

DRAFT MINUTES OF THE
NATIONAL ORGANIC STANDARDS BOARD
FULL BOARD MEETING
SANTA FE, NEW MEXICO
MAY 31 - JUNE 5, 1994

May 31, 1994

1 The initial session of the National Organic Standards Board (NOSB) meeting was called
2 to order at 4:35 pm by Chairperson Michael Sligh.

3 Members in attendance were: Robert Quinn, Jay Friedman, Gene Kahn, Nancy Taylor,
4 K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer, Michael
5 Sligh, and Craig Weakley. Participating as the temporary certifying agent advisor to the
6 NOSB was Victoria Smith from the New Hampshire Department of Agriculture.

7 Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
8 Ted Rogers, and Michael Johnson.

9 Chairperson Sligh defined the objectives of this meeting as stated in the agenda for May
10 31 (attached).

11 Mr. Theuer proposed that the minutes of the last meeting, held in Washington, DC in
12 February 1994, be approved. Mr. Kahn seconded the motion. The minutes were
13 unanimously approved with the following corrections:

- 14 1. K. Chandler will be added to the list of attendees for all sessions;
- 15 2. Mr. Weakley will be added to the list of attendees for February 2;
- 16 3. Merrill Clark's comments during the processing session as regarding
17 the use of non-organic ingredients in organic foods and about the determination
18 of availability of organic ingredients are to be added;
- 19 4. On page 5, clarify that the unanimous vote was in favor of the appropriateness
20 for the particular synthetics in organic production;
- 21 5. On page 8, a date will be provided for the Crops Comprehensive Document;
22 and
- 23 6. On page 10, fourth paragraph, add "non-organic" after "non-synthetic."

24 Theuer motioned and Kahn seconded to approve the minutes. Unanimously approved
25 with 2 abstentions.

26 Eileen Stommes, Deputy Director of AMS Transportation and Marketing Division,
27 formally greeted the Board and indicated the importance of this meeting as a
28 culmination of 2 years work and stated that final NOSB recommendations should be
29 made to USDA with the understanding that the program will continue to evolve after
implementation. She emphasized the increased public demand for organic products,

31 increased international attention, and support from the present Administration as
32 contributing to the spotlight being shined on the Organic Program.

33 Margaret Clark introduced Victoria Smith as the attending temporary certifier
34 representative to the NOSB meeting. Ms. Smith said she will attempt to represent both
35 the State of New Hampshire program and the privately operating New England
36 certifiers.

37 Don Kinsman and Dean Eppley joined the meeting. Ricker reported that Gary Osweiler
38 regrettably will not be able to attend any of the sessions of the Santa Fe meeting.

39 Jay Friedman officially welcomed the NOSB, USDA representatives, and attendees to
40 New Mexico and reiterated his expectations that the Board would aggressively tackle the
41 agenda for the week and produce Board Final Recommendations.

42 Hal Ricker gave the USDA report and distributed three handouts (attached):

- 43 1. Budget calculations for the NOSB for FY 1994;
- 44 2. Estimated timeline for standards and regulatory program development; and
- 45 3. USDA staffing report.

46 The NOSB has an estimated balance of \$1,500 for FY 1994; therefore, because a Board
47 meeting costs approximately \$15,000, the next NOSB meeting will not be held until FY
48 1995.

49 Regarding staffing, Ricker explained that we do need a larger number of staff persons at
50 this time to develop and establish the Program. Margaret Clark announced that the
51 NOSB would be recommending that the Accreditation portion of the USDA program be
52 supported by user fees, but that all other staff and administrative expenses should be
53 covered by appropriated fees.

54 Ricker then explained the appointment procedure for NOSB positions that are due to
55 expire in 1995. He expects that the notice announcing the initiation of the process would
56 be published in the Federal Register during June or July 1994.

57 Ricker reported that Gary Osweiler has previously submitted a letter notifying USDA
58 that he will not apply for reappointment. Theuer stated that he will relinquish his
59 position and Taylor suggested that she is not opposed to serving another term, but has
60 decided instead that she would like another farmer to participate in her place. Margaret
61 Clark will be seeking reappointment. Bob Quinn, whose term does not expire, has
62 requested that his appointment be terminated at the same time as Osweiler, Theuer and
63 Taylor and he will submit this request in writing.

64 Following a general discussion on the potential locations of Texas, California, and North
65 Carolina for the next NOSB meeting, Kahn motioned that California be selected.
66 Weakley seconded. Quinn amended the motion to include the Southeast as the next
67 meeting site following California. VOTE: Yes - 6. Opposed - 4. Motion failed. Taylor

68 motioned, seconded by Friedman that the meeting be held in Texas followed by
69 California. VOTE: Yes - 6. Opposed - 5. Abstain - 2. Motion failed. Kahn motioned
70 and Theuer seconded to hold the next meeting in California. VOTE: Yes - 7. Opposed
71 - 3. Motion failed. Friedman moved and Chandler seconded to hold the next meeting in
72 Texas. VOTE: Yes - 7. Opposed - 3. Abstain - 3. Failed. Chandler motioned, Kahn
73 seconded to table the vote. VOTE: Unanimous to table.

74 The members then clarified that portions of an entire draft recommendation document
75 may be moved forward as Final recommendations provided that the meaning and intent
76 was not compromised. Also agreed upon was that Comprehensive documents should be
77 considered as separate documents. Quinn motioned and Friedman seconded that
78 abstentions would not count as votes cast during the voting process and referred to the
79 OFPA language that requires 2/3 of the votes cast to achieve approval of a motion.
80 VOTE: Yes - 12. Abstain - 1. Motion passed.

81 Discussing the development of a definition of "organic," Ricker declared that USDA does
82 need to have both a working definition and a short publishable definition of the term to
83 facilitate public and government edification. The Board accepted that Chandler would
84 coordinate the accumulation of NOSB documents on the organic definition and submit
85 them to USDA for Staff members to use in developing a definition of organic to be
86 reviewed by NOSB members.

87 Margaret Clark moved and Taylor seconded to adjourn at 7:00 pm. Unanimously
88 agreed.

89
90

June 1, 1994

91 Members in attendance were: Don Kinsman, Dean Eppley, Nancy Taylor, Robert
92 Quinn, Gene Kahn, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich
93 Theuer, Michael Sligh, Craig Weakley, and Victoria Smith from the New Hampshire
94 Department of Agriculture. Jay Friedman joined the meeting late.

95 Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
96 Ted Rogers, and Michael Johnson.

CROPS COMMITTEE

97 Chairperson Kahn presented the Crop Standards Committee comprehensive document to
98 the full Board, stating the Committee's intention to have all but the section on botanical
99 pesticides accepted by the Board as Final Recommendations at this meeting. He noted
100 that certain of the issues pertaining to crop standards brought up by Board members at
101 previous meetings had been incorporated into a draft list (attached) for incorporation
102 into a letter to the Secretary requesting that certain existing USDA programs be
103 modified to assist and protect organic producers. Also noted was the fact that the Crops
104 Committee had developed draft greenhouse and mushroom production standards, which
5

106 would be brought forward, time permitting.

107 With reference to the organic farm plan in the comprehensive document, Kahn clarified
108 that the Livestock Committee would be presenting a section pertaining to farm plan
109 requirements for livestock producers during its presentation. This section would then be
110 merged with the crops document to create a complete crops-livestock farm plan
111 recommendation.

112 First addressing the draft letter to accompany Board recommendations to the Secretary,
113 Kahn described the four considerations listed which were drawn from notes of
114 conference calls and minutes of meetings. He suggested that the Livestock and
115 Processing Committees add issues, if so inclined. Kahn described the lack of inclusion in
116 the Final Recommendations of these four issues as "deficiencies in the Board document
117 about to be voted upon" and affirmed that they should be addressed somewhere in the
118 Board presentation to the Secretary. Sligh expressed support for the approach of a
119 letter; Quinn stated his concern that these issues would "fall out" during the rule-writing
120 process at USDA, and would not be sufficiently considered by the Secretary. At the
121 conclusion of this discussion, Kahn asked that additional concerns be directed to the
122 Crops Committee.

123 The Board then turned to a discussion of the **Spray Drift and Misapplication Policy**
124 section of the comprehensive document, starting with the additional language
125 recommended by the Committee on page 3, line 126,: "It is recommended that this
126 notification be in writing in order to facilitate any potential legal claims on behalf of the
127 certified organic producer."

128 Margaret Clark motioned that this sentence be added, and with a second from Sligh, the
129 language was adopted by a unanimous VOTE. Passed.

130 Taylor asked, with reference to line 63, the meaning of "excluding livestock" (OFPA Sec
131 2105). The Board agreed to note this lack of clarity for the record, and return to it at a
132 later point.

133 Sligh moved that the **Spray Drift and Misapplication Policy** be adopted as a Board Final
134 Recommendation, second from Dean Epley. VOTE: Yes - unanimous. Passed.

135 The **Small Farmer Exemption** (Section 2B of the comprehensive document) yielded
136 greater discussion. Kahn stated that the perspectives presented in this section reflect the
137 Committee's concern that the Program not disproportionately burden the small producer.
138 Quinn presented the additional language of lines 241-243: "There shall be no
139 mandatory filing requirements for the above small farmer exemption provisions. All
140 required information must be on file and available on the premises of the exempted
141 farmer."

142 Clark pointed out that Texas has a mandatory registration form for small producers.
143 Quinn responded that the intent of the language is not to exclude States from issuing
144 additional requirements with respect to this area, and referred to lines 245-246 which
145 clearly state this. Theuer asked for an explanation of the applicability of the small
146 farmer provisions when a grower markets only within a State and stated his
147 understanding that OFPA only applies to interstate commerce and that there is no
148 Federal jurisdiction in intra-state matters. Ricker interjected that if this were found to
149 be true, the Board could amend their recommendation accordingly at a later date.

150 Smith commented that without mandatory filing requirements, the producers would
151 probably not bother to create files and she asked how producers would be informed of
152 the small farmer requirements. Quinn noted the Committee's desire to eliminate
153 unnecessary layers of bureaucracy. It was the opinion of Smith that the burden would
154 fall on the private certifying agencies.

155 Kahn stated that it would not be practical to enforce mandatory filing requirements, and
156 that the recommendations were the best compromise between organic integrity and small
157 producer burden. Weakley moved that the language of lines 241-243 be adopted, and
158 Clark seconded the motion. The language passed with a VOTE of: Yes - 8. Opposed -
159 2. Abstain - 3. Passed.

160 Merrill Clark turned the Board toward a discussion of lines 232-233, regarding the
161 allowance for uncertified small farmers to sell at retail outlets citing her concern for
162 consumer confusion. Kahn responded that the Committee had discussed this issue at
163 length. He described the way his company, Cascadian Farm, got off the ground through
164 direct sales to the Rockport Country Store, a place where tourists shopped for gifts.
165 Preventing small producers from taking advantage of opportunities to get started would
166 be unjust. Sligh expressed his agreement, and suggested in a motion that processors be
167 included on line 214; Margaret Clark seconded the motion, and the Board voted to
168 insert the term, "or handled" between "produced" and "are" on line 214. VOTE: Yes -
169 unanimous. Passed.

170 With reference to the declaration form on page 7, Theuer suggested that the words
171 "produce and" and "or label" be deleted, and that the words "or handled" be added after
172 the first word "produced" appearing on that line. Kahn moved that this amendment be
173 adopted and Theuer seconded. VOTE: Yes - unanimous. Passed.

174 Margaret Clark moved to adopt the entire section as amended; Kahn seconded the
175 motion, and a discussion ensued. Taylor noted the double negative appearing in OFPA
176 Section 2106(d), and expressed concern for the confusion it may cause those impacted by
177 the small farmer exemption.

178 In a discussion of enforcement of the small farmer provisions, Weakley pointed out that
enforcement would come from activities in the marketplace, not from USDA, which

180 would be inefficient. Merrill Clark stated that consumers will expect certification.
181 Friedman argued that lines 223-227 are really certification requirements; Weakley
182 retorted by saying that such requirements are standards by which small farmers must
183 conduct themselves in order to market organic products. Anton described her
184 discussions with retailers, most of whom indicated that uncertified produce would not be
185 sold as organic, and she interpreted this as an indication that the marketplace would
186 respond to consumer preferences.

187 It was motioned and seconded that the Small Farmer Exemption be adopted as
188 amended. The section was adopted as a final Board recommendation by a VOTE of:
189 Yes - 9. Opposed - 3. Abstain - 1. Passed.

190 Section 2C of the comprehensive document, entitled "Residue Testing" was brought
191 forward by Kahn. In response to an inquiry by Hankin about the residue testing
192 allowance of 5 percent of EPA tolerance in other sections of the comprehensive
193 document, Weakley stated that the reference to 5 percent had appeared in the original
194 drafts of the drift and emergency spray sections, but the Board had not accepted that
195 allowance in this document.

196 Merrill Clark indicated her preference to change "may" to "shall" on line 474. Kahn
197 responded by saying that the Committee had felt strongly that mandatory testing places
198 too great a burden on growers. Theuer stated that because one may not find a drift
199 residue after rainfall, line 470 should be placed below lines 474-475. Weakley explained
200 that if a crop is directly hit by a drifted substance it could not be sold as organic, but the
201 residue testing could be necessary because the next crop grown on that land could be
202 sold as organic if stated procedural requirements were satisfied.

203 Friedman asked if private certifying agents would be involved in sampling, in reference
204 to line 447. Weakley stated that State and Federal programs would be relied upon to
205 incorporate organic growers in their sampling practices. Sligh noted that North Carolina
206 had indicated a willingness to do this; Anton described the research conducted during
207 the development of this document that confirmed that the Federal sampling procedures
208 were possible. Friedman expressed concern for the cost burden such activities could
209 place on States.

210 Kahn described residue testing as a tool by which certifying agencies could evaluate risk
211 and provide information to growers. As an example, Oregon Tilth director Yvonne Frost
212 stated that for certain crops, soil testing can be made mandatory by the certifying agent.
213 In other words, the need for residue testing varies by region and is producer and crop
214 specific.

215 Hankin commented that the response to the 5 percent of EPA tolerance provision had
216 not yet been received from EPA. (These comments were received and distributed later
217 in the meeting). Theuer stated his belief that testing to 5-10% of EPA tolerance was

218 entirely within the realm of possibility.

219 Friedman moved to delete lines 394-404, based on his opinion that "organic" is a product
220 statement according to OFPA Section 2112(c)(1); Theuer seconded his motion. Weakley
221 pointed out that references to 5-10% of EPA tolerance are made in numerous places in
222 the Senate Agriculture Committee report. Margaret called the question. VOTE: Yes -
223 3. Opposed - 9. Abstain - 1. Failed.

224
225 Friedman introduced his next proposal for amendment, moving that the words, "and
226 upon written complaint" be inserted at the end of line 472; Chandler seconded the
227 motion. In discussion, Quinn argued that requiring written complaints is burdensome to
228 certifying agents. Smith agreed with Friedman, stating that the inspection reporting
229 requirements incorporate written complaints. Chandler expressed his interest in
230 requiring that complaints be in writing, because "inspectors can run vendettas against
231 producers, and run up fees." VOTE: Yes - 4. Opposed - 7. Failed.

232 Theuer offered a compromise, moving that the term "written" be inserted before
233 "complaints" on line 484; Friedman seconded the motion. VOTE: Yes - unanimous.
234 Passed.

235 Next, Margaret Clark moved that the entire section on residue testing be adopted as a
final recommendation; Eppley seconded the motion, and discussion ensued. Theuer
237 suggested that on line 474 the term "sold" should be changed to "produced" or "grown,"
238 since the issue is preharvest residue testing. Sligh referred to page 301 of the Senate
239 Committee Report. Clark argued that the recommendations not become an attempt to
240 design residue testing programs for certifying Agents.

241 Kinsman moved that the words "of agricultural products sold as organic" be deleted.
242 Kahn seconded the motion. VOTE: Yes - 3. Opposed - 8. Abstain - 2. Failed.

243 Weakley noted that lines 460-465 are meant to serve as broad guidelines in the
244 establishment of local-level residue testing programs.

245 Merrill Clark moved to strike lines 420-421, and Friedman seconded, with an interest in
246 letting States set a less than 1 percent of EPA tolerance level; VOTE: Yes - 4.
247 Opposed - 8. Abstain - 1. Failed.

248 Theuer motioned that the words "to be" be inserted before "sold" on lines 467 and 474;
249 the motion was seconded and approved by a VOTE of: Yes - 12. Opposed - 1. Passed.

250 The previous motion to adopt the entire residue testing section as amended as a Final
251 Board Recommendation was called to question and carried by a VOTE of: Yes - 12.
252 Opposed - 1. Passed.

253 In conclusion of this session of the full Board, Kahn asked that Board members
254 interested in amending other sections of the comprehensive document submit
255 amendments in writing by the Friday afternoon meeting. The Board members were also
256 requested to review the proposed greenhouse and mushroom standards.

257 PROCESSING COMMITTEE

258 The first document to be discussed by the Processing Committee was the **Organic**
259 **Handling Plan** which was presented for adoption as a Board Final Recommendation.
260 Weakley led the discussion and opened with a review of public response letters to the
261 document. He identified the 3 major categories of responses as requests to:

- 262 1. Remove the waste management section;
- 263 2. Define more clearly the types of handlers; and
- 264 3. Create language that is more inclusive of livestock.

265 He pointed out that lines 41-50 of the 9/28/93 proposed final recommendation (Ted
266 Rogers distribution) were new language that enumerated the various types of affected
267 handlers on the basis of transfer of legal title. Margaret Clark explained that the entity
268 holding the legal title is responsible for the inspection and certification of all other
269 persons or businesses handling the product until such time as the product changes legal
270 title again. She clarified that all handlers would either be certified themselves or have
271 their co-handlers inspected as part of the original handler's certification process.
272 Kinsman alerted the Board that Attachment 1 should be modified to include language
273 for handlers of livestock products and he offered to develop language for this area
274 before the next session. Sligh expressed the concerns that lighter-volume handlers might
275 have with the language at line 60 that requires UPS and airlines to sign a document
276 acknowledging that organic handling practices would be adhered to during transit to
277 ensure that integrity is maintained.

278 Friedman offered the following amendment at line 59 after the word "product":
279 Add "and exposure to possible federal civil penalties for violation thereof." Quinn
280 seconded. VOTE: Yes - 10. Abstain - 3. Passed. Quinn offered to amend lines 413-
281 414 and 419-420 as follows and Kinsman seconded: Delete "who does not take...certified"
282 and replace with "who does take legal title to organic products does need to be certified".
283 VOTE: Yes - 12. Abstain - 1. Passed.

284 Friedman made the motion that at lines 47-48, and elsewhere in the document, the
285 reference to the word "HACCP" be deleted and replaced with "organic integrity
286 assurance system." Taylor seconded. VOTE: Yes - unanimous. Passed.

287 Margaret Clark moved, seconded by Kahn, that at line 47 in the commentary, the word
288 "do" be replaced with "may" and add: "The handler who holds legal title and is certified
289 must include under the certification all facilities which receive, handle or store the
290 product. All requirements for the protection of organic integrity must be observed and
291 facilities inspected, where applicable." VOTE: Yes - 10. Opposed - 3. Passed.

2 Friedman commented that this was legally possible only if the persons are agents and
293 proposed replacing at line 54 the phrase "all known individuals or businesses" with the
294 word "agents." Merrill Clark seconded. VOTE: Yes - 4. Opposed - 6. Abstain - 2.
295 Failed. Margaret Clark moved, seconded by Quinn, that at line 486 and at other places
296 as applicable, that "co-processor" be changed to read "co-processor/co-packer." VOTE:
297 Yes - 9. Abstain - 3. Passed.

298 Theuer motioned, seconded by Friedman, that the category of "waste management" be
299 removed in entirety from the document. Many NOSB members stated a preference to
300 maintain the section in the document because it is a goal of organic manufacturing, while
301 understanding that it should not be a mandatory section of the handling plan. Merrill
302 Clark emphasized that waste management is an environmental concern and is necessary
303 to prevent accidental occurrences of habitat destruction and as such belongs within the
304 context of the Organic Plan. VOTE: Yes - 2. Opposed - 9. Failed.

305 Kinsman moved and Quinn seconded that at lines 125 and 129 "processing" be changed
306 to "packing." VOTE: Yes - 11. Abstain - 2. Passed.

307 Friedman moved, seconded by Chandler, that at line 69 of the plan, add after "and",
308 "exposure to possible Federal civil penalties for violation thereof and...". VOTE: Yes -
309 10. Abstain - 2. Passed.

310 Friedman moved and Kinsman seconded that the document be tabled and sent back to
311 Committee to make the technical corrections. VOTE: Yes - Unanimous.

312 The meeting adjourned for lunch. The public input session held after lunch took up the
313 remainder of the day's planned agenda.

314 **June 2, 1994**

315 Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman,
316 Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer,
317 Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New
318 Hampshire Department of Agriculture.

319 Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
320 Ted Rogers, and Michael Johnson.

321 The meeting began with an announcement of the various Committee caucus sessions
322 planned during the week to resolve issues arising from discussion during the Full Board
323 sessions. Ricker suggested again that the Board focus on the major concepts of the
324 Draft Recommendations under consideration in order to actually pass most of the
325 documents through as final recommendations.

326 LIVESTOCK COMMITTEE

327 Kinsman began the presentation with the **Livestock Sources** document. He brought to
328 the Board a Committee recommendation that at the end of line 256, a new sentence be
329 added that reads: "If such breeder stock is eventually sold for slaughter, it will not be
330 considered organic." Taylor motioned, seconded by Sligh, that line 256 contain the
331 reference to the restricted allowable use of antibiotics in breeder stock as stated in the
332 Livestock Committee Recommendation on Antibiotics. This reference reads as follows:
333 "Organic breeder stock may receive application of synthetic antibiotic in the event of a
334 healthcare emergency. In such instance, the progeny may be sold or labeled as
335 organically produced provided that the application to the breeder stock does not occur in
336 the last third of gestation or while nursing the progeny, and the application is prescribed
337 by a licensed veterinarian. The organic breeder stock, having received an application of
338 synthetic antibiotics, is not disqualified from having its future progeny sold or labeled as
339 organic." VOTE: Yes - 8. Opposed - 4. Passed.

340 Quinn made a motion, second by Merrill Clark, to amend the phrase to be added at the
341 end of line 256 to read, "If such breeder stock is eventually sold for slaughter, it will not
342 be considered organic unless it meets the requirements for slaughter stock." VOTE:
343 Yes - 11. Opposed - 1. Passed. VOTE to approve the breeder stock language as
344 amended in the livestock source document: Yes - 9. Opposed - 1. Absent - 2. Passed.

345 Kahn moved and seconded by Stoneback that at line 242, the word "shall" be changed to
346 "may." After discussion, Kahn withdrew his motion in favor of Weakley's motion, second
347 by Kahn, that lines 242-244 be deleted and replaced with, "The USDA accredited
348 certifying agents shall include a section in the Organic Farm Plan which requests that
349 producers describe their current efforts and existing obstacles toward conversion." This
350 would be consistent with the Crops Farm Plan recommendation. VOTE: Yes - 10.
351 Opposed - 2. Abstain - 1. Passed.

352 Kahn moved that at lines 267-269 regarding certified feeds for replacement dairy stock,
353 that the 12 month period be changed to 3 months. He cited WSU research that showed
354 all feed is gone from the rumen within 24 hours and stated that 12 months is a barrier to
355 growth for the organic dairy industry. VOTE: Yes - 4. Opposed - 7. Abstain - 2.
356 Failed. Ricker stated that Kahn could include his concerns in a letter to Secretary Espy.
357 Quinn moved and Theuer seconded that the Livestock Sources document be accepted as
358 a Board Final Recommendation. VOTE: Yes - 8. Opposed - 4. Abstain - 1. Passed.

359 The next document discussed was the **Livestock Feed Standard**. Quinn moved, seconded
360 by Chandler, to approve the entire document. During discussion, Friedman moved and
361 Theuer seconded to delete 100% in lines 278 and 281 related to requiring 100%
362 organically produced feed, because of the use of non-organic supplements in livestock
363 feed. VOTE: Yes - unanimous. Passed. VOTE to accept Livestock Feed Standard as
364 Board Final Recommendation: Yes - unanimous. Passed.

365 The next document discussed was the **Feed Availability Emergency Provision** which
366 accompanies the Feed Document. Friedman moved to delete lines 555-557. No second.
367 Vickie Smith received clarification that the intent of this document is that the herd
368 animals remain marketable as organic in cases where any emergency feed use category is
369 utilized by the producer." Weakley moved and seconded by Margaret Clark that at line
370 550, "possible" be deleted and "reasonable" be inserted before "effort." VOTE: Yes -
371 unanimous. Passed. Sligh moved, seconded by Margaret Clark, to accept the Feed
372 Availability Emergency Provision as a Board Final Recommendation. VOTE: Yes -
373 Unanimous. Passed.

374 The **Health care Practices** document was next on the agenda. Theuer made a motion,
375 seconded by Margaret Clark, that "With the exception of poultry," be added at the
376 beginning of line 343. Sligh expressed concern about a blanket exemption for poultry.
377 Several attendees stated that poultry could be raised without the exemption for
378 confinement. Kinsman stated that confinement need not be inhumane and inefficient
379 and actually may be helpful in certain situations when carefully managed and approved
380 by the certifying agency. Friedman made a friendly amendment, second by Taylor, to
381 delete lines 343-349 and substitute with species specific standards to be developed later.
382 Theuer and Chandler expressed concerns that such specific standards could border on
383 micro-managing of producers' operations. VOTE on Friedman's amendment: Yes - 4.
384 Opposed - 8. Failed. VOTE on Theuer's original motion: Yes - 6. Opposed - 7.
385 Failed. Weakley moved, Quinn seconded, to delete lines 343-349 and refer the
386 confinement issue back to the Livestock Committee. VOTE: Yes - 7. Opposed - 5.
387 Absent - 1. Failed. Kahn moved, Taylor second, to add at line 344 following
388 "prohibited", "Furthermore, seasonal access to pasture for dairy animals is required."
389 Hankin queried whether certain regions of the country might then be excluded from
390 dairy production and Sligh replied affirmatively. VOTE: Yes - 3. Opposed - 9. Failed.
391 Theuer moved that lines 299-349 be approved without amendment. Merrill Clark
392 seconded. VOTE: Yes - 3. Opposed - 7. Failed. Meeting adjourned for lunch. This
393 document will be discussed later at this meeting.

394 MATERIALS DISCUSSION

395 Reconvening at 1:00 pm, Zea Sonnabend and John Brown, advisors to NOSB and USDA
396 for the review of materials for placement on the National List, began a review of their
397 work and the status of the materials review process. They first reviewed their job
398 descriptions and division of duties. Next, they updated the Board on the recruiting
399 efforts to obtain Technical Advisory Panel (TAP) experts and noted that about 17
400 persons have replied but that many more are needed. After discussion of whether
401 persons with vested interests should be permitted to participate as TAP members, and
402 after several NOSB members stated a desire to develop a balanced approach to TAP
403 participation, Sligh motioned and Margaret Clark seconded to require a form for
404 disclosure of conflict of interest from all TAP members. VOTE: Yes - 4. Opposed - 8.
405 Failed.

406 Zea requested NOSB members to help solicit persons to assist with the materials review
407 process. Her next monthly written progress report will address the TAP areas still
408 needing volunteers; USDA will then initiate a recruiting effort to utilize members of
409 government agencies to complete the TAP roster.

410 Next discussed by Sonnabend was the petition process draft that she had prepared.
411 Theuer moved, seconded by Friedman, that the process be established as follows:

- 412 1. Petition to USDA;
- 413 2. USDA evaluates completeness;
- 414 3. Petition is sent from USDA to TAP coordinators;
- 415 4. Petition is forwarded to TAP experts;
- 416 5. Researched information is returned to Board for recommendation to USDA.

417 Weakley offered an amendment that the natural/synthetic determination should be made
418 before it enters into the TAP review. After discussion, Theuer withdrew his motion and
419 the petition process issue will be discussed at a later session during the week.

420 Zea then reviewed the petition form design. It was decided after a review of the present
421 proposed form that Zea and USDA staff would jointly revise the form so that it is
422 acceptable to the NOSB and reflects the concerns of the USDA. The form will not be
423 split into separate forms for addition and removal of substances from the National List
424 and it will include a request for information on the State registration of a substance.

425 A paper prepared by Zea related to the natural/synthetic dichotomy discussion was
426 taken up next by the Board. Theuer explained his ideas regarding a progressive
427 approach (from synthetic to natural to organic) for substances used for extraction.
428 After agreeing with Zea that solvents would be included on the National List, Friedman
429 moved and Stoneback seconded that: "Synthetic substances may be used to extract a
430 substance from a natural source provided: (1) the chemical structure of the final
431 extracted substance is not changed by the extraction; (2) none of the synthetic substances
432 used to extract remains in the final extracted product; and (3) the substance used to
433 extract the product is approved on the National List." VOTE: Yes - 11. Opposed - 0.
434 Absent - 2. Passed.

435 John Brown then reviewed the database setup for materials under consideration for the
436 National List that had been set up by Zea and himself. It was pointed out by Brown
437 that USDA does not intend to review brand names and also that the database will not
438 include inert ingredients. Existing label instructions and restrictions will be utilized in
439 the development of the National List and the database information regarding usage is
440 not intended to supersede label information. The criteria used for substance evaluation
441 will also focus on detrimental interactions independent of effects on the environment and
442 human health.

443 Some remaining unresolved issues identified during the discussions were:

444 1. USDA submission of materials that USDA wants to have reviewed for the
445 National List. It was agreed that USDA staff members will complete petitions for
446 these materials and submit them into the review process.
447 2. Disclosure of inert ingredients in formulations. Two options as stated by Ted
448 Rogers are that (1) USDA obtain full disclosure details from the companies and
449 EPA or that (2) EPA create a label for the product identifying it as acceptable for
450 the National Organic Program. Sonnabend noted that producers may lose the use
451 of some necessary products if full disclosure is required because not all companies
452 are willing to provide this information. She recommended that this be taken into
453 account when debating the full disclosure issues. Sligh proposed the creation of a
454 task force to communicate with manufacturers in encouraging full disclosure of
455 ingredients of substances approved for use in organic agriculture. The task force
456 was formed and will consist of Nancy Taylor, Tom Stoneback, Eric Kindberg,
457 Gary Osweiler, and USDA staff.

458 LIVESTOCK COMMITTEE

459 At the conclusion of the materials presentation, the Board resumed discussion of
460 livestock topics. Sligh motioned, with a second by Friedman, that the **Livestock**
461 **Committee Farm Plan** amendments to the Crops Committee Farm Plan be accepted.
462 VOTE: Yes - unanimous. Passed. USDA staff will combine the two documents into one
Farm Plan recommendation.

464 Turning to the livestock questionnaire accompanying the livestock farm plan document,
465 Theuer moved, second by Quinn, to delete "or another label" on lines 638 and 641.
466 VOTE: Yes - 8. Opposed - 1. Passed. Taylor moved and Chandler seconded to change
467 "animal" on line 693 to "type"; delete "separate" on line 692; delete "and/or livestock
468 product type" on lines 693-694; and delete lines 695-699 entirely beginning with "Please..".
469 VOTE: Yes - unanimous. Passed. Kahn made a motion, second by Theuer, to add this
470 questionnaire document to the Farm Plan Recommendation. VOTE: Yes - unanimous.
471 Passed.

472 The **Health Care Practices** recommendation was revisited again starting with lines 343-
473 349 concerning confinement of livestock indoors without access to the outdoors.
474 Friedman moved, seconded by Quinn, to delete lines 343-349 from the recommendation
475 and refer the confinement issue to the Livestock Committee to develop species specific
476 confinement recommendations to be brought to the Board at the next meeting in
477 October. VOTE: Yes - 11. Opposed - 1. Passed. Quinn moved and Sligh seconded
478 that the phrase, "Livestock confinement standards to be developed later" be added at line
479 343 and that the **Health Care Practices** draft recommendation document be accepted as
480 a Board final recommendation. VOTE: Yes - unanimous. Passed.

481 During the Livestock Committee presentation, the Crops Committee Farm Plan draft
2 recommendation was referenced and briefly discussed. Friedman questioned whether

483 language should be added addressing penalties to producers who deviate from the Farm
484 Plan. Kahn replied that deviations, whether major or minor, should remain within the
485 discretion of the accredited certifying agency with guidance provided by USDA.
486 Friedman proposed that at line 782 of the Crops Committee Farm Plan, following "farm
487 management," a new sentence be added that reads, "Minor deviation from the Farm Plan
488 that does not constitute a pattern of inappropriate deviation shall not constitute grounds
489 for decertification." Merrill Clark seconded. VOTE: Yes - 8. Opposed - 4. Passed.

490 Kinsman moved to delete the following phrase at lines 587-588 of the Livestock Farm
491 Plan: "in order to produce progressively stronger animals and eliminate a dependency on
492 and use of veterinary medications." Theuer seconded. Kinsman rejected a friendly
493 amendment to replace "in order to" with "in an effort to". VOTE to delete the phrase:
494 Yes - 8. Opposed - 5. Failed.

495 Sligh moved and Quinn seconded to approve the Organic Farm Plan document as
496 amended and to combine the Crops and Livestock language and questionnaires into one
497 Board Final Recommendation document. VOTE: Yes - unanimous. Passed.

498 The Board then took before them the **Livestock Recordkeeping** recommendation.
499 Friedman moved and Merrill Clark seconded to approve lines 350-361. VOTE: Yes -
500 unanimous. Passed. Friedman moved and Weakley seconded to approve lines 362-370
501 after first deleting on line 369 the words, "use and" and replacing with "the"; and also
502 adding "care" between "health" and "inputs". VOTE: Yes - 7. Opposed - 1. Abstain - 5.
503 Passed.

504 Kahn moved, seconded by Weakley, to replace line 381 with: "Prohibited materials shall
505 not contact livestock and livestock products during transportation." VOTE: Yes - 5.
506 Opposed - 7. Failed.

507 Friedman moved and Theuer seconded to approve lines 371-381 of the Livestock
508 Recordkeeping document and to accept the entire document (lines 350-381) as a Board
509 Final Recommendation. VOTE: Yes - 12. Opposed - 0. Abstain - 1. Passed.

510 Meeting adjourned at 5:35 pm.

511 **JUNE 3, 1994**

512 Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman,
513 Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer,
514 Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New
515 Hampshire Department of Agriculture.

516 Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
517 Ted Rogers, and Michael Johnson.

518 Sligh opened the meeting by announcing the following revised caucus schedule:
519 Crops Committee - Friday 3-5 pm
520 Accreditation Committee - Friday 3:15 - 5:30 pm
521 Livestock Committee - Friday 3:15 - 5:30 pm
522 Petitions Form, working group - Friday 12:30 pm

523 Plenary sessions on Saturday will be conducted as follows:
524 Livestock - 8-10 am
525 Crops - 10-11 am
526 Processing - 11 am-12 pm
527 Committee presentations to the Board (as necessary) - 1-3 pm.

528 Accreditation Committee

529 Margaret Clark first explained the piecemeal approach that she would be taking in
530 having **Accreditation Draft #10** and the proposed revisions approved by the Board as a
531 final recommendation.

532 Michael Hankin expressed appreciation for the work of the Committee and asked the
533 Board to focus on the Accreditation Program at this time and defer debate on the matter
534 of differentiation between State Certification Program approval and State Accreditation.

535 Robert Beauchemein of OCIA, speaking for the attending members of the Organic
536 Certifiers Caucus (OCC), stated that although OCC officially supports its original
537 accreditation position as expressed in its submitted comments to Draft #10, the members
538 present (CCOF, Oregon Tilth, FVO, OGBA, and OCIA) do not object to the
539 Accreditation Committee's concepts of Peer Review and Evaluation. He stressed that a
540 stronger public/private partnership than envisioned in the USDA staff comments paper
541 is essential. He believes that the Peer Review Committee should be kept small and that
542 it should make recommendations to USDA on accreditation status of applicants. He
543 affirmed that the organic community is not divided on this issue. Hankin thanked him
544 for his concern and stated that, based on the OCC statement, USDA staff would
545 reevaluate its ideas upon returning to Washington.

546 The Board reviewed the document containing the proposed revisions to Accreditation
547 Draft #10, dated May 20, 1994, prepared by the Accreditation Committee. Stoneback
548 moved and Eppley seconded to accept changes 1-5 from the revisions document. VOTE:
549 Yes - unanimous. Passed. Theuer moved and Taylor seconded to accept revisions 6-9
550 from the revisions document. VOTE: Yes - unanimous. Passed.
551 Stoneback moved and Theuer seconded to accept revisions 11, 13, 18, and 20 from the
552 revisions document. VOTE: Yes - unanimous. Passed. Stoneback moved and Eppley
553 seconded to accept revisions 23 and 24 from the revisions document. VOTE: Yes -
554 unanimous. Passed. Stoneback moved and Theuer seconded to accept revisions 10 and
22 from the revisions document. VOTE: Yes - unanimous. Passed.

556 Theuer made a motion to delete on line 959 of Draft #10 the words "by election."
557 Second by Quinn. VOTE: Yes - unanimous. Passed.

558 Margaret Clark then led the session through the topic of Peer Review Panel consultation
559 (the new sentence for revision #12 of the revisions document) and through the shaded
560 areas of lines 754, 756, 762-772 and 777 of Draft #10. Board member comments ranged
561 from stating that there was too much Peer Review Panel involvement to stressing the
562 importance of public private partnership to desiring that IFOAM not be permitted to do
563 any USDA accreditation visits. Quinn motioned and Friedman seconded to approve the
564 shaded areas on lines 754 and 756 of Draft #10. VOTE: Yes - 9. Opposed - 4. Passed.
565 Quinn motioned and Eppley seconded to approve the shaded areas on lines 762-764 of
566 Draft #10. VOTE: Yes - 11. Opposed - 1. Passed. Quinn moved and Taylor seconded
567 to approve lines 765-768 of Draft #10 permitting the site visit to be contracted to an
568 approved organization. Smith added and then withdrew a motion to modify line 765
569 after "agent" with the phrase: "involved in international trade." A motion to add the
570 phrase: "for purposes of facilitating international trade" after "organization" on line 768
571 failed by a VOTE of: Yes - 7. Opposed - 4. Absent - 2. Failed. The Board then
572 decided that new language should be brought back later this meeting by the Committee.
573 Sligh motioned and Eppley seconded to accept into Draft #10 the new language stated
574 in revision #12 of the revisions document that calls for USDA to consult with the Panel
575 on the terms of any contract. VOTE: Yes - 10. Opposed - 1. Abstain - 2. Passed.

576 Sligh then moved and Taylor seconded that the shaded areas of lines 809-811, 825-827,
577 and 838-849 be accepted along with the additional language of revision #14 of the
578 revisions document. After opening the discussion to comments from the Board and
579 guests, Margaret Clark heard a gamut of opinions on the subject of spot visits. Crossley
580 of Health Valley Foods said inspectors may be turned away by the manufacturer and this
581 facet of certification is too expensive. Friedman stated that notice could be given and
582 that the visits could be conducted during regular business hours. It was agreed that spot
583 visits should be included in evaluating an accreditation application, but that the visits
584 must not be a burden to producers and processors. Theuer said that only government
585 officials are allowed in by many businesses and Smith agreed that regulations established
586 by USDA would be necessary for such visits to effectively occur. Bowen of CCOF said
587 that spot checks should be necessary only when potential problems are noticed and that
588 advance notice should be given. Friedman moved and Theuer seconded that lines 809-
589 811 and lines 838-849 be deleted from Draft #10. VOTE: Yes - 12. Opposed - 1.
590 Passed. Weakley commented that USDA should still consider spot visits for the
591 Program, but that the current language was unacceptable and should be improved later
592 by the Board. Friedman then moved, seconded by Sligh, that the sentence, "Optional
593 field visits of certifiants: NOSB shall develop further recommendations" be inserted at
594 line 809. VOTE: Yes - unanimous. Passed.

595 Taylor motioned and Quinn seconded to accept the shaded areas on lines 825-827.
596 Friedman made a friendly amendment that was accepted to change "confidentiality" on

597 line 826 to "non-disclosure." VOTE: Yes - unanimous. Passed.

598 Switching to revision #15 of the revisions document, Margaret Clark noted that this
599 merely involved format changes and retitling of sections. Sligh moved and Eppley
600 seconded to accept this technical change along with the correction on line 854 of "30
601 days" instead of "14 days." VOTE: Yes - unanimous. This technical change did not
602 include accepting the newly suggested word, "stakeholder."

603 Quinn moved and Eppley seconded to delete "non-profit" on lines 915-917 and accept the
604 technical change of #16 of the revisions document. VOTE: Yes - 11. Opposed - 2.
605 Passed.

606 Friedman moved and Theuer seconded that at line 913, "will have the option to" should
607 be replaced with "shall have their evaluations include"; and at lines 915-918, replace the
608 entire phrase from "as.....certifier" with "as private certifiers shall have their evaluation
609 team include another private certifier."
610 VOTE: Yes - unanimous. Passed.

611 The session then adjourned for lunch.

612 Following lunch, the accreditation discussion centered around the composition of the
613 evaluation team. Quinn moved and Theuer seconded that the shaded areas of lines 896-
614 905 be accepted with the minor revision that the word "peer" be deleted on line 902.
615 VOTE: Yes - unanimous. Passed.

616 Taylor moved and Sligh seconded to accept revisions #17 and #18 of the revisions
617 document with the following amendments: change "four" to "three" on line 943; accept
618 the shaded lines 948-949; and add "and livestock" after "cropping" on line 932. VOTE:
619 Yes - 11. Abstain - 2. Passed.

620 Quinn moved and Sligh seconded to approve lines 906-909. VOTE: Yes - 1. Opposed -
621 12. Failed. Lines 906-909 referring to optional USDA presence on the evaluation team,
622 and lines 922, are to be deleted.

623 Weakley moved and Quinn seconded that revision #19 (a title change and the new
624 background commentary) of the revision document be approved. Theuer queried
625 whether this means the Board is accepting the "stakeholder" idea (there was no
626 response). VOTE: Yes - 10. Opposed - 3. Passed.

627 Revision #21 of the revisions document containing new language on the composition and
628 size of the Peer Review Panel was discussed next. Sligh motioned and Weakley
629 seconded to delete lines 950-973 and 985-986 of Draft #10 and replace them with
630 revision #21. Taylor offered a friendly amendment to revision #21 that was accepted
631 that changes the USDA status on the Peer Review Panel to an official member and

632 maintains the NOSB status as ex-officio. Theuer offered a friendly amendment that was
633 accepted that adds the phrase, "as well as having expertise in organic farming and
634 handling" after "inspector" on the last line of the first paragraph of revision #21.
635 Friedman offered a friendly amendment that was not accepted to delete the entire first
636 paragraph of revision #21 pertaining to key components of members. Taylor requested
637 a vote on Theuer's friendly amendment - VOTE Yes - 10. Opposed - 3. Passed.
638 VOTE on Sligh's original motion: Yes - 9. Opposed - 3. Abstain - 1. Passed.

639 Turning to revision #25 of the revision document concerning the cost of accreditation,
640 Weakley moved and Eppley seconded to accept the revision language with the last two
641 lines about a 2/3 vote to be deleted. Also, the sentence, "The Board further
642 recommends that the ongoing program administration costs above the cost of
643 accreditation be paid for through direct appropriated funds" will be added at the
644 conclusion of the recommendation. VOTE: Yes - 11. Opposed - 1. Abstain - 1.
645 Passed.

646 INTERNATIONAL COMMITTEE

647 Committee Chairperson Friedman brought forth the Committee document entitled,
648 **"Proposed Rule Regarding Importation of Organic Agricultural Products,"** for full Board
649 discussion and vote. Friedman pointed out that the words, "proposed rule," should
650 remain in the title of the recommendation, as it is the interest of the Committee that the
651 exact language of the recommendation be published in the Federal Register.

652 A brief discussion of the effects of mandatory fumigation at U.S. borders on the integrity
653 of organic imports was initiated by Rich Theuer. This resulted in a motion by Michael
654 Sligh to adopt the following language as an additional section to the document:

655 "VI. Maintaining Organic Integrity During Importation
656 Recommendations related to maintaining organic integrity
657 during importation of organic products will be developed
658 later."

659 This motion was seconded by Bob Quinn. VOTE: Yes - unanimous. Passed.

660 Friedman noted that the definition of "imported" (lines 17-23) had been changed upon
661 receiving the suggestion from a USDA agency that the definition used commonly in
662 government documents be adopted. The Board accepted this change as stated in the
663 document. Passed.

664 Mr. Friedman also explained that, with regard to lines 24-29, the Committee had opted
665 to utilize the term, "International Organic Standards Organization (IOSO)" as opposed to
666 "International Standards Organization (ISO)", to make the organization referenced in the
667 recommendation separate and distinct from other uses of the term, "ISO". This change

3 was accepted by the Board. Passed. In a discussion of lines 27-29, it was agreed that it
669 was not necessary to qualify the activities of an IOSO, since the IOSO would have to be
670 approved by the Secretary.

671 The Board agreed to consider the term, "product", as used in lines 40-71 to be all-
672 inclusive.

673 Quinn then presented the Committee minority view cited in lines 73-85. He explained
674 that the intention of was to consider both State and private certifiers as "certifying
675 agents". Taylor brought up the point that by using the terms "State programs" and
676 "certifying agents accredited by the Secretary", States with programs that are not
677 certifying agents would be covered.

678 Sligh stated that he could not approve certain of the minority view recommendations in
679 isolation because the recommendations were tied together. This statement was made in
680 response to Theuer's suggestion that parts 3 and 4 be adopted, but not parts 1 and 2.
681 Margaret Clark expressed her concern that State approval not be considered a
682 substitution for accreditation, and that the language of the import requirements
683 recommendation not imply this. Ms. Clark motioned that lines 73-85 be adopted, with a
684 second from Quinn. VOTE: Yes - 5. Opposed - 6. Abstain - 2. Failed.

685 Next, Theuer moved that lines 81-85 be approved. Discussion ensued. Stoneback
686 reminded the Board that all language would be subject to legal review during the rule-
687 writing process, and that any inconsistencies across recommendations would be handled
688 then. Friedman noted that the New Mexico State program had been approached to
689 conduct certification services in Mexico. Theuer withdrew his motion after consideration
690 of State programs which may be accredited with additional certification requirements.

691 Quinn took the initiative of motioning again that lines 81-85 be approved; Sligh seconded
692 the motion. VOTE: Yes - 5. Opposed - 6. Abstain - 2. Failed.

693 Ms. Clark again argued that the language regarding State programs implied that States
694 did not have to be accredited; Taylor disagreed, stating that the language was not
695 inconsistent with the Board draft recommendation on accreditation. Weakley inserted
696 that any conflicts in language would be sorted out at USDA.

697 Stoneback motioned for the entire document, with amendments agreed upon, to be
698 approved; this motion was seconded by Merrill Clark. The document was adopted as a
699 Final Board Recommendation by a VOTE of: Yes - 10. Opposed - 3. Passed.

700 Following the vote, the session for the day was concluded and adjournment was agreed
701 upon.

702 **JUNE 4, 1994**

703 Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman,
704 Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer,
705 Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New
706 Hampshire Department of Agriculture.

707 Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
708 Ted Rogers, and Michael Johnson.

709 Livestock Committee

710 Merrill Clark initiated Board discussion of the Committee's **Antibiotic Recommendation**
711 to the Full Board. After summarizing several written comments that had been received
712 from the general public in response to Committee recommendations, Merrill Clark asked
713 Jay Friedman to conduct the document review. Friedman began with lines 391-396 of
714 the document concerning antibiotic use in slaughter stock, and asked for unanimous
715 consent to remove the word "synthetic" throughout the recommendation. Theuer so
716 moved and Quinn seconded. After debate on the implications of prohibiting natural
717 antibiotics from allowable organic animal health care practices and questions as to
718 whether there really are natural antibiotics, Theuer explained that his intent was to
719 exclude all antibiotics and to prohibit any natural antibiotic from being used in the future
720 without additional review. VOTE: Yes - 7. Opposed - 4. Abstain - 1. Failed.

721 Theuer then moved and Kahn seconded that at line 392, the phrase "as medication or
722 growth promoters" be added after "antibiotics". This would allow antibiotics to be used
723 as preservatives in vaccines and AI semen as is the common practice. VOTE: Yes - 11.
724 Abstain - 2. Passed.

725 Quinn moved and Kahn seconded to accept lines 391-396 as amended as a Board Final
726 Recommendation. Before the vote, Theuer received clarification that the
727 recommendation wording as stated does not permit the use of synthetic topical
728 antibiotics in slaughter stock, but does allow natural antibiotics to be used. VOTE: Yes
729 - 10. Opposed - 2. Abstain - 1. Passed.

730 Regarding lines 397-406 on the subject of antibiotic use in breeder stock, Kahn moved
731 and Chandler seconded to add on line 402 following "emergency" the wording: "after all
732 five conditions listed in the addendum to the recommendation on the use of antibiotics
733 have been satisfied"; also, delete lines 402-405 starting with "In" on line 402 and
734 continuing through the first word "veterinarian" on line 405. Merrill Clark stated that the
735 OFPA should be interpreted as meaning no antibiotics could be administered during the
736 last third of gestation, but Kahn replied that the five criteria in the addendum are the
737 "organic management system" referred to in the OFPA as being necessary for the twelve
738 months preceding sale of the milk and milk products. VOTE: Yes - 4. Opposed - 8.
739 Abstain - 1. Failed. Merrill Clark moved and Quinn seconded to accept lines 397-406
740 as a Board Final Recommendation. Kahn pointed out that the wording as stated would
741 not allow the use of antibiotics during Caesarean deliveries or other delivery

2 complications. VOTE: Yes - 8. Opposed - 4. Abstain - 1. Passed.

743 Friedman suggested that unanimous consent be given to begin the recommended
744 language on antibiotic usage in dairy stock with similar wording as appears on lines 398-
745 400. Agreed. After confirming that FDA has concerns about the implications of FDA
746 established withdrawal times being referenced in the organic standards, Kahn moved,
747 and seconded by Margaret Clark, to delete "12 months" on line 410 and replace with
748 "twice FDA withdrawal time or 30 days, whichever is longer"; also, add on to the end of
749 line 411, "and furthermore must satisfy all five conditions listed in the addendum to the
750 recommendation on the use of synthetic antibiotics in organic livestock production."
751 Margaret Clark made a friendly amendment that Kahn accepted to add "This policy to
752 be reevaluated in two years." After discussion on the merits of different withdrawal
753 times and phase-in opportunities, the VOTE was: Yes - 3. Opposed - 9. Failed. Kahn
754 then proposed a new amendment for line 410 to delete "12 months" and insert "90 days"
755 (with no reference to FDA withdrawal times); and to add at the end of line 411 "and
756 furthermore must satisfy all five conditions listed in the addendum to the
757 recommendation on the use of synthetic antibiotics in organic livestock production." This
758 policy to be reevaluated in two years." Margaret Clark seconded. VOTE: Yes - 11.
759 Opposed - 2. Passed.

760 Friedman moved and Theuer seconded to replace the 2 year evaluation with a 2 year
761 sunset clause and re-evaluation to determine an appropriate policy. VOTE: Yes - 1.
762 Opposed - 12. Failed.

763 Kahn then moved to reconsider the previous vote on the prohibition of natural
764 antibiotics in organic livestock production. Kahn moved and Theuer seconded that the
765 word "synthetic" be deleted throughout the entire antibiotic recommendation document.
766 VOTE: Yes - 10. Opposed - 2. Passed. Theuer moved and Stoneback seconded to
767 accept lines 407-411 as amended as a Board Final Recommendation. VOTE: Yes - 11.
768 Opposed - 1. Abstain - 1. Passed.

769 Weakley moved and Kahn seconded to adopt the May 5, 1994 addendum to the
770 recommendation containing 5 conditions relating to the use of antibiotics. Friedman
771 made a friendly amendment that was accepted to include the word "written" between "a"
772 and "justification" on line 435. VOTE: Yes - unanimous. Passed. In a post-vote
773 motion, Eppley moved and Kahn seconded that "intentional" be inserted in all instances
774 in the addendum to precede "use or application". VOTE: Yes - 11. Opposed - 1.
775 Passed.

776 Kahn moved and Merrill Clark seconded to accept the antibiotic document as amended
777 as a Board Final Recommendation. VOTE: Yes - 9. Opposed - 1. Abstain - 1.
778 Passed. Stoneback asked for and received clarification that as the recommendation now
779 reads, topical natural antibiotics could not be used on slaughter stock, but they could be
780 used on breeder stock in a health care emergency.

781 The next document brought forward was the **Parasiticide Recommendation** for organic
782 livestock production. Taylor moved and Stoneback seconded to change "prohibited" on
783 line 454 to "restricted." VOTE: Yes - 7. Opposed - 3. Abstain - 3. Passed.

784 Kahn moved and Weakley seconded that at the end of line 454, the following sentence
785 be added: "In the case of young stock intended for slaughter, approved synthetic
786 parasiticides shall be available during the first third of the animal's life and furthermore
787 must satisfy all 5 conditions listed in the addendum to the recommendation on the use of
788 synthetic parasiticides." VOTE: Yes - 10. Opposed - 3. Passed.

789 Theuer moved and Margaret Clark seconded to delete lines 455-457. VOTE: Yes - 11.
790 Opposed - 1. Abstain - 1. Passed.

791 Kahn then moved that lines 462-469 of the section on the use of parasiticides in organic
792 breeder stock be deleted and replaced with the OFPANA recommendation on breeder
793 stock: "In the case of breeder stock, approved synthetic parasiticides shall be available to
794 the animal according to the most appropriate time for treatment. If unapproved
795 materials are used during the last third of gestation, that offspring would not be available
796 for slaughter stock. The breeder animal and her future offspring would qualify for
797 reentry into the organic program as specified elsewhere in the statute"; also, the wording:
798 "Furthermore, the producer must satisfy all 5 conditions listed in the addendum to the
799 recommendation on the use of synthetic parasiticides" is to be added. Margaret Clark
800 seconded. VOTE: Yes - 0. Opposed - 9. Abstain - 2. Failed. It was decided that the
801 OFPANA language referring to unapproved materials in the last third of gestation was
802 not clear. The Livestock Committee was instructed to develop additional parasiticide
803 language and come back to the Board before adjournment on Sunday.

804 CROPS COMMITTEE

805 Kahn presented Section 2D of the comprehensive document, "**Allowance for a Split**
806 **Operation.**" Only one amendment was suggested by Friedman, who sought to grant
807 States a specific right to prohibit split organic/non-organic farming operations. He noted
808 that everyone involved in the formulation of organic standards for the State of New
809 Mexico favored a prohibition on split operations. A motion was made to add the
810 following language on line 575: "Nothing in this recommendation shall be construed as
811 precluding a State program from adopting further limitations on split operations within
812 that State." The motion was seconded. VOTE: Yes - 8. Opposed - 5. Failed.

813 Weakley moved that the "Allowance for a Split Operation" section of the comprehensive
814 document become a final Board recommendation. The motion was seconded and
815 approved on a VOTE of: Yes - 11. Opposed - 2. Passed.

816 In presenting section 2E of the comprehensive document, "**Planting Stock Policies,**" Kahn
817 noted that Merrill Clark and Sligh had requested that the term "commercially available"
818 be defined. He explained that the Crops Committee had agreed to adopt the definition

819 suggested by Sligh: "Commercially available for the purposes of this set of
820 recommendations means that the producer shall document to the satisfaction of the
821 certifying agent that these herein specified seeds and transplants could not be obtained
822 as organic and/or untreated."

823 Theuer, with agreement from Friedman, argued that this definition was unsatisfactory,
824 and looked to be "circular reasoning." Quinn commented that the intention was to place
825 the discretion for defining "commercially available" at the level of the certifying agent.
826 Theuer presented on overheads the definition he intended to propose during the
827 Processing Committee presentation. The following motion was made by Kahn and
828 seconded to add at line 583 the following language: "The determination of commercial
829 availability shall be at the discretion of the certifying agent and entail the following good
830 faith efforts documented in writing by the producer: (a)the good faith efforts made to
831 locate or develop a source of organic transplants or untreated seed; and (b)the progress
832 made over the previous year to eliminate non-organic transplants or untreated seed.
833 VOTE: Yes - unanimous. Passed.

834 Merrill Clark submitted an amendment to line 603 for the purpose of clarity to replace
835 "and organically grown transplants are not available for replanting" with: "resulting in
836 non-availability of organically grown transplants for replanting." Sligh moved to accept
837 this amendment and the motion was seconded. VOTE: Yes - 11. Abstain - 2. Passed.

838 Clark suggested the following amendment which would require a review of planting stock
839 policy exceptions to the requirement that all planting stock used in organic production be
840 organically grown: "These exceptions shall be permitted for two years after
841 implementation of the OFPA, after which the use of organically grown seed potatoes,
842 strawberry crowns, onion sets, garlic, and other planting stock is required." Clark's
843 motion was seconded by Friedman, and discussion ensued. Kahn argued that the
844 phytosanitary conditions for seed potatoes were not likely to change; Taylor added that
845 Idaho requires by law that certain procedures be followed for potato producers.
846 Weakley commented that a review of exceptions to an organic planting stock
847 requirement would be undertaken every time the certifying agent applied the definition
848 of "commercial availability." Friedman countered these arguments by stating that a
849 mandated review in two years might drive the development of organically grown
850 transplants. The VOTE was called and the result was: Yes - 2. Opposed - 10. Abstain -
851 1. Failed.

852 Next, Theuer asked that the Board consider stressing its preference for the use of
853 organic seed in lines 721-745 of the planting stock section. He moved that the
854 Committee develop language to address this issue, and report back to the full Board in
855 October. This motion was seconded by Friedman. VOTE: Yes - 12. Opposed - 1.
856 Passed.

7 Hankin noted the apparent vagueness about the issue of non-organic perennial stock

858 produced on a non-organic section of an organic farm. This precipitated discussion of
859 the applicability of the allowance for split operations. The majority of the Board agreed
860 that a nursery where non-organic production methods were utilized could co-exist in a
861 farming operation with organic production of crops. Friedman argued that this would
862 allow for abuse. Kahn responded by stating that all contingencies of farming could not
863 be addressed in the standards. Sonnabend commented that there are places where it
864 may be preferable to have perennial seedlings produced on non-organic farms and
865 brought onto an organic farm where the production of seedlings would not be
866 sustainable.

867 Friedman moved that the following language be added to line 610: "provided that the
868 planting stock does not come from the same farm for more than three years". Meall
869 Clark seconded the motion. VOTE: Yes - 2. Opposed - 10. Abstain - 1. Failed.

870 Hankin asked the Board to clarify the intention of the language on line 731 pertaining to
871 substances excluded by the OFPA. The following new wording was offered: "Seed
872 treated with substances prohibited by OFPA are prohibited, with the exception of seed
873 treated with synthetic fungicides appearing on the National List. The requirements
874 appearing in the section addressing commercial availability must be fully satisfied."
875 VOTE: Yes - 10. Opposed - 2. Abstain - 1. Passed.

876 A motion was made by Friedman and seconded to adopt the Planting Stock Policies
877 section, as amended, as a Board Final Recommendation. VOTE: Yes - 12. Abstain - 1.
878 Passed.

879 Kahn then directed the Board to a discussion of the amendments offered by Theuer to
880 section 2H of the comprehensive document, "**Emergency Spray Exception.**" The
881 following were adopted by unanimous consent, following a seconded motion:

882 Lines 1122, 1131, 1141: Change "treated with" to "exposed to";
883 Lines 1124, 1149, 1159: Change "treatment with" to "exposure to";
884 Line 1162: Change "treatment" to "exposure"; and
885 Line 1118: Place a comma between "livestock" and "feed".

886 Kinsman raised a concern about the definition of "continuous season" on line 1153, and
887 moved that the term "continuously growing" be used instead. This motion was seconded
888 by Quinn. VOTE: Yes - 12. Abstain 1. Passed.

889 Next, Theuer moved that the entire Emergency Spray Exception section be approved as
890 a Final Board Recommendation; Taylor seconded the motion.
891 VOTE: Yes - unanimous. Passed.

892 Prior to closing the Board session on crops, Weakley made a statement commending
893 Kahn and USDA advisor Anton for their work in ensuring the success of the Committee.

894 With no time remaining to discuss the specialty crop standards, Kahn asked the Board to
895 review this document (revised and approved by the Committee on June 3) prior to the
896 October meeting and stated his intentions that it could be added to the Board final
897 recommendations on crop production standards.

898 Processing Committee

899 Weakley renewed the previous discussion on the Organic Handling Plan draft
900 recommendation document. He reported that following the comments received at the
901 previous Board session, the Organic Handling Plan has now been split into two separate
902 documents. These are entitled, **Requirement for Handler Certification - Proposed Final**
903 **NOSB Recommendation** and **Organic Handling Plan - Proposed Final NOSB**
904 **Recommendation**.

905 Weakley first reviewed the **Requirement for Handler Certification**. He explained that
906 lines 665-688 were inserted to clarify the issue of which categories of handlers need to be
907 certified and lines 690-701 were included to clarify legal relations between the different
908 parties.

909 Addressing particulars within the recommendation, the Board decided unanimously to
910 change "who" to "which" in line 706. Sligh moved, seconded by Theuer, to include
911 wording at line 708 which references the small farmer exemption clause of the OFPA.
VOTE: Yes - 12. Abstain - 1. Passed. Kahn moved and Friedman seconded to accept
913 the new language for the definition of packers (#6) as it pertains to meat packing plants.
914 VOTE: Yes - 12. Abstain - 1. Passed. Sligh moved and Eppley seconded to accept the
915 new language for processors (#10) as it pertains to meat processors. VOTE: Yes - 12.
916 Abstain - 1. Passed.

917 Weakley motioned and Theuer seconded to delete "under the OFPA" at line 490-491 and
918 add the wording at line 490: ", but its activities as agent, licensee, employee, contractor,
919 or subcontractor for a certified organic handler must be covered under the certification
920 of that handler." VOTE: Yes - unanimous. Passed. Weakley moved and Theuer
921 seconded to accept the Handler Certification document as a Board Final
922 Recommendation. VOTE: Yes - unanimous. Passed.

923 Weakley then turned to the **Organic Handling Plan** recommendation document. He
924 explained that the recommendation was basically the same as previously submitted
925 except that the segments pertaining to handler requirements had been separated and
926 moved into the Requirement for Handler Certification document. In addition, he
927 clarified that the waste management section is addressed in the second paragraph and
928 that waste management was now being considered as a desirable practice rather than as
929 a required practice that could affect a certification status. Additionally, Weakley
930 reported a wording change to allow for a written description to suffice for displaying the
931 movement of organic products through a facility, rather than requiring a schematic flow
chart.

- 933 Weakley moved and Theuer seconded to amend line 110 by inserting after "operation"
 934 the phrase, "or its agents, licensees, employees, contractors, and subcontractors who
 935 handle its organic products." VOTE: Yes - unanimous. Passed.
- 936 Kinsman moved and Kāhn seconded to accept the addition of the words, "(HACCP) or
 937 similar system" after the word "Point" in line 127. VOTE: Yes - unanimous. Passed.
 938 Friedman then moved and Weakley seconded to include the FDA or National Food
 939 Processors Association definition of HACCP into the recommendation. VOTE: Yes -
 940 unanimous. Passed. USDA staff will locate the definition and insert the additional
 941 language.
- 942 Theuer motioned and Stoneback seconded to replace lines 164-167 concerning the
 943 commercial availability of certified organic ingredients with the following language: "For
 944 each food labeled as an organic food that contains one or more non-organic agricultural
 945 products as ingredients, a written description of: (a) the good faith efforts made to locate
 946 or to develop a source of the certified organic form of the ingredient and (b) the
 947 progress made over the previous years to eliminate non-organic agricultural products as
 948 ingredients." Also, amend Line 169 to read: "For each non-organic agricultural product
 949 used as an ingredient, a description of the reasons why the certified organic form of the
 950 ingredient is not used." Technically, change (3) at line 169 to become (4) and (4) at line
 951 171 to become (5). VOTE: Yes - 11. Opposed - 1. Abstain - 1. Passed. Also, the "G"
 952 at line 438 will become "A".
- 953 Friedman moved and Stoneback seconded that at line 318 the following wording be
 954 added: "Submission of this information shall constitute compliance that a HACCP or
 955 similar system is identified." VOTE: Yes - 11. Abstain - 2. Passed.
- 956 Stoneback moved and Theuer seconded that at line 211 "re. ce" should be changed to
 957 "manage." VOTE: Yes - 5. Opposed - 8. Failed.
- 958 Theuer moved and Kahn seconded to accept this recommendation document as a Board
 959 Final Recommendation as amended. Sligh expressed concerns that small businesses may
 960 be placed in financial jeopardy because of the burdensome paperwork and expenses
 961 involved in the Handling Plan. Merrill Clark stated her support for IPM methods of pest
 962 control, including exclusion of breeding environments, improved sanitation, and
 963 restrictions of habitats, and repeated her opposition to the use of chemicals for
 964 controlling pests in certified organic facilities. Merrill Clark moved, seconded by
 965 Kinsman to delete "chemicals" at line 191 and replace with "approved National List
 966 materials." VOTE: Yes - 4. Opposed - 8. Abstain - 1. Failed. VOTE on the Organic
 967 Handling Plan as a Board Final Recommendation: Yes - 11. Oppose - 2. Passed.
- 968 The Processing Committee then requested the Board to consider accepting the **Good**
 969 **Manufacturing Practices (GMP)** as a Board Draft Recommendation. First, it was noted
 970 that a commentary had now been created in response to public input sent in to the

971 Committee. Weakley stressed that preventing loss of organic integrity was central as the
972 basic principle of good organic manufacturing practices. Theuer made a motion,
973 seconded by Weakley, to add at line 40 after "materials" the words, "or on the list of
974 prohibited naturals." VOTE: Yes - 10. Abstain - 3. Passed.

975 Weakley discussed the Committee's previously mailed list of proposed changes to the
976 GMP document. Friedman moved and Theuer seconded to approve #1 on the list as
977 written and #2 on the list with the following revision: add after "materials" on the second
978 line, the words "or appear on the National List of prohibited natural materials". VOTE:
979 Yes - 10. Abstain - 2. Passed.

980 Stoneback moved and Theuer seconded to accept #3 regarding boiler water. The reason
981 for the change was cited as being to specify preventive practices rather than testing for
982 residues. VOTE: Yes - 10. Abstain - 2. Passed.

983 Kahn moved and Eppley seconded to accept #4 on the list about water used in handling.
984 Sligh stated his concerns that organic integrity is compromised if the same water from a
985 conventional product rinse is utilized on organic products. Crossley from Health Valley
986 replied that a thorough final clean water rinse would eliminate the potential for residual
987 chemicals. Kahn modified his motion to include "thorough" before "final clear water".
988 VOTE: Yes - 9. Abstain - 2. Passed.

989 Weakley moved and Theuer seconded to accept #5 on the list about ionizing radiation.
990 Weakley explained that a very low level of radiation for inspection of organic food could
991 be allowed, whereas the much higher dose for killing insects and microorganisms should
992 not be permitted if integrity is to be maintained. VOTE: yes - unanimous. Passed.
993 After mentioning that USDA should ascertain the correctness of the CFR citations,
994 Friedman moved and Eppley seconded to accept the **Good Manufacturing Practices**
995 document as a Board Draft Recommendation. VOTE: Yes - 11. Abstain - 1. Passed.

996 Accreditation Committee

997 The discussion on revisions to Accreditation Draft #10 were renewed after a short
998 break. Margaret Clark clarified that "transparency" as referenced in the draft should be
999 defined as "the public knows how decisions are reached." Weakley expressed concerns
1000 that the draft exceeds the intent of the OFPA.

1001 On page 11 of Draft #10, Margaret Clark seconded a motion from Weakley that at line
1002 409-410, the wording "the definition of organic foods includes the availability of" be
1003 deleted and the word "basic" be added at line 410 before "information" and the words "is
1004 available" be added following "etc." on line 411. Also, "related" on line 414 is to be
1005 deleted and "consumers" on line 415 should be changed to "consumer." VOTE: Yes -
1006 unanimous. Passed.

1 Margaret Clark explained other revisions that she was proposing at this time. On line

1008 419, delete "records" and insert "information" and add "and to records by" before
1009 "Secretary." On line 426, delete "in the organic plan prepared by". On lines 508-511,
1010 change item #12 to item #11 and add a new subsection B at line 515 entitled Public
1011 Access to Production and Handling Information. Lines 409-416 are to be moved to this
1012 new subsection B as are lines 508-511 and lines 460-468. Weakley read the following list
1013 of items to also be inserted under Subsection B: "operation name; address; phone; total
1014 acreage farmed; organic acreage farmed; crops grown; growing practices; inspection date;
1015 inspector's name; parcel identification; dates of last prohibited material use; certification
1016 status; and conditions for certification." (Note: see Board decision on public access as
1017 stated on page 29).

1018 The existing subsection B would be changed to letter C and remain entitled, Records
1019 required to be kept by certifier and available upon request to the Secretary or his
1020 representative. VOTE: Unanimous consensus was given by the Board to accept all of
1021 the above recommended changes.

1022 Lines 452-459 concerning records of ingredients and inputs were deliberated next. First,
1023 however, at line 449, Clark proposed: deleting "of all organic ingredients" and replacing it
1024 with "all products handled and all organic ingredients used"; at line 450, delete "made
1025 and"; at line 452, after "inputs", delete "and/or raw ingredients used....quantity", and
1026 replace with "products handled, and date, source, lot number, and quantity"; and, at line
1027 454, delete "date, quantity" and replace with "date, source lot number, quantity". Second
1028 by Weakley. VOTE: Yes - 11. Opposed - 1. Abstain - 1. Passed.

1029 Weakley moved and Quinn seconded that at the end of line 459, the following language
1030 be added: "On at least an annual basis, certifying agencies or their inspectors must
1031 conduct at least one random product commodity tracking within the farmer entity
1032 certified for each certified producer and handler." Kahn offered a friendly amendment
1033 that was accepted. His amendment was to delete the Weakley motion wording after
1034 "tracking" and substitute "that demonstrates the steps of production or manufacturing
1035 prior to the shipment of that product from the premises of that farm or manufacturer."
1036 VOTE: Yes - 12. Abstain - 1. Passed.

1037 Sligh made a motion and Stoneback seconded that at lines 475 and 478, "equal(s)" be
1038 changed to "means" and "basic" be inserted before "information" on lines 476 and 478.
1039 VOTE: Yes - unanimous.

1040 Sligh then moved, again seconded by Stoneback, that at line 496 "covering both the
1041 competence of inspectors and their assignment" be added after "criteria." VOTE: Yes -
1042 11. Opposed - 2. Passed.

1043 Turning to page 8, Sligh moved and Eppley seconded to add on line 308, between
1044 "especially" and "contamination", the phrase: "adherence to the Organic Handling Plan
1045 and"... Also, on line 309, add "and water" after "soil." VOTE: Yes - 12. Abstain - 1.

1046 Passed.

1047 Regarding disclosure of certifying agencies fiscal activities on page 14 at line 529,
1048 Weakley moved and Theuer seconded to delete "full and clear" and start the sentence
1049 with "Disclosure to the Secretary of Agriculture". VOTE: Yes - unanimous. Passed.

1050 In the Purposes of Accreditation section on page 4, line 156-158, Weakley moved and
1051 Sligh seconded to delete the phrase: "shall be determined by USDA to not be
1052 inconsistent with the standards prescribed by the OFPA." Additionally, at line 155-156,
1053 replace "shall further the purposes of" with "not be in conflict with the National Organic
1054 Standards". VOTE: Yes - 10. Opposed - 3. Passed.

1055 The Board then reviewed again the public access section of the recommendation,
1056 especially the list of information that CCOF makes available to the public. Quinn stated
1057 his objection to the extent of information as listed and expressed his belief that much of
1058 this information actually should remain confidential. Theuer moved and Sligh seconded
1059 to defer this issue of the public access section to the Accreditation Committee and
1060 subsequently back to the Board for further development. VOTE: Yes - unanimous.
1061 Passed.

1062 Attempting to increase the breadth of the Accreditation document by including areas
1 contained in the American National Standards Institute (ANSI) document on
1064 accreditation of bodies, Friedman moved and Kinsman seconded to expand the Table of
1065 Contents with the following categories and requested the Accreditation Committee to
1066 develop language addressing the categories:
1067 1. Control of the use of the certifier's mark or symbol;
1068 2. Control of the USDA shield by the certifying agency;
1069 3. Cost of certification; and
1070 4. Suspension or termination of accreditation.
1071 VOTE: Yes - unanimous. Passed.

1072 Kahn moved that a section also be developed and included in the Table of Contents
1073 regarding a "Minor Infractions Policy" that the Crops Committee believes should be
1074 handled at the discretion of the certifying agency and based on a system to be developed
1075 by the certifying agency. Sligh seconded the motion. Extensive debate centered on who
1076 would define "minor infraction" and the feasibility of requesting each certifying agency to
1077 define minor infraction. Acknowledging the comments of the Board, Kahn withdrew the
1078 motion.

1079 Recognizing the importance of a national uniform policy on handling of minor
1080 infractions, Margaret Clark substituted a motion that called for the Accreditation
1081 Committee to develop appropriate language to advise the USDA and certifying agencies
1082 on evaluating minor certification infractions. Merrill Clark seconded. VOTE: Yes - 11.
3 Abstain - 2. Passed.

1084 Friedman made a motion attempting to expand the wording on the certificant appeal
1085 process. His proposed motion language, seconded by Kahn, was to replace the seventh
1086 step in the certification process as stated on line 240 on page 6 with: "Procedures relating
1087 to the handling of complaints and appeals of adverse determinations by the certifying
1088 agency. VOTE: Yes -12. Abstain - 1. Passed.

1089 Friedman also moved, seconded by Theuer, to delete lines 1006-1044 on pages 26 and 27
1090 and replace them with: "Any person adversely affected by any final action or decision of
1091 the secretary's Accreditation Program or a governing State official, shall have access to
1092 an expedited appeals procedure. Any expedited appeals procedure shall not curtail the
1093 due process rights of the party bringing the appeal and shall account for the need of
1094 accredited entities to accommodate the needs of their certified producers and handlers."
1095 VOTE: Yes - 5. Opposed - 6. Abstain - 2. Failed.

1096 Continuing on with proposed amendments, Friedman moved, second by Theuer, that
1097 lines 1008-1009 addressing the Secretary's authority within the review process be deleted.
1098 Sligh explained that his main objective was that AMS Organic Staff not handle the
1099 appeals decisions. VOTE: Yes - 1. Opposed - 9. Abstain - 3. Failed.

1100 Friedman then moved that at line 1006, the "National Organic Production Program" be
1101 changed to "Secretary's Accreditation Program". Tim Sullivan stated that all USDA
1102 Organic Program actions, not just the Accreditation Program, should be subject to an
1103 expedited appeal process. Friedman said he would want only Accreditation Program
1104 decisions to come under this appeals process. VOTE: Yes - 4. Opposed - 5. Abstain -
1105 4. Failed.

1106 Taylor motioned and Friedman seconded to strike on line 1008: "in all cases" and change
1107 "must" to "may". VOTE: Yes - 3. Opposed - 10. Failed.

1108 Returning to the discussion from a previous day of the particulars of evaluation site
1109 visits, Friedman moved and Quinn seconded to insert the following language on page 20
1110 at line 765 and delete lines 765-772 as they are written: "An international organic
1111 standards organization that is recognized by the Secretary for purposes of accreditation
1112 of certifying agents may perform on-site evaluations in the United States. Any on-site
1113 evaluation performed by such entity may, at the discretion of the Secretary, constitute
1114 compliance with the on-site evaluation requirement appearing in the Secretary's domestic
1115 accreditation program provided that: (1) All written reports or documents produced or
1116 resulting from the on-site evaluation by such organization shall be provided to the
1117 Secretary; and (2) Such documents and reports become part of the permanent record of
1118 the certifying agent held by the Secretary. VOTE: Yes - unanimous. Passed.

1119 At the conclusion of Friedman's amendments, Quinn moved to accept Accreditation
1120 Draft #10 as a Board Final Recommendation. Following a second by Eppley, the Board
1121 VOTE was: Yes - unanimous. Passed.

1122 Livestock Committee

1123 At the conclusion of the passage of Accreditation Draft #10, Board members tackled the
1124 **Parasiticide** section of the livestock comprehensive document before adjournment. After
1125 briefly discussing the slaughter stock subsection of the recommendation, Kinsman made a
1126 motion, seconded by Merrill Clark, to withdraw all previous motions pertaining to the
1127 parasiticide document, except for the motion incorporating the addendum into the
1128 recommendation. VOTE: Yes - 12. Abstain - 1. Passed.

1129 Once the recommendation was returned to its original content except for the additional
1130 addendum wording, Friedman moved that at line 479 the following language be added:
1131 "Any deviations from the above standards shall be species specific and be set forth in a
1132 separate document. Such review shall include, but not be limited to, sheep, goats and
1133 swine." He also requested that on line 473, the parasiticide withdrawal time for dairy
1134 stock be changed to 90 days to be consistent with the antibiotic withdrawal time for dairy
1135 stock. Kinsman seconded both parts of the motion. VOTE: Yes - 11. Opposed - 1.
1136 Abstain - 1. Passed. Friedman then made the motion that was seconded by Theuer to
1137 accept the amended parasiticide recommendation document as a Board Final
1138 Recommendation. VOTE: Yes - 9. Abstain - 1. Absent - 2. Passed.

1139 The meeting adjourned at 3:30 pm to allow for an open forum on the approval of State
1 Organic Programs and the relation of State Programs to private certifying agencies.

1141 JUNE 5, 1994

1142 Members in attendance were: Robert Quinn, Gene Kahn, Nancy Taylor, Don Kinsman,
1143 Dean Eppley, K. Chandler, Tom Stoneback, Merrill Clark, Margaret Clark, Rich Theuer,
1144 Michael Sligh, Craig Weakley, Jay Friedman, and Victoria Smith from the New
1145 Hampshire Department of Agriculture.

1146 Staff members present from USDA were: Harold Ricker, Julie Anton, Michael Hankin,
1147 Ted Rogers, and Michael Johnson.

1148 Administrative matters were at the top of the agenda on Sunday so that decisions could
1149 be made before Dean Eppley and Don Kinsman departed at 9am.

1150 The first topic was to determine the site of the next Board meeting. Theuer moved and
1151 Quinn seconded that the meeting be held in California in October. Kahn agreed with
1152 the location and stated that California would be an excellent choice because of the size
1153 of the processed food industry in the State, because of the relevancy of the National List
1154 subject matter to the horticultural operations within the State, and because of the
1155 expertise on materials review located in the region. Contrastingly, Taylor supported
1156 Texas as the next location, but the Board approved California (during the week of
11 October 11-14, 1994) by a VOTE of: Yes - 7. Opposed - 2. Abstain - 4. Passed.

1158 Merrill Clark and Michael Sligh explained a proposal to host a public outreach seminar
1159 before the publication of the Proposed Rule. The seminar could be held in Washington,
1160 DC, and include many of the consumer advocacy organizations with the purpose of
1161 getting them involved during the development of the program rather than waiting for
1162 them to react to the USDA's rule proposals. Weakley stressed the importance of a
1163 meeting agenda structure and the clear presentation of information in an impartial
1164 manner. Stoneback suggested instead that USDA and the NOSB inform the press
1165 through a formal information presentation day which would be more constructive than
1166 such a seminar.

1167 Several persons offered the idea of having the seminar in conjunction with ExpoEast to
1168 be held in Baltimore in September. However, the Expo is accessible to industry
1169 participants only and is not accessible to the public. To further develop this idea, a
1170 NOSB task force was created consisting of Merrill Clark, Margaret Clark, Theuer,
1171 Kinsman and Sligh.

1172 Elections of officers for the next twelve months was conducted by Ricker acting on
1173 behalf of the Board. Eppley nominated Sligh to continue as Chairperson and Quinn
1174 seconded. Friedman nominated Weakley who declined. Weakley nominated Friedman
1175 and this was seconded by Theuer. Nominations were closed. Michael Sligh was re-
1176 elected as Chairperson.

1177 Chandler nominated Friedman as Vice-Chairperson and Kinsman seconded. Kahn
1178 nominated Margaret Clark and Sligh seconded. Nominations were closed. Jay Friedman
1179 was elected as Vice-Chairperson.

1180 Kahn moved that the position of Treasurer be suspended until appropriate
1181 responsibilities and clear work assignments are developed. VOTE: Yes - unanimous.
1182 Passed.

1183 Quinn moved and Weakley seconded that the responsibility for taking the minutes at
1184 NOSB meetings be assumed by the USDA and that the NOSB Secretary assist in the co-
1185 ordination efforts with USDA in preparing the official minutes for distribution and
1186 acceptance. VOTE: Yes - unanimous. Passed.

1187 Taylor nominated Eppley as Secretary of the NOSB but Eppley declined. Kahn moved
1188 and Theuer seconded that Kinsman be nominated as Secretary. Nominations were
1189 closed. Don Kinsman was unanimously selected as Secretary.

1190 Processing Committee

1191 Theuer led the Board through the last Recommendation, the Labeling document, that
1192 was scheduled to be considered at this Board meeting. Starting at page 7 of the **General**
1193 **Organic Food Labeling Standards**, he described how the Committee's definition of
1194 processing aid is different than FDA's. The FDA provides three situations for a

1195 processing aid that exempts that aid from having to be included in the ingredient listing.
1196 However, the Committee regards only the situation listed in the draft recommendation as
1197 permitting an exemption from the label listing, since the Committee believes that only
1198 when the processing aid is completely removed from the final product should it be
1199 exempt from being listed on the label. Theuer stated his support for the inclusion on the
1200 National List of all processing aids used even if the aid is removed from the food and
1201 would not be required to be listed on the label. Weakley moved and Kahn seconded to
1202 accept lines 147-157 as a Board Final Recommendation. VOTE: Yes - 10. Abstain - 1.
1203 Passed.

1204 Theuer then reviewed the Chair's previously mailed summary of changes suggested by
1205 the public, FDA and others that are primarily editorial in nature. The summary was
1206 identified as being split into two parts, technical corrections and technical amendments.
1207 Theuer moved and Weakley seconded that technical corrections 1, 2, and 3 be accepted.
1208 Also, on page 1, line 33 of the standards document, delete the period at the end of page
1209 1 and add "or by State or Federal inspectors." VOTE: Yes - 8. Opposed - 1. Abstain -
1210 1. Passed.

1211 After deciding that technical amendment 2 should not be accepted, technical amendment
1212 1 was proposed by Kahn and seconded by Taylor to be adopted. VOTE: Yes - 9.
1213 Opposed - 1. Abstain - 1. Passed. Kahn then moved and Margaret Clark seconded to
1214 accept page 1, lines 1-33 as amended, as a Board Final Recommendation. VOTE: Yes -
1215 9. Abstain - 1. Passed.

1216 Board members and attendees entered into a discussion as to how certifying agencies
1217 would verify the percentage of organic ingredients in a finished product. Eric Ardapple
1218 Kindberg suggested that the percentage would be included in the processor application
1219 to the certifying agency and would be verified during the initial inspection. Joe Smillie
1220 supported this approach and stressed that the certifying agency should have leeway in the
1221 verification method used. Smillie read a statement from OFPANA that supported the
1222 idea of categories of percentage organic ingredients defining labeling allowances of the
1223 use of "organic", but which was adamant against the notion of requiring exact percentage
1224 listing anywhere on the label because of costs involved and anticipated enforcement
1225 difficulties. Theuer asserted that consumers want the percentage labeling requirement.
1226 Rogers of USDA elaborated on the FDA position that percentage labeling would be an
1227 unenforceable provision of the Organic Program.

1228 Friedman moved and Kahn seconded that at line 32 of page 1 of the recommendation,
1229 the words from "shall" to the end of the page be deleted and replaced with: "shall be
1230 calculated by the handler and verified by a certifying agency accredited by the Secretary
1231 through documentary submissions and spot checks. Each handler shall be subject to not
1232 less than one spot check for each year of certification." VOTE: Yes - unanimous.
1233 Passed.

1234 Members of the OFPANA Board of Directors read a statement before having to leave
1235 the meeting for their own Board meeting. The following issues were covered in the
1236 statement:

- 1237 1. Strict control should be exerted over the language and type size labeling
1238 standards for the greater than 50% organic ingredients category. In this category,
1239 "Organic" should be used as a modifier of the ingredients and not as a description
1240 of the finished product. There also was concern expressed that this category not
1241 allow preservatives, artificial flavors and colors, or other additives that are not
1242 permitted for the greater than 95% organic ingredients category.
- 1243 2. A phase-in implementation for processors who are currently certified.
- 1244 3. Industry supports the Technical Advisory Panel process and will assist in
1245 achieving an expedient review of substances.
- 1246 4. A few synthetic substances in the greater than 95% category are necessary, yet
1247 the industry is sensitive to those consumers wanting organic processed foods made
1248 entirely without synthetic ingredients.

1249 Returning to the amendments page, Theuer moved and Friedman seconded to accept
1250 technical amendments 3 and 4 into the document. VOTE: Yes - 7. Opposed - 2.
1251 Abstain - 1. After comments were made about the extension of the premise set forth in
1252 technical amendments 3 and 4 to vegetables, juice, and other products, Quinn moved and
1253 Margaret Clark seconded to reconsider the previous motion. VOTE to reconsider: Yes
1254 - 9. Opposed - 1. Technical amendments 3 and 4 are not accepted into the document.

1255 Sligh moved and Theuer seconded to accept technical corrections 4, 5, 6, and 7. VOTE:
1256 Yes - unanimous. Passed.

1257 On page 3 (2B) of the recommendation document, Theuer asked if there were any
1258 comments about 2B, labeling recommendations for "organic foods." Merrill Clark
1259 repeated her position that percentage organic ingredients be placed on the principal
1260 display panel. Vickie Smith stated that many State regulations do require the identity of
1261 the certifying agency on the label. Kahn moved and Margaret Clark seconded that lines
1262 56-77 (2B) on page 3 be accepted as a Board Final Recommendation. VOTE: Yes - 9.
1263 Opposed - 2. Passed.

1264 On page 5 (3B), lines 100-120, Kahn moved and Margaret Clark seconded to accept the
1265 language as Board Final Recommendation. Before conducting the vote, the Board first
1266 adopted that on line 119 after "ingredients", the period would be deleted and the phrase
1267 "and must not list both organic and non-organic ingredients in conjunction with the word
1268 "organic" would be added. VOTE on lines 100-120 as amended: Yes - 8. Opposed - 1.
1269 Abstain - 2. Passed.

1270 Theuer explained that the Committee is not bringing forth pages 2, 4, and 6 regarding
1271 composition and processing requirements for the three categories as well as labeling
1272 standards for "foods that are labeled with an ingredient declaration as containing organic

1273 ingredient(s)." Discussing these pages at this time, he continued, would be premature
1274 since information from the National List substance review process is essential to
1275 decisions about composition requirements. The Board did give unanimous consent to
1276 including lines 34-36 in the Board Final Recommendation document to indicate that
1277 language is to be developed later.

1278 Materials Review

1279 Theuer distributed a revised handout of the petition process that had been developed by
1280 a working group during the last two days. The steps listed are:

- 1281 1. Petitioner submits petition to USDA.
- 1282 2. USDA evaluates petition for documentary sufficiency.
- 1283 3. USDA notifies NOSB monthly.
- 1284 4. NOSB provides feedback, if any, to USDA and TAP coordinator.
- 1285 5. USDA sends petition to TAP coordinators.
- 1286 6. TAP coordinators compile 2118 criteria data (synthetic/natural) and send to
1287 NOSB for information monthly with progress report.
- 1288 7. TAP coordinators send out petition for review by TAP and agencies against
1289 2119(m) criteria.
- 1290 8. TAP returns evaluations to TAP coordinators.
- 1291 9. TAP coordinators review contents for completeness and if complete, they send
1292 package to NOSB, committee chairs and USDA.
- 1293 10. NOSB votes on petition (substance/use).
- 1294 11. NOSB makes recommendation to Secretary for amendments to the National
1295 List.
- 1296 12. USDA gives written response to petitioner.

1297 Theuer received Board consensus to provide by June 20 to the Board members for their
1298 review and approval a schema for Zea Sonnabend and John Brown to utilize in making
1299 the natural/synthetic determination at Step 6. If the members approve of the criteria in
1300 the schema, then Sonnabend and Brown could make the natural/synthetic evaluation
1301 without Board members voting on each substance before the substance enters the review
1302 process.

1303 Friedman moved and Quinn seconded to accept the petition process as amended.
1304 VOTE: Yes - unanimous. Passed.

1305 Ricker then announced that USDA would prepare a Federal Register entry describing
1306 the petition process in order to formally solicit candidate substances for the National
1307 List. The Board gave formal unanimous approval to Ricker's announcement.

1308 Concluding the meeting, Sligh discussed responsibilities during the period between the
1309 Santa Fe meeting and the next Board meeting. He noted that USDA will be compiling
1310 the Board Final Recommendations into one packet; preparing the minutes of the
1311 meeting for Board distribution; publishing the Federal Register petition process entry;

1312 compiling information for the materials review coordinators; developing the
1313 Accreditation program; and writing the program standards. USDA assured the Board
1314 members that the process will remain open and that comments and drafts will continue
1315 to be circulated. Board members stated that they would like to discuss phase-in
1316 implementation, guideline recommendations at the next meeting. They will also decide
1317 on a procedure for allowing, if necessary, amendments to Board Final Recommendations
1318 that arise from Committee discussions. Chandler indicated that he will be bringing to
1319 the Livestock Committee language to equalize feed and medication withdrawal
1320 requirements for dairy and slaughter stock.

1321 Finally, Sligh brought to the table the 5/27/94 paper entitled, "Ongoing Role of the
1322 NOSB" and led a discussion of the points contained in the document. Friedman
1323 requested that a comparison of the domestic standards with international standards
1324 should be added to the list. Quinn reiterated the need for recommendations for phase-in
1325 implementation for producers who currently are certified and for those who will be
1326 seeking certification after implementation. Ricker stated his objections to the oversight
1327 role that the Board was requesting, but fully supported the Board's objectives to provide
1328 recommendations on National List materials, broad program policies, and improvements
1329 in USDA programs that would further the Organic Program and benefit organic
1330 producers. The Executive Committee will reconsider the stated ongoing responsibilities
1331 of the NOSB and submit a revised proposed document for the next meeting.

1332 The meeting was adjourned at 11:30am.