
2 the efforts begun and that our next report
3 would be delivered at the autumn NOSB meeting.

4 As you can see, even since the last
5 time the Materials Working Group stopped
6 working, we have had a number of new options.

7 So I think it would be great if we had an
8 opportunity to go back and come forward at the
9 autumn meeting with another document for you
10 that would be more advanced.

11 I want to talk a little bit about
12 organic seed. So in organic dairying, it is
13 as much about raising grass as raising cows,
14 and farmers face difficulty locating good
15 quality organic seed with a high germ rate
16 that is suited to organic farming practices,
17 when it can be located at all, and
18 specifically grass seed.

19 So I want to really thank the NOSB
20 for the document you put together. I think it
21 is the best work to date.

22 I also want to thank Mark Cool at

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1 Seeds of Change for the great service he has
2 done to the organic community with his public
3 comments on this important issue over the last
4 few NOSB meetings.

5 So some of the seeds that farmers
6 struggle to find in their areas as organic are
7 yellow sweet clover seed, red clover, crimson
8 clover, a good two-row barley that is going to
9 produce good straw, stands well, and doesn't
10 lodge, sudex, triticali, which is a lot better
11 for grazing.

12 So we are going to be compiling
13 further information on this. Ed Maltby, the
14 Executive Director of NODPA, has offered to
15 join us in putting a call out to organic dairy
16 farmers in order to ascertain what other seed
17 varieties they cannot find as organic.

18 I think there has been a lot of
19 focus on the vegetable seeds, as we have
20 heard, but less on cool season and warm season
21 grasses, and some of the annual forages.

22 But here's a question: So if I

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1 have compiled this list of seeds that are hard
2 to find as organic, then what do we do with
3 that? I mean it is a little odd to think I am
4 going to send that list to every seed supplier
5 here in the U.S. There is not sort of a seeds
6 wanted database. There's databases of
7 existing seeds. So just a little something to
8 take away as you go back to look at reworking
9 your document.

10 So organic, as you know, is under
11 attack from many levels today. We've got
12 price issues, supply issues. We've got a lot
13 of imitators coming onboard.

14 I really thank the NOSB for the
15 work that they have done to promote organic as
16 the only third-party certified products
17 produced under protocols that benefit the
18 environment and provide food and fiber that
19 can be traced back to the farm. Organic has
20 been called the poster child for biosecurity
21 and country-of-origin labeling.

22 The USDA organic seal must meet the

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1 expectation of the organic consumer. So we
2 thank you for the work that you are doing.

3 Last, but not least, something we
4 have talked about before -- I will be done in
5 less time than that, Katrina (responding to
6 time limitation on speakers) -- we urge USDA
7 to act quickly on the two critical priorities
8 for the organic dairy community today, the
9 immediate publication of the pasture rule with
10 very clear metrics for compliance, at least 30
11 percent dry matter intake from active grazing,
12 and not less than 120 days of the year. We
13 all know most dairy farms can graze many, many
14 more days of the year than 120 days.

15 Lastly, as opposed to an advanced
16 Notice of Proposed Rulemaking on origin of
17 livestock, we really need to go right to a
18 proposed rule. We did an ANPR on pasture. It
19 came out in April of 2006. So it is just a
20 long road coming.

21 I think the whole community is
22 aligned on what we want out of origin of

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1 livestock. So we could probably dispense with
2 an ANPR.

3 Thank you.

4 That was really more for them and
5 less for you.

6 Thanks.

7 CHAIRMAN DELGADO: Thank you,
8 Kelly.

9 Any questions? Joe?

10 MEMBER SMILLIE: Kelly, I
11 appreciate your comments that the Materials
12 Working Group should go back and further
13 refine the great work that you have already
14 done. You have obviously chosen that route
15 rather than seeking a recommendation for the
16 November meeting.

17 I just wonder, do we need to take
18 that time? Do you think that we should take a
19 little more time rather than try to come out
20 with a recommendation?

21 MS. SHEA: Yes. Well, we might be
22 able to have one by then, but let me tell you,

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1 the calls were some of the most amazing calls
2 I have been on in a long time. You had a lot
3 of members of the community on these phone
4 calls.

5 I've got to tell you, the first
6 "how long" was just resurrecting history,
7 right? So Brian and Grace and everyone that
8 was on the phone call going, "Oh, member in
9 '95," and "member in '92," and a lot of you
10 that sit on the Board have a hard time finding
11 all this history. So it was just rich mining
12 to pull all this together.

13 Then, once we got it all together
14 and made sure nothing was left out, the time
15 was already half gone, and then it was time to
16 start really eating that and digesting it and
17 deciding where to go from there.

18 So it is not finished. Could it be
19 November? I think -- ask the team -- yes,
20 probably, but I would rather underpromise and
21 overdeliver.

22 MEMBER SMILLIE: I would be remiss

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1 -- which option are you leaning toward? I am
2 doing a survey of everybody who speaks to it?

3 (Laughter.)

4 MS. SHEA: I'm not saying yet.

5 (Laughter.)

6 MEMBER SMILLIE: You're not saying?

7 MS. SHEA: No. I don't have a
8 position on it yet for public consumption.

9 (Laughter.)

10 CHAIRMAN DELGADO: Barbara, you had
11 a comment, following by Jennifer.

12 MS. ROBINSON: Yes. I should have
13 mentioned this this morning when I was doing
14 the NOP update, and I apologize for forgetting
15 to do this, but we have decided, Kelly, to
16 omit the ANPR on the origin of livestock and
17 go straight to a proposed rulemaking.

18 MS. SHEA: Praise the Lord. Thank
19 you very, very much.

20 CHAIRMAN DELGADO: Jennifer?

21 MEMBER HALL: Whichever direction
22 that the Materials Working Group does go, if

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1 it goes back to that group, I do want to
2 really applaud that group's work. I really
3 appreciate how collective it was and how the
4 results of it, at least to date, were really
5 exploratory about the different options and
6 kind of bringing the Board good information to
7 digest and think about what the impacts of
8 those are and kind of not a dictum about which
9 direction to go and kind of "my way or the
10 high way" sort of a thing.

11 So if it does go back to that
12 group, I would really appreciate a similar
13 sort of a presentation, maybe fewer, that go
14 through that sort of option and implications,
15 but it was quite helpful for me.

16 MS. SHEA: Thanks for saying that,
17 Jennifer. It was painful, but what we kind of
18 want to be able to do is preserve this sort of
19 history for the future because I'm almost
20 getting 50, a lot of us are getting older; we
21 are going to want to leave this information so
22 people will know why the decisions were made

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1 that were made, right? So thanks, you guys.

2 CHAIRMAN DELGADO: Any more
3 questions for Kelly?

4 (No response.)

5 Thank you very much.

6 Next is Zea Sonnabend, followed by
7 Claudia Reid.

8 MS. SONNABEND: Well, Kelly's
9 comment about mining history is a perfect
10 segue to what I have to say.

11 Zea Sonnabend, California Certified
12 Organic Farmers.

13 CCOF recently passed the half a
14 million acres mark in certified organic
15 acreage with over 1800 clients.

16 The decisions that you make affect
17 great numbers of us out in California. We
18 hope sometime we will get you to come out to
19 California and have a meeting, or at least to
20 the West Coast, so more of our people can give
21 some input to your process.

22 Thank you for the opportunity to

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1 address the NOP and NOSB. I want to talk
2 about materials and a little bit about seed.

3 First of all, I came to my first
4 NOSB meeting in 1993. We were brought in, a
5 few of us in the industry, to give
6 introductory reference to the first NOSB
7 members, at which time I said there's a nice
8 definition in the OFPA about synthetic, and it
9 is good, but it needs a little bit of
10 clarification and elaboration, particularly as
11 it applies to things like extraction,
12 formulation, agricultural, and non-
13 agricultural, and other definitions like that.

14 Combustion was one of them.

15 Over the years, a number of
16 attempts have been made by NOSB to work on the
17 synthetic definition and elaborate on it.
18 Since 1995 maybe, when Richard Steward did
19 some work on synthetic, there's not been any
20 finished pieces that have proceeded to clarify
21 what extraction means and what types of
22 extractants are necessary, formulation issues,

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1 and then of course the agricultural issues
2 that you are dealing with now.

3 So some of us in the industry that
4 review materials and work with them are stuck
5 on a number of things, and you, in fact, since
6 you may not know it because many of the
7 petitions were deferred before your time, but
8 there are deferred petitioners sitting there
9 waiting for you to come up with clarifications
10 on synthetic and non-synthetic to make a
11 decision.

12 Therefore, I urge you, in
13 conjunction with this materials discussion
14 document on agricultural, to pick up the last
15 piece done by Rose Koenig and fellow NOSB
16 members that has really good information on
17 extraction things and other issues. It may
18 not be quite done, but it is really time to
19 make a decision on this and to move forward on
20 this issue, because once you get synthetic,
21 then you can proceed to agricultural and some
22 things can fall into place.

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1 Part of that is to acknowledge that
2 synthetic distinctions are not necessarily the
3 same for handling as they are for crops. Much
4 of the recent work done was done only from the
5 handler point of view and neglected some of
6 the crops realities.

7 So, for instance, one of the
8 deferred petitions is soy protein isolate.
9 Soy protein isolate as a food ingredient would
10 be able to be acceptable in organic products
11 because potassium hydroxide is on the handling
12 list, which is used as the extract for the soy
13 protein isolate. But its petition for use as
14 a fertilizer in crops is not considered to be
15 acceptable to extract something with
16 potassium hydroxide and use it on crops. So
17 the Committee at the time got bogged down in
18 deciding whether it was synthetic or natural
19 and has tabled that discussion for several
20 years now. So I do urge you to pick that up.

21 For the agricultural and the
22 discussion paper, I have submitted some

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1 written comments. We support option B in
2 CCOF. We can go with the B-plus thing, but we
3 like option B because it is the simplest, and
4 simple is what you need. Your life is already
5 really complicated, and so if you just drop
6 the non-agricultural issue, subject everything
7 on the list to commercial availability, which
8 we actually do for the most part, that would
9 enable yeast to be on the National List, and
10 if it is commercially available organically,
11 it would be okay, and if it wasn't, then the
12 "non" would be okay.

13 So we think that B is the simplest
14 choice. We would like you to make a decision
15 on this as soon as possible also.

16 Now regarding the petitions -- and
17 this sort of leads into the new website -- we
18 appreciate your effort to make the website
19 uniform with the USDA. The petitions portion
20 of the website turned into really an
21 incredible dinosaur. I was having real
22 trouble, trying to get ready for this meeting,

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1 figuring out the status of where petitions
2 were because you have to go to each letter and
3 look at each one individually, instead of
4 being able to see a chart that has them all
5 there, and you can sort the chart in different
6 categories.

7 So I really hope you will try to
8 work on that, so it is more functional for us
9 and yourselves. Along those lines, there was
10 terminology that was unclear about where a
11 petition actually stood, like in some cases --
12 and there's some actual wrong information on
13 some of the petitions. I know this because I
14 was the TAP contractor to the NOSB from 1994
15 through 1996. So the older petitioners, I'm
16 largely responsible for making sure they moved
17 through onto the National List.

18 I don't have time to go over every
19 single entry in the petitions database to
20 clean up all the mistakes, but I will do what
21 I can when I find them.

22 So, anyway, there are several

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1 petitions that we really would like you to see
2 addressed that have fallen by the wayside.
3 One of them is the soy protein isolates.

4 Another one is the terpinenes
5 petition, which at the time got turned away
6 because the EPA ruled that the terpinenes could
7 be added to List IV. However, then when you
8 made a declaration about the new inerts
9 policy, it ruled out the terpinenes which were
10 decided after 2004.

11 So the terpinenes are still in a gray
12 area, and the cleanest way to solve it would
13 be to take up the petition, send it to TAP
14 review, and either put it on the National List
15 or not, so that we can know the answer to
16 terpinenes.

17 Another example of a petition wrong
18 on the database, which I feel still needs
19 work, was the one on phosphoric acid as a crop
20 production aid. When you go to the website,
21 it gives a TAP review for phosphoric acid for
22 handling and says nothing about it for crops.

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1 It was petitioned as a stabilizer
2 for fish, and the Department was giving some
3 strange rulings at the time about non-
4 synthetic and synthetic. Therefore, they just
5 wrote a letter to the company saying they
6 could use the product, and this is not really
7 adequate. This needs to be addressed by a TAP
8 review. So really I hope you send this on for
9 a TAP review.

10 Then I do echo what some of the
11 other people have said about TAP reviews
12 should be done for everything put on the list.

13 If you have a streamlined TAP process for
14 606, I can understand that, but you still need
15 objective information. It needs to be
16 transparent, so that people can see it and
17 comment, so that if a person was growing
18 organic okra, they could step forward at this
19 meeting and say, "I'll grow it all, all that
20 you want," or whatever, like we saw some of at
21 the meeting last spring when some of the other
22 things were reviewed for 606. But we would

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1 like to see transparency and objectivity.

2 Okay, so on to the commercial
3 availability of seed. We do applaud your
4 efforts to keep working on this very
5 complicated and hard-to-grapple issue. We
6 were one of the main people complaining about
7 the previous recommendation which put too much
8 burden upon certifiers to have to put
9 information that is normally now kept on farms
10 that we inspect, and it was asking us to
11 compile it and send it in.

12 So we appreciate that you have
13 thought a lot about it and you have put out a
14 good, thoughtful piece in the introduction.

15 We also support the growth of the
16 fledgling organic seed industry. You will
17 hear later from the Organic Seed Growers
18 Association, which is a newly-formed
19 organization that we would like to support.

20 However, we still feel that some of
21 the details in your seed availability proposal
22 are fairly cumbersome, and now the onus has

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1 shifted a little bit away from the certifiers
2 and onto the growers. It is still asking for
3 collection of information that normally we
4 only review on the farm. So we would like you
5 to keep working on it, but I don't think our
6 growers are going to be happy with the way it
7 is.

8 Lastly, I was the person who mainly
9 pushed for the petitions for tetracycline and
10 streptomycin to get onto the National List in
11 the first place when they were added. I
12 understand that you have a new recommendation
13 for an additional tetracycline product. I
14 understand that you came to the Committee
15 recommendation without doing an additional TAP
16 review on that new product.

17 Even if it is essentially the same,
18 as they claim, to the existing material on the
19 list, they are petitioning a new use for it
20 for use on peaches for bacterial spot, and
21 that has not been TAP reviewed. No peach
22 growers have asked -- I'm on the last sentence

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1 -- no peach growers have asked for this that I
2 know; maybe some will go forward today. No
3 study of the alternatives for uses on peaches
4 has been conducted.

5 So I think you are correct in
6 either turning down the recommendation or
7 deferring it until you do a proper TAP review
8 on the subject because you really need to do a
9 TAP review for each use that is on the
10 National List.

11 CHAIRMAN DELGADO: Thank you, Zea.

12 MS. SONNABEND: Thank you.

13 CHAIRMAN DELGADO: Any questions?

14 Yes, Tracy.

15 MEMBER MIEDEMA: Thank you, Zea.

16 I want to make sure I understand
17 what the burden is on farmers or certifiers in
18 feeding back that information on organic feed.

19 MS. SONNABEND: The proposal, as I
20 understand it, says that a grower has to make
21 a master list of every seed they use and then
22 send it around to all the seed companies that

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1 they buy from and ask if they have any of
2 those varieties organically.

3 Now we allow the grower to show us
4 the seed catalog from Johnny's, and we know
5 that if Johnny's doesn't have it in their
6 catalog, that sending them a list is not going
7 to make them have it if they don't have it
8 already. So we accept the Johnny's catalog as
9 evidence of here's what organic varieties are
10 available or not.

11 We don't make the grower write it
12 all down onto one master list. We question
13 the grower about each variety that they are
14 using non-organically and say, "Why are you
15 using this?" Then we write much of it in our
16 report.

17 But if they are growing three
18 hundred varieties, as Harriet is, we don't ask
19 every single variety every year. We look at
20 what they get every year. We ask them about
21 the ones that we feel are key. We don't make
22 them turn in the completely master list. They

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1 keep it with their own OSP on their farm, the
2 lists of what they use.

3 Most growers, many growers are very
4 protective of what varieties they are growing
5 and they don't want them turned in, even to
6 file reviewers to see, much less to some third
7 party to see, if it might disclose their
8 identity in relationship to that variety.

9 MEMBER MIEDEMA: Okay. A follow-up
10 question then: If the end game is to get more
11 organic seed available, do you have any
12 alternative suggestions to making that demand
13 transparent to the marketplace?

14 MS. SONNABEND: Yes. We look at it
15 as a continuous improvement in a situation.
16 So we don't look for an absolute you contacted
17 three people or you used "X" percent. What we
18 look for, continuing effort and improvement
19 each year in what they are doing.

20 I think that at this point the best
21 solution on the whole is for maybe like the
22 Economic Research Service or one of the

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1 granting agencies for data collection in the
2 USDA to do the market research about what
3 varieties those are or give a grant to one of
4 these groups who are interested in organic
5 seed to do the market research to see which
6 varieties are most widely grown that are not
7 being grown organically, and also to ask
8 processors, because a big area of this gap is
9 in seeds for processing which processors are
10 requiring certain agronomic traits.

11 So you shouldn't force the growers
12 to have to supply the seed companies with data
13 that they really need to collect themselves as
14 market research, and you should do what you
15 can to get certifiers to keep -- you know, you
16 have to have a recommendation like you have,
17 but it has to be one that is like keep
18 tightening the screws, so that all the
19 certifiers keep tightening the screws to some
20 extent.

21 CHAIRMAN DELGADO: Katrina,
22 followed by Gerry.

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1 MEMBER HEINZE: You talked about
2 continuous improvement. Do you see that with
3 the growers that you certify, that they are
4 increasing the amount of organic seed they are
5 using every year?

6 MS. SONNABEND: Yes, and I also see
7 concurrently to that more organic seed is
8 becoming available, including some organic
9 hybrid seed, which a lot of our growers need
10 for their market characteristics.

11 It is slower than maybe some of us
12 would like. It is certainly slower than the
13 seed companies would like. But I think this
14 really comes into partly an enforcement issue
15 also because a few of our certifiers who were
16 meeting yesterday said, well, the USDA
17 auditors, they never check to see that we are
18 enforcing the seed rules; it might not be on
19 their auditing checklist. So, therefore, if
20 they are not even looking at the very minimal
21 amount of things we are doing now, how are
22 they going to put more things in place?

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1 So just starting to write up the
2 certifiers who aren't doing anything about it
3 would be a step to helping there be more
4 organic seed.

5 CHAIRMAN DELGADO: Gerry?

6 MEMBER DAVIS: You partially
7 answered my question in what you just said
8 about NOP. What suggestions would you have
9 for the NOP then on things that they could do,
10 should do, to get all the certifiers to be as
11 proactive as perhaps CCOF is on seeing
12 improvement in the growers?

13 MS. SONNABEND: Yes, a couple of
14 things. One is make sure that the auditors,
15 the accreditors, do look at the organic seed
16 rule and how it is being applied on an even
17 basis, so that the certifiers all know that
18 the USDA is looking at them. Once they don't
19 look at them a few times, then they think, oh,
20 we can get away with it.

21 The second thing is that the big
22 problem for certifiers in actually enforcing

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1 the rule is that it says you have to use
2 organic seed if an equivalent variety is not
3 available. Well, equivalent in your
4 recommendation has a very broad definition.
5 It has no teeth in it that we can say to
6 anyone, okay, this is not equivalent to that,
7 as a certifier, because we just say, "Well,
8 what characteristics are necessary?", and the
9 grower will say, "Well, I have to have early
10 blight resistance in tomatoes."

11 We'll say, "Okay, well, you know,
12 here's these varieties that are early blight
13 resistant." But they will say, "Oh, well,
14 this one doesn't work because of this; that
15 one doesn't work because of this." We can't
16 say, "You're wrong; this doesn't work."

17 So we would encourage you, in
18 keeping to work on this issue, to perhaps
19 appoint a task force, which I believe that
20 there will be plenty of seed people willing to
21 serve on, that could help get at this
22 equivalent issue, what's an equivalent

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1 variety, to give certifiers guidance on how we
2 could say more to people: This is the
3 equivalent or this isn't equivalent. I think
4 a task force made up of certifiers, seed
5 company people, and growers would be
6 potentially a direction to go in.

7 CHAIRMAN DELGADO: Are you done?

8 MEMBER DAVIS: Yes.

9 CHAIRMAN DELGADO: Kevin?

10 MEMBER ENGELBERT: Zea, could you
11 give just some rough numbers on what you think
12 the increase in organic seed use is each year
13 with your huge number of acreage?

14 MS. SONNABEND: Yes. Okay, and it
15 varies a great deal in crops, as other people
16 have mentioned. The increase has been much
17 greater and faster in rice, which is a big
18 crop for us, or grain crops. In fact, in
19 cover crop seed, that is one of the biggest
20 uses of organic seed because that is easiest
21 to get organic source. But the vegetable
22 crops, some of them, it is still quite small.

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1 So I would say in vegetables, since
2 the last maybe three years, I have seen it
3 double, but it has doubled from less than 1
4 percent to 2 or 3 percent.

5 I also have seen, though, some
6 companies -- and this is a skill issue,
7 unfortunately. If you are the smallest grower
8 and you grow 100 varieties on a quarter acre,
9 you don't have much clout with the seed
10 company when you say, "I want organic seed."
11 If you have 20,000 acres, and you go and you
12 say, "I need these agronomic characteristics.
13 I'm looking for something," you've got a lot
14 more clout.

15 So from that point of view, we
16 might lean on the big companies equally as
17 hard or even harder, knowing they have more
18 ability to influence it. We are seeing the
19 most improvement among the bigger companies
20 who have the most power to do something about
21 it, including that they can contract for whole
22 seed crops, for instance; they can transition

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1 their own land, if they want to produce their
2 own seed, and they can do other measures that
3 the smaller growers can't do.

4 So we definitely are seeing
5 improvement, but there's still a good ways to
6 go.

7 CHAIRMAN DELGADO: Any other
8 questions for Zea?

9 (No response.)

10 Okay, thank you very much.

11 MS. SONNABEND: Thank you.

12 CHAIRMAN DELGADO: Next is
13 Charlotte Vallaeys, followed by Jim Pierce.

14 MS. VALLAEYS: Hi. My name is
15 Charlotte Vallaeys with Cornucopia. Thank you
16 for the opportunity to make public comment.
17 We really do appreciate it.

18 My comments will be on hexane
19 extracted oils containing DHA and ARA. I know
20 that a lot of certifiers would like
21 clarification on this, and I hear it is on the
22 work plan.

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1 Currently, these oils have not been
2 reviewed by the Board. They do not appear on
3 the National List as approved substances, nor
4 do accessory nutrients appear on the list.
5 But, nonetheless, these DHA and ARA oils are
6 currently added to all organic infant formula
7 on the market and some organic milk as well.

8 I would like to stress to the Board
9 why this is an important issue. It is
10 important not just because these are added to
11 infant formula without having been approved,
12 but because some infants are getting sick from
13 these additives. So, actually, I make these
14 comments not just as a Cornucopia staff
15 member, but as an expectant mother and really
16 on behalf of many mothers who have contacted
17 me.

18 When they do, when they email or
19 call me, they ask, what type of formula can I
20 give to my baby that doesn't contain these
21 oils? And I have to tell them, "I'm sorry,
22 but there is no organic infant formula that

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1 would be a safe alternative for your baby."
2 There is no organic formula that doesn't
3 contain these hexane extracted algael and
4 fungal oils.

5 Clearly, this hurts the infants
6 whose parents cannot turn to organics as a
7 safe alternative, but I would also like to
8 stress that it hurts the organic industry as a
9 whole when consumers can't turn to an organic
10 formula as a healthier, more highly-regulated,
11 and safer product, which, frankly, organic
12 consumers expect that, and deserve that, and
13 lose confidence in organics when these
14 decisions are made, not to benefit babies, but
15 to benefit a handful of companies.

16 So I'd like to share some of the
17 findings which are in our report, which I will
18 submit, so it will be available for you to
19 look at.

20 We filed a Freedom of Information
21 Act request with the FDA, and this came out of
22 conversations with healthcare professionals

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1 and mothers. And we found that, indeed, many
2 mothers have submitted adverse reaction
3 reports to the FDA.

4 And I'd like to stress that this is
5 not just, okay, my baby was given, say, a
6 dairy formula, had diarrhea and vomiting, and
7 I switched to a soy formula without DHA. This
8 is really when they switched to an equivalent
9 formula, the only difference being that it
10 didn't have DHA and ARA.

11 And often -- well, actually, in all
12 of these cases that we documented, symptoms
13 disappeared, usually within 24 hours. And the
14 most common symptoms in newborns and babies
15 are diarrhea and vomiting.

16 I'd also like to note something
17 which is covered in the report, which is that
18 these oils -- well, that the vast majority of
19 peer-reviewed scientific studies show no
20 benefits to cognitive development of term
21 infants from these DHA-fortified formulas. So
22 there really, at this point -- there is no

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1 scientific evidence that would support adding
2 these oils to formula to benefit the infant.

3 And there is nothing in the organic
4 standards that would indicate that these oils
5 can be added legally to organic foods. Yet,
6 as I mentioned earlier today, if a mother is
7 searching for a DHA-free formula for her baby,
8 she will not find one. These algael DHA and
9 fungal ARA oils are not on the National List
10 as approved substances, nor are byproducts of
11 microorganisms.

12 An initial legal complaint about
13 these additives was filed in 2006, and was
14 dismissed. The compliance officer noted that,
15 quote, vitamins, minerals, and accessory
16 nutrients, unquote, are allowed when the
17 actual regulations state -- and here I quote
18 from 605 -- nutrient vitamins and minerals in
19 accordance with 21 CFR 10420 are allowed.

20 Now, DHA and ARA are fatty acids.
21 This is basic nutritional knowledge. Fatty
22 acids are not vitamins; they are not minerals.

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1 That's the first point.

2 Then - since I am running out of
3 time, I will make this quick - 10420 is an FDA
4 regulation which states that the FDA does not
5 encourage the indiscriminate addition of
6 nutrients to foods. So this is really -- it's
7 a fortification regulation, and the FDA has
8 not required DHA and ARA to be added to infant
9 formula. For example, the American Academy of
10 Pediatrics has not recommended it, either.

11 Cornucopia filed a second legal
12 complaint, and -- well, we'd like to point out
13 that the NOSB is charged with the task of
14 reviewing materials -- okay, I'll end it here.

15 Just one last line: I think it's
16 important to note that babies are getting sick
17 from these, and I'd just ask you to at least
18 keep baby formula, if we could at least keep
19 that safe from these indiscriminate additions,
20 that would be good.

21 Thank you.

22 CHAIRMAN DELGADO: Thank you.

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1 Any questions? Yes, Hugh?

2 MEMBER KARREMAN: It sounds like we
3 need to review DHA and - what's the other one?
4 - ARA --

5 MS. VALLAEYS: Yes.

6 MEMBER KARREMAN: -- with TAP
7 reviews if they are not vitamins or minerals,
8 and they're - you cited - didn't you cite CFR
9 whatever it is saying --

10 CHAIRMAN DELGADO: Remember, we can
11 only review materials if they are petitioned.

12 MEMBER KARREMAN: If they are
13 petitioned, right.

14 CHAIRMAN DELGADO: So that would be
15 the normal process to follow, and we can leave
16 it at that, unless there's any other
17 clarifications, questions.

18 MEMBER DAVIS: Can there be a
19 negative petition brought to say, these
20 materials should not be in organic products?

21 CHAIRMAN DELGADO: Absolutely, yes.

22 So any other questions, comments?

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1 (No response.)

2 Does that clarify your question,
3 Hugh?

4 MEMBER KARREMAN: Yes.

5 CHAIRMAN DELGADO: Okay.

6 Well, thank you very much.

7 MS. VALLAEYS: Well, we have
8 submitted a legal complaint, so it's really at
9 the compliance level, I think.

10 CHAIRMAN DELGADO: That's part of
11 the program. Our main function is to review
12 materials and recommend those.

13 MS. VALLAEYS: Okay. Thank you.

14 CHAIRMAN DELGADO: So thank you
15 very much.

16 Okay, next is Jim Pierce, and I
17 also want to give you an update while Jim
18 walks up to the podium. We are halfway there
19 in terms of public speakers, and we have about
20 20 minutes before we finish, according to our
21 agenda. So I will request the Board and the
22 speakers to summarize their recommendations,

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1 observations, or comments. If they so can, it
2 will be greatly appreciated. However, I want
3 to make sure that we are not sacrificing
4 quality of comments for the sake of time.

5 Jim?

6 MR. PIERCE: Okay. For the record,
7 I'm Jim Pierce, former certification czar at
8 Organic Valley, now the Global Certification
9 Program Manager for Oregon Tilth Certified
10 Organic.

11 I'm still having trouble saying
12 that since the all one word "Organic Valley"
13 has become part of my vernacular, like
14 nuclear.

15 The most exciting thing about the
16 offer to work for Oregon Tilth is that I
17 honestly believe that the pragmatic solutions
18 to the nascent quandaries of this relatively
19 young national organic program require an
20 open, honest synergy between NOSB, the NOP,
21 and the accredited certifiers, and I want to
22 be part of that solution.

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1 Also for the record, you may have
2 heard rumors that I jumped ship from
3 manufacturing to certification solely for the
4 privilege of gaining access to the ACA
5 LISTSERV. Not true.

6 (Laughter.)

7 Others claim it's because I would
8 do anything to attend Mark Bradley's NOP
9 certifier training. Also not true.

10 (Laughter.)

11 Or maybe, just maybe, I am
12 positioning myself ever so strategically for
13 the certifier seat that comes available on
14 January 24th, 2011, Joe.

15 (Laughter.)

16 I'm thinking, however, we will need
17 a decidedly more democratic administration
18 before that particular snowball makes it
19 through Hades.

20 Hopefully, in the intervening three
21 years, you can put a lid on commercial
22 availability, ag/non-ag, hydroponics, private

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1 label, hopefully.

2 I am no longer certification czar,
3 but I remain in a position where I can address
4 you, the fine folks of the National Organic
5 Standards Board. So, on behalf of Oregon
6 Tilth, here are our comments on multi-site
7 certification and seeds:

8 Regarding multi-site certification,
9 as was made clear by our comments last
10 November, Oregon Tilth is breaking ranks with
11 most of the other certifiers. Our position
12 remains that, with solid, auditable internal
13 control systems, the model currently being
14 applied to small holder producers could be
15 applied more broadly.

16 But - and this important - but, in
17 the interest of fairness and integrity,
18 certification of multi-site operations must
19 remain limited to producers only until
20 guidance is final.

21 Although certification of retailers
22 is optional, it's a good thing, and should be

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1 encouraged, since it gives consumers an added
2 degree of assurance, and lends further
3 credibility to organic claims.

4 The appendix developed by the CACC
5 and the OTA Task Force is also a good thing,
6 which will help you write the final
7 recommendation. Write rules not for cheaters,
8 but for compliance. Fraud is fraud, at a
9 single site, or a multi-site.

10 605.400(f)(1) and (2) are sharp
11 enough teeth to bite the butts of cheaters.
12 Initial review of each and every site the
13 first year is critical, as is inspection of
14 every new site, every previous non-compliance,
15 and every complaint in subsequent years.

16 The Accredited Certifiers
17 Association can assist you in developing a
18 weighted matrix for reinspection based on the
19 appendix criteria outlined in order to achieve
20 consistency among themselves.

21 Two important elements of a
22 successful multi-site certification plan are:

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1 one, the audit by an organic inspector of the
2 documentation from the internal auditors'
3 inspection of 100 percent of the sites and,
4 two, that the plan for certifying multi-site
5 operations will be written, submitted, and
6 approved for credibility by the NOP.

7 In the next two days, you will be
8 dealing with two pieces of business regarding
9 seeds: commercial availability, and Dextron
10 used for seed coating. As you know,
11 biodiversity in agriculture is seriously
12 threatened, especially in developing
13 countries. The Crop Committee's
14 recommendation to tighten accountability while
15 still allowing deregations where legitimate
16 need can be proven is strict, yet fair, and
17 will serve as a good model for foreign
18 agencies.

19 Several of the specific
20 requirements in the recommendation are overly
21 prescriptive, however, and I would refer you
22 to the Accredited Certifiers Association

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1 comments for cut-and-paste solutions.

2 The recommendation to reject
3 Dextron as non-essential is troubling, since
4 Dextron is commonly used as a binder in seed
5 coatings by suppliers that do not necessarily
6 cater to organic farmers, but who do provide
7 unique or heritage breeds with obvious
8 potential in a system of organic production.

9 If the synthetic substance,
10 Dextron, in this case, is not compatible with
11 organic principles, then certainly, it should
12 remain prohibited. But if it's used to bathe
13 a baby, then perhaps it shouldn't be thrown
14 out.

15 As I commonly do from this podium,
16 I ask you to challenge the good work of the
17 Crop Committee, and then decide for yourself
18 if Dextron should be approved or rejected.

19 So we all look forward to the next
20 three days of deliberation. Thank you for the
21 opportunity to address you, for your tireless
22 dedication to your work, and good luck with

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1 the ag/non-ag thing.

2 And, yes, Virginia, hydroponics can
3 be organic.

4 (Laughter.)

5 CHAIRMAN DELGADO: Thank you, Jim.

6 Any questions for Jim?

7 (No response.)

8 All right, thank you so much.

9 MR. PIERCE: Thank you.

10 CHAIRMAN DELGADO: Next is Liana
11 Hoodes. On deck is Kristy Korb.

12 MS. HOODES: Good afternoon, all.
13 My name is Liana Hoodes. I'm with the
14 National Organic Coalition.

15 We want to thank you for the
16 opportunity to speak in front of you, and also
17 for the hard work and long hours that you all
18 continue to put in. It's just incredible,
19 excellent work.

20 The National Organic Coalition is a
21 national alliance of organizations
22 representing farmers, environmentalists,

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1 consumers, industry members, and others
2 concerned about the integrity of the national
3 organic standards.

4 The NOSB has an important mandate:
5 to consider petitions for materials, and make
6 recommendations regarding changes to the
7 National List.

8 In 2007, we saw a record amount of
9 new substances added to the list. Forty-eight
10 new substances have been added in one year.
11 Of these, 38 are non-organic ag substances
12 allowed in organic food that are considered to
13 be currently unavailable, or of fragile supply
14 in organic form.

15 However, some fundamental policy
16 questions regarding interpretation and
17 classification of the National List remain
18 unanswered. Despite the fact that 38
19 substances were added as agricultural, as you
20 know, there is still no clarification of the
21 distinction of the definition of agricultural
22 and non-agricultural.

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1 In addition, the distinction
2 between synthetic and non-synthetic is not
3 clear yet, either, and this is fundamental
4 criterion for consideration of materials on
5 the National List.

6 It's time to put the horse before
7 the cart, and make some fundamental policy
8 decisions before any more materials are added
9 to the list.

10 The National Organic Coalition
11 respectfully requests a moratorium on the
12 recommendations to add any substances to the
13 National List until the following actions are
14 taken:

15 A final recommendation on
16 synthetic/non-synthetic and agricultural/non-
17 agricultural determinations get adopted.

18 Publication of the final rule for
19 the 38 substances added to the 205.606 as
20 interim final rule that addresses the public
21 comments and questions about those substances.

22 TAP reviews must be conducted for

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1 any substance recommended for the National
2 List. And until the money is available, we
3 consider that materials should not be
4 reviewed.

5 We respect and admire the efforts
6 carried out by the NOSB to prevent the
7 disruption of the organic industry. However,
8 without independent, objective TAP reviews,
9 the NOSB cannot make an informed
10 recommendation on materials petitioned for
11 inclusion on the National List.

12 The NOSB needs scientific,
13 technical advice, and better access to
14 historical decisions in order to prevent
15 mistakes, and that's a lot of information for
16 you all to have to compile on your own,
17 without the TAP reviews helping add that
18 information.

19 More comprehensive reviews are
20 needed for substances proposed for 205.606.
21 The environmental and human health impacts of
22 agricultural practices used to produce non-

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1 organic agricultural ingredients petitioned
2 for addition to 205.606 need to be evaluated
3 using the criteria in OFPA.

4 Questions regarding substances on
5 205.606 need to be answered for the regulation
6 to be uniformly implemented. These include:
7 How is a permitted substance identified?
8 Specifically, are certifiers and their clients
9 to use the chemical abstract services number,
10 or some other standard of identity? What
11 formulants may be used with the items on the
12 National List? Are items that appear on 606
13 subject to restrictions or annotations
14 limiting source, processing aids, or type?

15 The NOP should develop a policy
16 that permits the NOSB or the TAP contractor to
17 review and summarize confidential business
18 information.

19 When a material is approved, and
20 there is no TAP, and the petition redacts all
21 the manufacturing information, it is
22 impossible for anyone trying to implement the

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1 regulations to determine if a substance in
2 question conforms with the substance approved
3 by the NOSB.

4 Given that it's been very rare that
5 substances are removed from the National List
6 by petition or by sunset, we think it's
7 prudent that the NOSB take the necessary time
8 to resolve these questions before more
9 materials are added. The establishment of a
10 strong policy framework will make NOSB future
11 decisions more credible and consistent.

12 And we also request that a
13 streamline process be developed to petition
14 for removal of substances on 606, since they
15 may become available in organic form much more
16 quickly than the five-year sunset.

17 And I'll also say, with regards to
18 okra, I just received an email from the
19 Southeast African-American Organic Farming
20 Network, a new group of the entire Southeast
21 of African-American organic farmers, that
22 said: you wouldn't believe how much okra is

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1 grown down here. And they said to really
2 consider, ask the farmers how much okra there
3 already is before you allow the discussion on
4 commercial availability.

5 CHAIRMAN DELGADO: Okay, thank you.
6 Steve?

7 MEMBER DeMURI: From the
8 Coalition's perspective, can you tell me why
9 you think it is that we get petitioned
10 constantly for things to be added to the list,
11 but we very seldom, if ever, get petitions to
12 have things removed?

13 MS. HOODES: I know, from our
14 perspective, it was always a goal of ours to
15 begin -- because it's hard enough work for you
16 -- first, let me say that I believe that the
17 NOSB itself could petition them to come off,
18 but that that -- with the amount of work you
19 have, that isn't going to happen.

20 And so it was always one of our
21 goals to consider trying to do that. And as a
22 coalition of non-governmental organizations,

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1 we -- given the amount of work that goes on to
2 try to advocate for organic, it falls way to
3 the bottom of our list because of the amount
4 of expertise needed to understand the
5 materials enough to petition them off. But it
6 is, for instance, something that we thought
7 would be possible to do when this program
8 began. We thought, well, that would be a
9 great role for us, and it's just not possible.

10 We're unable, in our many groups of our
11 coalition, to perform that task.

12 There is, obviously, commercial
13 advantage to wanting a material on, and very
14 little to getting one off, is basically what -
15 - and we don't have the resources, for
16 instance. That's one reason, but not the
17 only.

18 MEMBER DeMURI: I appreciate your
19 explanation. I still do not quite understand
20 the dynamics there. I would think that we
21 could get more petitions to take things off.

22 MS. HOODES: Yes, and it would be

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1 great to be able to do it. It takes a huge
2 amount of effort and expertise, and it's hard
3 to garner that, for instance, in the non-
4 governmental organizations, and I don't know
5 where else that happens, what the impetus is
6 to get that done. It really should.

7 In addition, and I believe we'd
8 like to look into the idea of how you petition
9 annotations to be added, or brought back on
10 after the sunset. I mean, there's lots of
11 places where we need to be able to do
12 petitioning in places other than where the
13 petitioner has a commercial advantage to do
14 it, and I don't know how that happens.

15 CHAIRMAN DELGADO: Okay. Any other
16 questions?

17 (No response.)

18 Thank you again.

19 MS. HOODES: Thank you.

20 CHAIRMAN DELGADO: Next is Kristy
21 Korb, followed by Mark Cool.

22 MS. KORB: Hello. I am going to be

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1 reading a letter on behalf of Miles McAvoy,
2 the President of the National Association of
3 State Organic Programs, and it's a very short
4 letter. I'll be very brief, because it is 10
5 til 5:00, and unlike you all, I can leave and
6 go to the bar at 5:00. So I will be very
7 quick.

8 (Laughter.)

9 CHAIRMAN DELGADO: Thank you.

10 MS. KORB: In a vote taken at a
11 regular business meeting on May 13th, 2008,
12 the National Association of State Organic
13 Programs Board of Directors voted unanimously
14 to oppose the April 3rd, 2008 NOSB CCAC
15 recommendation entitled, 'Further Guidance on
16 the Establishment of Commercial Availability
17 of Organic Seed.'

18 I'd also like to clarify, Oregon
19 Tilth agrees with this position of NASOP.

20 In the Board's view, the
21 requirements proposed would be extremely
22 burdensome to diversified organic row crop,

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1 and vegetable productions, and organic
2 certifying agents. Of special concern are
3 vegetable farms, many of which produce tens or
4 hundreds of vegetable varieties in a season.
5 The additional recordkeeping burden contained
6 in the CCA recommendation could force many of
7 these farmers to abandon organic
8 certification.

9 In our collective experience,
10 organic growers understand the good faith and
11 documented effort to source and use organic
12 seed are required, and the costs cannot be
13 used as a factor to determine commercial
14 availability.

15 They have good systems in place to
16 evaluate organic seed availability, and use
17 information networks that include seed
18 companies, farm input supply companies, and
19 organic farmer peers.

20 They maintain reasonable
21 documentation of whether the seed they use is
22 organic or not, and there are efforts to

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1 source organic.

2 It's a flexible system that is
3 adapted to the needs of the individual organic
4 operations, and it is working.

5 The CCAC recommendation would
6 impose additional requirements that will cost
7 organic growers time and money. The
8 additional recordkeeping will not increase the
9 availability of organic seeds.

10 The requirement that this
11 information be submitted to the certifier,
12 tabulated, and forwarded to a recognized
13 organic seed trade association would be time-
14 consuming and expensive to both the grower and
15 the certifier. The NASOP Board does not
16 support this recommendation.

17 Additionally - and this is Oregon
18 Tilth speaking - our understanding is this
19 issue is largely complaint-driven by the seed
20 industry, and we encourage the program to
21 address these issues where we believe this
22 problem lies. In other words, if growers are

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1 not required to use organic seeds, and have
2 not sufficiently demonstrated that the
3 specific seed is not commercially available,
4 than the issue is with the certifier. It
5 doesn't take this kind of prescriptive
6 requirement. The program needs to address it
7 on the certifier level.

8 Thank you.

9 CHAIRMAN DELGADO: Thank you.

10 Any questions?

11 (No response.)

12 Okay, thank you very much.

13 Next up is Mark Cool, followed by
14 Pat Kane.

15 MR. COOL: Hi there. My name is
16 Mark Cool with Seeds of Change. We are a 100
17 percent certified organic seed company.

18 Before I start, maybe a historical
19 perspective: you all may not be aware that
20 Baltimore actually is the home of America's
21 first seed company. In the ESPN Zone building
22 on the Inner Harbor, there is a building right

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1 next to the ESPN Zone, which is the home of
2 the Clark Seed Company, which was founded in
3 1831, and that's where the first European
4 ships came into America, offloaded their seeds
5 for distribution to the American Northeast.
6 So we are at a very historical place, just so
7 you guys know. Of course, since then, we have
8 developed a very well-run American seed
9 business.

10 My comments today are going to be
11 on the commercial availability of seed ,
12 205.204.

13 We are very thankful to the Crops
14 and CAC Joint Committee for their
15 recommendations, which I very strongly
16 support.

17 A comment was made a couple of
18 times today about the commercial availability
19 and use of organic seed and organic farming
20 systems. In vegetables, so in direct food
21 crops, there is still a very, very, very small
22 amount of the organic farms that are using

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1 organic seed. So we've had an NOP program in
2 place now for six years. So in the words of
3 Dr. Phil, "How's it working for you?"

4 We're not really doing a very good
5 job getting organic seed as a beginning of the
6 chain into the conscience of America. And I
7 believe that the current recommendation goes a
8 long way to provide support for that.

9 I would ask that the NOSB vote in
10 favor of this recommendation from the Joint
11 CAC/Crops Committee, pass that to NOP. And
12 one thing I will offer to NOP is, both from an
13 organizational and association perspective, as
14 well as from a private company perspective, we
15 will offer all of our support in getting into
16 the details of actually making some of these
17 recommendations come to fruition.
18 Implementation of this, of course, is the
19 important part, and there's a lot of
20 discussions about that.

21 What I want to do here briefly is
22 step back a second, and maybe explain for the

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1 Board's benefit some of the reasons why, as a
2 seedsman, I believe that there should be more
3 organic seed available.

4 Currently, all, literally all, in
5 vegetables, of food crops, all of the seed
6 that is used, all of the organic varieties
7 that are being sold, are actually mimics of
8 the conventional varieties. Someone takes
9 either an heirloom, or a traditional or rare
10 variety, which is available in conventional
11 form, produces it organically, or nowadays,
12 more and more people like ourselves are taking
13 conventional hybrid varieties, which are
14 needed by the growers, have uniformity, vigor,
15 other characteristics, we're producing those
16 one generation under NOP rules, and calling it
17 organic seed, and selling that. It is
18 perfectly legit.

19 That isn't the end goal of this
20 industry. What we are doing is adding no real
21 value. This is the first step in trying to
22 develop what I call organic-specific

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1 varieties.

2 It's ultra-important, in my mind,
3 that we, as an organic industry, which is just
4 fledgling and just beginning, that we actually
5 try to, if we can, go back 50 years and, just
6 like the conventional industry, start
7 developing varieties which the farmers need.

8 So the goal that we have as an
9 organic industry, and what you can do to
10 support that, is we actually want to find out
11 from the farmers what the traits are that they
12 need. You can think of a whole number of
13 characteristics and traits that organic
14 varieties should have, very different than
15 conventional varieties.

16 So the end goal, in my mind, and
17 the vision I have for my company, is that we
18 will develop what I call organic-specific, or
19 low-inputs ag-specific varieties, products
20 that do well, they are completely separate
21 products that do well under an organic farming
22 system. Then you're adding true value to the

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1 organic farming community.

2 And by the way, those products also
3 can be used by conventional farmers because
4 they require less inputs, have higher quality
5 traits, et cetera. And in my mind, that is
6 going to form a basis for kind of a whole
7 revolution in the way that we look at food
8 production, food distribution, and food use in
9 the USA.

10 So those are my comments on that
11 point. I, again, would like to offer support
12 to NOP for making this happen.

13 A couple of comments have been made
14 about a couple of the concerns, or questions,
15 or issues that people have about organic seed.

16 No. 1 is there's a concern, there
17 was a concern raised earlier about seed
18 quality. Seed quality is very, very important
19 for a farmer, obviously. A farmer has to have
20 very high quality seed.

21 Seed quality isn't under the
22 purview of NOSB. Seed quality is governed by

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1 the Federal Seed Act, which has very specific
2 regulations in place, and also has a recourse
3 system in place if a farmer does not have
4 high-quality seed. Organic seed, any other
5 seed, has to meet Federal Seed Act
6 requirements, period. That's not your job;
7 that's someone else's job, but I just wanted
8 to make that comment here.

9 Two other concerns that have been
10 raised are the potential certifier liability,
11 and I guess the confidentiality issues with
12 growers. I believe those are important issues
13 to think about and discuss. I don't believe
14 those are things that are hurdles in our way
15 towards the use of more organic seed.

16 A couple other comments that have
17 been made are equivalency, and the burden of
18 documentation. Briefly, equivalency, in my
19 mind, is actually kind of, frankly, a moot
20 point right now. Equivalency is something
21 that seed companies and farmers talk about
22 every single day.

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1 When we go to a farmer to sell that
2 person seed, we talk about equivalency. We
3 don't call it that, but we talk about, how
4 does this product do on the farm. It's very,
5 very important for a seed company and a farmer
6 to have an understanding of the requirements,
7 both from a production, agronomic, and
8 marketing perspective of how that variety
9 does. So these are things that we well
10 understand, we deal with every day.

11 A comment was made before to form a
12 task force to actually look at these things,
13 and I think it's a very good idea. The
14 stakeholders, seed growers, seed companies,
15 and farmers can sit down, in my opinion, very
16 easily, and figure out a way to define
17 equivalency.

18 With that, thank you. If there's
19 any questions, I'd be happy to answer them.

20 CHAIRMAN DELGADO: Okay, questions?
21 Gerry?

22 MEMBER DAVIS: Mark, what do you

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1 think of the comment that was made just a few
2 minutes ago about, really, if the NOP would
3 just enforce the rule through their
4 accreditation, and ask the certifier more
5 persistently, what are you doing to prompt
6 your growers to keep making improvement in
7 using more organic seed, what do you think of
8 that concept as the way to solve the impasse
9 in vegetable seeds, for example?

10 MR. COOL: Yes, you raise a very
11 good question, and I think it's a very valid
12 point. I think the NOP has a very strong role
13 to play in that regard.

14 I believe that, you know, I'm very
15 much in favor of the idea of deregations, like
16 everyone else is, and I believe that the
17 discussion should simply be a farmer sitting
18 down with a certifier, and providing a list of
19 the products that farmer wants to use, telling
20 the certifier which ones he can't find
21 organically and why not, NOP overseeing that
22 process to make sure it's fair, and

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1 transparent, and reasonable, and working that
2 system from that perspective.

3 I think that the documentation
4 requirement of then sending that list to
5 someone, and we can discuss who someone is, in
6 my opinion, really isn't a huge deal. Farmers
7 write everything down they do anyway.

8 I believe in confidentiality. So
9 we have to find a way to give that list to
10 someone without disclosing private
11 information. But I think NOP can have a
12 strong role to play in actually kind of
13 overseeing that to make sure that, indeed,
14 those seed varieties are not available, and
15 their training and their push to the
16 certifiers should be to enforce the current
17 legislation, frankly, as much as they can.

18 CHAIRMAN DELGADO: Any other
19 questions? Joe?

20 MEMBER SMILLIE: Just following up
21 what Gerry said, in our document, which we are
22 hoping to tweak and get it right, do you think

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1 that it's the seed company's responsibility to
2 gather that data? We're hearing pushback from
3 certification agents, and possibly from
4 farmers that they represent, or that they
5 speak for in some cases - we haven't heard
6 from farmers directly as yet - that that's
7 burdensome. It's burdensome, and not
8 necessary.

9 Do you feel -- you know, where is
10 the onus? Is it up to your trade associations
11 and your members to go out and get that
12 information, and not have the certification
13 agents and growers provide that, or is that
14 going to be essential for you to, for your
15 industry to move forward?

16 MR. COOL: Well again, the comment
17 is made that very little of the food
18 production in America is produced using
19 organic seed. So something is wrong.

20 I believe there's probably two
21 answers to your question, Joe. One is, as a
22 seedsman, my job is, indeed, to go to the

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1 market and find out what farmers want. So we
2 do surveys all the time. We talk to farmers
3 all the time. We try to figure out what
4 varieties, what traits, what characteristics,
5 what's lost, et cetera. That's a very
6 important part of our job, and we make those
7 available.

8 The second thing is, there has to
9 be some kind of a transparent, open, public
10 system that gives lists of -- and we've called
11 this before, opportunity list, so it gives an
12 overview of what types of products are being
13 searched for by farmers. And that is
14 something I think that would benefit the
15 industry, because the reality is very few
16 people have stepped up and formed an organic
17 seed company, and the reason is because we
18 don't see what the demand is, and what the
19 opportunity is. So we have to have some kind
20 of a way of, I guess, promoting the idea that
21 people do want organic seed, and then
22 specifically what traits, and then we can

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1 provide that for them.

2 So it's kind of a dual
3 responsibility, in my belief.

4 MEMBER SMILLIE: I share your
5 concerns. I mean, we always hear the comment,
6 don't dilute the organic standards. And
7 sometimes the suspected dilution is pretty,
8 pretty small and narrow, but here we have
9 something that is in the regulation: Thou
10 shalt use organic seed. And yet, the
11 compliance levels are the lowest compliance
12 levels in the entire industry. For anything
13 that we look at, the compliance level to that
14 regulation is incredibly low.

15 MR. COOL: Yes.

16 MEMBER SMILLIE: So I think Mark's
17 right, something's wrong, and this is our
18 first attempt to add something to a regulation
19 that is already in place, and to try and
20 figure out without burdening farmers; that is
21 the last thing we want to do. But we've got
22 to get better compliance levels on the

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1 regulation.

2 MR. COOL: I believe, Joe, that you
3 and Gerry's proposal, your recommendation,
4 which hopefully you all vote on in favor, goes
5 a long way towards doing that in following the
6 intent of the NOP rule from '02.

7 An example would be the inputs
8 industry, where fertilizers and pest control
9 methods are currently certified organic, and
10 there's full compliance and full availability
11 of a lot of innovative new products that have
12 been developed in the last six years because
13 there's the requirements to actually use
14 those. And because there's been the
15 requirement, and the enforcement, and the
16 compliance, this industry has grown to the
17 benefit of the farmers. Farmers have access
18 to a lot of new products.

19 That same thing doesn't yet exist
20 in seed. And again, our vision is to
21 eventually do that, within a couple of years,
22 develop organic specific varieties which add

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1 value to the farming and organic community.

2 CHAIRMAN DELGADO: Any other
3 questions?

4 (No response.)

5 Okay, thank you very much.

6 MR. COOL: Thank you kindly.

7 CHAIRMAN DELGADO: At this point, I
8 have been requested to take a break. I think
9 our Board members need it. And we'll be back
10 here in 10 minutes. That's 15 minutes after
11 the hour.

12 (Whereupon, the foregoing matter
13 went off the record at 5:05 p.m. and went back
14 on the record at 5:16 p.m.)

15 CHAIRMAN DELGADO: We have a
16 quorum.

17 Pat, please proceed.

18 MS. KANE: Thank you for providing
19 the opportunity to comment today. I'm going
20 to talk briefly about two issues from the
21 Accredited Certifiers Association, for which I
22 am the coordinator. We represent 40

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1 certification agencies.

2 First, I'd like to thank the NOP
3 for the trainings they provided earlier this
4 year for us, and for addressing the materials
5 review issue, and proceeding very swiftly to
6 resolve that, and permit certifiers to
7 contract for materials review. It will
8 greatly help.

9 Thank you for the website, and we
10 will continue to provide input on the website.

11 I am here to comment today on the
12 commercial availability of organic seed
13 recommendation. I did hand out our written
14 comments.

15 We would like to stress that ACA
16 members currently require that organic
17 producers justify the use of non-organic seeds
18 and monitor the recordkeeping of this effort
19 maintained by the farmers. In our experience,
20 the use of organic seed is growing steadily.
21 Rather than expanding the requirements for all
22 producers and certifiers, complaints regarding

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1 a lack of enforcement of the organic seed
2 requirement could be handled through the NOP
3 accreditation process.

4 We feel that this document contains
5 useful suggestions for monitoring the use of
6 organic seeds, and we feel that accredited
7 certifying agents, to request them to collect
8 seed lists and forward this information to an
9 organization, not knowing if the information
10 will ever be utilized, is a requirement that
11 does not have a regulatory basis either in the
12 Organic Foods Production Act or the National
13 Organic Program regulations.

14 In addition, requiring farmers to
15 submit lists of their seeds to companies for
16 verification of the lack of organic seed is
17 burdensome and unnecessary, as the majority of
18 seed companies produce catalogs which identify
19 the organic seeds.

20 Currently, ACAs do monitor the use
21 of organic seeds through the Organic System
22 Plan. The OSP is then verified by the

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1 inspector, and producer documentation is
2 reviewed.

3 Producers must supply information
4 on the seeds used on an annual basis. Many
5 ACAs provide seed resource lists to producers.

6 The NOP regulations contain a
7 definition of commercial availability. There
8 is an increasing number of seed companies
9 offering organic seeds. There is general
10 agreement among ACAs that the use of organic
11 seeds is increasing annually. Promoting and
12 marketing of organic seed is not the
13 responsibility of the ACA.

14 The requirement for producers to
15 send their list of seeds to multiple companies
16 for verification of lack of organic seed is
17 burdensome. We do not have regulatory
18 authority over seed company vendors and cannot
19 monitor their activities. Since this will be
20 done during a peak of seed ordering, it is
21 likely that no response will be received from
22 the companies.

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1 We would like to suggest a more
2 proactive approach by seed manufacturers and
3 also the use of various seed database programs
4 and opportunities such as through OMRI.

5 Increased participation by seed
6 marketers in the OMRI seed listing website
7 would provide more exposure for organic seeds.

8 All marketers of organic seeds should be
9 encouraged to participate in the website.

10 Additionally, one of our members
11 based in Europe pointed out the European Union
12 countries utilize seed databases that are
13 easily searchable to determine if organic seed
14 is available. Seed producers and traders
15 introduce their available varieties; producers
16 log in and search the varieties they need.
17 They also can go to the website and fill out a
18 form of why the variety they are desiring is
19 not available, and they can send this to their
20 certifier.

21 I would also like to comment
22 briefly on multi-sites production. The

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1 majority of ACA members feel that group
2 certification should apply to only grower
3 groups and should not be extended to
4 retailers, handlers, processors, or
5 restaurants.

6 We tried to answer the 13 questions
7 and we didn't get to all of them. We needed
8 more time. But I did supply the answers in my
9 comments to you.

10 CHAIRMAN DELGADO: Okay, thank you.

11 Any questions? Joe?

12 MEMBER SMILLIE: Would it be
13 possible in the near future that you could get
14 us information from your European members who
15 may be also NOP-accredited on exactly how it
16 works in Europe? Because I have heard this,
17 too, but, unfortunately, I don't have any
18 real-life experience with it. It shouldn't be
19 too hard to get, the EU database, the way it
20 works in the EU.

21 MS. KANE: Right. Right. Well,
22 it's in the individual countries.

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1 MEMBER SMILLIE: The member states,
2 yes.

3 MS. KANE: So I did go on the
4 United Kingdom one, and it was really easy to
5 use. I did provide the link in my comments.
6 But I can do that.

7 MEMBER SMILLIE: Is this maintained
8 by the member state regulatory authority?

9 MS. KANE: I believe it is, yes.

10 CHAIRMAN DELGADO: Any other
11 questions?

12 (No response.)

13 Okay, well, thank you very much.

14 Next is Woody Deryckx, followed by
15 Brian Kozisek.

16 MR. DERYCKX: Hello, and thanks for
17 pronouncing my name correctly. That's
18 awesome. It's a rare treat.

19 CHAIRMAN DELGADO: I did? Well,
20 wonderful.

21 MR. DERYCKX: Yes, my name is Woody
22 Deryckx, and I'm real grateful for a chance to

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1 talk to you wonderful people, and thank you
2 for the good work you are doing. I am really
3 grateful to be able to represent the
4 membership of the Organic Seed Growers and
5 Trade Association, also known affectionately
6 as OSGATA. We might have been running short
7 on acronyms featuring the letter "O", so we
8 decided we would make another one.

9 We submitted our written comments
10 on the seed availability issue. They're all
11 available to everybody, is that right?

12 MS. FRANCIS: That was the
13 Regulations Stockup.

14 MR. DERYCKX: The written comments
15 we submitted? I'm sorry.

16 MS. FRANCIS: They were submitted
17 to Regulations Stockup, correct?

18 MR. DERYCKX: Oh, okay.

19 MS. FRANCIS: Right? I think so.
20 So they're in your books, yes.

21 MR. DERYCKX: I won't read them. I
22 don't have time to read them. So I would like

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1 to hit some of the high spots and just speak
2 directly then. You have those.

3 CHAIRMAN DELGADO: Yes.

4 MR. DERYCKX: Great. I ask if you
5 would attend to this. That's great. We
6 carefully chose our wording on those.

7 I'm an organic farmer in the
8 beautiful Skagit Valley of northwestern
9 Washington State, and I'm an organic seed
10 grower. In fact, since I heard the words,
11 "Thou shalt plant organic seeds," I decided
12 that was going to be my next chapter in life,
13 to grow seeds for organic farmers, to provide
14 my organic farming friends with good seeds.

15 OSGATA is our new trade
16 association. Our aim is to be nationwide in
17 scope and to promote the evolution of a
18 vibrant and diverse, high-quality organic seed
19 industry, so that all organic farmers can have
20 a wonderful selection of excellent seed
21 to grow.

22 Our membership on our board is

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1 dominated by organic producers, farmers, by
2 our bylaws, but we also have seed companies
3 and affiliates, organizations and regular
4 farmers and consumers on our membership. So
5 we are a membership organization.

6 We want to support your Joint
7 Committee recommendations, both the original
8 2005 version and the one that is currently
9 before you. We think it is a very good start.

10 It takes our movement in the right direction.

11 However, we are concerned that
12 there are a lot of challenges in the
13 implementation. That is why our main point, I
14 think, in our comments on this issue is that
15 we call for formation of a dynamic task force
16 with representation from the stakeholders in
17 this issue to help NOP and NOSB work through
18 the issues of implementation of this as things
19 go along, as things change.

20 Overall, we support all five of
21 your recommendations. I won't be able to go
22 through them in detail here, but they are in

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1 the written comments.

2 In the first place, recommendation
3 one, the database, we have a few beginning
4 databases, as you know, and they are really a
5 refreshing addition to the system. People are
6 using them, but they have a long way to go
7 before they are really effective.

8 Most of it is just getting them
9 used, getting people to come and use them, put
10 their products on there, go to them to look
11 for their seed needs. As Kelly Shea mentioned
12 a little while ago, it would be really nice to
13 have a counterflow where seed needs are posted
14 as well. The OMRI list we feel is probably
15 the best one right now. OSA, which is our
16 sister organization, Organic Seed Alliance, we
17 have one that works pretty well, and AFTA has
18 one, and there's a few others. They are all
19 really good and real helpful, and I think that
20 is a really good start.

21 So your recommendation one is spot
22 on. There may need to be issues about funding

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1 and supporting that, but it is certainly in
2 the right direction.

3 Your second recommendation about
4 equivalency, I want to break that into two
5 parts here. The first part is seed quality,
6 which has brought up by other people giving
7 their testimony today.

8 Seed quality for us is absolutely a
9 rock solid requirement that we are providing
10 the very best quality seed that anybody could
11 ever ask for, equivalent or superior to
12 conventional in terms of all the parameters
13 that are measurable.

14 You're kidding. I'm just getting
15 started (in response to time signal).

16 (Laughter.)

17 All the parameters that are
18 measured, in terms of purity and viability,
19 germination and vigor.

20 But the other part of that issue,
21 though, is suitability for agronomic and
22 marketing considerations. That is where we

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1 say we need this task force to help work this
2 out over time, and so forth.

3 Your second or your third
4 recommendation, I would like to say that
5 reporting things back, as a grower, I can tell
6 you that I am asked for an awful lot of
7 information from my certifiers. I am pleased
8 to provide it, but it would really be nice if
9 there was a simplified, standardized
10 instrument of reporting this vital
11 information, and that everybody had the same
12 thing and had it in advance, and they just had
13 to check boxes and fill in blanks.

14 Most certification applications
15 that I have dealt with are basically like
16 this. So it is kind of a real convenient way
17 to add this on, if the certifying community
18 feels like they can do it. As a grower, gee,
19 I feel like I'm already providing all this
20 information. Let's use it. Let's have it
21 usable in a way so that it passes on to a
22 database that other people can use.

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1 As a seed grower, I am really
2 interested in what people need. I am really
3 interested. We are actually developing new
4 varieties and cleaning up the old heirlooms.

5 CHAIRMAN DELGADO: Woody, your time
6 is up. Can you just wrap it up, please?

7 MR. DERYCKX: And we are doing this
8 for the organic farmers.

9 I sure welcome any questions you
10 might have.

11 CHAIRMAN DELGADO: Thank you.

12 We have Joe, followed by Jeff and
13 Gerry.

14 MEMBER SMILLIE: Woody, what do you
15 think of our recommendations four and five?

16 MR. DERYCKX: Thanks, Joe.

17 (Laughter.)

18 I think processor delineation on
19 that is really right on. I spent 15 years in
20 the organic vegetable and fruit processing
21 industry, and I handled an awful lot of seed.
22 If you had told me that I needed to go out and

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1 get organic seed, I would have gone out and
2 gotten organic seed, just as when my boss
3 asked me to go out and get millions of pounds
4 of organic frozen IQF peas and okra, I did it.

5 You know, we went out and found the growers.

6 Yes, okra's not exempt. But, anyway, I like
7 that and we like that.

8 As for five, there again, we are
9 really excited about this reverse flow of data
10 back. We are concerned about growers'
11 proprietary needs for privacy, and so forth,
12 as has been pointed out. But if we can just
13 get a database bringing us information of what
14 is needed out there, we are going to develop
15 the new varieties. We are breeding. We are
16 going to produce this stuff.

17 I am always asking my customers --
18 my customers are catalog seed houses mostly --
19 what are your customers looking for; what are
20 the traits you are looking for? I am going
21 out and I am looking for genetic material,
22 selecting out the most vigorous lines and

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1 working on getting horizontal resistance to
2 the diseases that we face, and so forth, and
3 putting these out there as organic seeds.

4 MEMBER SMILLIE: Thank you.

5 CHAIRMAN DELGADO: Jeff?

6 VICE-CHAIR MOYER: Yes, Woody, as
7 sort of a quick survey of your association
8 members, how much organic seed currently goes
9 unsold?

10 MR. DERYCKX: Oh, very little, I'm
11 happy to say.

12 VICE-CHAIR MOYER: So you're
13 selling all you're producing?

14 MR. DERYCKX: Anything that doesn't
15 germ well goes unsold, anything that is not of
16 quality. But I am happy to say that I have a
17 few hundred pounds right now I would be happy
18 to sell you of some real high-quality spinach
19 seed, and it grieves me to know that organic
20 farmers are planting conventionally-grown
21 spinach out there while I've got sacks of it.

22 VICE-CHAIR MOYER: Well, that was

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1 the reason I asked the question. Is there
2 seed that is going unsold that should be sold
3 to organic growers or are they buying
4 everything and there's really not that much
5 left?

6 MR. DERYCKX: I'm not an authority
7 on this, but my impression, Jeff, is that we
8 are trying to keep up with demand, to be
9 honest with you.

10 VICE-CHAIR MOYER: Thank you.
11 Okay.

12 MR. DERYCKX: But as a caveat to
13 that, let me say that I am not making a living
14 at this yet after working on it for four years
15 because my business is all real small seed
16 lots. You know, 200 pounds is about as big as
17 -- it is really a lot of detail work.

18 I think that we need to have a
19 little bit more encouragement on this in the
20 program and a little bit more broad-scale
21 adaption and uniformity across, so that it is
22 fairly applied, so some growers are not just

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1 ignoring it and others are going out and
2 really making an effort and paying more for
3 seed and everything, so that we can move to
4 the next step. There's a lot more potential
5 there.

6 There's an awful lot of carrot
7 seed, organically-grown carrot seed, produced
8 in Washington State that goes all to Europe,
9 and very little of it ever stays here and gets
10 planted in the United States.

11 VICE-CHAIR MOYER: Okay.

12 MR. DERYCKX: They're real happy
13 with that seed when it gets to Europe.

14 CHAIRMAN DELGADO: Gerry, followed
15 by Kevin.

16 MEMBER DAVIS: Woody, your new seed
17 organization -- OSGATA? --

18 MR. DERYCKX: OSGATA.

19 MEMBER DAVIS: We contacted OMRI to
20 ask them, since they have a lot of experience
21 with their database so far, with the mirror
22 image, the needs database, not what's

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1 available now, but what is needed. The
2 gentleman I talked to mentioned that, in
3 concept, they were okay with participating
4 with that, as the one who maintains the
5 database, but they estimated that it would
6 take one full-time position, say \$50,000-
7 \$60,000 a year, for one person to maintain
8 that database and keep up with it.

9 What would your organization say
10 about funding that? I mean, is that a reality
11 with the size and scope of your association so
12 far?

13 MR. DERYCKX: Well, my organization
14 is having a hard time finding two nickels to
15 rub together right now. We are just starting
16 up, and actually we are kind of mooching off
17 of the Organic Seed Alliance, which is our
18 sister organization that kind of spawns.

19 We would go look for funding. We
20 would want to put together a broad-based
21 consortium of interested parties to go out and
22 try to find some support.

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1 But, saying that, I really can't
2 speak to that directly because Brian Baker is
3 here from OMRI, and he knows all that and I
4 really don't.

5 MEMBER DAVIS: Well, I just meant
6 funding. Has your association talked about
7 that like, well, what if they ask us to fund
8 this? Does it seem doable or does it seem
9 like way out of reach for a fledgling --

10 MR. DERYCKX: It costs money to run
11 these databases. Again, I don't know how much
12 because I'm not doing it.

13 I wish that, in your wisdom, when
14 you suggest that we do things, great things
15 like that, that you send a big check to cover
16 the cost as well.

17 (Laughter.)

18 But we are really excited about
19 trying to find resources in what comes out of
20 the new farm bill, knock on wood, and other
21 sources, private foundations, and so forth,
22 and growers' fees, and so forth. You know,

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1 the industry is going to grow; we are going to
2 be making some money. We are going to be
3 putting it back into infrastructure, but right
4 now it is in the developmental stage.

5 So funding is a limiting factor on
6 this kind of stuff. It costs money to do
7 these databases, as I am sure it costs money
8 to put the information in them.

9 CHAIRMAN DELGADO: All right,
10 Kevin?

11 MEMBER ENGELBERT: Yes, briefly,
12 Woody, when the organic industry got off the
13 ground, there were no organic seeds. I used
14 to buy conventional because it was all that
15 was available, and I bought them a year ahead
16 of time to let all the treatments supposedly
17 lose their effectiveness. So that is where we
18 started from with this rule, basically a
19 loophole, if you will, of why you don't have
20 to have organic seed.

21 Eventually, we would obviously hope
22 you will have to have organic seed. How long

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1 do you think that that may take the industry
2 to be able to get to the point where, if the
3 rule was changed to say organic growers must
4 have organic seed, period, could the demand be
5 met? How long would that take?

6 MR. DERYCKX: I think it would be
7 amazingly head-spinning fast, if everybody
8 wanted it to happen, if everybody really
9 wanted it to happen.

10 As I look back over the last 30
11 years and have seen the growth in all the
12 other aspects of this movement, it has been
13 astonishing. I think in five to eight years
14 we would have 90 percent, and we would not
15 only have that, but we would have the
16 beginnings of all new, wonderful kinds of
17 varieties coming in and heirlooms restored and
18 cleaned up, you know. It is a really exciting
19 day.

20 This is why, after all the other
21 things I have done in organic farming for 30
22 years, it is why I dropped everything and went

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1 into growing organic seed, because it is the
2 most wonderful, exciting thing to come along,
3 and we are going to have a great time with it.

4 But we just need to keep it moving.

5 You are doing good things, and I
6 really recommend adopting the recommendations
7 that you have there and forming the task force
8 and letting us help.

9 CHAIRMAN DELGADO: Jennifer?

10 MEMBER HALL: So I find myself in a
11 really difficult spot because if I follow your
12 earlier logic about, if somebody tells me to
13 go find organic, I went and I found it -- and
14 I can't find it stipulated any clearer than it
15 already is in the rule that the mandate is
16 organic for seed and planting stock.

17 So I'm kind of caught because I am
18 quite reticent to saying something louder,
19 making it more expensive and more burdensome,
20 that I feel is already stipulated. So I am
21 trying to find, where is it really broken?
22 Because I don't think that this recommendation

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1 necessarily resolves where we are right now in
2 a productive way.

3 This is going to cost considerable
4 amounts of money, just like a databank would.

5 That seems more valuable to me than sending
6 paper all around.

7 So I feel really stuck because I
8 feel like the very origination of organic
9 integrity is to start with the seed. That is
10 what we are then protecting along the chain of
11 command or chain of custody.

12 But I don't know. I mean I don't
13 want to vote no certainly on something that I
14 think is such an important thing, but I don't
15 feel like it is the right solution
16 necessarily.

17 Can you comment on that? We have
18 told people to go find organic. Based on what
19 you said before, like you, I believe that
20 demand should solve the problem. So where is
21 that demand breakdown? And is telling someone
22 to do it by filling out forms going to resolve

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1 it?

2 MR. DERYCKX: I don't know. It is
3 a big world out there. That is an interesting
4 question.

5 If I may indulge your patience with
6 an anecdote, I get out in the field quite a
7 bit. One of the things I do is drive all the
8 way across the State of Washington to the
9 dryer parts to grow onions in a certified
10 organic field on a mixed farm, a very large
11 farm.

12 The field is all certified organic
13 onions, and all that, except for a few hundred
14 square feet out in the middle where I do my
15 trials and grow my propagating bulbs, in
16 collaboration with the farm owner, the
17 manager, is all planted to hybrid
18 conventionally-grown onion seed.

19 Considering that, you look out over
20 this 100-acre field of onions and you realize
21 that the seed came from a farm somewhere else
22 where pesticides that are nowhere near safe on

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1 food crops are sprayed and soluble fertilizers
2 used in great amounts, and so forth and so on,
3 it is all behind this; it is the footprint of
4 that seed that went into that field. It could
5 be, and should be in a few years, I think, all
6 organic. Don't you agree? It might as well
7 be. It ought to be.

8 That field gets inspected and
9 certified every year. I guess I am thinking
10 that, if they are showing progress in looking
11 for organic seed, if they are trialing
12 varieties, and they do it by my going out and
13 doing variety trials on their place for them,
14 but if they are trialing varieties, if they
15 are following the guidelines of your current
16 recommendation, they are going to be moving in
17 that direction. It won't be too long before
18 we will be supplying the seed for that farm as
19 organically-grown seed, and that would be a
20 good thing.

21 MEMBER HALL: Thanks.

22 MR. DERYCKX: Does that help at

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1 all?

2 (Laughter.)

3 MEMBER HALL: Thanks.

4 CHAIRMAN DELGADO: Dan?

5 MEMBER GIACOMINI: On another issue
6 related to the Board, and I wish I had
7 remembered to ask Mark this, do you
8 individually, or your group, have a comment on
9 Dextron?

10 MR. DERYCKX: I don't.

11 CHAIRMAN DELGADO: Okay, any other
12 questions for Woody?

13 (No response.)

14 Okay, thank you very much.

15 MR. DERYCKX: Thank you. Thank you
16 all.

17 CHAIRMAN DELGADO: And we are
18 moving on to the proxy for Brian Kozisek. We
19 don't know who that person is. No one
20 present?

21 MEMBER HEINZE: They didn't get
22 back to me about who that would be.

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1 CHAIRMAN DELGADO: Okay.

2 MEMBER HEINZE: So he was going to
3 be here, then he said he couldn't; he would
4 send a proxy. They never let me know.

5 CHAIRMAN DELGADO: We will move on
6 then.

7 The next one is Becky Goldberg,
8 followed by Tom -- I can't read my own
9 writing -- Richardson. Is it Tom?

10 MS. GOLDBURG: Thank you. I am
11 Becky Goldberg, and I am going to speak on
12 behalf of the Keep Antibiotics Working
13 Coalition. I will distribute our comments.

14 I also have some aquaculture
15 comments I didn't distribute earlier that are
16 from Steve Craig, who is with Virginia Cobia
17 Farms, and he asked me to pass them out,
18 although they will not be presented orally.

19 Thank you.

20 Well, as I said, I'm Becky
21 Goldberg. I spoke earlier. I am a biologist
22 with the Environmental Defense Fund, a

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1 national nonprofit organization. My comments
2 now are made on behalf of something called the
3 Keep Antibiotics Working Coalition, which is a
4 coalition of health, consumer, agricultural,
5 environmental, humane, and other
6 organizations, including the Environmental
7 Defense Fund, which has over 9 million
8 members.

9 We at KAW are dedicated to
10 eliminating antibiotic resistance due to
11 agricultural uses of antibiotics, especially
12 the inappropriate use of medically-important
13 antibiotics in farm animals.

14 I am going to comment today in
15 support of the Crops Committee's
16 recommendation to deny the petition to include
17 on the National List tetracycline for control
18 of all diseases on crops as registered by the
19 EPA.

20 I want to remind you that at the
21 April 2006 NOSB meeting KAW commented in favor
22 of sunsetting the antibiotic streptomycin and

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1 tetracycline to control fire blight on fruit
2 trees. Unfortunately, on a split vote, the
3 NOSB chose not to sunset these antibiotics
4 because of their usefulness for fire blight
5 control.

6 However, KAW's concerns about use
7 of medically-important antibiotics for fruit
8 production continue. We have two types of
9 concerns.

10 Our first concern is that the use
11 of antibiotics on fruit trees will likely make
12 at least a small contribution to the growing
13 crisis of antibiotic resistance in human
14 medicine. Modern molecular tools for tracking
15 the movement of genes make clear that
16 antibiotic resistance is an ecological and not
17 just a medical problem.

18 The use of antibiotics selects
19 resistant bacteria, whether in orchards or
20 hospitals. Even if these resistant bacteria
21 are not human pathogens, gene transfer
22 mechanisms special to bacteria allow these

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1 microbes to spread their resistance genes from
2 any particular orchard bacteria to other
3 unrelated bacteria, including pathogens.

4 Although the odds are low that
5 resistance genes from any particular orchard
6 bacterium will end up in bacteria harmful to
7 humans, such highly unlikely individual events
8 become probable, given the vast numbers of
9 bacteria present in soil, water, and living
10 organisms.

11 In short, the antibiotics in
12 orchards increases the load of antibiotic
13 resistance genes in the environment, and thus,
14 likely contributes, at least modestly, to
15 medical problems with resistant bacteria.

16 Health agencies and experts have
17 expressed strong concerns about the potential
18 for pesticidal uses of antibiotics on fruit
19 trees to contribute to resistance to
20 medically-useful antibiotics.

21 In 1994, a company applied to EPA
22 to register another antibiotic, Gentomyacin,

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1 as a pesticide to control fire blight on
2 apples and pears. The Centers for Disease
3 Control and Prevention, Food and Drug
4 Administration, and the American Society for
5 Microbiology all expressed their disapproval
6 of the proposed registration because
7 Gentomyacin is an important human drug. The
8 result was that the company withdrew its
9 application in 1999.

10 Particularly relevant in one of its
11 comments to EPA, the Centers for Disease
12 Control and Prevention argued that, and I
13 quote, "consideration should also be given to
14 the reduction and eventual elimination of the
15 environmental" -- in other words,
16 pesticidal -- "use of streptomycin and
17 tetracycline."

18 A second concern is that antibiotic
19 use in organic fruit production is
20 inconsistent with consumer expectations.
21 Concerns about antibiotic use in animal
22 agriculture led to the current prohibition of

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1 antibiotic use in animals used to produce
2 organic foods, a standard that the Keep
3 Antibiotics Working Coalition strongly
4 supports.

5 We expect that organic consumers no
6 more want apples, pears, or peaches from
7 antibiotic-treated trees than they want milk
8 or hamburgers from antibiotic-treated cows.
9 If there were to be broad publicity about
10 antibiotic use in organic fruit production,
11 the result might well be reduced sales of
12 organic fruit.

13 The upshot is that expanding the
14 use of tetracycline in organic fruit
15 production would be wholly incompatible with
16 both the principles of organic production and
17 consumer expectations.

18 We urge the NOSB to support the
19 Crops Committee's recommendation and not to
20 allow on the National List a broadened use of
21 tetracycline in organic fruit production.

22 Thanks.

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1 CHAIRMAN DELGADO: Questions for
2 Becky?

3 (No response.)

4 Well, thank you very much, Becky.

5 MS. GOLDBURG: Okay, thanks.

6 CHAIRMAN DELGADO: We move on to
7 Tom Richardson, followed by Brian Baker.

8 MR. RICHARDSON: Good afternoon.
9 I'm Paul Richardson with Agro Source. I
10 appreciate the opportunity to speak with you
11 this afternoon.

12 We are here to discuss the petition
13 that we made for oxytetracycline use under the
14 organic rules and the listing by NOP. I
15 wanted to step through that with you, but in
16 order to sort of frame the argument and frame
17 the case, I do want to be clear that what we
18 want to do is really separate two issues.

19 One is the petition that we made
20 for our oxytetracycline hydrochloride under
21 the current listing that exists and being
22 consistent with that versus the broader issue

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1 of whether oxytetracycline should be used
2 generally for organic purposes. We think
3 those are two different issues.

4 So, with the rebuttal we provided,
5 the main things that I would like to discuss
6 are the interchangeability of oxytetracycline,
7 the petition that we provided, the sunset
8 review that you conducted not too long ago,
9 and then, finally, our request for approval of
10 the petition.

11 When it comes to the
12 interchangeability, first and foremost, both
13 oxytetracycline hydrochloride and calcium are
14 both oxytetracycline. From a regulatory
15 perspective, when you look at the statements
16 that EPA has made over many, many years,
17 there's some real consistencies that show
18 there.

19 In 1993, under the re-registration
20 eligibility document, the READ on both
21 molecules, which included both molecules, the
22 EPA stated, and I quote, "There are no

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1 differences for regulatory evaluation purposes
2 between oxytetracycline hydrochloride and
3 oxytetracycline calcium."

4 From a regulatory perspective,
5 therefore, EPA recognizes oxytetracycline
6 hydrochloride to be equivalent to
7 oxytetracycline calcium.

8 Then, further, in 2006, under the
9 tolerance reassessment that was done, the
10 TREAD, EPA reviewed oxytetracycline
11 hydrochloride and calcium within the same
12 document and together and, again, made no
13 regulatory distinction between the two. They
14 used one interchangeably with the other, data
15 for one to make decisions about the other in
16 all cases.

17 Then, additionally, and even more
18 importantly from the standpoint of the Board
19 and the NOP, the oxytetracycline hydrochloride
20 petition that we provided within the technical
21 evaluation report cited oxytetracycline
22 calcium and recognizes the two molecules as

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1 equivalent.

2 The test states, and I quote here
3 again, "In cases where no information is
4 available specifically for calcium
5 oxytetracycline, related and relevant
6 information for the parent compounds,
7 oxytetracycline and/or oxytetracycline
8 hydrochloride, a closely-related compound, is
9 provided and cited accordingly." Thus, the TP
10 recognizes the interchangeability of the two
11 molecules as well.

12 Then, finally, within the market
13 itself commercially, both our product,
14 Fireline 17, and the competitive product,
15 Microshield 17, are both recognized as
16 interchangeable for purposes of use.

17 That is also important from a
18 couple of perspectives. Probably from your
19 perspective, most importantly, is that we are
20 not talking about changing the amount of
21 oxytetracycline used. This is really more,
22 from our perspective, it is just simply a

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1 commercial competitive issue. They are either
2 going to use our product or they are going to
3 use the competitor's product because they view
4 them as interchangeable.

5 As far as our petition is
6 concerned, a denial of our petition for the
7 hydrochloride ignores the questions already
8 answered through relisting of oxytetracycline
9 through the Board's sunset review.

10 What we are trying to understand
11 is, if this denial occurs, it really
12 constitutes a favoring of one compound over
13 the other.

14 With the sunset review, I think you
15 know the things that occurred between 2006 and
16 2007, the approval of oxytetracycline calcium,
17 there are also things that have been approved
18 that don't even cite the salt, hydrochloride
19 versus calcium, or anything else. So it just
20 happens to be in this case that they have
21 listed specifically calcium, but, again, when
22 you look at the evidence, it is clear that

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1 they are looked at equivalently.

2 Just to summarize, with the EPA
3 READ, the TREAD, the NOP's decisions, and the
4 TP commercial equivalency, we believe there is
5 equivalency there. The relisting that has
6 been done, we would ask that you give us,
7 please give us consideration in this from this
8 perspective. That is all we ask.

9 Thank you very much.

10 CHAIRMAN DELGADO: Thank you.

11 MR. RICHARDSON: We will be around.

12 If there are further questions, we will be
13 happy to answer those.

14 CHAIRMAN DELGADO: Thank you for
15 that.

16 Any questions from the Board?
17 Hugh?

18 MEMBER KARREMAN: In the letter you
19 sent out that we got, you mentioned that
20 oxytetracycline, something about the essential
21 need for it in organic agriculture. Truly
22 essential?

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1 MR. RICHARDSON: Fire blight is a
2 devastating disease. It occurs under very
3 specific circumstances of moisture and
4 temperature and inoculant. When those things
5 occur and fire blight takes off, it will kill
6 trees; it will not only start destroying
7 branches, leaves and branches and fruits, it
8 will kill a tree, and it will kill whole
9 blocks of trees. If you are next door with a
10 farm to someone that has a fire blight
11 outbreak, it can be devastating to you as
12 well.

13 So it is a very serious problem.
14 There are years where it really isn't a bad
15 blight year and you might get by with very
16 little treatment, very nominal treatments,
17 without any use of oxytetracycline or
18 streptomycin or anything else like that. You
19 might use things that are considered more
20 benign.

21 But there are circumstances and
22 there will always be times, and we have seen

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1 this in other parts of the world where
2 basically there is not a positive view of
3 antibiotic use, but they will go a few years
4 and then they will have a bad year, and the
5 authorities will start to allow it again
6 because it is so devastating.

7 MEMBER KARREMAN: So what do we say
8 to veterinarians and farmers that are denied
9 that use when you can use it on fruit trees?

10 MR. RICHARDSON: And again, we are
11 not arguing whether it should or shouldn't be
12 allowed by you. We are saying that you have
13 allowed it in the sunset review. You relisted
14 oxytetracycline in its calcium form. All we
15 are saying is we should also be listed. If
16 you decided on some other perspective on this,
17 we are not trying to argue that it should be
18 listed, that it should on crops and not in
19 animals. We are just saying that, because it
20 is listed, we should be listed. That is the
21 only argument we are making.

22 We do not feel we will contribute

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1 anything to the load that already exists of
2 oxytetracycline that is used.

3 CHAIRMAN DELGADO: Gerry?

4 MEMBER DAVIS: I don't have a
5 question, but I do have a clarification for
6 the benefit of your company. I see in the
7 comments that you put before us in writing, as
8 well as what you talked about here, your
9 emphasis on the oxytetracycline molecule being
10 close enough to the same, handled the same,
11 and the need for it in apples and pears.

12 I don't dispute what you are
13 saying. The biggest issue we had with this
14 material in the petition was that you asked
15 for all EPA-registered uses to be allowed,
16 which in your case, so far at least, only
17 includes peaches and nectarines or other stone
18 fruit?

19 MR. RICHARDSON: Ours included
20 apples, pears, peaches, and nectarines.

21 MEMBER DAVIS: Peaches and
22 nectarines?

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1 MR. RICHARDSON: In the proposal,
2 yes.

3 MEMBER DAVIS: Peaches and
4 nectarines?

5 MR. RICHARDSON: Yes.

6 MEMBER DAVIS: So it was the
7 expanded usage to peaches and nectarines which
8 we deemed as not absolutely critical in peach
9 and nectarine production. We checked with
10 people and asked them that question: Is this
11 really needed like it is in apples and pears?

12 And there is no consensus in industry, in the
13 organic industry, that it is needed for
14 peaches and nectarines. We didn't take so
15 much issue with your claim about some of the
16 other stuff.

17 I also wanted to point out that,
18 for the vote that was taken the last time for
19 the sunset renewal at College Park, it was a
20 split decision, and one vote less for the
21 material, it would not have been relisted. So
22 there was a considerable dispute over whether

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1 it even should stay on the list, even for
2 apples and pears. But, in my opinion, the
3 only reason it passed was because it was so
4 devastating, particularly on pears, that fire
5 blight is so devastating that we didn't want
6 to injure organic growers that truly didn't
7 have another option.

8 MR. RICHARDSON: The peach and
9 nectarine use is a new use, and I think it is
10 perfectly appropriate for this Board to make
11 that decision as to whether they believe it
12 should or should not be --

13 MEMBER DAVIS: But, anyway, I
14 didn't want your company to go away with not
15 being informed of really what was the driving
16 force behind our vote.

17 MR. RICHARDSON: Well, I appreciate
18 that.

19 MEMBER DAVIS: Okay.

20 MR. RICHARDSON: I appreciate
21 knowing it. Again, that follows with the
22 logic of the argument that we have made. We

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1 included that as part of our petition, but you
2 may want to segregate that out and say we have
3 a decision on peaches and pears; we have a
4 decision on apples and -- or peaches and
5 nectarines and a decision on apples and pears.

6 CHAIRMAN DELGADO: And tomorrow,
7 Gerry, you will have more time to expand on
8 that explanation and justification.

9 Any other questions?

10 (No response.)

11 Thank you very much.

12 MR. RICHARDSON: Thank you very
13 much.

14 CHAIRMAN DELGADO: Next is Brian
15 Baker, followed by Julia Sabin.

16 MR. BAKER: Thank you, Mr. Chair,
17 members of the NOSB, members of the NOP.
18 Brian Baker, Research Director, Organic
19 Materials Review Institute.

20 OMRI appreciates the NOP's
21 clarification on materials review and explicit
22 public acknowledgment of our work issued

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1 earlier this year. That acknowledgment
2 circulated to NOP-accredited certifiers has
3 helped answer many longstanding questions and
4 enables us to better serve the NOP's
5 accredited certifying agents, the organic
6 industry, and the public.

7 OMRI offers itself as a technical
8 resource, institutional memory, and vehicle
9 for information collection and dissemination
10 on materials decisions made in organic
11 production and handling. People need
12 consistent and timely answers in a way that is
13 readily understood, clearly explained, and
14 broadly supported by all stakeholders.

15 OMRI serves as an information
16 resource to the public, and we ask that the
17 NOSB make decisions that are clear and
18 consistent with precedent. We understand that
19 there are many unresolved issues that need to
20 be addressed, but it should be done in a way
21 that does not create more confusion by being
22 inconsistent with precedent and a widely-held

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1 consensus of what is permitted and what is
2 prohibited on organic production and handling.

3 Recommendations, decisions, and
4 guidances that abruptly change the status of
5 materials without opportunity for public
6 comment can result in confusion, conflicting
7 interpretation, and endless debates. We use
8 citric acid, cheese wax, glycerin, and soy
9 protein isolates as examples in our written
10 comments submitted to you prior to the
11 meeting. Classifying use as agricultural will
12 have implications for the black mold used to
13 make citric acid as well as for the yeast fed
14 to livestock. If the NOSB decides that cheese
15 wax is natural, then all kinds of petric
16 chemical from benzene to xylene could be
17 considered allowed in organic production.

18 Being animal drug formulators, they
19 are always asking us what kind of glycerin
20 they can use for formulations other than teat
21 dips. The soy protein isolate petition has
22 been before you for a number of years. Many

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1 of you have been appointed since that petition
2 was received, and it is awaiting clarification
3 on what is synthetic and what is not
4 synthetic.

5 OMRI urges the NOSB to conduct an
6 independent TAP review on every petition
7 received and make those findings open to the
8 public prior to any making of recommendations
9 to the NOP.

10 In our experience, petitions can
11 have inaccuracies. They can omit relevant
12 information. They don't always include the
13 information needed to evaluate against the
14 criteria. Like the petitions, the technical
15 reviews themselves need to be subject to
16 public review and comment.

17 The NOP and NOSB are urged to draw
18 upon the scientific and technical resources
19 that are in the organic community, not just
20 OMRI, but look to the many fine researchers in
21 the Agricultural Research Service who are
22 doing work on organic systems, in the land

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1 grant institutions, and public institutions,
2 Organic Farming Research Foundation. There
3 are a number of technical resources out there
4 to draw upon, and we feel that resource needs
5 to be better used.

6 Some petitions are technical.
7 Reviews don't address the OFPA criteria at
8 all, and we have found that most of the
9 petitions for agricultural products do not
10 contain the information on the pesticides and
11 other farm chemicals that have an impact on
12 the environment and human health.

13 These can't be casually dismissed
14 as insignificant. Organic food cannot be
15 presented as an alternative to conventional
16 farming practices when practices used to
17 produce ingredients used in organic products
18 and carry the USDA label have been grown with
19 conventional practices.

20 So OMRI asks the NOSB to hold up
21 making recommendations on 606 items until the
22 questions raised by public comments on the

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1 June 27th, 2006 Federal Register notice are
2 addressed. As OMRI begins to review items
3 that are on 606, not organic agricultural
4 ingredients on 606, for their compatibility
5 with organic production, we need answers. I
6 plan to comment more tomorrow.

7 Thank you.

8 CHAIRMAN DELGADO: Thank you,
9 Brian.

10 Any questions from the Board?
11 Okay. You have one?

12 MEMBER HEINZE: Do you think
13 consumers don't understand that the items on
14 606, when they are used in a finished product,
15 are conventional when they are labeled as
16 conventional on the ingredient listing? They
17 are not labeled as organic. I guess it seems
18 that consumers would understand the
19 implications of that.

20 MR. BAKER: Do consumers know the
21 pesticides that are used to grow those
22 products? Do they know the pesticide residues

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1 contained on those products? Do they
2 understand that, for example, non-organic
3 peppers have a very high rate of non-
4 compliance with the FDA's tolerances for
5 illegal residues? I think not, and I don't
6 see that information being reviewed by the
7 NOSB. I don't think that information is being
8 conveyed to the public.

9 MEMBER HEINZE: They clearly don't
10 understand the specifics, but I think they do
11 understand that those ingredients are no
12 different than the other conventional. So if
13 it is a conventional pepper used in an organic
14 product, that is the same as going to the
15 grocery store and buying a conventional
16 pepper. So I think, from a risk, they might
17 understand that.

18 MR. BAKER: Perhaps, but they see
19 the USDA organic logo on the packaging. They
20 think that the National Organic Standards
21 Board is reviewing these things that are not
22 organic for their implications on human health

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1 and the environment. They trust the system.

2 MEMBER HEINZE: Okay, thanks.

3 CHAIRMAN DELGADO: Any other
4 questions? Yes, Julie?

5 MEMBER WEISMAN: Yes, I wanted to
6 also address Brian's issue. Well, let me ask
7 you a question. I think the issue that you
8 are having is that, when things are approved
9 for 606, you don't see where the issues of
10 persistence of things in the environment are
11 being addressed in the evaluations. That was
12 the point that Jim Riddle made earlier.

13 I think that we do need to look at
14 the petition. I think that there is some work
15 that the Board has to do to look at the
16 petition criteria evaluation checklist and be
17 clear for ourselves, since 606 is a new
18 process, it's not applicable to certain things
19 and certain things it is. There may be some
20 confusion that does have to be addressed. I
21 think that there is a point there.

22 I think, also -- I'll leave it at

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1 that. That is the end of mine.

2 MR. BAKER: Okay. Is there a
3 question that I can answer there?

4 MEMBER WEISMAN: Well, okay. Not
5 anything that is different than what Katrina
6 asked you.

7 MR. BAKER: Okay. I think the
8 message was heard.

9 CHAIRMAN DELGADO: Okay, any other
10 questions?

11 (No response.)

12 Okay, thank you, Brian.

13 MR. BAKER: Thank you.

14 CHAIRMAN DELGADO: Up next is Julia
15 Sabin, followed by Patrick Arndt.

16 MS. SABIN: Good afternoon or maybe
17 good evening.

18 (Laughter.)

19 This will be very, very short and
20 sweet.

21 CHAIRMAN DELGADO: Thank you.

22 MS. SABIN: My name is Julia Sabin,

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1 and mainly I wanted to introduce myself to you
2 as the new President for the Organic Trade
3 Association's Board of Directors, and also to
4 thank you, the National Organic Standards
5 Board, for all the significant personal
6 sacrifice and dedication that you give to this
7 industry. It is very much appreciated.
8 Volunteer boards require an immense amount of
9 work, and I thank you.

10 Also, I wanted to thank the NOP,
11 and specifically Barbara Robinson. She is not
12 here, but please thank her for me, and her
13 team for all the hard work and amazing
14 commitment to the organic community as well.

15 Then, finally, the OTA staff
16 remains very excited to continue to support
17 and work hard for the organic community as we
18 move forward together.

19 And that's it. So I get the award
20 for the shortest statement today.

21 (Laughter.)

22 Thank you.

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1 CHAIRMAN DELGADO: Thank you,
2 Julia. Congratulations on your appointment.

3 Any questions for Julia before she
4 leaves us?

5 (No response.)

6 No?

7 Thanks again.

8 Who's next? Patrick Arndt,
9 followed by Peggy Miars.

10 MR. ARNDT: Hello, everyone. My
11 name is Patrick Arndt. I am a Certification
12 Specialist with Pennsylvania Certified
13 Organic. As you can see, I am speaking as
14 proxy today for Melanie Saffer. She is our
15 Certification Director.

16 I would like to focus my comments
17 on various materials issues before the Board.
18 We filed more detailed comments previously
19 that should be in your meeting book. Here are
20 the key points:

21 No. 1, TAP reviews are needed for
22 almost all materials, including any material

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1 petition for 205.606 that is not a single
2 ingredient raw agricultural commodity. We
3 understand there have been budget issues, but
4 now that more funding is available, we expect
5 that these will resume.

6 It is not acceptable or adequate to
7 rely on a petitioner's information, which
8 quite naturally can be biased in favor of the
9 petition's substance. This can lead to
10 incorrect decisions and set precedents that
11 cause more problems later. We have noted some
12 specific errors in our submitted written
13 comments.

14 No. 2, as a certification agency,
15 we are required to have documented policies
16 for decisionmaking and treat all clients
17 equally. We make decisions daily regarding
18 determination of compliance for inputs and
19 ingredients for organic producers and
20 handlers, and these decisions need to be
21 consistent.

22 We feel that the NOSB should be

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1 following similar standardized procedures when
2 reviewing materials. Specifically, we request
3 you complete your deliberations on
4 agricultural versus non-agricultural
5 definitions before any more materials are
6 added to 205.606.

7 We also need clarification of the
8 definitions of synthetic and non-synthetic
9 substances.

10 No. 3, we have filed a joint
11 comment with Oregon Tilth regarding the status
12 of the 45 materials now listed on 205.606.
13 When we review our clients' ingredients used
14 in organic products, we need to understand
15 better what the restrictions are for these
16 substances.

17 These questions were asked last
18 year, and now that we have been reviewing
19 colors in detail, we are asking again. Can
20 they be produced using synthetic solvent
21 extraction? Can they be formulated with other
22 non-list carriers and additives?

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1 Colors can include other additives
2 like maltodextrin or starch. Do these have to
3 be organic?

4 Either NOSB should be reviewing the
5 manufacturing process and additives used in
6 more detail and considering these issues or it
7 should be clear that certifiers need to review
8 these substances and limit approval to
9 products formulated only with substances on
10 the National List. Certifiers are not all
11 reviewing these substances the same way as is.

12 No. 4, specific crop and livestock
13 materials. Cheese wax should be deferred for
14 proper identification of the substances
15 involved and correction of the evaluation form
16 to indicate that petroleum products are, in
17 fact, synthetic.

18 Dextrin for seed coating needs a
19 TAP review before the decision is final.

20 Detracycline, we agree the
21 annotation should not be changed.

22 Fenbendazol, we support addition as

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1 a parasiticide.

2 Thank you.

3 CHAIRMAN DELGADO: Any questions?

4 (No response.)

5 Okay, thank you.

6 MR. ARNDT: Thank you.

7 CHAIRMAN DELGADO: Moving on with
8 Peggy Miars, followed by Sam Welsch.

9 MS. MIARS: Good evening. Thank
10 you for pronouncing my name correctly. I
11 appreciate that.

12 CHAIRMAN DELGADO: Wonderful.

13 MS. MIARS: My name is Peggy Miars,
14 and I'm Executive Director of California
15 Certified Organic Farmers. CCOF is a
16 nonprofit organization, and as you heard
17 earlier, we represent more than 1800 certified
18 operations and half a million acres in organic
19 production. We certify nearly 80 percent of
20 the organic farmland in the State of
21 California.

22 Today I am briefly addressing three

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1 topics. First is grower groups.

2 I would like to thank the
3 Certification, Accreditation, and Compliance
4 Committee for their work on the issue of
5 grower groups. CCOF's position remains
6 unchanged from the last NOSB meeting.

7 CCOF has not and does not certify
8 grower groups. We believe that, in order to
9 uphold the integrity of organic and provide
10 the oversight that consumers demand, that each
11 grower should complete the full certification
12 process, including an annual onsite inspection
13 by an accredited certifier.

14 We believe that handlers,
15 processors, retailers, and restaurants should
16 not be allowed under group certification.

17 We do acknowledge that grower
18 groups have been allowed, in order to enable
19 small growers to achieve certification, which
20 increases the amount of farmland under organic
21 production. However, we believe that grower
22 groups should be phased out of the NOP. As

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1 long as they are allowed, participation should
2 only be available to growers producing less
3 than \$5,000 in U.S. organic sales.

4 We do not believe that the proposed
5 grower group model increases the ability to
6 detect non-compliance. In fact, it might be
7 easier to hide non-compliance issues if the
8 operator wants to.

9 We have spent more than five years
10 educating consumers about what organic means
11 under the NOP and what organic certification
12 means. Some consumers are already questioning
13 the integrity of organic and the organic seal.

14 We believe that the issue of grower groups
15 will continue to confuse or add to the
16 confusion of consumers and will add to the
17 loss of confidence and trust in the organic
18 seal, which would impact the entire organic
19 marketplace.

20 Unfortunately, we have not been
21 able to participate as part of a committee or
22 a discussion group on this issue, but now that

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1 we do have a full-time Policy Director, we are
2 prepared to participate in continued
3 discussion on this issue.

4 The second item is regarding the
5 Methionine petition. We support the Livestock
6 Committee's recommendation to add an
7 annotation with the expiration of October 1,
8 2010, to enable time for commercial
9 development of non-synthetic alternatives to
10 Methionine. I understand a task force is
11 currently working on researching alternatives,
12 and we support those efforts.

13 And the third area is some
14 miscellaneous items, primarily for the NOP
15 staff. We do ask that the NOSB and NOP please
16 remember that certified operations require
17 proper notification and due process when rule
18 changes are made. This includes clarity and
19 interpretation and a clear timeline for
20 communicating and implementing the changes.
21 Making verbal comments in certifier trainings
22 is not sufficient. Each certifier must be

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1 notified in writing, so that all certifiers
2 receive the same information at the same time.

3 We are still waiting for a pasture
4 recommendation and a rule on origin of
5 livestock. The lack of clarity is detrimental
6 to livestock operations and the entire organic
7 community.

8 We want to thank you for allowing
9 certifiers to contract with OMRI and WSDA for
10 materials review. We appreciate that very
11 much.

12 We want to thank the NOP staff for
13 their efforts to update the NOP website, as
14 many people have said today. While
15 improvements have been made, I know you
16 realize that more improvements are needed. I
17 won't go into detail here, but we probably
18 will be submitting comments directly to the
19 staff.

20 We congratulate you on the increase
21 in the NOP budget, and we ask that you share
22 with us how that money is going to be put to

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1 good use to benefit the organic marketplace.

2 We appreciate the work of the NOSB
3 and the NOP, and we thank you very much for
4 your time and consideration.

5 CHAIRMAN DELGADO: Okay, thank you.

6 Any questions from the Board?

7 (No response.)

8 Okay, thank you.

9 MS. MIARS: Thank you.

10 CHAIRMAN DELGADO: Next is Sam
11 Welsch, followed by Katherine DiMatteo.

12 MR. WELSCH: Hi. I'm Sam Welsch
13 with One-Cert, one of the accredited organic
14 certifiers.

15 I have already submitted written
16 comments on hydroponics. They are not
17 organic. Organic comes from the soil.
18 Hydroponics has no soil. I think that message
19 we have tried to make pretty clear.

20 Group certification we have
21 supported for small holders, preferably those
22 who are producing less than 5,000. Again, I

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1 made more comments in writing. I won't read
2 those to you. I would be happy to answer any
3 questions you have about those issues, but
4 today I want to spend a few minutes talking
5 about some other topics.

6 Regarding materials, I hope we
7 don't mess with the definition of
8 agricultural. It may be difficult for some to
9 deal with the way it is, but we have enough
10 problems with confidence in the organic seal.

11 When we start messing with definitions like
12 agricultural that make sense to most
13 consumers, it is something that comes from the
14 farm. When we start to include microorganisms
15 and other things in the definition of
16 agricultural, I see that as doing nothing but
17 harming the overall advantage or overall image
18 of organics.

19 We already have a definition in
20 livestock that includes other non-plant life.

21 So if we need to have a way of certifying
22 yeast, it is already in the rule. It is other

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1 non-plant life.

2 It is certainly possible to have a
3 separate section for the certification of
4 yeast or other microorganisms that may need to
5 be certified. So, very clearly, we have a
6 continuum, agricultural on one end, non-
7 agricultural on the other. It is not discrete
8 baskets. There's a lot of things in between
9 that may be somewhat less well-defined, but if
10 we are looking at what can be certified, there
11 may be another segment of the rule that we
12 need to have that includes those things under
13 the non-plant life that can be certified in
14 definitions on what requirements go into that.

15 We have heard that yeast is being
16 certified because it is made with organic
17 substrates, but yet, at the same time, other
18 fungi are being certified with using
19 conventional, even GMO, substrates to be grown
20 on. That is what is currently allowed by the
21 NOP, because there are no rules that have been
22 developed for mushrooms, just like there's

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1 been nothing for greenhouses, apiaries,
2 beekeeping. Those are things that we were
3 promised before the rule was fully implemented
4 back in 2002, but are rules that have not yet
5 been promulgated.

6 I just wanted to mention a separate
7 issue. Somebody mentioned there was formula
8 manufacturers. We do certify a formula
9 manufacturer that does not use hexane fatty
10 acids in their products. So it is possible.
11 There is an organic product on the market for
12 that.

13 Regarding group certification, we
14 hear a lot about how an internal control
15 system improves functioning or the oversight
16 for retailers and other multi-site operations.

17 I just want to point out that in
18 205.201(a)(3), it requires a description of
19 monitoring practices and procedures to be
20 performed and maintained. This is something
21 that is required in an organic system plan of
22 all operations. The fact that they do that

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1 with an internal control system, with multiple
2 sites, is very good, but nothing in that
3 application or that type of monitoring says
4 that those sites don't all need to have an
5 annual inspection.

6 So it is good to have the internal
7 control systems in place regardless of the
8 type of multi-site operation it is, but it
9 doesn't eliminate the requirement that an
10 annual inspection take place in each of those.

11 I also wanted to endorse the
12 comments of others who made statements today,
13 such as Gwendolyn Wyard and Emily Brown-Rosen,
14 about the clarification of ingredients on 606.

15 I also agree with the comments
16 about the so-called cheese wax. I think we
17 should actually call it synthetic hydrocarbon,
18 which is its proper name. It is not made from
19 cheese, just to be clear.

20 (Laughter.)

21 So if it is going to be listed, it
22 should be listed properly. I think it was

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1 misidentified in the recommendation from the
2 Committee, and I think it needs to go back to
3 Committee for a correction before it should be
4 approved, if it is justified to be approved at
5 all.

6 I also agree with the OMRI
7 statements that additional rulemaking should
8 be required before we add additional items to
9 the list.

10 And I will add my voice to others
11 who support the requirement that TAP reviews
12 be conducted before many of these items be
13 added.

14 CHAIRMAN DELGADO: All right, thank
15 you.

16 Any questions? Joe?

17 MEMBER SMILLIE: Which option do
18 you currently favor from the Materials Working
19 Group, if any?

20 MR. WELSCH: None of the above.

21 MEMBER SMILLIE: Option A was
22 status quo, wasn't it?

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1 MR. WELSCH: Yes.

2 MEMBER SMILLIE: Is that what you
3 are supporting?

4 MR. WELSCH: I am supporting that
5 we actually need some rules for certification
6 of some of these products that are not clearly
7 crops or livestock --

8 MEMBER SMILLIE: Right.

9 MR. WELSCH: -- things like
10 mushrooms, even greenhouses. You know, these
11 have been on the table since before the rule
12 was implemented and they are still not
13 complete.

14 MEMBER SMILLIE: Right.

15 MR. WELSCH: It is just one of many
16 things on the list that are creating problems
17 today because they were not completed within
18 that time limit.

19 MEMBER SMILLIE: Okay.

20 CHAIRMAN DELGADO: Dan, followed by
21 Kevin.

22 MEMBER GIACOMINI: You mentioned

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1 that we shouldn't mess with the definition of
2 agriculture. One of the things in the process
3 of what we are trying to do, and what the
4 Working Group is trying to do, is find what we
5 do need to do to move forward on this.

6 We actually don't have a definition
7 for agriculture. Are you proposing that that
8 is something we should do?

9 MR. WELSCH: I probably misspoke.
10 I mean agricultural product. There is a
11 definition in the law for that.

12 MEMBER GIACOMINI: But it doesn't
13 mention anything about a farm.

14 MR. WELSCH: Well, I think if you
15 look up the commonly-understood -- if you look
16 up agricultural in any dictionary, you are
17 going to have what is the commonly-understood
18 meaning, which will include farm. We don't
19 have to create meaning where it is commonly
20 understood.

21 CHAIRMAN DELGADO: Kevin?

22 MEMBER ENGELBERT: Yes. Could you

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1 give an example of fungi that is being grown
2 on a GMO substrate, Sam, that you mentioned?

3 MR. WELSCH: Most mushrooms. It
4 was a question that was asked or presented in
5 training, "Can you use GMO substrate like
6 corncoobs for raising mushrooms?" And we were
7 told yes.

8 CHAIRMAN DELGADO: Any other
9 questions?

10 (No response.)

11 Thank you very much.

12 Moving on to Katherine DiMatteo,
13 followed by Harriet Behar.

14 MS. DiMATTEO: Okay, thank you very
15 much. My name is Katherine DiMatteo. I'm on
16 the Board of the International Federation of
17 Organic Agriculture Movements, which is,
18 obviously, a global, democratic, membership-
19 based organization that has been in existence
20 since 1972 and has contributed to the
21 worldwide discussion of organic standards and
22 agricultural principles for organic.

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1 I'm going to read this because it
2 is long. So I apologize -- no eye contact.

3 IFOAM thanks the Certification,
4 Accreditation, and Compliance Committee for
5 the appendix to the discussion document on
6 certifying operations with multiple production
7 units, sites, and facilities, and for inviting
8 discussion and comments from the organic
9 community.

10 IFOAM appreciates the careful and
11 thoughtful consideration that the CACC and the
12 National Organic Standards Board are giving to
13 this important recommendation.

14 IFOAM also thanks the National
15 Organic Program for allowing the use of the
16 2002 NOSB recommendation on grower group
17 certification as guidance for the
18 certification of grower groups under the
19 National Organic Program.

20 These comments address both the
21 appendix and some of the questions posed by
22 the Committee.

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1 The guidance provided in the
2 appendix greatly improves the understanding of
3 how to implement appropriate and rigorous
4 controls within operations with multiple
5 production units, sites, and facilities.
6 There is much in the appendix that IFOAM
7 supports: Section 2, Section 3, especially
8 the criteria for clustering of members or
9 subunits into a production unit, including the
10 guidance that an upper limit on the number of
11 subunits included in a given production unit
12 should be based on the feasibility of
13 effective oversight by management personnel
14 and factors such as size and accessibility of
15 the subunits. We also support Section 4, No.
16 (d), the role of the internal control system.

17 IFOAM does not agree with the key
18 premise that there is a distinction between
19 initial and renewal inspections of production
20 units, sites, and facilities, presented in
21 Section 4.

22 Although the language in Section

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1 205.403 of the NOP rule appears to distinguish
2 between initial and subsequent onsite
3 inspections, IFOAM does not believe that it
4 was the intent of this provision to suggest
5 that subsequent onsite inspections might be
6 less complete than the initial one. To make
7 this distinction between initial and renewal
8 inspections would diminish the rigor of the
9 certification system for multi-site
10 operations.

11 IFOAM recommends the NOP accredited
12 certifying agents perform annual audits of the
13 internal control system of the group, annual
14 inspections of each production unit of the
15 group that includes a sampling of members or
16 subunits based on both risk assessment and
17 random selection, and annual inspections of
18 handling facilities and sites of the group and
19 production units.

20 The internal control system
21 personnel must directly observe and check all
22 subunits at least annually to ensure that the

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1 organic system plan is implemented.

2 The criteria written in Section (c)
3 under "Inspection" should be written to
4 reflect factors appropriate to members or
5 subunits rather than production units.

6 IFOAM does support the
7 recommendation and reasoning for random
8 sampling, but would apply this to members and
9 subunits rather than the production units.

10 We applaud the Committee for their
11 excellent work on the role of the internal
12 control system, in particular, the statement
13 for the person seeking organic certification
14 to be in compliance with the NOP, all non-
15 compliances detected at the production unit
16 site and facility or at the subunit or member
17 level are required to be reported to the
18 certifying, not just to the internal control
19 system.

20 You have the rest of this in front
21 of you, but I just want to read my last
22 paragraph.

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1 IFOAM urges you to recognize that
2 multi-site operations are not simply a
3 collection of individual farms that are
4 collaborating to market crops or are organized
5 to avoid rigorous certification oversight and
6 verification. This system for certification
7 of multi-site operations that includes having
8 a functional internal quality assurance system
9 together with an annual inspection and
10 evaluation by an accredited certifying agent
11 offers a sound and robust organic guarantee
12 system that protects organic integrity. This
13 system offers two levels of control as opposed
14 to one. It also encourages group
15 organization, which enhances the overall
16 capacity of individual members within the
17 group to institute and further develop good
18 organic management practices.

19 The continuation of multi-site
20 operations is critical to the organic
21 community worldwide.

22 Thank you for the opportunity to

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1 comment.

2 CHAIRMAN DELGADO: Oh, you are very
3 welcome. Thank you.

4 Any questions?

5 (No response.)

6 All right. Okay, thanks again.

7 MS. DiMATTEO: Thank you.

8 CHAIRMAN DELGADO: Next up is
9 Harriet Behar.

10 MS. BEHAR: Is everybody still
11 awake?

12 CHAIRMAN DELGADO: We're still
13 awake.

14 MS. BEHAR: Okay, I am going to
15 give comments for the National Organic
16 Coalition, of which MOSES is a member. It is
17 on grower groups. There is only one copy of
18 my comments, but I believe Liana is bringing
19 you some more.

20 I would like to thank the NOSB
21 Certification, Accreditation, and Compliance
22 Committee for the further consideration of

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1 these grower group certifications. However,
2 we are very disappointed that the previous
3 document presented in November has not been
4 withdrawn or reworked to reflect the many
5 public comments, including our own, that
6 objected to this approach.

7 Instead, the Committee has
8 presented a new appendix outlining guidance
9 for certification of multi-site operations.
10 The unnecessary inclusion of handlers,
11 including retailers, into this proposal
12 remains a great weakness that jeopardizes the
13 protections needed for small farmers in the
14 developing world who have successfully used
15 the grower group model in order to have access
16 to certification and the organic marketplace.

17 Handlers that operate multiple
18 sites, locations, and facilities are currently
19 certified as single operations under the
20 existing regulations. There is no need for
21 any guidance designed to weaken the inspection
22 protocol for these entities.

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1 There may be need for specific
2 guidelines or regulations for retail
3 certification, as this is voluntary, but this
4 is a separate issue that should not be
5 conflated with the problem at hand, which is a
6 producer/grower group certification.

7 We are in general support of the
8 OTA Group Certification Task Force comment on
9 guidance for producer group certification. We
10 believe this document provides the needed
11 depth of consideration of important issues
12 relative to certification of producer groups,
13 including guidance on the preferred management
14 structure of an internal control system,
15 conflict of interest, and training, criteria
16 for inclusion in a production unit, and the
17 inspection protocol, including risk
18 assessment.

19 We particularly support the OTA
20 position that all production units are
21 inspected annually, and discussion of what is
22 a production unit, that definition, and how to

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1 decide that is part of the larger document
2 which you will get in due course, I hope.

3 I also want to answer some of the
4 questions that you put out there, such as:
5 Does a process of random external inspection
6 levels based on risk criteria provide enough
7 oversight of individual locations or is there
8 a need to guarantee all locations are
9 externally inspected at some minimum
10 frequency?

11 Under that, we support the One-Cert
12 discussion, and we feel that random selection
13 is not sufficient. Selection must be first
14 based on risk criteria with any farm in the
15 group that is high-risk being inspected
16 annually, with the remaining low-risk farms
17 may be randomly selected using a method that
18 guarantees no more than five years between
19 external inspections on any farm.

20 Then I guess the other one here
21 that I am going to answer is: How will the
22 multi-site model improve the National Organic

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1 Program? We feel that the multi-site model
2 will not improve the National Organic Program.

3 Retailers added to the existing structure
4 will only improve the bottom line of
5 retailers.

6 The grower group model with needed
7 clarifications will continue to provide
8 organic certification in an alternative model
9 for small holders around the world who would
10 otherwise not be able to certify with no loss
11 of integrity of the USDA standards. The
12 marketplace will be assured of continued
13 availability of such important commodities as
14 coffee, chocolate, bananas, et cetera.

15 In conclusion, the NOSB should work
16 to adopt a consensus document that establishes
17 guidelines for small holder group
18 certification and limit this guidance to this
19 arena only. There is no demonstrated need or
20 convincing reason that handlers should be
21 afforded eligibility under this proposal to
22 weaken their protocol for the necessary

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1 individual site inspections.

2 We hope that the organic retail
3 community will take the necessary leadership
4 in this discussion and insist on dropping this
5 idea in order to protect consumer confidence
6 in the organic certification of all items.

7 Growing groups represent some of
8 the world's most vulnerable farmers.
9 Therefore, it will be vital to exercise
10 extreme caution, adequate implementation
11 timelines, and full transparency, including
12 adequate opportunities for public comment,
13 when applying changes to the current model in
14 place.

15 CHAIRMAN DELGADO: All right, very
16 timely. Thank you.

17 Questions for Harriet?

18 MS. BEHAR: Again, that is from the
19 National Organic Coalition.

20 CHAIRMAN DELGADO: Great. Thank
21 you.

22 Next is Leslie Zuck, followed by

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1 David Guggenheim.

2 MS. ZUCK: Hello. I thought would
3 be last. I'm kind of used to being last with
4 a name that starts with Z-U, you know, almost
5 last anyway.

6 (Laughter.)

7 Hi. I'm Leslie Zuck, Executive
8 Director of Pennsylvania Certified Organic. I
9 have been sitting here all day just trying to
10 think what I ought to comment on. So many
11 issues, so little time.

12 (Laughter.)

13 But I decided that the best use of
14 my time and yours would be to try to address
15 some of the questions I have been hearing from
16 the Board throughout the day. So I will do
17 that.

18 I heard Joe say -- well, it wasn't
19 really a question, but he is concerned that we
20 need to get better compliance levels on the
21 use of organic seed. I continue to be sort of
22 confused about why it is perceived that this

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1 is such a big problem warranting quite a lot
2 of effort on the part of your Committee and
3 Board.

4 I mean, are we seeing documented
5 complaints? Is it mostly anecdotal
6 information from seed companies that would
7 really like us to help them meet the needs of
8 growers and find the organic seeds that they
9 really need?

10 Frankly, we have not really seen
11 this as a problem, and the organic seed
12 availability is not stagnating. It is
13 certainly not slowing. At least what we are
14 seeing is that it really does increase every
15 year. I mean it started out -- and that is
16 like since 2002. I mean it was non-existent
17 before 2002. The first couple of years were
18 pretty slow. I mean there really wasn't
19 anything.

20 So we have been seeing it
21 increasing every year really in the last three
22 to four years. I am pretty amazed, actually,

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1 that there is as much available that there is,
2 knowing what it takes to develop seed.

3 There were several questions about
4 the burden that your recommendation would
5 place on the certifiers and producers. I
6 think Zea and Harriet really responded to
7 those questions well.

8 On my farm, I am certified by a
9 very reputable ACA in Florida, and every
10 December I sit down with my stack of seed
11 catalogs and I start with the Johnny's and the
12 Fedco and the Seedway catalogs. Johnny's and
13 Fedco are in Maine. They are the major East
14 Coast providers of organic seed. Seedway is
15 in Pennsylvania. We certify them, and I know
16 for a fact they work very hard to add organic
17 seed to their line.

18 So I go through and I flip through
19 the catalog, and if I see something that is
20 what I want and the organic variety is
21 available, I order it. So I will have the
22 order form; I have the invoice, and

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1 essentially that is my documentation.

2 Then the very well-qualified
3 inspector from the reputable ACA arrives at my
4 farm in the summer. I will show her -- she
5 will look at all of that stack of seed
6 catalogs. She will look at my invoice. She
7 will look at my order form, and she will see
8 that I have been using a significant or at
9 least a reasonable amount of organic seed on
10 my operation, and she will check a few things.

11 She knows Brandywine tomatoes are available
12 organically and Detroit dark beets, and she
13 will just make sure that I am using those, and
14 I am.

15 All the information to assess
16 compliance is there. It is looked at, and a
17 determination of good faith effort is placed
18 in my inspection report that goes back to my
19 certification agent. But if I am going to
20 spend additional time to write all that down
21 and make my list up, it is going to take
22 several more hours on my part, and it may not

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1 seem like a lot, but I am going to be asking
2 why. As a certifier, I am going to be getting
3 asked why by my several hundred clients who
4 are going to want to know how I think that is
5 a reasonable use of their time.

6 Because, so far, up until now, we
7 have been managing fine without having them to
8 send list of seeds that they want to the seed
9 company. If I write out my list and send it
10 to Johnny's and Fedco and Seedway, and say,
11 "I'm interested in all these 80 or 90
12 varieties. Are they available?", they are
13 going to think I'm daft. They are going to
14 say, well, check our website, check our seed
15 catalog; that's what they are there for. So
16 that is kind of going to be a hard sell, at
17 least to my clients, I think.

18 At the certifier level, there isn't
19 anybody that really has a nanosecond to spare,
20 much less a staff member to devote the time
21 needed to collect and enter into a database
22 seed lists containing hundreds of varieties

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1 from hundreds of farmers.

2 I figure at a minimum of 15 minutes
3 each, that is over 100 staff hours, and these
4 guys will tell you we're not afraid of work,
5 but I do have a hard time convincing staff of
6 the necessity of such a huge task to fix a
7 problem that we really don't seem to see as
8 being a big problem.

9 Okay, I feel as a certifier I
10 really can't legally require a client to
11 submit confidential business information to me
12 that would be ultimately used for another
13 purpose. I would have a problem with that. I
14 could get sued. I don't want to get sued. So
15 I would rather not have to do that.

16 Contract growers was asked -- I
17 think it is already covered in the rule.
18 Efforts to find organic seed have to be in
19 their OSP, just as well as it has to be in any
20 grower's OSP. So I think it is there. That
21 was your No. 4.

22 If you have any questions about

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1 multi-site -- I have one question and one
2 comment that is one-sentence long, which I
3 would be happy to answer.

4 CHAIRMAN DELGADO: Okay, any
5 questions for Leslie?

6 MS. FRANCIS: Do you have any other
7 comments?

8 (Laughter.)

9 MS. ZUCK: Just one really; it is
10 very short. I am wondering why the 36-month
11 phase-in period is there for the 100 percent
12 inspection every year. I mean 100 percent for
13 the initial year.

14 At least the rule I have back in my
15 file clearly requires that now. I think any
16 ACA that is not inspecting every production
17 unit prior to initial certification should be
18 politely questioned by NOP about why they are
19 not doing that now, because I can't read the
20 rule any other way.

21 So my question or my comment, that
22 was it.

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1 CHAIRMAN DELGADO: Okay. Any other
2 comments, questions?

3 (No response.)

4 Okay, thank you very much, Leslie.

5 MS. ZUCK: That's a first.

6 CHAIRMAN DELGADO: Next up is David
7 Guggenheim. No pressure; you are the last one
8 on the list.

9 MR. GUGGENHEIM: Can you hear me
10 okay?

11 CHAIRMAN DELGADO: Yes.

12 MR. GUGGENHEIM: Okay, and I want
13 to thank the Board for their flexibility in
14 getting me in. I suppose I should thank the
15 U.S. District Court for not calling me in for
16 jury duty today. There was some uncertainty
17 about that.

18 Good afternoon. Good evening.

19 I am Dr. David Guggenheim. I'm a
20 principal in Aquaculture Development. It is
21 based in Pittsburgh, Pennsylvania.

22 I think it is also relevant to

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1 mention that I am President of One Planet One
2 Ocean in Washington, D.C., a conservation
3 organization.

4 Three and a half years ago, I left
5 my post at the Ocean Conservancy as Vice
6 President because I got very excited about the
7 fact that I had a glimpse of the future:
8 closed-containment, land-based aquaculture.
9 These are systems, next-generation systems,
10 that recirculate 99 percent of their effluent,
11 have no discharge, use no chemicals and no
12 antibiotics, can be located close to where
13 their products are consumed. I saw this as
14 the future of putting fish on the table. You
15 may recall I made a presentation on this
16 technology at the Aquaculture Workshop.

17 Today I want to talk about one
18 point, and that is really focused on a request
19 that the Board reconsider the inclusion of the
20 sunset provision for the use of fish meal and
21 fish oil in aquaculture.

22 The organic certification addresses

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1 both concerns for human health as well as
2 concerns for the health of the environment.
3 In the long term, it is my belief that
4 providing this flexibility will be a net
5 benefit and significant benefit for the
6 environment, and here's why:

7 Without question, from my
8 experience and that of my colleagues, next-
9 generation, closed-containment systems
10 represent a quantum leap in the sustainability
11 of aquaculture, both in terms of the
12 attributes of aquaculture itself, but also in
13 terms of, when scaled up, their capacity to
14 actually reduce pressure on wild fish
15 populations and ocean ecosystems.

16 The U.S. is far behind Europe and
17 Asia in adopting this technology, and now we
18 can add South America to the list. Our
19 primary technology partner, UniAqua, based in
20 Denmark, has just begun construction on two
21 facilities in Chile, each 1,000 tons for
22 salmon. These are facilities that will

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1 support the complete rollout of salmon,
2 completely contained land-based systems.

3 Over the past three and a half
4 years, I have been on the front lines working
5 with industry executives and potential
6 investors who, despite a 15-year track record
7 overseas, haven't really heard much about this
8 technology, view it as something new and
9 scarey, and therefore, a high risk.

10 But the possibility of an organic
11 certification for their product has been a
12 major factor in bringing these potential
13 investors closer. The challenge is that most
14 of the commercially-viable species in this
15 country are omnivores. Salmon represents
16 about 60 percent of the fish that we eat,
17 obviously, an omnivorous fish.

18 We at Aquaculture Developments are
19 committed to eliminating completely the wild-
20 caught feed component to the fish that we are
21 growing. At the workshop, we committed to a
22 five-year phaseout period, which I think was

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1 faster than just about anybody else.

2 That is for two reasons: the time
3 needed for research as well as time needed for
4 economies of scale to kick in. It is
5 technically possible for us to grow organic
6 feed, essentially the prey species for these
7 fish, but the economics don't work yet. The
8 economics will work when there is enough of
9 these facilities there. Therefore, it is a
10 chicken-and-egg problem.

11 The sunset provision will have the
12 effect of stimulating the right kind of
13 industry for aquaculture and take a major step
14 forward toward again protecting and restoring
15 ocean ecosystems.

16 This is not about weakening the
17 National Organic Program. Taking a larger and
18 longer-term perspective, this is demonstrating
19 leadership and profoundly transforming the way
20 this country puts fish on the table.

21 Thank you.

22 CHAIRMAN DELGADO: Thank you.

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1 Any questions? Yes, Hugh?

2 MEMBER KARREMAN: Thank you.

3 So even though when we are coming
4 up, we are trying to come up with standards
5 for all aquaculture species and not just
6 salmon -- I've tried to kind of stay clear of
7 just saying salmon because it is not just
8 about salmon. But how would you answer some
9 of the groups that would say, well, salmon
10 have to have their natural runs to be in the
11 organic, you know, to demonstrate their
12 natural behavior, and whatnot? I mean, how
13 would you answer that with the setup, you
14 know, the system that you are proposing?

15 MR. GUGGENHEIM: I suppose there's
16 two paths you can take in responding to that
17 question. One is a biological and technical
18 path, and the answer is that the technology
19 now exists to grow these fish and grow them
20 out to a commercially-viable size, and to do
21 that completely in indoor contained systems.

22 So it is doable. These fish are

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1 healthy from a physiological perspective, and
2 they are commercially viable.

3 I think there is another path, and
4 that may be an ethical path. That is more of
5 a gray area, something I don't think I can
6 respond to because I would be giving you my
7 own personal feelings about that. But I think
8 all of us would have different perspectives on
9 that.

10 I think it really comes down to the
11 individual species and what their needs are.
12 I think, from my perspective, I have seen
13 eels, I have seen baramundi, the Asian sea
14 bass. I think personally it comes down to the
15 physiological health of these animals. If you
16 look at them and they look healthy, and they
17 don't appear to be adversely impacted at a
18 physiological level, I think that is a good
19 indication -- again, this is my personal
20 belief -- that they are doing well, even if
21 some of their behaviors have been affected.

22 I think there are others who might

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1 suggest that it is just wrong to do that, but
2 I think that is more of a personal choice.

3 CHAIRMAN DELGADO: Any other
4 comments, questions?

5 (No response.)

6 Well, thank you very much.

7 MR. GUGGENHEIM: Thank you again.

8 CHAIRMAN DELGADO: On that note,
9 ladies and gentlemen, members of the Board, we
10 are finished with the public comment section
11 for day one of our meeting.

12 We will recess until tomorrow
13 morning at eight o'clock a.m. I will ask the
14 Board members to be here 10 minutes before the
15 hour.

16 I also would like to ask the Board
17 members to gather here to discuss logistics
18 about dinner.

19 Thank you very much for all of you
20 who stayed behind to listen to our meeting.

21 Until tomorrow.

22 (Whereupon, at 6:47 p.m., the

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1 proceedings in the above-entitled matter were
2 recessed for the day, to reconvene the
3 following day, Wednesday, May 21, 2008, at
4 8:00 a.m.)

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