

UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD

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MEETING

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TUESDAY,
NOVEMBER 18, 2008

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The board meeting was held at the
Savoy Suites Hotel, 2505 Wisconsin Avenue, NW,
Washington, DC, 20007, at 8:00 a.m., Rigoberto
Delgado, Chairperson, presiding.

PRESENT:

RIGOBERTO I. DELGADO, Chair
JEFFREY W. MOYER, Vice Chair
GERALD DAVIS

STEVE DEMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
DANIEL G. GIACOMINI
JENNIFER M. HALL
BEA E. JAMES

HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH SMILLIE
JULIE S. WEISMAN

STAFF PRESENT:

KATHERINE BENHAM

VALERIE FRANCES

ANDREW REGALADO

BARBARA ROBINSON

JUDITH RAGONESI

MARK BRADLEY

RICHARD MATTHEWS

ROBERT POOLER

SHANNON NALLY

RUIHONG GUO

VALERIE SCHMALE

TAMMIE WILLBURN

BABAK RASTGOUFARD

ZAHA LOMAX

SHAUNTA NEWBY

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

2 MR. DELGADO: Good morning. We
3 are starting this day two of our meeting. And
4 first of all, we have Ms. Weisman, and I would
5 like to thank whoever is responsible for these
6 wonderful and extended tables. It's Al.
7 Thank you.

8 (Applause.)

9 Welcome to all of you to day two.
10 We have also a busy schedule today, and we're
11 going to start with a discussion on the
12 recommendations on the part of all the
13 committees.

14 With nothing else to say, and
15 let's get back on schedule and start
16 immediately with our Policy Development
17 Committee chair, Dr. Barry Flamm, please.

18 POLICY DEVELOPMENT COMMITTEE

19 MR. FLAMM: The Policy Development
20 Committee has 10 recommendations for new
21 language in the policy development manual, the
22 policy procedure manual and in the new member

1 guide.

2 All this is a team effort of the
3 Policy Development Committee, so following
4 that concept, each of the members of the
5 committee will present. In most cases they
6 took the lead on it, but like I said, all this
7 was a team effort.

8 An important part of that team is
9 our esteemed chairperson, and he is not
10 available to make presentations, but he was a
11 major part in the development of all this.

12 So to lead off, Hugh, will you
13 present the technical directions, please.

14 MR. KARREMAN: Yes. Thank you
15 very much.

16 Okay. The first item we are going
17 to discuss in policy development is the
18 technical corrections. Basically technical
19 corrections are those actions needed to
20 slightly change some of the wording that
21 perhaps happened or were placed in the Federal
22 Register from a recommendation by the NOSB,

1 and then accepted by the Secretary. And those
2 changes sometimes -- for example, like with
3 the livestock medicines, the withholding times
4 came in through a little bit differently than
5 the NOSB recommended, and due to external
6 reasons -- nothing the NOSB could have really
7 done, because the FDA weighed in, but the
8 recommendation came through differently in the
9 Federal Register, and then was voted on by the
10 NOSB.

11 As well as -- so that would be
12 like one example. Something perhaps needing
13 a technical correction or we need to be aware
14 of sooner than later as a board.

15 A second example would be
16 unforeseen consequences of a recommendation
17 voted on by the board that might require more
18 annotations to fit the needs of the industry.
19 The example given is the absence of an
20 explicit description of what methods of
21 extraction are allowed for specific materials,
22 and if it's not annotated correctly, it could

1 result in the unwanted use of materials
2 extracted using prohibited extraction such as
3 hexane with the colors on 606, using hexane
4 and ethanol. They were not reviewed, but
5 water and oil extraction were.

6 So basically, you know, the
7 recommendation needs maybe some tweaking, but
8 it's already gone into the Federal Register.

9 So what we recommend is -- it's an
10 internal NOSB thing within the policy and
11 procedures manual, and so what we are
12 recommending is to minimize the confusion in
13 the organic community, the board needs to
14 monitor and correct discrepancies between
15 items which have been voted on and their
16 subsequent insertion in the Register. When --
17 some examples I just mentioned.

18 So here are the three steps that
19 we would like to recommend. The secretary of
20 the board, with the assistance of the National
21 Organic Standards Board executive director,
22 shall review all additions to the Federal

1 Register and report to the board any
2 discrepancies between board recommendations
3 and those published in the Federal Register.

4 Two, when the program incorporates
5 changes to recommendations voted and presented
6 by the board, the program is expected to
7 communicate these changes prior to final
8 action by the program to the board chair, vice
9 chair, and secretary.

10 The board chair, vice chair, and
11 secretary will report such activities to the
12 board and then work with the program in order
13 to assist the program in stating the exact
14 reasons for such deviations in the preamble to
15 the rule for changes posted.

16 And then three, in the cases of
17 unintended consequences, with a published
18 recommendation, the chair of the board, with
19 the approval of the executive committee, will
20 assign an appropriate committee to resolve the
21 issue.

22 The Policy Development Committee

1 moved three in favor and zero opposed to
2 accept this part of our policy manual.

3 There you go, Barry.

4 MR. FLAMM: Thank you.

5 MR. DELGADO: Any public comments,
6 please? Are there any questions? Why don't
7 we wait until the end of the presentation and
8 then we'll ask for comments and feedback from
9 the board.

10 So proceed with our next item.

11 MS. JAMES: Mr. Chairman just
12 asked me to summarize the recommendations so
13 that we can get through these 10 quickly.

14 So the next one is procedures for
15 handling public comments at NOSB meetings, and
16 in a nutshell this recommendation was crafted
17 based on the desire for the board to have
18 dinner before 10.

19 (Laughter.)

20 MS. JAMES: And that summarizes
21 it. No.

22 The recommendation takes a current

1 NOSB policy for public comment at NOSB
2 meetings and it strengthens it by further
3 defining public comment into eight points. I
4 won't go into all of those eight points, but
5 just talk mostly about the changes that are
6 highlighted in the recommendation.

7 Point one remains the same.

8 Point two states that presenters
9 are encouraged to submit public comment in
10 advance so that the NOSB can review
11 recommendations electronically and we can save
12 on the paper distribution at meetings.

13 Point three states that all
14 persons called upon who are absent from the
15 room could miss their opportunity to speak.

16 Point four includes the addition
17 of the discretion of the chair to extend time
18 past five minutes of sign-up.

19 Point five requests presenters to
20 state their name and affiliation at the
21 beginning of their public comment.

22 Point six stays the same.

1 Point seven states that presenters
2 should not speak for more than 10 minutes
3 unless otherwise indicated by the chair. The
4 main thing there was "unless otherwise
5 indicated by the chair" was added.

6 And point eight stays the same.

7 There's also -- we also added
8 additional suggestions from the board into
9 three different bullet points, and to
10 summarize those:

11 Point one is that the NOSB will
12 attempt to accommodate all persons requesting
13 public comment. However, if people sign up at
14 the last minute or that -- okay. Persons who
15 have signed up to address the NOSB for their
16 five-minute slot and have also served as a
17 proxy for another person will be placed on a
18 waiting list if they wish to speak for a third
19 time on the same topic and will be considered
20 at the discretion of the chair, depending on
21 the availability of the time. And this should
22 allow more members of the public time to

1 present, and the main point there is really
2 just to make sure that we're allowing all
3 people, particularly people who haven't signed
4 up to speak, the opportunity to speak.

5 And then the next bullet is that
6 members of the public are asked to define
7 clearly and succinctly the issues that they
8 are trying to address so that we are -- at the
9 beginning so that we are really clear on what
10 it is that you are lobbying for.

11 And the third one is members of
12 the public should be considerate about
13 speaking more than one time on the same topic
14 to allow more members of the public the
15 opportunity to speak.

16 And those last three bullets that
17 I just read are really in consideration. The
18 board would like you to consider it. It's not
19 something that is required.

20 That pretty much concludes the
21 public comment recommendation.

22 MR. FLAMM: And next we continue

1 with the election of officers?

2 MS. JAMES: Yes. Okay,
3 recommendation for guidelines for developing -
4 - let's see here -- for further process for
5 the election of officers.

6 The main point of this
7 recommendation is that during the election of
8 officers, it's usually at the very end of our
9 meetings, and we developed this so that we can
10 actually get out of here to catch our flights.
11 So that's the main point of that
12 recommendation.

13 The first part of the
14 recommendation adds the election of officers
15 as part of the officers' duties. That was
16 never clearly defined in the policy and
17 procedure manual.

18 The second part of the
19 recommendation outlines a process for the
20 election of officers, including defining
21 exactly what those steps will be. We divided
22 it up into point A, B, C, and D, which include

1 nominations.

2 Point A is nominations.

3 Point B, the voting schedule.

4 Point C, eligibility of the vote.

5 And Point D, counting procedures

6 for the vote.

7 And there's further explanation of
8 exactly what those points involve.

9 And unless there's questions
10 later, that summarizes that recommendation.

11 MR. FLAMM: And finally the
12 committee work plans.

13 MS. JAMES: Okay. The last
14 recommendation is for the guidelines for
15 developing committee work plans. This
16 recommendation outlines that the committee
17 chair, working with the committee, should
18 follow three general steps in producing a work
19 plan.

20 One, list all the issues before
21 the committee.

22 Prioritize the issues.

1 Three, set a calendar or timeline
2 to complete your plan.

3 And four, obtain feedback from the
4 executive committee as well as the program.

5 And then further action points to
6 assist these steps are also outlined on the
7 recommendation.

8 MR. FLAMM: Thank you.

9 MR. KARREMAN: The next
10 recommendations on sunset. I found when I
11 came on the board earlier this year in reading
12 the manual of -- both manuals that I found I
13 was totally lost at what sunset was about.

14 There was not sufficient
15 background, and the charts were confusing and
16 so forth.

17 So we took on during this round to
18 try to provide a clarification for the policy
19 and procedure manual through outline of what
20 has been done and present it in a simplified
21 fashion, giving background and so forth.

22 One of the keys, I think, of a

1 beautiful flow chart that Rigo developed that
2 if you follow it closely and line it up with
3 the steps in the narrative, it pretty much
4 outlines what happens in the sunset.

5 Sunset is described and the sunset
6 procedure is required under the act. There
7 never was regulations actually issued on this,
8 so the procedures have evolved over time.

9 I think as you see -- and I won't
10 go into all the details, but what is outlined
11 here is I think a balanced process of
12 considering all the evidence from the previous
13 -- from the initial petition, TAPS, whatever
14 was available at that time, plus new
15 information, comments from the public, and the
16 expertise of the assigned committees.

17 So in summary this outlines the
18 process in ways that hopefully it's clear to
19 the public and clear to the members of the
20 board.

21 The next is recommendations.

22 Hugh, would you present that, please.

1 MR. KARREMAN: The next
2 recommendation is -- it's to formulate. It's
3 basically the structure of how to formulate a
4 committee recommendation to provide
5 consistency in the content of all NOSB
6 recommendations.

7 Essentially there's six parts.
8 The introduction basically is a brief summary
9 of the recommendation.

10 Then a background section that
11 should present the issues that justify the
12 development of the recommendation, any
13 relevant task work.

14 Third part would be relevant areas
15 in the rules that the recommendation hinges
16 upon or in OFPA.

17 And then a discussion which could
18 expand on the intent of the recommendation,
19 showing its strengths, weaknesses,
20 opportunities, and threats.

21 And the fifth part is the
22 recommendation itself, is the core or

1 deliverable of the recommendation.

2 And then the sixth part would show
3 the committee vote, and then if there's a
4 minority opinion, that would be attached after
5 where the committee vote is shown.

6 MR. FLAMM: And now we move to
7 recommendations. We have a couple of
8 recommendations with the new member guide.
9 Bea, would you discuss the recommendation on
10 training?

11 MS. JAMES: Yes. This is very
12 simple. With the new member guide, we just
13 added the addition of new members making sure
14 that they read the FACA training PowerPoint
15 that Valerie has put together, which is
16 located on the nationalegglosscenter.org Web
17 site.

18 That's it.

19 MR. FLAMM: Actually a fifth
20 member of our team -- we always treat her like
21 a member of the team -- is Valerie Frances,
22 and she works with us on all these

1 recommendations and makes the link, helps us,
2 certainly helps me continuously.

3 The last item for the new member
4 guide is a database update, and Valerie, would
5 you present that, please?

6 MS. FRANCES: Barbara alluded to
7 this yesterday. It's certainly in her report
8 in response to Tracy's questions to what
9 happens to all the recommendations. And this
10 has been an ongoing project since I began, and
11 back -- I archived, you know, to the best of
12 my ability on every recommendation made by the
13 board. I still find some as I go, and I
14 incorporated that into an Excel spreadsheet,
15 although I've had to go through the process
16 now of updating every link there because we
17 redid our entire Web site. So all my links
18 were how the Web site used to be set up.

19 I'm also now beginning a process
20 of creating worksheets within that that then
21 archive the history of specific issues, and so
22 anytime anybody asks me a question, I research

1 the issue and lay it all out on each
2 worksheet, the whole history of that issue.

3 So working towards, really, a more
4 workable -- I think of it as a Rubik's cube,
5 you know, in how data works, and would like to
6 get us to a place where we can utilize this
7 and even put on the Web site somehow, but
8 begin to look at those recommendations that
9 are out there that were either guidances or
10 rule changes that we just haven't gotten to,
11 how to triage them, and what more work needs
12 to be done or, you know, give us some sort of
13 status, will work ever be done on it. Just
14 try to bring everything up to date. And so
15 that's an ongoing project that I'm working on.
16 So that's where that's at.

17 MR. FLAMM: Thank you. Before I
18 ask if there's any comments or questions from
19 the board, I neglected to mention on sunset
20 that we did receive a couple of public
21 comments, two of which dealt with the question
22 of annotations and the language in the

1 recommendation on annotations has been in the
2 new member guide all along, which is that the
3 material is evaluated in sunset as it was
4 listed in the annotations.

5 I'm not sure whether the way we
6 had this written confused the commenters or
7 not, but in any case, we did have two
8 questions that raised it, asking why didn't
9 NOSB look at annotations after sunset, and in
10 fact I think we do.

11 So I just wanted to add that to my
12 previous comments.

13 So now I guess we'll entertain
14 questions and comments, and you can direct
15 your question to the -- at least initially to
16 the person who made the report. Is that
17 right, Mr. Chairman?

18 MR. DELGADO: That's fine. Any
19 questions --

20 MR. FLAMM: How much time do we
21 have for questions?

22 MR. DELGADO: Not very much, but

1 we're in discussion mode. So are there any
2 questions for the Policy Development team?
3 Any clarifications? Yes. Tracy.

4 MS. MIEDEMA: I had one on just
5 developing committee work plans. This has
6 been something that's been a little bit
7 confusing to me all along. It's sort of what
8 seems to percolate to the surface, and I
9 really am pleased to see more rigor to how we
10 build our work plan.

11 But I don't see anything in here
12 that talks about the NOP asking us to take up
13 issues, and from what I heard yesterday, that
14 those recommendations are actually the ones
15 most likely to get acted upon.

16 I want to make sure that we are
17 prioritizing that work. So if you could just
18 help me understand. In the section it talks
19 about identifying all issues, where that
20 falls, what the program, or what the Secretary
21 of Agriculture would like us to work on.

22 MS. JAMES: Tracy, it's the third

1 point down, special petitions from the
2 National Organic Program, such as
3 clarifications on a particular issue or
4 guidance, but maybe we used the wrong word by
5 saying special petitions.

6 MS. MIEDEMA: Because normally the
7 way the NOP requests come to us is in a much
8 less formal manner. It's usually on a
9 conference call. It's in this room. And
10 we're only talking about building our work
11 plan, and the special petition goes from us to
12 the team, the highest priority work landing on
13 the work plan.

14 MS. JAMES: Maybe it should say
15 request or suggestions from?

16 MR. FLAMM: I think we had
17 discussions at our executive committee on how
18 some of this will be sorted out, in
19 discussions with her, and maybe that didn't
20 come across as clear as we intended.

21 MR. DELGADO: Very good.
22 Wonderful question.

1 Any other -- Tracy, any others?

2 Dan?

3 MR. GIACOMINI: Thank you, Mr.

4 Chairman.

5 I think there's just a few things
6 on a couple of these that I think might do
7 with some constructive tweaking. In the
8 election of officers, under the voting
9 schedule, we say new officers resume the
10 position after the fall board meeting. I
11 believe historically it has been after the
12 election, at the conclusion of the meeting,
13 and the new officers actually are the ones who
14 close the meeting, if I have that -- if I
15 remember that correctly.

16 Also down in the counting of
17 votes, where we're dealing with ties and
18 revotes, I think it would be good to have an
19 allowance in there for a person to be able to
20 withdraw, which is not there now. But that
21 would help, be something that would help
22 clarify.

1 On the sunset document, one of the
2 things that I've noticed in the policy and
3 procedure manual that I think is an overall
4 view of something that we need to look at
5 working on and clarifying is that it tends to
6 say "approved" or "prohibited." Really,
7 everything, as we're listing things on the
8 national list, is what we approve, and it's
9 whether we're allowing it or prohibiting it.
10 It depends on what kind of a substance it is.
11 That's in the background on the sunset review.

12 I would suggest something along
13 the lines of continued listing of an exempted
14 material already listed on the national list,
15 rather than talking about approved or
16 prohibited.

17 Also, I think it would be very
18 constructive in the sunset process, since one
19 of the aspects of the sunset process is what
20 is new, is to include a review of the original
21 recommendation.

22 And I would suggest that -- I

1 would recommend adding that to the document.

2 MR. FLAMM: That would definitely
3 be in there, Dan. Maybe our language wasn't
4 clear enough.

5 MR. DELGADO: Anything else, Dan?
6 Hugh?

7 MR. KARREMAN: It's kind of
8 wordsmithing, just wondering on the discussion
9 that as far as when we look at things for
10 sunset and we re-review, you know, what was
11 the original petition, Dan, what if at the
12 time of the original petition, due to need for
13 a particular product, whatever it is, you
14 know, we look at the checklist and we look at
15 all the information, and I think I'd be honest
16 to say that sometimes things -- let's say
17 there's like potential harm to the people in
18 the factory that make a particular material,
19 I think that is one of the checklist items,
20 you know, and that's manufactured, that not
21 all the checklist items seem to always be
22 given equal weight, depending on what the

1 material is and what might be needed. And so
2 that in the future at sunset, it may be --
3 it's going to be a different sitting board
4 that, you know, that that item may mean
5 something different, you know, harmful to the
6 people in the manufacturing of material, than
7 it did to the original board, and I think it
8 would be okay to look at that differently by
9 people on the future board, even though it's
10 the same -- literally the same information,
11 but it was just viewed differently previously.

12 MR. DELGADO: Dan?

13 MR. GIACOMINI: That's always a
14 possibility, but we can't get there unless we
15 include in the process of sunset the review of
16 the original document. So I mean that's --
17 you know, this is what we're looking at here,
18 is what do we put in this document, and I
19 think we need to include that we should
20 recommend that we go back and we get that
21 original recommendation.

22 MR. KARREMAN: Agreed.

1 MR. DELGADO: Any other comments?

2 Does that conclude your

3 presentation? Thank you very much, and I

4 congratulate you on your wonderful work this

5 year as chair of the Policy Committee. In

6 spite of the fact that you're the newest

7 member of the board, you had the courage to

8 step up and take over the committee. I

9 congratulate you for that.

10 Moving on then to the next point,

11 we have a Joint Materials and Policy

12 Development Committee work, and the chair of

13 the Materials Committee will give us their

14 presentation. Dan.

15 MR. GIACOMINI: Thank you, Mr.

16 Chairman.

17 JOINT MATERIALS AND POLICY DEVELOPMENT

18 COMMITTEE

19 MR. GIACOMINI: The evolution as

20 the program and the industry has grown, we've

21 had a number of inputs into that along the

22 lines of lawsuits and changes in viewing of

1 how things and what things go on the national
2 list and how they are required to be there,
3 has forced the -- sort of the reevaluation of
4 handling this process. It significantly came
5 to the fore in the review of the 606 items on
6 the question of whether they had been properly
7 TAP'd as required by OFPA.

8 The program in consultation with
9 general counsel, as Richard said yesterday,
10 reviewed that and the determination has been
11 that the board can serve, and members of the
12 board, committees of the board, can serve as
13 the TAP review, but at the same time we all
14 recognize the need for additional expertise,
15 and additional knowledge and outside of the
16 board, and in some situations the workload
17 would just be unbearable for the board to
18 handle, even when we do have the expertise.

19 So this is a clarification of that
20 development of the process. We do need to do
21 some tweaking in this along the lines of who
22 convenes the technical review, actually.

1 So -- and that is the process
2 we're clarifying here, is that the -- in a
3 sense the board is serving as a TAP when
4 necessary, when possible. There are certain
5 things in the 606, raw ingredient items and
6 agriculture, that do not need generally the
7 outside additional review.

8 But the -- so there's a
9 clarification that the outside third party
10 review is now being -- has been reviewed
11 according to the program as the technical
12 review to supplement the TAP when necessary.

13 That's the essence. We also go
14 into and review the process of developing
15 questions, specific questions within the
16 committee, to ask for the technical review and
17 to ask for that technical review to be done,
18 and we further list things to evaluate those
19 reviews when they are completed.

20 That's the essence of the
21 document. There are a few things that need to
22 be tweaked from public comment, a few other

1 items that need to be worked on, but that is
2 the essence of it, and I think as extensive a
3 document as it is, if anyone has specific
4 questions, we can deal with those.

5 MR. DELGADO: Okay. Thank you.
6 And I also have to remind the board that we
7 are in the process of presenting
8 recommendations. We are not done with public
9 input yet, so there is opportunity to update
10 those, make any changes to your
11 recommendations, just as the chair of the
12 Materials Committee will be doing.

13 At this point are there any
14 questions for the chair of the Materials
15 Committee? Bea.

16 MS. JAMES: Dan, yesterday we
17 heard some people talk a little bit about
18 their concern that the NOSB would actually
19 perform a TAP, and I was wondering if you
20 could give me your, you know, perspective on
21 that.

22 MR. GIACOMINI: Well, we have been

1 told that we are able to perform the TAP, but
2 that is not the say -- that is not the end of
3 the process, necessarily, if there's not the
4 time, not the expertise, and I think most
5 members of the board would generally prefer in
6 a technical item, in most of the synthetics,
7 most of the things that would go on everything
8 except 606, and include some of the things
9 that will be coming up on 606, that an outside
10 technical review, external technical review,
11 will be requested.

12 There's no effort within this
13 document and no intent of the document to in
14 any way decrease the external technical review
15 process. It's merely a way of handling the
16 requirement of OFPA to have these reviews
17 within the change of 606, was the main
18 emphasis to this.

19 MR. DELGADO: Julie?

20 MS. WEISMAN: Yes, I actually
21 wanted to just add a comment that maybe would
22 put things in a little perspective because I

1 have heard a lot of the fear in many people on
2 the board and in the room about this issue,
3 which is that before we started actively
4 needing and having to add materials onto 606,
5 there was no even possibility -- like every
6 material that was petitioned was going to need
7 an outside third-party technical review. And
8 when we first were presented with the
9 situation where we were now going to be
10 reviewing agricultural products, it only then
11 occurred to us that it's possible that some
12 things -- petition materials -- maybe don't
13 need third-party technical reviews, if they're
14 something very, you know, simple or raw or
15 whatever.

16 And we have also on the board gone
17 through a learning curve in realizing that
18 just because it's an agricultural product
19 doesn't mean that it's simple.

20 So there is no thought that just
21 because something is being petitioned for 606,
22 it will not get a third-party technical

1 review. It's only really that there is now
2 the possibility that sometimes there are
3 materials that will come along that perhaps
4 can be reviewed appropriately by the expertise
5 that's on the board if we have time to do it.

6 And so this is really only to open
7 up that possibility, not to propose some
8 radical change in how things have always been
9 done.

10 Is that fair?

11 MR. DELGADO: Any other questions,
12 comments? Dan.

13 MR. GIACOMINI: I'd just like to,
14 you know, if there's no questions, I'd like to
15 include that in addition to the issues brought
16 in public comment, the statement that I made
17 regarding the documents in -- other documents
18 in the policy and procedure manual is we will
19 try to go through this and clean up the
20 addition or removal, clarification that I
21 talked about, and also we are looking at on --
22 I can't tell you what page it is, because I

1 don't have -- Valerie, if you could go to the
2 page after procedure for handling technical
3 reviews. Next page.

4 We are looking at the C and E. We
5 are very interested -- the board is very
6 interested in knowing the effective
7 interactions in light of what has
8 affectionately been known as the Applegate
9 decision.

10 So -- and what that says is that
11 anything on the list, anything that interacts
12 with it, that -- yes, if you combine and you
13 create a new material, that new material is
14 also considered on the list.

15 So we are very interested in
16 including in the technical review what new
17 substances we may be allowing, as much as
18 possible, when any interactions and creation
19 of new materials come -- arise from what else
20 is on the national list.

21 But C and E is asking the question
22 of what interactions come from everything else

1 in the universe. And that's a little
2 burdensome, I think, in the technical review.

3 So we will be looking to modify
4 that to include a request for the result of
5 combinations of items already on the national
6 list in the same section. There's also no
7 value in knowing what interaction there is
8 from an item on 605 with 601.

9 So we will try and keep it
10 relevant. We will try and not over -- make it
11 overburdensome, but we believe that it's very
12 important that we know what those potential
13 things are moving forward.

14 MR. DELGADO: Any other questions?
15 Kevin.

16 MR. ENGELBERT: Just one quick one
17 as a reminder point, and maybe under
18 definitions, under technical advisory panel
19 you start out with a group of third-party
20 experts, and then under technical review, you
21 say a report prepared by a third-party expert,
22 singular. Maybe those two should be

1 coordinated to avoid confusion, that the
2 technical review could also be done by a group
3 of experts.

4 MR. GIACOMINI: One of the changes
5 we need -- additional changes we need to make
6 is deleting third party from the definition of
7 technical of the TAP, because that -- what we
8 are saying in this document is that the TAP
9 can be the board.

10 MR. DELGADO: Any other questions?
11 All right. Thank you, Mr. Chairman. Now we
12 are moving on to the next point, also handled
13 by the Materials Committee, and specific
14 recommendations. Back to you.

15 MATERIALS COMMITTEE

16 MR. GIACOMINI: Thank you, Mr.
17 Chairman.

18 This is the discussion on the
19 document to take items from the table. This
20 is purely a parliamentary procedure to try and
21 get things right. We have been requested in
22 public comment numerous of times -- numerous

1 times over the years to find out and to
2 satisfy and take care of all these old
3 petitions that have in one way or another gone
4 by the wayside and have never received full
5 final action.

6 In the process of that -- we are
7 working to do that, and we appreciate in the
8 public comment the lists that various
9 individuals have provided us of petitions that
10 have not seen the end light of day.

11 We are working with the program on
12 clarifying those, finding, figuring -- trying
13 to establish the status of those, and when
14 possible, if the interest is still within the
15 petitioner, of moving ahead with those.

16 One of the things that we found in
17 that process is that petitions were put aside
18 in various ways, and in dealing with that,
19 parliamentary -- within parliamentary
20 procedure a very typical way of shelving
21 something is to table it. It puts it up there
22 and you don't act on it again until you take

1 it off the table. Legislatively that's the
2 way a lot of things get killed, is to table
3 because you cannot take action on them again
4 legally within the rules of parliamentary
5 procedure without taking them from the table.

6 In the process of evaluating and
7 reviewing old petitions, we came across what
8 we believe are items that were tabled at the
9 board level. Therefore, they require action
10 at the board level to take them off the table
11 so that they can be reconsidered. That is not
12 to say that we are immediately going to go
13 into action on them; they will go back to the
14 program, the program will, if they are
15 multiple item petitions, be rejected. If they
16 are -- if they are individual items, they will
17 be -- the petitioner will be contacted to find
18 out if they still want to continue. If they
19 are very old petitions, the program may even
20 request that a new petition be submitted.

21 But -- and likewise, if that
22 action was taken at the committee level, then

1 it is the committee that can take the action
2 to take from the table.

3 But in this case, we believe that
4 these are -- it was not -- we tried to be as
5 inclusive and do as good a job as we could,
6 but we're not claiming in any way for anyone
7 think, and we certainly do not believe, that
8 this was an exhaustive process. We have not
9 reviewed the transcripts of every public
10 meeting of the NOSB since its inception, but
11 these seem to be items that we have found that
12 were tabled at the board level, and we are
13 merely trying to take the proper action to
14 bring them back into play.

15 Any questions?

16 MR. DELGADO: Questions? Gerry.

17 MR. DAVIS: In referencing some of
18 the public comment, one that specifically
19 lists several materials, that -- a couple of
20 them seem to be ones that it was actually in
21 the NOSB court when it was -- I don't know if
22 it was officially tabled, but using that

1 verbiage, but they seemed to have been in the
2 NOSB court, and now they are waiting for the
3 synthetic, nonsynthetic issue to be resolved.

4 The two materials I reference, for
5 example, would be phosphoric acid use in --
6 for pH adjustment in aquatic plant extracts,
7 ammonium bicarbonate.

8 Were those ones that would or
9 should be included on that list there, or is
10 that something different? Different status,
11 you think, than what you tried to list?

12 MR. GIACOMINI: I don't -- I was
13 not able to go through and track -- we were
14 not able to go through and track each of those
15 items to a particular meeting, to a particular
16 transcript.

17 But with the historical memory
18 that we were able to communicate with, a
19 number of these items, when they reached the
20 board level, are pulled back by the committee.
21 It's not the full formal vote of tabling at
22 the board level that is what we need to deal

1 with here. If it was tabled within the
2 committee, the committee can take it off.

3 MR. DAVIS: No, I understand. The
4 list that you made was stuff that was
5 officially tabled by the full board?

6 MR. GIACOMINI: At the full board
7 level. Technically it requires full board
8 action to bring back into play.

9 MR. DAVIS: Okay.

10 MR. GIACOMINI: And again, one of
11 the questions that was asked yesterday, well,
12 where did this come from? It came from the
13 request that we've had at almost probably
14 every meeting since I've been on the board to
15 try and deal with these old petitions. That's
16 what we're trying to do.

17 MR. DELGADO: Any other questions?

18 Just to follow up, Dan, do you
19 have an idea of how many materials we have
20 tabled at the committee level? And if so,
21 what would be the action item on that? Are
22 you planning on contacting the committee

1 chairs to try to get those moving? Give us a
2 status.

3 MR. GIACOMINI: Well, a number of
4 those old petitions that are on those lists
5 are still in the process. A few of those are
6 coming up for a vote at this meeting, and we
7 will be continuing to work with the program in
8 cooperation with the program. It's
9 challenging enough to go through the
10 transcript records, much less going through
11 all of the old committee report records.

12 We may just need to allow the
13 committees to deal with those as we identify
14 them and find them and reestablish what the
15 status is.

16 As far as the number, I have no
17 idea.

18 MR. DELGADO: Okay. Thank you.

19 Any other questions for the
20 committee?

21 Thank you.

22 Well, thank you, Dan. That was

1 very good, and I applaud your efforts of
2 trying to clean up the list of pending items.

3 And we are on schedule, I'm
4 reminded by my vice chair. We're ahead of
5 schedule, and we're moving on to the next
6 topic. You're actually not done, Dan. We're
7 moving on to the the clarification of the
8 definition of the national list, so back to
9 you.

10 MR. GIACOMINI: Thank you, Mr.
11 Chairman.

12 We're not done, but this is not my
13 part, a big part of my -- the big part of this
14 is not my job right now.

15 Another issue that the board has
16 been dealing with extensively over the years,
17 the ag/non-ag question, the synthetic,
18 nonsynthetic question, the concept of
19 agricultural synthetics which could require
20 that it's both on 606 and 605 at the same
21 time, and the fact of resolving the issue of
22 is it the substance or is it the process that

1 got that particular version of the substance
2 that is the primary factor.

3 This came to -- in the efforts to
4 resolve these issues, I believe a year ago at
5 this meeting, we, in cooperation with a number
6 of people from the public and the organic
7 industry, former NOSB members, it was decided
8 to convene a working group on this matter. It
9 is open to everyone that wants to participate.
10 It has been -- it's coordinated through the
11 conference call system, and graciously
12 provided by the Organic Trade Association, to
13 allow these phone calls to occur, and that
14 committee, that working group, has been on a
15 very regular basis trying to deal with these
16 issues.

17 They have now worked on the
18 ag/non-ag issue for approximately a year, and
19 they will be looking at the synthetic-
20 nonsynthetic hopefully within this next six
21 months before the spring meeting.

22 But right now what we are looking

1 at, what we are looking for, what we're going
2 to be doing, is a presentation by the cochairs
3 of that group, Kim Dietz and Gwendolyn Wyard,
4 to give us a presentation of where the
5 evolution and where we have ended up and where
6 they are in that process at this time.

7 MS. DIETZ: Good morning. There's
8 been a little bit of change of plans here.
9 Gwendolyn ate a bad piece of canteloupe this
10 morning, so she's in the back, and I just cut
11 her off so she can go back to her room. So
12 we're going to meet in a little bit.

13 So we're going to kind of split up
14 the slides, and I'll do the introduction, and
15 then Emily and Rich will help me as well.
16 That's what a working group is all about,
17 right?

18 Okay. My name is Kim Dietz, and
19 I'm one of the original founders of the
20 Materials Working Group.

21 The Materials Working Group is an
22 ad hoc committee that represents a broad

1 spectrum of backgrounds in segments in the
2 organic industry. Participation in the group
3 is open to anyone who is interested.

4 The Materials Working Group was
5 formed following a November 2007 NOSB meeting
6 to work on clarifying issues surrounding the
7 definitions of nonagricultural, nonsynthetic,
8 synthetic and nonsynthetic, and to assist the
9 NOSB in developing recommendations and
10 guidance documents relating to those
11 definitions.

12 Meetings were held weekly during
13 the time leading up to the main meeting, and
14 a discussion paper was presented at that
15 meeting by myself and Gwendolyn.

16 In 2008, the group reconvened our
17 weekly conference calls with a goal to bring
18 forward more detailed discussion documents
19 regarding issues surrounding nonagricultural.

20 We'd like to thank the Organic
21 Trade Association for allowing the Materials
22 Working Group to use their teleconference

1 line.

2 Additionally, special thanks go to
3 the hard work and dedication of the
4 participants, and I'm going to read their
5 names, because I think it is important for you
6 all to know who was involved in this
7 committee.

8 Andrea Caroe, past chair of the
9 NOSB; Brian Baker; Craig Weakley; Emily Brown
10 Rosen; Grace Marroquin; Grace Gershuny;
11 Jessica Walden; Julie Weisman; Katrina Heinze;
12 Kelly Shea; Kevin Engelbert; Kevin O'Rell; Pat
13 Pearson; Dan Giacomini; Rose Koenig; Richard
14 Theuer; Sue Biard; Susan Ulery; Tom Hutcheson;
15 Victoria Saavedra; and Zea Sonnebend.

16 We submitted 54 pages of
17 documents, and you can tell by the list of the
18 people on the committee, very technical group,
19 and leading that group was very interesting,
20 but we're doing it. So that's really my role,
21 is to set the calls, set the agendas, work
22 with Dan, try to figure out what timelines we

1 need, and get it done.

2 Couple of comments about the
3 group. We are an independent group. We were
4 formed that way, whether it's right, wrong, or
5 indifferent. We're not necessarily an
6 affiliate of the NOSB. We're here to assist
7 freely. And we're not an affiliate of OTA,
8 although OTA graciously allows us their staff
9 time and conference calls.

10 And it's really the involvement,
11 the work that we've done, and the involvement
12 is what is the outcome.

13 I read a couple of comments, and
14 they said there were some biased opinions.
15 Well, you know, we've done the best we can,
16 and my only response to that would be you have
17 to participate and make sure you're engaged,
18 and this is the outcome of it.

19 We will continue with the NOSB.

20 Okay. So let's go through the
21 slides.

22 We're going to talk about status

1 quo, we're going to talk about our different
2 options, we're going to talk about a survey
3 that the group did.

4 In a nutshell, even with that wide
5 list of people that you saw there, the names,
6 we still can't even come up with a conclusion
7 on the definition of ag/non-ag.

8 So what you have before you is a
9 task, but we have narrowed it down one more
10 time, so here is the status quo definition of
11 nonagricultural.

12 Okay, the definition of
13 nonagricultural is ambiguous. Not a product
14 of agriculture, such as a mineral or bacteria
15 culture, that is used as an ingredient in an
16 agricultural product.

17 For the purpose of this part, it
18 also includes any substance such as gums,
19 citric acid, or peptin that is extracted from,
20 isolated from, or a fraction of an ingredient
21 product so that the identity of the
22 agricultural product is unrecognizable in the

1 extract isolate refraction.

2 So that is what is currently being
3 used as the definition of nonagricultural.

4 What you see up in the pictures up
5 there are soybeans and then soy lecithin, so
6 an example of something that's gone from
7 agricultural to nonagricultural. And then we
8 have gums up in the upper right corner.

9 Okay. Next.

10 Status quo. The rule states that
11 agricultural products can be organic.
12 Presumptions that nonagricultural is
13 nonorganic only.

14 So a lot of even members of our
15 group feel that if it's nonagricultural, then
16 it means nonorganic.

17 Status quo determines one
18 placement for material on the national list,
19 whether it's eligible for certification,
20 whether it's subject to commerciabl
21 availability.

22 Current 205605 substances are

1 available as organic, consistent with -- so
2 long as they're consistent with 95 percent
3 organic agricultural ingredients or
4 formulation, such as yeast flavors, dairy
5 cultures. Extracted isolated derives from
6 organic agricultural material, such as
7 flavors, bleach lecithin, and glycerin. And
8 that is again the status quo.

9 Next slide.

10 Some of our primary issues that
11 the group discussed and really again couldn't
12 come up with a definite conclusion was on
13 agricultural origin. Where does it begin.
14 And this is probably the work of the board
15 where you're going to take it from here.

16 A lot of discussion and
17 controversy over whether or not agricultural
18 has to be land-based. A wide variety of
19 opinions there. Land-based activity related
20 to plants, soil, and livestock in a
21 traditional farm setting.

22 Other issue, broad range of

1 activities that include any living organism
2 intentionally raised or gathered by humans for
3 our own use.

4 And subpart (c) is divided into
5 crops, livestock, and handling. That's the
6 rule.

7 And then the definition of
8 livestock, however, includes other nonplant
9 life.

10 So there's really the four areas
11 that need to get resolved so the industry can
12 move forward.

13 The pictures on the bottom -- I
14 don't know if Gwendolyn is still in the back
15 of the room -- she's right next to me. Would
16 you like to chime in? Because these are
17 interesting.

18 MS. WYARD: Try to bear with me.
19 I'm kind of in and out of the bathroom here.

20 Okay. So what we've going on in
21 the pictures up at the top there that, you
22 know, most people look at those and they say,

1 well, that is an agricultural system, those
2 are traditional farms.

3 Down in the bottom, just to get
4 the old noggin rolling, we've got a picture of
5 chlorella, and that's the far left picture.
6 And then right next to it, that's chlorella
7 production. So controlled environments,
8 controlled tanks, where the chlorella is being
9 grown. And we picked that as an example
10 because chlorella was one that is being
11 petitioned for 606.

12 And, you know, noted in the
13 recommendation, the board did say, well, it's
14 a photosynthesizing plant, so that seemed to
15 be part of the criteria that we used in
16 deciding it was agricultural.

17 If you keep going over, you have a
18 yeast cell, and then right next to it, that is
19 yeast production. In fact, that's the lady
20 that's making the organic yeast in Germany.
21 Sourdough started there.

22 And that production -- a lot of

1 the conversations that have come up is that,
2 you know, an agricultural product is soil
3 based, it's connected to the land, and if you
4 are growing an organism in a facility, in a
5 tank, in a controlled environment,
6 temperature-regulated, pH-regulated, that is
7 not a farm, so to speak.

8 So if that's where your production
9 is starting, that's where something is
10 growing, that would be considered
11 agricultural.

12 So these are the discussions and
13 this really becomes very apparent, it's a very
14 philosophical divide as to what is
15 agricultural and what is not.

16 So the primary issues, this first
17 one, where does it start. And this is really
18 where the work has been hung up over the
19 years. When OTCO submitted our proposal in
20 2004, for clarification on this issue, we
21 submitted a flow chart in that first box, and
22 said is it a plant, is it an animal, is it a

1 fungus. We really have never gotten past that
2 first box. That's the discussions and about
3 very much focused on yeast.

4 So we really need to look at the
5 world of living organisms, and keeping in mind
6 that we've got a regulation that talks about
7 crops, livestock, and handling. Is that our
8 world of agricultural? But then you have to
9 look into those -- into the definition of
10 crop, and when you go into livestock you see
11 nonplant life, and so that really opens the
12 door to, you know, a whole host of living
13 organisms and what was intended by that.

14 Go on to the next slide, please.

15 So once you figure out where it
16 starts, then you have to figure out if and
17 when it stops. So does something lose its
18 agricultural status? And if so, how? Is it
19 because of a chemical change? Does it match
20 up with the definition of synthetic? If that
21 chemical change occurs, what if it's because
22 of a biological process? What if it's

1 enzymatic? What if it's a mechanical method?
2 What if something is heated? What if bread is
3 baked and chemical changes occur, does that
4 make it nonagricultural?

5 The definition of agricultural
6 product in OFPA and in our regulation, it
7 really doesn't define itself, because it says
8 agricultural is an agricultural product,
9 either raw or processed.

10 So we know -- and this is very
11 important -- that it includes processed, and
12 we do have a definition of processing.

13 So if you take something that
14 starts out agricultural and you look at that
15 long, you know, eviscerating, cutting,
16 chopping, slicing, that definition, are all of
17 those methods okay, whatever that agricultural
18 product undergoes? Is that processing? Or
19 does that, even if a chemical change occurs,
20 does that make it synthetic and therefore
21 nonagricultural?

22 That's been a huge part of the

1 discussion, is does synthetic equal
2 nonagricultural?

3 Go on to the next slide, please.

4 Okay, things are heating up a
5 little bit.

6 So one of the big hang-ups we've
7 had when we start talking about changing the
8 definitions of nonagricultural, providing
9 clarity, we start looking at items that are
10 listed on 605, and we say, well, okay, yeast.
11 It is a living organism. It can be grown up
12 on organic agricultural substrate. Maybe that
13 is more appropriately listed on 606.

14 Maybe glycerin. Glycerin is
15 derived from oil. It started out as
16 agricultural. Goes through maybe high
17 pressure, high heat, chemical changes occur.
18 You have a split between the glycerin backbone
19 and the fatty acids. It started out as olive
20 oil or some sort of vegetable oil. Did those
21 processes turn it into something that's
22 nonagricultural?

1 You move things on to 606, and
2 really the heart of this discussion has been
3 about yeast. In the livestock world,
4 commercial availability doesn't exist. So if
5 you deem something agricultural, processors
6 will have the ability to say, well, it's not
7 available in the quality, quantity, or form
8 that I need. However, the livestock producer
9 will have to use organic. It doesn't have
10 that commercial availability option.

11 So I think the community was ready
12 to move yeast on to 606, but we saw a real
13 inequity and looked at the burden that that
14 would place on the livestock industry.

15 So we have in our paper, I believe
16 on page 4, we explored some options, some
17 potential regulatory changes where the main
18 one is that you would make an exception,
19 basically, for items that are on 606.
20 Agricultural items on 606 could be fed to
21 livestock, nonorganic, up to 5 percent.

22 It was an option that was

1 explored. It's something that, you know, we
2 encourage you to look at as well, what would
3 be the implications of that, is it even
4 possible. But we were looking for a way to
5 somehow put the livestock sector and
6 processors on a level playing field.

7 Okay. So I don't want to spend
8 too much time on this, but I do want to
9 demonstrate a little exercise that we went
10 through where we started out -- and actually
11 I'm just going to focus on the 11 materials.

12 We took the group and we picked 11
13 familiar materials that are on the national
14 list, and we played with different definitions
15 to see how that would affect our answers,
16 namely that the consistency or lack thereof
17 consistency.

18 So the first definition -- go
19 ahead, please -- we took the whole second part
20 of the nonagricultural definition that is so
21 ambiguous and contradicting, and we just cut
22 it out, and we said let's see what happens if

1 we just say it's not a product of agriculture,
2 leave those two examples in there, mineral or
3 bacterial culture. So that was the first
4 revised definition.

5 The second one, we removed those
6 examples of mineral and bacterial culture.
7 Nobody -- so far we haven't found any
8 disagreement on mineral. We haven't heard
9 anybody argue that mineral is agricultural.

10 Bacterial culture, on the other
11 hand, that's been a problem. So we said,
12 well, let's just remove those examples and say
13 it's not a product of agriculture. And let's
14 also provide a new definition of an
15 agricultural system, and let's tie it to the
16 land. Let's say that it has to be soil based,
17 soil-producing crops, livestock, or poultry.
18 Okay, that's the next definition.

19 Now we've included those examples
20 -- well, the example of mineral. Another
21 example that has gone undisputed is
22 atmospheric gas. So mineral, atmospheric gas,

1 nonagricultural. Everybody was on the same
2 page.

3 And then we took that agricultural
4 system and we said, okay, this one is not
5 connected to land or soil. This one is going
6 to be any living organism, more or less, that
7 anything that's managed by humans. And then
8 we qualified managed -- intentional gathering,
9 producing, raising, growing, domestically or
10 in designated wild harvest areas, by persons
11 for human or livestock consumption.

12 So another definition that we
13 played with.

14 Go ahead.

15 And so this is the survey results,
16 and so the first column, everybody looked at
17 each one of those materials and just read the
18 existing definition of agricultural product.
19 And most people said yes. Lactose is
20 agricultural. Egg white lysozymes.

21 In all cases, there was agreement.
22 For the most part, you can see where it kind

1 of separates out once you get down to
2 fermented products, citric acid, fermented
3 products, fermentation is a really important
4 one to focus on. Kelp.

5 And there, with our existing
6 definition, when you get into kelp, then
7 people are saying, well, soil, water,
8 agricultural.

9 Then you put the nonagricultural
10 definition out there, and again, now there a
11 lot of people are saying, well, it's also
12 nonagricultural.

13 First, revision No. 1, is it
14 nonagricultural. Several people said no. In
15 all cases for the first three. But you can
16 see it still jumps around.

17 Revision No. 2, it's jumping
18 around, it's very inconsistent.

19 The third definition, that was --
20 we had the most consistency on that third one.

21 Go on to the next slide.

22 The exercise was somewhat

1 inclusive. It really deserved more attention
2 and more discussion, which we didn't get to,
3 but a few things that definitely came out of
4 it is that you can, with our definitions,
5 depending on which one you're reading, it can
6 go to agricultural and nonagricultural.

7 And better definitions do yield
8 more consistent differentiation, and of course
9 we really had no consensus amongst our group.

10 So go ahead.

11 So we took those exercises and we
12 said, well, we really do need to try to come
13 up with definitions that have more examples,
14 and more detail to it.

15 So what we are providing you --
16 and this -- change it on this slide, too.
17 That's actually supposed to be A and B. We
18 couldn't figure it out. When it's on my
19 computer, it says A and B. When you put it on
20 anybody else's computer, it goes to A and A.

21 (Laughter.)

22 Everybody kept saying, Gwen, you

1 got to change it. I have changed it.

2 MR. DELGADO: Gwen, I suggest A
3 and non-A.

4 (Laughter.)

5 MS. WYARD: All right. Okay, so
6 we're offering you two definitions to work
7 with. Definition A, we've stuck the examples
8 of mineral and atmospheric gas.

9 Noncontroversial examples, we think, so far.

10 We have said for the purpose of
11 this part, agricultural refers to the
12 production or handling of crops or livestock.

13 We are including that second part
14 to say let's exist within the context of OFPA
15 and the regulation. Let's use existing terms.
16 Let's focus on crops and parse that out and
17 say, well, is -- crop is defined as a plant in
18 our regulation, so there's going to be a need
19 to look at the term crop, plant, and does that
20 include -- is that chlorella, is it kelp, or
21 livestock.

22 And then once you go into the

1 livestock definition, you have to address
2 nonplant life.

3 The second definition, non-A, we
4 have stuck with the examples of mineral and
5 atmospheric gas, and lopped off that whole
6 confusing section part, and said it doesn't
7 originate from agricultural system, and then
8 we have provided this definition of
9 agricultural system which is all-encompassing
10 of all living organisms that are raised by
11 humans.

12 We are not qualifying, defining
13 where that happens, whether that be soil or
14 air, water. We recognize that there are
15 insects and lots of little critters that are
16 extremely important food sources throughout
17 the world, and the second definition is really
18 embracing that. It could be any living
19 organism.

20 You could essentially get there
21 with definition A as well because of nonplant
22 life, but definition non-A is more commital as

1 far as saying if you're a living organism
2 that's being managed by humans for human or
3 livestock consumption, it can be agricultural.

4 Okay, next slide, please.

5 I just went through this without -
6 - you can go on to the next slide, too. That
7 was just the explanation that I provided.

8 And again, that's the explanation
9 that I provided, so you can go on to the next
10 slide.

11 Okay, I'm going to pause, and I
12 want to -- since I am one voice representing
13 many others, I just want to make sure I
14 haven't missed anything, or if there's anybody
15 -- how many people on the group are out in the
16 crowd? Would you raise your hands?

17 (Show of hands.)

18 Okay. Is there any -- are you
19 sitting out just antsy, going she forgot to
20 say something, she really needs to bring
21 something up? Richard? Would you --

22 MR. THEUER: One point that we

1 concluded -- I'm Rich Theuer, North Carolina,
2 former board member.

3 One of the points that we came to
4 was that with certain definitions, something
5 can be neither agricultural nor
6 nonagricultural.

7 (Laughter.)

8 So you had some where it was both
9 with some definitions, and with other
10 definitions, it was neither because the
11 definitions are not mutually exclusive.

12 MS. WYARD: And you have something
13 that I -- it's not in our paper, and I don't
14 know that anybody -- there are some things
15 that are agish --

16 (Laughter.)

17 They are composed of agricultural
18 and nonagricultural ingredients together, you
19 know. I mean that's what we're looking at
20 with yeast, and why is there organic yeast on
21 the market. Because at formulation 95 percent
22 of it is organic. So you have a combination.

1 So I'm going to run through the
2 options.

3 The first option is a very
4 important one to consider. Don't change
5 anything. Oh, well, I guess we're not biased
6 on this.

7 But it's very possible to provide
8 clarity using guidance documents. The scope
9 of agricultural, that certainly could be
10 clarified with guidance documents.

11 The second part of the definition,
12 if you feel that something does lose its
13 agricultural status, then spend time on the
14 second part of that definition, and you could
15 provide guidance to clarify when does
16 something lose its identity. How does
17 something -- how do you lose the identity of
18 the agricultural product.

19 So you -- those examples are
20 problematic because you've got gums on 605 and
21 606, pectin on 605 and 606, and perhaps you
22 just cut out the examples and provide guidance

1 that would further clarify that second part,
2 and then rely on the petition process to get
3 materials to where they need to go.

4 So, you know, considering keeping
5 things as is and not making regulatory changes
6 is number one to look at.

7 Number two. Okay. Okay, so
8 option two, we are going to retain the current
9 headings for 605 and 606. We are going to
10 revise the definition of nonagricultural.

11 Now you get to choose door A or
12 door B. For this option, A or B can fit. It
13 will change things, but that's something the
14 NOSB needs to look at, and then relist the
15 items to correspond with the chosen
16 definition.

17 And then we have also provided
18 suggested criteria for adding items onto
19 205606. Number one, that it comes from
20 agricultural origin. And if processed, it's
21 done so using methods defined under 205.2. So
22 the definition of processing.

1 An item that goes onto 606 does
2 not contain a synthetic component unless
3 allowed under 205605, and then for use in
4 organic products, the clarification -- and
5 this is something that we put out there for a
6 while and we think it's really important that
7 we get clarification from the program because
8 it will help us in our determination of
9 agricultural and nonagricultural, because we
10 find that there are certain criteria or --
11 certain criteria for using agricultural
12 ingredients in organic products that will
13 sometimes get tied into or -- tied into a
14 definition of agricultural when it really has
15 more to do with what is allowed in an organic
16 product than it does whether or not it's
17 agricultural or nonagricultural.

18 So 606 items, can they be produced
19 using synthetic solvents and synthetic
20 processing aids? Can they contain synthetic
21 components that aren't on the national list.

22 We have requested -- I know Oregon

1 Tilth from PCO has been requesting
2 clarification on this for two years, so with
3 that clarification, we feel like that should
4 be criteria that gets included on adding
5 things to 606.

6 And then I just want to point out
7 that you have an appendix B, and so for all of
8 our suggested options, we've gone through and
9 we've made -- we've demonstrated all the
10 places in the regulation that would need to be
11 revised if you go with this option. We've
12 detailed it out. We've looked at every
13 section in the rule, and crossed out, et
14 cetera, et cetera.

15 Valerie, you can go on through
16 this.

17 Option No. 3, in this one we are
18 dropping the term nonagricultural from 605 and
19 leaving reference to nonorganic -- really it
20 should say nonorganic substances only. The
21 ingredients can be problematic since we have
22 more than just ingredients under 605, but the

1 point is to remove the term nonagricultural
2 from the heading, so that you will have a list
3 of nonorganic substances. These could be ones
4 that are nonagricultural. They could be ones
5 that are agish, such as yeast, microorganisms,
6 recognizing that, well, they may not be the
7 traditional farm-grown type of product, but
8 they do -- their production does really on
9 agricultural product, most of it. So it
10 definitely has agricultural and environmental
11 implications, and according to the composition
12 standards of an organic product, it could be
13 organic.

14 So this would be a way to not put
15 yeast or microorganisms definitely under
16 agricultural, and this is thinking of the
17 livestock dilemma, but recognizing that they
18 are agish, and apply commercial availability
19 to 605, recognizing that you apply commercial
20 availability to that list because of items
21 such as yeast that have both -- are produced
22 using both ag/non-ag components.

1 Suggested criteria for 606 remains
2 the same, and again, in appendix B we have
3 gone through and looked at every place in the
4 regulation where the term nonagricultural is
5 used in reference to 605 and crossed all that
6 out, so you can see and really get a feel for
7 the amount of rule change it would take to go
8 with this option.

9 And then we have -- with this
10 option we've plugged in definition A, which is
11 the one that refers to crops and livestock.

12 So recognizing again that 605
13 could contain agricultural, agish, and
14 nonagricultural, and I say agricultural as
15 well. I think what's not up there, under the
16 criteria that I believe is in the document, is
17 that 605 would also be a place where you part
18 substances that can't be organic because no
19 standards exist. We feel like 606 should be
20 reserved for ones that are clearly
21 agricultural, meet that criteria, and
22 standards exist for it.

1 We put the requirement for
2 somebody to search for a commercially
3 available organic ingredient, if there are no
4 standards, they don't really -- there's no
5 business for them to be on 606. So that's
6 what this option is embracing.

7 Okay. Then option No. 4 -- and
8 keeping in mind, too, these are in order of no
9 change to the most change.

10 Option No. 4 combines 605 and 606,
11 and it removes reference to ag and non-ag
12 altogether. You just have a list of allowed
13 nonorganic substances that are either
14 synthetic or nonsynthetic. We've removed the
15 distinction of ag and non-ag because OFPA
16 doesn't make that distinction. OFPA only
17 makes the distinction between synthetic and
18 nonsynthetic.

19 We have retained the definition of
20 nonagricultural to further define agricultural
21 product. So again you have, you know, option
22 A or B, or definition A or B, that could be

1 plugged in here.

2 We have also separated out
3 cleaners and sanitizers, so we -- again in
4 option, or appendix B, we've completely
5 rearranged the list. Basically we took
6 everything under 606, assumed that that was
7 nonsynthetic, but it's interesting. If you go
8 through and look at how that list is now set
9 up in appendix B, you do see some items that
10 are listed as nonsynthetic and other items
11 listed as synthetic. It's an interesting
12 placement just to look at it that way and see
13 where everything is set up.

14 Okay, let's go ahead and move on.

15 MS. FRANCES: We have sanitizers
16 on 606?

17 MS. WYARD: Oh, yes. Thank you.
18 So we are using now 605 as the combined 205
19 and 606, and now 606 is its own list for
20 cleaners and sanitizers. So we separated them
21 out so it's clear which items are being used
22 as either ingredients or processing aids, and

1 then we pulled out cleaners and sanitizers,
2 and we feel like this -- the discussion here
3 plays into the conversation about 100 percent
4 organic, and having a place to put substances
5 that are used in handling operations but not
6 as ingredients or processing aids.

7 Thank you for asking that.

8 Go ahead.

9 Oh, yes, the lovely flow chart.

10 So this, down at this -- I'm not going to take
11 you through this in detail because I think
12 we're running short on time, but this is just
13 an example.

14 One, this could be the guidance.
15 This in addition to a narrative, this could be
16 guidance that would maybe go in status quo.
17 You could adopt concepts in a particular
18 option and then explore whether or not you
19 could provide clarification without rule
20 change.

21 You know, obviously the -- we feel
22 like there's going to need to be some rule

1 change. We really -- some of us.

2 (Laughter.)

3 I'll be very careful on that.

4 There was no consensus. We never reached full
5 agreement.

6 But here what we have done is we
7 have brought together option 3 and definition
8 A, and it brings together the questions.
9 We've taken the parts of the definitions and
10 turned them into questions. Is it a proper
11 livestock derivative intended for human or
12 livestock consumption. Is it processed. If
13 it's processed, has there been a chemical
14 change. And if so, is that change a result of
15 the processes described under 278.

16 So we are now saying, okay,
17 there's been a chemical change, but it's a
18 result of processing, and if it's in our
19 definition of processing, then you could have
20 an organic product that would undergo a
21 chemical change. So we wanted to align
22 chemical change with what is allowed under the

1 definition of processing.

2 And then the question about have
3 any synthetic solvents, synthetic processing
4 aids, that ties back into the criteria in 606.

5 So I think a flow chart along with
6 a narrative, you know, along with rule change,
7 we think that there's going to need to be a
8 guidance document in addition to rule change,
9 and this would be an example of how that would
10 look.

11 Okay. Next slide, please.

12 MS. DIETZ: Okay. This is what
13 the group feels the NOSB needs to clarify.
14 The NOSB needs to clarify whether an
15 agricultural product -- example, vegetable oil
16 -- that undergoes a chemical change via
17 mechanical or biological methods can still be
18 agricultural.

19 Does an extract derived from an
20 agricultural product, via hexane or synthetic
21 solvent, become nonagricultural.

22 These are issues that the industry

1 has not been able to deal with for 20-
2 something years.

3 Does an agricultural product
4 combined or reacted with a nonagricultural
5 substance become nonagricultural. That's been
6 an issue that hasn't been resolved in many
7 years.

8 What if the nonagricultural
9 substance is on the national list.

10 Is a product of fermentation
11 agricultural or nonagricultural.

12 These are some of the things the
13 NOSB needs to decide, if agricultural extends
14 to any living organism cultivated or gathered
15 by humans for humans or livestock consumption.
16 That's another land-based issue.

17 Next slide.

18 In summary, clarification is
19 crucial and the national list needs to be
20 cleaned up accordingly. This has been an
21 ongoing -- I think it's time, we've got some
22 of the meat on the bones, and we're ready to

1 deal with these issues.

2 Definitions and list requirements
3 should encourage the development of organic
4 food, ingredients, and feed.

5 Changes to the regulation should
6 be minimized, and the resolution must be
7 consistent with OFPA, so we've tried to look
8 at that in all of our definitions.

9 And the work on agricultural
10 versus nonagricultural cannot be completed until
11 synthetic and nonsynthetic is completed.

12 And this goes back to Dan when we
13 talked about trying to look at it as a whole.
14 That's something you guys are going to have to
15 decide. Can you move forward with the ag/non-
16 ag as we move forward with the synthetic,
17 nonsynthetic, as an industry.

18 I think that's it. That's all the
19 slides.

20 Thank you. We appreciate the
21 effort devoted by the NOSB in moving forward,
22 moving toward a resolution of these complex

1 issues, and offer this discussion document as
2 background to further work on the subject. We
3 will continue to offer our support.

4 I don't know if we have time of
5 questions or how you want to handle it from
6 this point.

7 MR. GIACOMINI: Do we have time
8 for a few? Yes, we do. Just before I open it
9 to the floor, two things very briefly,
10 hopefully. Just to clarify the status of the
11 situation, I think probably one of the most
12 shocking things I've ever heard since I was on
13 this board was when we presented the document
14 with the new paradigm and the possibility of
15 considering continuing a year ago is that this
16 is easy and it's all been done before, and you
17 just have to compile all the old NOSB
18 documents.

19 Is this easy?

20 (Laughter.)

21 Okay. Thank you.

22 Number two, Gwendolyn, the

1 statement I'm going to make now may have a lot
2 of people heading for the door. You said that
3 you have never had an issue of a mineral not
4 being non-ag.

5 MS. WYARD: Never.

6 MR. GIACOMINI: We are considering
7 at this meeting calcium from seaweed. This is
8 technically -- the closest thing chemically to
9 it would be a limestone carbonate. It is the
10 structural part of the seaweed. The seaweed
11 dies, falls to the floor, they pick it up off
12 the floor, they grind it up, wash it, and send
13 it out.

14 I can very easily imagine the
15 interpretation of this limestone carbonate
16 product being considered agricultural.

17 MS. WYARD: Well, if seaweed is
18 agricultural and it's derived from seaweed --

19 MR. GIACOMINI: It's the
20 structural part of the seaweed and there's no
21 chemical change involved.

22 MS. WYARD: So it's a different

1 mineral than the mineral that went undisputed,
2 ones that are mined from the --

3 MR. GIACOMINI: Yes.

4 MS. WYARD: Just when you think
5 you --

6 (Laughter.)

7 MR. GIACOMINI: Not to have to go
8 into a big discussion about it, but the
9 possibilities do exist.

10 MS. ROSEN: Well, I would just add
11 the natural source of the mineral. It doesn't
12 matter if it's agricultural. It's -- there's
13 no -- it came from seaweed, it's natural.
14 It's for crop, livestock, whatever use you
15 want to put it to. Or human use. But it's --
16 you know, we could have a whole separate
17 debate on the certifiability of seaweed and
18 kelp, too. I mean that's something could use
19 a little bit of discussion.

20 MR. GIACOMINI: So opening up to
21 the floor. Joe.

22 MR. SMILLIE: Well, first of all,

1 I want to thank the blue ribbon panel of the
2 working group. You've done a fabulous job on
3 an obviously difficult topic. And this is the
4 kind of public participation that this board
5 absolutely relies on to get its work done. So
6 once again, our immense thanks.

7 Now we're down to five or six
8 options. It's going to be tough and, you
9 know, it's going to be tough to come to a
10 decision, but I think we do -- I think this
11 board does have to come to a decision because
12 we've got to cut the knot on this one.

13 Two comments. One is I just don't
14 feel that we really -- and I could be wrong on
15 this -- have to decide the synthetic,
16 nonsynthetic. I think if we go with this one
17 first -- and I believe that since organic is
18 about agricultural, we should make our
19 decision on ag/non-ag, and let that lead us
20 into our decision on synthetic, nonsynthetic,
21 rather than trying to do both at the same
22 time.

1 The second thing is a comment was
2 made that you can't certify something unless
3 there's a standard. And that's become pretty
4 controversial these days.

5 (Laughter.)

6 And one thing I'd like to point
7 out is we do have something that Tina is
8 actually sitting here representing, and that's
9 mushrooms. And, you know, we're certifying
10 mushrooms --

11 MS. ELLOR: Under the crops
12 standard.

13 MR. SMILLIE: Under the crops
14 standard.

15 MS. ELLOR: Because they are a
16 crop.

17 MR. SMILLIE: Because they are a
18 crop. And they come from a compost pile, not
19 necessarily from a co-ge chamber, and we don't
20 have a specific mushroom standard.

21 So, Gwendolyn, did you want to
22 follow up on that?

1 MS. WYARD: Right. Well, but some
2 standards being used like -- so we're talking
3 about say fish oil. There are no aquaculture
4 standards. So that would be an example of
5 fish oil, if you were to take the option where
6 you remove the distinctions and you would put
7 fish oil on the 605 without the non-ag
8 distinction because there are no standards
9 yet. So you don't put it on a list where
10 people are supposed to go out and source it
11 when it's not out there because there are no
12 standards. That was the idea.

13 MR. SMILLIE: I don't want to drag
14 it out, but if you go -- well, take a look at
15 two of your favorites, yeast and kelp. You
16 know, kelp does not come from the soil, so
17 some of the definitions don't work, but yet we
18 certified that.

19 MS. WYARD: Well, and we question
20 how it's being certified.

21 MR. SMILLIE: Wild crop section.

22 MS. WYARD: Right, but we're still

1 questioning how contaminatin prevention can
2 happen. But with yeast we have -- we are
3 using standards. Again, we're using the
4 processing standards.

5 But when you go through the
6 regulations and you try to certify fish, you
7 can't find a standard to plug it into.

8 MR. DELGADO: Barry?

9 MR. FLAMM: Yes. For a newcomer,
10 this has been an extremely interesting topic
11 of discussion for me. But I have a question
12 which will probably show my ignorance, but
13 I'll ask it, anyway.

14 I don't quite get why gathering --
15 and it may not have any consequence in what
16 you come out with, but why is gathering
17 considered agriculture? I always thought of
18 a hunting-gathering society, and even today,
19 as being preagriculture.

20 And like I say, it may not have
21 any consequence, but almost everywhere I see,
22 gatherer is part of a definition of

1 agriculture. And you can write this off if
2 it's not of consequence.

3 MS. WYARD: Well, we have wild
4 harvest in our regulation, so --

5 MR. FLAMM: But is it --

6 MS. WYARD: I understand, yes.
7 Well, and we were looking at the intentional
8 act of -- because you are intentionally
9 gathering food for consumption. I mean I get
10 what you're saying, because when you look at
11 history and how people collected their food,
12 agricultural came after hunting and gathering
13 and breeding.

14 MR. FLAMM: And without raising
15 it.

16 MS. WYARD: No, we're gathering
17 it. We're -- you know, we're finding an area
18 and gathering it for food.

19 Julie, do you want to -- or
20 anybody else?

21 MR. DELGADO: Julie.

22 MS. WEISMAN: Yes. I just think

1 it might be helpful for us to remember that
2 the statute that brings us here is the Organic
3 Food Production Act, and gathering as it's
4 practiced today is producing food, and I agree
5 -- I understand what you're getting at in
6 terms of hunter-gatherers, but that's a
7 sociology issue.

8 (Laughter.)

9 MR. FLAMM: Well, I mean today
10 there's a lot of gathering societies still
11 exist in the world and in our own country.

12 MS. WEISMAN: I'm not saying that
13 it's not a modern issue, but that's a
14 sociology construct, not an OFPA -- I'm asking
15 you to stick to the OFPA paradigm and not take
16 on all of the social sciences.

17 (Laughter.)

18 MR. DELGADO: We have a comment.

19 MR. GIACOMINI: Yes, in responding
20 to Joe's statement, the materials and working
21 with anyone else certainly on the board that
22 wants to work with us, we will take this and

1 consider what we can move forward on before
2 the working group reaches a completion.

3 One of the difficulties that we
4 have envisioned is if we decide that something
5 can be considered agriculturally synthetic, we
6 have a hard time seeing that we would move
7 ahead with one half without the other.

8 I mean there's implications there.
9 We have cellulose on 605(b) as a synthetic.
10 If we are going to say that that is an
11 agricultural synthetic, technically we may
12 need to put trees on 606.

13 So there are implications there
14 that we would need to look at which make it
15 difficult to move with only part of it.

16 MR. THEUER: Could I have just a
17 quick response? Some of the group also had
18 the same -- this is Rich Theuer -- had the
19 same objection to kelp as being agricultural,
20 for the same reasons that you raised.

21 MR. DELGADO: Hugh.

22 MR. KARREMAN: Just two things.

1 As part of the gathering, I don't know a thing
2 about this, but at least it's kind of you're
3 managing it in a circumstance, you're watching
4 over it. It's not like you're just freely
5 running around and you gather whatever you
6 happen to find. I mean it's in a defined area
7 that you're gathering from, so it's kind of
8 managed, which is what organics is all about.

9 But I also -- I just hope that --
10 it was brought up briefly earlier in the
11 presentation about using, I think it's items
12 on 605, for livestock production.

13 MS. WYARD: It's on 606.

14 MR. KARREMAN: Yes, and that's
15 been an ongoing issue as far as, you know, the
16 yeast with the livestock and all that. So I
17 would like to explore that a lot more,
18 because, you know, with a 100 claim for human
19 retail product, you know, the livestock kind
20 of have it tougher than, you know -- it's got
21 to be a 100 percent ag, and yet people can buy
22 organic, USDA organic things on the shelf that

1 are not 100 percent ag and yet it still has a
2 seal.

3 And I really think that livestock
4 should have that same benefit.

5 MR. DELGADO: Dan.

6 MR. GIACOMINI: Onee of the things
7 that we will hopefully see where the program
8 stands on when I ask Barbara how to find the
9 status of recommendations was that document --
10 and Kim may know the data on this document
11 better than I do -- where the NOSB recommended
12 that items on 605 be considered as allowed for
13 livestock feed.

14 Complicating the issues of that
15 is, number one, that was a pre-Harvey
16 recommendation, which changes the whole
17 structure of 605, 606.

18 The other thing is the
19 consideration of there's a tremendous amount
20 of byproduct flow through the food chain that
21 could be used tremendously as livestock feed,
22 which would be a tremendous reintroducing of

1 nutrients.

2 So a possibility would be whether
3 you can utilize those things as raw
4 ingredients, or whether you use them as part
5 of that byproduct stream, one way or the
6 other.

7 MR. DELGADO: Bea.

8 MS. JAMES: I want to thank you
9 guys for this document. I was so, you know,
10 impressed and actually when I -- I saved it
11 for last of all my reading materials because
12 I was intimidated, and I thought, well, okay,
13 here comes another complicated subject matter
14 in a document that's probably just going to
15 confuse me even more. But I felt like you
16 guys really looked at a lot of the different
17 options and that I have my own opinion about
18 what option I think would serve the industry
19 best, and I want to ask what your guys'
20 opinion is on the different options that you -
21 - you know, if you as a group ever said, okay,
22 well, where do we stand as a group, what

1 option takes the majority?

2 MS. WYARD: That's why you have
3 four.

4 MS. JAMES: But there's more than
5 four people in your group, so there must be --

6 MS. WYARD: So that's a concern,
7 which we put together, and we had all the
8 definitions. We were more looking at what's
9 more -- what's going to be more consistent,
10 and that's really the answer.

11 We couldn't come to any conclusion
12 as a group. We all have our own personal
13 opinions on what we think would work as well.
14 So I can't really answer that as a group. We
15 don't have a consensus.

16 MS. JAMES: The main reason I ask
17 is that some of those options look grueling as
18 far as, wow, this is just going to take so
19 much time and rule change, and -- but if it's
20 the best possible option, I think that that's
21 really --

22 MS. DIETZ: And that's what we

1 attempted to do with that chart, to see what
2 is the best option. And so we may have to go
3 -- I mean we think that there should be some
4 rulemaking. That's me as the chair, but some
5 of the other members don't feel that. The
6 status quo is just as good. So that's really
7 where you guys have to -- and I think really
8 this has to go out to the public. We need
9 public comment, and this is just some work to
10 get some guidance to get some ideas out there
11 so the public can take it and you can take it
12 from there.

13 MS. JAMES: Just in closing, I
14 want to thank you again and all the people
15 that worked on this document. I remember back
16 when we first started and Rose Koenig and, you
17 know, the whole conversation and how complex
18 it was, and I really appreciate your work on
19 this.

20 MS. DIETZ: And it's been a good
21 marriage of industry and board, and I think
22 that it's worked very well, even though it's

1 not official or anything, but it's worked.

2 MR. DELGADO: Richard.

3 MR. MATTHEWS: Yes. I want to
4 answer Dan's question with regard to whether
5 or not we've acted on the recommendation
6 relative to all materials in 605 being
7 accepted in livestock. That recommendation
8 was vetted with the FDA, and it is not
9 accepted. And I believe that it was addressed
10 in the proposed rule to the final rule on
11 livestock materials that was published last
12 design certification. The final rule was
13 published then, but I believe that the
14 preamble to that addressed that particular
15 issue.

16 But it has been addressed in a
17 rulemaking someplace, and it was rejected
18 after consultations with FDA.

19 MR. DELGADO: Thank you. Any more
20 questions? Hugh.

21 MR. KARREMAN: Maybe I should have
22 known that, but that comes as a surprise. I

1 think that would be like where you could let
2 the board know, if possible, beforehand or
3 write when that has happened, like this is
4 what the FDA said, because I wouldn't have
5 asked my question. So thank you.

6 MR. DELGADO: Julie.

7 MS. WEISMAN: Just real quick. I
8 participated in this group, and I just want to
9 say to Kim and Gwendolyn that what's here is
10 impressive, even for someone who was involved
11 in the process; maybe more so, because there
12 were so -- there was so much material, so many
13 possibilities, so many permutations, and it is
14 -- even having participated in the process --
15 especially having participated in the process,
16 it's really helpful to see it all up here in
17 black and white. Thank you.

18 MR. DELGADO: Any other questions?
19 Kevin.

20 MR. ENGELBERT: Just for the
21 public record, if you don't mind the work on
22 synthetic and nonsynthetic, if anyone would

1 want to join the group at this point, would
2 they be welcome? Would you consider it closed
3 right now?

4 MS. DIETZ: Yes, the question was
5 if anybody wanted to join the group to work on
6 the synthetic-nonsynthetic, the answer is yes.
7 Just contact me. I'll be here all day today
8 and tomorrow, or Gwendolyn, and we'll get your
9 e-mail address and add you to the list.

10 We have calls every week. So just
11 contact us.

12 MR. DELGADO: Dan?

13 MR. GIACOMINI: And I would like
14 to extend that special part of that request.
15 The working group is industrywide, and there
16 are people that are affiliated with all parts
17 of it, but it is definitely certified and
18 processing weighted. Any people with a more
19 extensive background in crops or livestock
20 would certainly be welcome on the group.

21 MR. DELGADO: And I have one
22 question. I just want to join the choir here

1 and let you know that we're very grateful. We
2 appreciate your work, both to the leadership
3 of the group and to the members of the group
4 that were part of this wonderful example of
5 leveraging the popular know-how, if you will,
6 and helping the board.

7 So thanks again.

8 (Applause.)

9 MR. DELGADO: On that note, we're
10 going to have a well-deserved 10-minute break.
11 We'll see you here at 10 o'clock.

12 (Recess.)

13 MR. DELGADO: Welcome back after
14 this break. We are about to start our
15 nonbreak session. And we'll start with --
16 Joe, are you ready? It is the turn of the
17 Compliance, Accreditation, and Certification
18 Committee to talk about their proposals, and
19 I will yield to the chair, Joe Smillie.

20 MR. SMILLIE: Thank you, Mr.
21 Chair.

22 We -- it's Certification,

1 Accreditation, and Compliance, just to be
2 clear. We like to start with compliance,
3 right.

4 CERTIFICATION, ACCREDITATION, AND
5 COMPLIANCE COMMITTEE

6 MR. SMILLIE: Thank you, Mr.
7 Chair.

8 Our committee has been working
9 pretty hard on a number of issues. We have
10 two recommendations for this meeting, the
11 multisite recommendation and the 100 percent
12 recommendation.

13 We're going to start off with the
14 multisite recommendation. As a lot of you
15 know and a lot of you have participated, this
16 has been an important issue that is
17 desperately needed by the industry to move
18 forward with, and we've gone through a couple
19 of iterations, and we are pretty happy with
20 what we're presenting now.

21 We have been very happy with the
22 public comment on it, and one of the things I

1 would like to point out -- or two things I'd
2 like to point out about the document before
3 Tracy leads us through a detailed analysis, is
4 that the appendices are important. A lot of
5 people -- the recommendation itself is pretty
6 long and technical, but the appendices are a
7 very important part of it, and I urge all of
8 you with interest in the document and in its
9 implementation, hopefully through the NOP,
10 that these appendices are regarded as an
11 integral part of the document. Because a lot
12 of the details, which a number of people are
13 worried about and concerned about, are
14 contained in some of the selections we made as
15 far as the appendix material, including the
16 title and the multisite, which is an
17 isoterminology, and we want to stay on that
18 iso base and work it into the organic world as
19 much as possible.

20 The second item I want to point
21 out is that there is a minority report on this
22 document, but as the minority report itself

1 says, the minority is in favor of the document
2 in all but one instance.

3 The minority report reflects the
4 opinion that there was one particular item out
5 of maybe 100 items or less, but that they just
6 couldn't agree with.

7 So, please, when you read the
8 minority report, it is a minority report, but
9 it is in favor of the entire document with one
10 small change.

11 So with those two items, I'd like
12 to ask Tracy Miedema to walk us through the
13 document.

14 MS. MIEDEMA: Thank you, Mr.
15 Chairman, and good morning, everyone.

16 This is the third time our
17 committee has presented on what we call
18 certifying multisite operations, and this
19 topic is also known as community grower
20 groups, it's known as certifying smallholders,
21 and it's known as various other terms out
22 there in the industry.

1 Nevertheless, it's a topic that
2 has -- it's a means of certification that has
3 been very well established in practice, but we
4 discovered a problem. And the program really
5 discovered a problem with what was happening
6 in reality and with our regulation.

7 The reason we are here is because
8 of a directive from the program, so I want to
9 state right up front that based on what we
10 heard yesterday from Deputy Administrator
11 Robinson, this would be a priority
12 recommendation that the program would be
13 acting upon.

14 So the problem part of the
15 regulation is section 205.403(a)(1), which
16 states that a certifying agent must conduct an
17 initial on-site inspection of each production
18 unit, facility, and site.

19 Hence, our designation of grower
20 groups as multisites. And we are just really
21 trying to have our language fit with the
22 regulation.

1 So, you know, therein lies the
2 problem. This implies that every smallest
3 divisible bit must get looked at by a boots-
4 on-the-ground outside accredited certifying
5 agent.

6 Well, that's not what was really
7 happening. And so a year-and-a-half ago, we
8 proposed a legal framework where in groups or
9 multi-fed operations could continue to exist.
10 And that requires a rule change. That
11 requires, at the very least, some new
12 definitions that are firmly acted upon through
13 a guidance document.

14 Yesterday one of the commenters
15 mentioned, well, this word "site" with its
16 definition leaves a gaping loophole for very
17 little inspection to occur, for inspection to
18 only happen at the centralized managed
19 facilities.

20 Well, in order for these groups to
21 go forward, we need to define site as the
22 centrally managed unit.

1 However, we go on for dozens of
2 pages on what the inspection protocol should
3 actually look like, and drilling down into
4 each site, drilling into what can be called
5 subunits or members and all of the risk
6 analysis that needs to occur to the site --
7 who gets looked at, with what frequency.

8 We also go into great detail about
9 how these members should be clustered in the
10 production units.

11 So our first recommendation -- I'm
12 sorry, our first guidance document a year-and-
13 a-half ago provided a legal framework to deal
14 head on with 205.403 in the fact that the
15 reality didn't match the regulation.

16 We took a varied 30,000-foot view
17 of an internal control system as a viable
18 construct for doing organic certification, and
19 we didn't look at it as a method of
20 certification that was somehow subpar.
21 Rather, what we tried to do was look at how
22 can we ensure that it is never subpar.

1 We didn't take a biased approach
2 and say, only impoverished Third World
3 smallholders should have access to the
4 construct. And, in fact, I have yet to hear
5 a convincing argument for how the exclusion of
6 others from using this construct actually
7 helps smallholders.

8 However, this was the hot button
9 issue, and what I'm referring here to is this
10 idea that an internal control system being
11 used as a means of inspection could get
12 extended beyond the smallholder group.

13 It continues to get raised in this
14 meeting, even though we went mute on the topic
15 in this final recommendation that we're
16 putting forth.

17 Now just, you know, moving into
18 the timeline here of the last 18 months, what
19 we did in one year or -- let's see, I guess
20 that would be six months ago, we put forth
21 detailed guidance. That was what you all are
22 calling for here on the board and the public

1 asked us for it.

2 We said, okay, you've laid out the
3 legal framework, now, you know, put some flesh
4 on those bones. Tell us what these things
5 really look like, how they should work. The
6 program asked us for that information as well.
7 Give us some guidance so we can train
8 certifiers in how to go in, put these organic
9 system plans to work together to build an
10 organic system plan with groups and have
11 something that's rigorous and valid in every
12 instance.

13 So we also received an enormous
14 amount of public comment that wanted to limit
15 internal control systems and the notion of
16 group certification very narrowly to farmers.

17 Yesterday Jim Pierce referred to
18 this elephant in the room. We didn't intend
19 this recommendation to have an elephant in the
20 room marching around.

21 In fact, we are quite explicitly
22 mute on the topic of producers and retailers

1 being able to use this construct in the future
2 because we still think it's very possible,
3 probable, it's happening right now, and
4 there's many retailers that are certified in
5 this manner that are scrambling trying to
6 figure out what to do because of an item
7 posted on the NOP Web site in May that quite
8 unequivocally said that grower group model
9 does not apply to retailers.

10 Unfortunately, retailers have not
11 -- and, you know, any type of processor group
12 is not going -- has not been granted the
13 luxury of time that seems to be being granted
14 to smallholder farming operations.

15 I also wanted to respond to one
16 item yesterday that was raised during public
17 comment that said, well, you know, we've got
18 a situation here that's going to look really
19 kind of -- it's going to look kind of sexy in
20 the media if we have some imported organic
21 product and there's fraud and, you know,
22 here's a gaping area where problems -- let's -

1 - we need not to conflate these two issues of
2 imported product and multisite operations.
3 These are completely -- completely independent
4 of one another.

5 If there's fraud from imported
6 product or fraud on domestic product, that's
7 an enforcement issue. Fraud can happen as
8 surely in a single-producer operation as it
9 could in a multisite, so implying that, you
10 know, multisite is inherently a greater risk
11 to consumer perception is -- I don't think
12 it's true.

13 So this recommendation, we're
14 beyond the guidance document stage. We put
15 forth a couple of guidance documents. We had
16 a minority opinion, as Joe mentioned, that
17 stated every new entry, every new member who
18 comes onboard should be looked at by an
19 outside member. Keeping in mind there's a
20 clear difference here between surveillance and
21 review, that an internal control system does,
22 and an outside inspector does.

1 What the minority opinion suggests
2 is that every new member should get looked at
3 by an outside inspector.

4 So we would like to put forth the
5 recommendation with this minority opinion.

6 Procedurally I believe we can vote on a
7 recommendation in its entirety, including a
8 minority opinion, and frankly let the program
9 suss out which way they want to go on that.

10 But there's going to be some
11 decisions made at the program level. We are
12 not -- you know, we have not dotted every
13 single "i" and crossed every single "t" on
14 this issue, but we need to act. We need to
15 move this forward.

16 There's a lot of stake, and we
17 have seen that the program can move swiftly
18 with groups that are using this construct that
19 they have with retailers. If they were to
20 move swiftly with smallholders, we could have,
21 you know, tremendous upheaval for not just us
22 organic coffee drinkers, but, you know,

1 vulnerable farmers around the world.

2 That's all I have.

3 MR. SMILLIE: Thanks, Tracy.

4 I'm just adding one thing.

5 There's a key component in this, and we
6 originally proposed that it be a new scope of
7 accreditation, that multisites certification
8 be part of the -- be separate from crops,
9 processing, livestock.

10 That was rejected at that time by
11 the NOP, but we would like, as hopefully we
12 get a positive vote on this recommendation, we
13 would like the NOP, you know, to take it
14 really seriously, that not every certification
15 organization is going to be equipped or ready
16 to take on this type of certification; that
17 the training component that Barbara talked
18 about yesterday, the training modules, are
19 going to have to be very clear, because a risk
20 analysis approach, which this is a lot based
21 on, is a very, you know, highly technical
22 domain that certifiers will have to get up to

1 speed on before, I think, they can start
2 getting into the business of multisite
3 certification.

4 So the scope of training and the
5 fact that not necessarily all certifiers will
6 be able to do this until they are up to speed
7 on it I think is very important, and we will
8 rely on the NOP that hopefully once this
9 recommendation is adopted by the board and
10 moved to the NOP, the NOP will, you know, make
11 that particular training available.

12 Because, as I said, in the
13 appendices, there's a lot of technical detail
14 on how this is going to happen.

15 Second item, second recommendation
16 that we have brought to the table is the 100
17 percent, and again I just want to clarify that
18 what this recommendation is about is the label
19 claim of 100 percent. We are not addressing
20 the issue of calculating components of a
21 multi-ingredient product in this
22 recommendation. Even though it may or may not

1 impact that calculations issue, that's not the
2 purpose of this recommendation, and we'll try
3 to make that clear as we move forward.

4 This was a response. This is the
5 kind of thing that the NOSB does when we hear
6 from the community there's an issue out there,
7 there's some problem, will you address it. We
8 took it up, we got into it, and we had all the
9 best intentions getting into it, and luckily
10 we have a wonderful community out there that
11 lets us know when we're on track and off
12 track, and we heard some excellent comments
13 yesterday in public comment on our
14 recommendation.

15 We listened very carefully, and we
16 will react, and I will ask Julie to give us
17 the update.

18 MS. WEISMAN: Well, as you know,
19 this committee did make a recommendation. It
20 was published. At the risk of repeating Joe's
21 comments, we were fortunate to receive very
22 thoughtful and valuable public comments about

1 it, and through that process it has become
2 obvious that the CAC, maybe because of our
3 composition or maybe for other reasons,
4 approached the issue very narrowly with an eye
5 only towards the 100 percent labeling category
6 of the products that are packaged for retail,
7 and without really considering what other
8 impacts this -- what other issues, important
9 issues, could be impacted by this
10 recommendation.

11 What public comment has brought to
12 light are very critical issues which I think
13 narrow down to two things. One is the issue
14 of materials that are used post-harvest versus
15 materials that are used during processing.

16 The recommendation we have -- as
17 we have proposed it would have very drastic
18 consequences, obviously, now if post-harvest
19 materials were considered ingredients --
20 considered as processing ingredients. And it
21 would possibly, it sounds like, set up a very
22 strong disincentive for using basic food

1 safety practices, and this is of grave concern
2 to the committee now that we have realized
3 that this is one possible outcome.

4 The other issue that is impacted,
5 which Joe alluded to, and I'll keep comment
6 about it brief, was that this recommendation
7 would have an impact on how organic percentage
8 is calculated, because if growers were to
9 continue using the food safety practices that
10 they have been using, it would knock a lot of
11 the products that are currently listed on
12 their organic certificates in the 100 percent
13 category out of the 100 percent category and
14 create mayhem in the rest of the industry in
15 terms of how organic percentages are
16 calculated.

17 That has already been a
18 problematic issue that is still, you know,
19 troublesome to sort out. So we do not want --
20 we are very concerned about adding to that
21 difficulty.

22 So in light of these very valid

1 concerns, the committee, although we haven't
2 met as a whole group, in just conversations
3 since yesterday, I think that we want an
4 opportunity to meet and decide whether we
5 should move this recommendation forward as is,
6 whether we should try and do like a midnight
7 amendment process -- I hate those, but
8 sometimes we've got to do them -- or to even
9 discuss perhaps maybe whether this should be
10 pulled back. But that's a question right now
11 because the committee hasn't met yet.

12 So I think that it was the thought
13 of the chair and myself, perhaps, that in the
14 interest of time at this meeting today,
15 because this recommendation may be
16 substantially altered, not to present it as it
17 is because it is has a lot of sort of very in-
18 depth information that takes a lot of time to
19 explain, and that maybe we should not present
20 it at this time and pending our committee
21 meeting later sometime today to decide what we
22 do, how we do want to proceed with it.

1 Is that a fair summary?

2 MR. SMILLIE: Yes. And that
3 concludes our presentation.

4 MR. DELGADO: Any questions from
5 the board? Jennifer.

6 MS. HALL: For the benefit of the
7 board and for the community, I would like to
8 take the opportunity to share a little bit
9 more about the spirit and intent of the
10 minority opinion.

11 As Joe mentioned, I definitely
12 feel very solid about the integrity of using
13 a good strong internal control system as a
14 management tool, but also as a manager of many
15 organizations, to me, the long-term success of
16 the organization or group, as it is described
17 here, also rests on a really strong foundation
18 of training up front.

19 So I think it's a little bit
20 misinterpreted that I actually see new
21 entrants as automatically high risk, and it
22 really is more about the second half of the

1 paragraph that talks about it, and that it
2 really is about trying to establish a more
3 solid up-front training and foundation and
4 particularly given the fact that these smaller
5 locations can be independently held, that it's
6 an opportunity up front to get them all on the
7 same page.

8 MR. DELGADO: Any comments?

9 MR. SMILLIE: Thanks, Jennifer.

10 We do want to make one
11 clarification in the document. I wanted to,
12 you know, see if there were any other
13 questions from the board first, but once
14 that's cleared, then what we would like to do
15 is do a little red-lining, which is little a
16 clarification of one of the sections that's
17 had the most confusion.

18 MR. DELGADO: Let's do that
19 clarification now for the board.

20 MR. SMILLIE: Okay. So unless
21 there's any other questions, we'll move to the
22 clarification.

1 Tracy.

2 MS. MIEDEMA: Thank you.

3 Valerie, would you please go to
4 page 7.

5 We wanted, in discussing sampling
6 protocols, to make sure there was an element
7 of random sampling. And when you start
8 talking about percentages of percentages, it
9 just can get confusing if you aren't crystal
10 clear.

11 So what we went ahead and did --
12 and this was after the document was published,
13 so for the benefit of the public and probably
14 for the board, we wanted to show you that we
15 have inserted a couple of examples of what we
16 mean when we line out the sampling protocol.

17 So if you could scroll down a
18 little bit. The page numbers may have shifted
19 a bit. Okay.

20 So what we have said that was
21 confusing was the high-risk sample of
22 identified and inspected. Twenty-five percent

1 of the remaining subunits to be inspected
2 should be inspected -- should be selected
3 randomly and so on.

4 So if you all would just turn your
5 attention to the board. The way we have
6 clarified this is to say once the annual
7 sampling percentage rate is determined by the
8 ACA -- so, you know, let's go -- let's just be
9 clear right there -- the ACA determines the
10 sampling rate based on a long list of risk
11 criteria. The highest then, the highest risk
12 subunits are identified and inspected.

13 Of the remaining samples to be
14 inspected annually, at least 25 percent of
15 these subunits should be selected at random.

16 You know, the reasoning behind
17 that is that this helps to prevent the
18 complacency that might be inadvertently
19 encouraged by a certifier focusing only on
20 higher risk members of the multisite
21 operations.

22 Then we go through a couple of

1 examples to just do the math for you all and
2 for the program. And that's the only edit we
3 made to the document post-publishing to
4 regulations.gov.

5 MR. DELGADO: Does that conclude
6 that item?

7 MR. SMILLIE: Yes.

8 MR. DELGADO: So we'll open it up
9 to questions. Dan.

10 MR. GIACOMINI: Thank you, Mr.
11 Chairman. Thanks, Joe and Tracy.

12 I agree with the philosophy of
13 where we're going here, but as I go through
14 the document and I listen to public comments
15 and I hear -- you know, look at other
16 situations, there are some things in this that
17 I still have some problems with.

18 First of all, I think the
19 justification for this, that is how
20 inspections are being conducted currently, is
21 a very weak argument; that if the problem is
22 incomplete inspections being done, we need to

1 fix the inspection process rather than to
2 create a document to justify it.

3 So I disagree with that comment as
4 being partly behind where this is coming from.

5 Number two, on the specifics, I
6 really object on page 2 to -- there's two
7 places where it refers to the possibility of
8 the "may reduce or eliminate the need for a
9 direct inspection or observation."

10 I have a hard time going along
11 with this document where we say -- where we
12 are allowing a consideration that we may reach
13 a point that the need for an inspection would
14 be eliminated. That's in the first paragraph
15 on page 2 right above the OSP at the end of
16 the paragraph. Up at the top, Valerie. "May
17 reduce or eliminate the need of a direct
18 observation by inspection."

19 I don't -- I have a problem with
20 that "eliminate," and it's duplicated down in
21 the last paragraph right above the footnotes,
22 "internal control systems that reduce or

1 eliminate the need for a direct observation."

2 I don't -- I can't -- I have a
3 hard time agreeing with that direction, that
4 implication of where that could go.

5 MS. MIEDEMA: May I respond.

6 MR. DELGADO: Tracy.

7 MS. MIEDEMA: I think that's an
8 excellent catch, actually. And what we need
9 to do there that could, I believe, allay your
10 concerns, which are very valid, is where it
11 says the word "subunit" and take out the word
12 "or site." Because that's what we're talking
13 about here. And that was an oversight on my
14 editorial process. And that would then
15 comport with the rest of the document.

16 MR. GIACOMINI: Personally I would
17 prefer we add "eliminated" or "eliminate."

18 MS. MIEDEMA: Sure.

19 MR. GIACOMINI: The second point
20 is in a question on page 8, at the bottom of
21 page 8, "all noncompliances detected," go down
22 through the sentence, "are required to be

1 reported to the certifier."

2 I don't see here when that
3 reporting is required to occur. Is it at the
4 detection of the noncompliance? Is it just
5 within the annual inspection? Because I can
6 see some situations developing where, okay, we
7 won't report this. If they find it in the
8 inspection, then we'll report it, because I
9 think there's some different teeth that can be
10 involved in those implications.

11 MS. MIEDEMA: I'd like to respond
12 to that one as well. This is actually
13 enshrined in all organic that noncompliances
14 should always be reported, and I think we are
15 starting to get into an enforcement issue
16 where, you know, this is really -- a
17 noncompliance spotted here is no different
18 than on a single, you know, production unit
19 type operation. If it's wrong, it's wrong,
20 and it needs to be pointed out in the same
21 manner.

22 So getting as prescriptive as, you

1 know, reported within 24 hours or something
2 like that, is more prescriptive than anything
3 else that we line out for certifiers.

4 MR. GIACOMINI: Okay. Well, that
5 brings me to my next point. When you say it's
6 no different, I have a hard time looking at
7 this document and not seeing a concession
8 being made. There are concessions -- we have
9 requirements, you know, that -- you know, if
10 you're a small grower in the United States, at
11 \$5,001 you have to have an inspection. We are
12 allowing certain ones, because of the
13 structure of their organization, not to be
14 inspected.

15 Now they do have the internal
16 control unit, and that review, and I
17 understand all that. But it is a -- there are
18 concessions being made. And what I don't see
19 in the document is really -- and I'm sorry if
20 I'm being unfair here -- I don't see where
21 we're getting anything back.

22 I think the consideration -- I

1 like the consideration of -- I like the -- I
2 agree with the minority report of requiring
3 that all new people must be done. I do not
4 see a contradiction in requiring that all
5 growers' subunits in a production system that
6 earned more than \$5,000 in the previous 12
7 months would have to be inspected, and part of
8 the inspection outside the high-risk group.

9 I don't see any problem with
10 requiring -- and this may be in there, I may
11 have missed this, but just as I was making
12 notes, requiring that every subunit that had
13 a noncompliance has to be inspected in the
14 next inspection period.

15 I don't see -- I like the addition
16 you made at 25 percent. I think maybe we
17 could -- you know, what I was thinking along
18 the lines is a percentage of acres or a
19 percentage of value of the production unit has
20 to be included in that inspection sample.

21 Finally, I just wanted -- there's
22 a couple of places where you deal with random

1 selection, and I agree with random selection,
2 and it is a factor that would minimize the
3 number of repeat inspections within the same
4 subunit.

5 However, I'm not comfortable on a
6 random basis, just by random chance. You
7 could go 10 years without seeing a particular
8 subunit. I think we need a maximum number of
9 years between actual inspections of each
10 subunit within a production system -- five
11 years, six years, whatever, but I'm
12 uncomfortable with the randomness allowing it
13 -- random could be they're just never seen.

14 So if we're not going to require
15 new ones and we don't have a maximum between
16 inspections, you've got subunits in there that
17 have never been inspected, seen by an
18 inspector, and I have a hard time going along
19 with that. Maybe it's too much.

20 MR. DELGADO: Response, Tracy?

21 MS. MIEDEMA: Thank you, Dan. You
22 know, I think we start out from a little bit

1 of a different philosophical perspective on
2 this, and then the chasm starts to widen as we
3 get down into the details.

4 What I have seen is that, you
5 know, if you look at the public comments
6 submitted this time, 19 of 20 were generally
7 supportive, and we're going to have -- you
8 know, there is going to be some devil in the
9 details, but, you know, all in all we had to -
10 - we had to make a decision on one side or the
11 other.

12 And all of the items that you
13 pointed out are areas that we took public
14 comment and took account very carefully. It's
15 an issue of do we believe these are feasible,
16 do we believe it's right, do we believe
17 smallholders should have a role in organic?
18 And if our general tilt at the beginning of
19 that conversation is yes, then a lot of
20 details fall out of that. And if the general
21 philosophical bent is no, then the details
22 sort of all in the other direction.

1 Then we can't quite bridge the
2 divide if we start out from a -- you know,
3 philosophical difference.

4 We started out believing that this
5 can and should carry on as a viable
6 certification if, and only if, a rigorous set
7 of criteria were developed, and we believe
8 that this set of criteria provide that rigor.

9 MR. DELGADO: Joe.

10 MR. SMILLIE: Yes. I think Tracy
11 summed it up really well. You know, you can
12 go both ways on this.

13 My personal belief is that if you
14 look at the list of risk analysis, all the
15 points you make could be added to that. I
16 think that if ACA is doing their job, they
17 will do those.

18 For example, anyone with a
19 noncompliance in the past that corrected it
20 would be a high risk and they would be
21 inspected again.

22 But the idea -- eventually we get

1 to the point are we going to try and write a
2 prescriptive regulation in this document, or
3 are we setting forth a series of criteria by
4 which people are going to be judged?

5 We believe we have gone really
6 deep on a lot of these issues, and I think in
7 some cases too far. I think that basically
8 what our job is to do is to be clear in our
9 intent to the program, and not to get so
10 prescriptive as to tie the ACA.

11 For example, why I disagreed with
12 the minority opinion -- it sounds good that
13 every new member should be inspected and
14 welcomed into the group and have the visit of
15 the, you know, the third-party inspector.

16 But when you start to work that in
17 detail, it means that you're pulling away a
18 whole group of people. You know, some of
19 them, you know, don't need to be inspected, if
20 you look at a risk analysis benefit. And if
21 you include all of them, your sample gets big,
22 so the tendency then, from a certifier point

1 of view, well, we're doing all these new
2 people, so you cut back on some of the -- you
3 know, the guy high in the mountains, in the
4 low corner, or the guy near the border. You
5 cut back. And I think the risk analysis, the
6 importance of the risk analysis approach, is
7 that you really want to identify risk. And if
8 new members are risks, by all means, you know,
9 they need to be checked. They need to have
10 that inspection.

11 But if they are not, if there's
12 eight of them, all side by each, as we saw in
13 Kennebec, you know, that you don't really need
14 to do all eight.

15 So where you are going I'm not
16 disagreeing with, but I'm saying it becomes
17 very prescriptive, and I believe it's the
18 training of the ACA and the criteria that
19 needs to be put forward, and not to go down
20 the overly prescriptive route on this route.

21 But that's the way I -- we
22 approached it.

1 I also once again want to
2 reiterate if you go to the appendices -- and
3 I mean not that you'd want to, but there's a
4 lot of detail there that we intend the program
5 to go into.

6 So that's about as best as we can
7 answer it at this point.

8 MS. FRANCES: Can I clarify
9 something? In the appendices, there's
10 actually a reference there.

11 MR. SMILLIE: Thank you.

12 MR. DELGADO: We have Bea,
13 followed by Jeff.

14 MS. JAMES: Dan, I was wondering
15 if you could elaborate a little bit more on
16 the comment that if there's a current practice
17 going on, and that we are trying to create a
18 document to justify, maybe you could be more
19 specific.

20 MR. DELGADO: Dan.

21 MR. GIACOMINI: Maybe I misheard
22 part of Tracy's introduction to the document,

1 but I believe that's what -- the essence --
2 some of the essence of what she explained.

3 MS. JAMES: For this particular
4 recommendation?

5 MR. GIACOMINI: Yes. Just now.

6 MS. MIEDEMA: I believe you were
7 referring to 205.403, and it states that every
8 production unit site and facility must be
9 inspected. That's not what was happening in
10 reality, if we look at site being a small
11 divisible unit. There were not and are not
12 today boots on the ground at every small
13 divisible unit. And it totally addressed head
14 on 205.403. Every grower group in the world
15 is out of compliance.

16 So that's what I was talking about
17 making the language match the reality, not --
18 lots of integrity, but simply disallowing
19 another lawsuit because this went all the way
20 to appeal, and so, you know, we've got a
21 problem here, and that's why we decided to
22 address that head on.

1 MR. DELGADO: Jeff.

2 MR. MOYER: Yes. Joe and Tracy, I
3 got some basic problems with this document
4 that Dan really touched on very clearly.

5 One of the stringent arguments
6 that we continuously use in the organic
7 marketing program is that when we talk to
8 consumers, we tell them that every farm is
9 inspected all the time, so we have
10 inspections.

11 I understand the internal control
12 system steps in and takes over part of that
13 role. However, talking with growers who are
14 involved with internal control system
15 inspections, they all have said -- not the
16 inspectors, but the growers -- have said you
17 don't really pay as much attention when it's
18 the internal inspector as we do when it's the
19 external inspector.

20 I've seen that -- my wife works in
21 a microbiology lab, and they have internal
22 control systems. But it's the same thing

1 there. When it's the internal inspector who
2 you just had lunch with, it's a little bit
3 different than when the outside inspector
4 comes from ANSI or somebody else.

5 So I have concerns over the fact
6 that, you know, as Dan pointed out earlier,
7 you pointed out in your example, a random
8 sampling of when you have 100 growers, two?
9 Two are selected as random testing? Your
10 chance of getting picked is almost as good as
11 winning the lottery. I mean you're just --
12 you're not really not going to get selected
13 that quickly.

14 And so Dan's suggestion of having
15 a maximum number of years between inspections,
16 while it does change this document and force
17 us to have more boots on the field in terms of
18 inspectors, I think when you're talking to
19 consumers and you're trying to alleviate their
20 fears that product is inspected -- when you're
21 talking about -- you know, as you pointed out,
22 Tracy, a lot of product that's coming from

1 overseas where there's already serious
2 concerns, I think that we are asleep at the
3 switch if we pass this regulation the way it's
4 stated. Representing the consumer.

5 MR. DELGADO: Any response?

6 Tracy.

7 MS. MIEDEMA: Well, a comment on
8 your metaphors there. Your wife's company.
9 You would need to extend that metaphor and say
10 that she has a lab that has an internal
11 inspection, and her lab has a whole bunch of
12 other labs they work with. And so the
13 pressure she has is not just from this gal she
14 had lunch with who's going to come look, but
15 if she falls down, she jeopardizes all the
16 other labs.

17 There's an enormous amount of
18 pressure within these systems to comport with
19 the law and keep the entire organization's
20 products organic.

21 So there's -- you know, it's not a
22 one to one, your metaphor there, I would

1 argue.

2 I also am concerned with this
3 notion that you're looking at inspection as
4 some sort of lottery system. We have
5 accredited certifiers, agents of the
6 government, that are in charge of these
7 organic system plans. And what you're
8 inferring is that they are unqualified to do
9 their job, and that the entire system is
10 flawed.

11 What I would, I guess, ask you to
12 do is point within these criteria what is
13 missing, rather than sort of blithely
14 referring to it as a lottery system that
15 confuses consumers. Because all inspection is
16 sampling. I work at a farm that is about
17 5,000 acres. There are not boots marching
18 over all 5,000 acres. All inspection is
19 sampling. And if consumers believe that a
20 pair of boots have trod over all 5,000 acres,
21 that's a misperception out there, same as
22 organic means no pesticides, something we

1 contend with, something we know there's an
2 inherent risk when there's those
3 misperceptions. But all inspection is
4 sampling.

5 And that's not wrong, that's just
6 what inspection has to be.

7 MR. DELGADO: No response to that?
8 We have Hugh, followed by Dan.

9 MR. KARREMAN: Just a brief
10 remark. I mean Dan had a lot of very exact
11 points, but they're -- from random sampling
12 you may never visit a subunit or a unit and
13 you have to. I mean for me to like this
14 document and go for it, you have to have some
15 minimum that every single unit -- not all in
16 the same year, but maybe in a rolling kind of
17 fashion -- gets inspected, at least every five
18 years or something. And they have their ICS
19 happening, but you could really have some
20 units falling through the cracks. Just --
21 that's got to change in the document.

22 MR. DELGADO: Dan.

1 MR. GIACOMINI: I realize I ran
2 through a number of things, but one thing that
3 I would like, you know, the committee to
4 address -- and Joe, if you would -- I
5 certainly do not agree with the concept that
6 I tended to hear or I think I heard in some
7 public comment that anyone -- any unit grower
8 over \$5,000 can't belong to a grower group.

9 I don't necessarily agree with
10 that, but could you address the issue, and if
11 I can frame it this way, can you possibly
12 discuss the situation that every grower in the
13 United States with \$5,001 has to be inspected
14 on the ground by an NOP inspector annually,
15 whereas someone who is part of a grower group
16 in Venezuela or China or -- and makes twice
17 that amount but since they're a part of the
18 grower group, they would not have to be
19 inspected annually?

20 I can see that as an absolute
21 media nightmare that will blow up in Barbara's
22 face far more than hops ever did.

1 MR. SMILLIE: Well, I go back to
2 the same basic thing. If you've got -- and
3 again, there are so many different examples.
4 People have to understand the wide range of
5 different types of grower groups there are on
6 that.

7 Certainly if you've got the
8 classic situation which everybody imagines
9 when we talk about grower groups, which is,
10 let's say, the Central American coffee group,
11 you've got people who farm exactly the same
12 way and have roughly the same hectarage.
13 Okay, they all have smallholding plots.

14 If there's a large group -- and
15 also because of the social construct or
16 something like that, there are some growers in
17 there who have larger plots, they would show
18 up as in the risk analysis. That's my belief,
19 that they would show up, that if you looked on
20 that list, which is right there, you go
21 through that list, and, you know, there could
22 be even more things added possibly to it that

1 are contained in the references. That's how
2 you spot that. That's how -- you know, so
3 there's like five big growers and like 800
4 little growers. Those five are, in my
5 analysis, if the ACA is doing their job, they
6 would be inspected every year because they're
7 larger, because they stand out, because
8 there's something different about them.

9 Now they have to have the same
10 OSP. Remember, all of these subunits are
11 operating from the same OSP. If that big unit
12 has a different OSP, they don't fit the
13 criteria. They can't be part of the group,
14 and they would be like, sorry, guys, you can't
15 be part of this group; you're different.
16 You've got a spraying machine; nobody else has
17 a sprayer. So, therefore, you're out.

18 Remember, you've got to go back to
19 the real basics of this. The legal entity.
20 Somebody said, well, we can't like this
21 document because it has to be defined in
22 public comment as a legal entity. That's a

1 given. You have to be a legal entity. You
2 have to operate from a single OSP, you have to
3 have a functioning ICS with all the
4 restrictions we place on it.

5 So in that sense I would believe
6 that they would be pointed out by -- through
7 the, you know, that list of risk analysis, of
8 why they would stand out as different.

9 MR. GIACOMINI: What if all the
10 subunits within a group were over 5,000? Then
11 only a part of them would.

12 MS. MIEDEMA: No, actually there's
13 no floors. It's quite possible that a third
14 party is going to come in and say, you know,
15 I'm looking at this organic system plan. One
16 hundred percent of the small statistical units
17 must be looked at every single year.

18 We don't say that, you know, it
19 has to be a small number. In fact, you know,
20 it's very likely that as this gets
21 implemented, the range is going to be very
22 broad. You know, maybe it's going to range

1 from 10 to 70 percent get looked at.

2 But, you know, that's this
3 snowflake thing of the organic system plan.
4 They look very different here in the U.S.
5 Every organic farm's organic system plan looks
6 different from every other organic system
7 plan. We don't have a checklist system here
8 with USDA organic, we have a system that
9 actually conforms to geography, to crops, to
10 individual circumstances.

11 Yet, like a snowflake, it has
12 structure and logic to it. Every one of these
13 organic system plans is going to look
14 different and so are the inspection protocols
15 and rates.

16 MR. DELGADO: We have a comment
17 from Richard.

18 MR. MATTHEWS: Yes. I'm sitting
19 here and I'm listening to this, and everybody
20 is talking about the Third World countries.
21 And Dan spoke to it specifically, about
22 outside the United States.

1 Unfortunately, ladies and
2 gentlemen, it is my understanding that there
3 are certifying agents here in the United
4 States that since this policy or
5 recommendation was accepted by the Department,
6 you now have grower groups certified in the
7 United States.

8 And I guess I could use Steve as
9 an example, in Campbell's Soup. He has lots
10 of contracts, and unfortunately there's no
11 definition of geographical proximity, so
12 Steve, as Campbell's, could say, okay,
13 everybody that we contracted with in North
14 America is now a grower group. Campbell's
15 forms a grower group. Is that what you want?
16 That's what this document does.

17 MR. DELGADO: Response from Joe.

18 MR. SMILLIE: I respectfully
19 disagree. If you look at the document, it
20 will say "are located within geographic
21 proximity is defined by access to the same
22 collection or post-harvest handing facility in

1 common soils, water source, slope, topography,
2 or other physical features."

3 That's just one of the guidelines.
4 Steve would also have to put together an
5 internal control system. Steve would also
6 have to ensure that each tomato grower
7 followed exactly the same OSP.

8 You cannot herd cats, and I doubt
9 very much whether -- if I came and looked at
10 Steve's system, I would find so many holes in
11 it right off the bat, I believe that he
12 wouldn't qualify.

13 MR. MATTHEWS: So -- but it's
14 happening.

15 MR. SMILLIE: That's why we would
16 like the NOP to adopt our recommendation and
17 enforce a regulation which, in your wisdom,
18 you will take our intent and come up with
19 something that doesn't allow it to happen.

20 MR. DELGADO: Any other questions?
21 Bea.

22 MS. JAMES: Okay, now I can't

1 leave this conversation without just giving
2 another plug for the pink elephant in the
3 room, and I don't mean to beat the pink
4 elephant, you know, to death here, but I know
5 that the CAC heard loud and clear from public
6 comment around retailers and processors being
7 a part of this recommendation and that was
8 removed. It wasn't removed with the idea that
9 it would not ever be considered as a separate
10 recommendation that potentially the CACC would
11 look at.

12 I think one of the things that I
13 find interesting is that risk criteria have
14 not been developed for retailers at all, and
15 yet there's been this blanket decision that
16 100 percent inspection should happen at the
17 retail level. And to me, that just seems
18 unfair, and I think that retailers who have
19 voluntarily taken it upon themselves to become
20 certified so that they can help with education
21 at the consumer level have done so not because
22 they're trying to take a shortcut with

1 becoming certified, but because they want to
2 be able to articulate what the USDA organic
3 seal means in a way that has value and
4 meaning.

5 And so I just want to pose that I
6 think it's very important that the certifiers
7 that we heard from in public comment and also
8 some of the ones that spoke yesterday, who
9 pointed out that they think retailers and
10 processors should definitely not be a part of
11 this recommendation, I think that that's
12 already been addressed, but I also see the
13 need for us to address it on a separate level
14 so that we can develop risk criteria
15 specifically for that sector and go forward
16 with determining whether or not it's an
17 opportunity for retailers and processors to
18 use the construct of multisite.

19 MR. DELGADO: Comments?

20 MS. MIEDEMA: I'd like to just
21 make one final comment addressing Mr.
22 Matthews' scenario he described.

1 He described all the rewards and
2 none of the risk, and these folks who decide
3 to bind together share an enormous amount of
4 risk. And it's a perverse logic to say that
5 a bunch of production facilities are going to
6 bind together when they don't have to, to save
7 a few bucks on inspection. It's a perverse
8 logic.

9 We can't look at this construct
10 without looking at both the risks and the
11 rewards, and what you laid out was only the
12 reward side.

13 The risk applies an enormous
14 amount of pressure to each individual player.

15 MR. DELGADO: Good. I think we're
16 ready to move on to the next point. Thank you
17 for a wonderful debate on both parts.

18 Let's move on then to our next
19 point. We are about 29 minutes behind
20 schedule, so hopefully we'll make it up soon.

21 Our next topic will be our Joint
22 Crops & Compliance. I'm thinking that

1 involves commercial availability and
2 biodiversity, and I understand that Mr. Davis
3 will be in charge of leading the discussion.

4 MR. DAVIS: Yes.

5 JOINT CROPS & COMPLIANCE, ACCREDITATION,
6 AND CERTIFICATION COMMITTEE

7 MR. DAVIS: This joint committee,
8 there are two items that we'll be going over
9 right now. The first one would be the
10 commercial availability guidance regarding the
11 sourcing of organic seed.

12 The second would be the
13 biodiversity discussion and the initial work
14 working on a guidance document concerning
15 biodiversity and ongoing work that will be
16 going forward from here.

17 I will do the presentation on the
18 seed, with a little help from Joe Smillie, and
19 just a heads-up to you, Barry, the
20 biodiversity, you'll be doing that one.

21 Okay. On the commercial
22 availability of organic seed, we are working

1 on, have been working on revisions and
2 hopefully improvements to a previous document
3 that was a recommendation from 2005 from the
4 board. So we have a -- do we have that up
5 there, Valerie?

6 Okay. And the changes that we
7 have made, the new changes, are highlighted in
8 blue. Do they show up on that screen that
9 way? Sort of. It's hard to see it as real
10 clear.

11 But before we go to the changes
12 specifically, I wanted to go to the overall
13 overview of why we are working on this. A lot
14 of public comment is received, that you get
15 the feeling that people, certifiers and
16 growers, would just prefer that this topic go
17 away and just leave us alone and let us do
18 what we're doing.

19 And then others say, no, no, this
20 is very important. We need to address some
21 issues here. And in discussions with the
22 committee, particularly in the Crops

1 Committee, but also when we worked in Joint
2 Committee calls, was that we are attempting to
3 encourage more usage of organic seed and in
4 doing that we want to -- we do not want to
5 single out any one group, meaning certifiers
6 or growers or even the NOP, as all the work
7 that would be required to implement these
8 changes would be concentrated in any one area.
9 We want to spread the responsibility and the
10 workload out of accomplishing these
11 recommendations.

12 I think it needs to be highlighted
13 again why this is important. I'll just read
14 a statement from the discussion part of the
15 document.

16 The board highlights that further
17 development of the organic seed industry is
18 the key to increasing commercial availability
19 of organically grown seeds and subsequent
20 increased usage by growers. Again, the goal
21 is to promote the continued growth and
22 improvement in organic seed production and

1 subsequent usage by organic growers without
2 hurting or putting undue burdens on growers.

3 It is not the committee's
4 intention to have major noncompliances handed
5 down to farmers trying to abide by the seed
6 commercial availability section of the rule.
7 Achieving the goal of a healthy, viable
8 organic seed industry is important, especially
9 when considering the pathway the conventional
10 seed industry is taking toward increasing
11 inclusion of biotechnology, i.e., genetic
12 modification of seeds, which would all be
13 excluded methods in the organic rule. The
14 organically grown movement will not benefit
15 from allowing the organic seed production
16 industry to stagnate. The status quo would be
17 a big problem for the organic movement down
18 the road if we do not address this at this
19 time, in my opinion.

20 If we allow that industry, the
21 organic seed production sector, to stagnate
22 while the conventional seed production sector

1 moves on to the likely future situation in
2 which traditionally bred and produced seed is
3 only an afterthought, a relic of bygone days,
4 the organic seed and the organic producers,
5 these are the ones who can maintain and
6 support viable varieties that work in organic
7 and the production of the seed to support
8 organic production.

9 Many people have made statements
10 that -- well, I won't go there. Never mind.
11 Too long. We're behind.

12 But, anyway, it is important, and
13 I, as a spokesman for this group, hope that I
14 haven't belabored this issue too much.

15 Moving on to the document itself,
16 I wanted to go to the new changes, which is
17 page 3 right there. Okay.

18 We separated in sections of the
19 NOP rule the new role that we want to
20 encourage, and I'll just read it quickly.

21 Emphasize protocols for
22 determining commercial availability of organic

1 seeds during the accredited certifying agency
2 training programs.

3 Currently we are told that it's
4 not being emphasized and so certifiers don't
5 see it as that important.

6 Number two, emphasize to ACAs that
7 organic seed usage by clients must be
8 monitored and improvement in percentage usage
9 is expected and must also be monitored.
10 Documentation of the levels of organic seed
11 usage and evidence of improvement in their
12 percentage versus total seed usage by the
13 ACA's clientele should be audited as part of
14 the NOP accreditation reviews.

15 Number three, inform ACAs during
16 training sessions that the issuance of both
17 minor and major noncompliance statements to
18 growers on this issue is the tool to be
19 considered in all audits as a method to
20 incentivize growers to use more organic seed
21 in their operations.

22 Now moving on to the ACA's role,

1 section B, number one. Continue to enforce
2 requirements for use of organic seeds applying
3 NOP guidance on commercial availability of
4 seeds. Document the organic seed usage status
5 of their clients and be prepared to present
6 the information to the NOP as part of the
7 ACA's accreditation audits.

8 Two, emphasize that seed price
9 differentials between organically grown and
10 conventionally grown seed are not a factor in
11 determining commercial availability.

12 Three, verify that organic farmers
13 are making a sincere and ongoing effort to
14 find organic seed varieties suitable for their
15 farm.

16 Four, impress upon growers and
17 clients that if known sources of organic seed
18 are available, they must be sought out and
19 utilized or face the possibility of having
20 individual crops decertified.

21 This possibly could occur
22 following the issuance of noncompliance

1 statements over a period of no less than two
2 yearly audit cycles.

3 It is recognized that production
4 of seed takes multiple years. You could make
5 the decision one year to inform your organic
6 seed supplier or other seed supplier that you
7 want this particular organic seed. It would
8 take -- it probably wouldn't be until the
9 third year before you would actually get seed,
10 even if you requested it, in many cases,
11 because of the development time it takes to
12 bring that seed through the production
13 process.

14 The next change in the ACA section
15 is not -- it's within an existing section,
16 number five. We did make a couple of
17 insertions on point B, the new part is -- I'll
18 read it.

19 As part of the validation process,
20 copies of the applicant's documentation from
21 previous years should be consulted to
22 determine if they are making any progress in

1 their search methods and results.

2 So that would be a new thing where
3 the ACAs would need to consider previous
4 inspections relevant to their organic seed
5 acquisition and availability to determine if
6 the current year's situation with the grower
7 and their amount of organic seed usage is an
8 improvement from previous years.

9 And then point D, we recommended a
10 strikethrough on -- where it says maintain and
11 submit upon request to the National Organic
12 Program, and the strikethrough would be crop
13 varieties permitted by each agency, and
14 inserted instead the wording documentation --
15 maintain and submit documentation of the
16 organic seed usage status, current percentage
17 levels as compared to historic levels of uses
18 by acres of each certified operator.

19 And I know I'm getting bogged down
20 here with too many details. I'll get through
21 this.

22 Moving on to the grower section,

1 section C. The certified growers' role in
2 increasing organic seed use.

3 Number one, document annually all
4 seed usage to determine the percentage of
5 organic seed usage versus total seed usage on
6 an acreage basis.

7 Number two, search for and request
8 organic seed for all crops grown.

9 Three, document a diligent search
10 for organic seed by listing and legitimately
11 working with a minimum of three seed vendors
12 that are known within the industry as organic
13 seed suppliers.

14 So there's three different
15 sections of responsibility, starting with the
16 NOP program, moving to certifiers, and then to
17 growers.

18 In public comment it was mentioned
19 that perhaps buyers and/or processors who call
20 the shots on what organic growers are -- what
21 varieties are growing need to be brought into
22 the loop and maybe delineated in that area of

1 the document and not be left to a reference at
2 the end of the document.

3 The Joint Committee will discuss
4 that possibility and see if we want to make an
5 amendment at this meeting.

6 One more addition to the 2005
7 document was on page 4 -- or is it 5. Yes, on
8 page 5. In reference to the database.

9 Further, the NOSB recommends and
10 encourages the establishment of -- and we
11 inserted new information of a two-way national
12 database by an independent party. This
13 database should provide public access to
14 current information on the availability of
15 organic seed varieties, and the new wording
16 also would be and allow for the posting of
17 requested varieties and quantities of organic
18 seeds from growers in a manner that protects
19 private company business information.

20 In other words, not just what seed
21 is available by the different organic seed
22 producers, which those databases already

1 exist, but also what is being requested that
2 is not available at this time. Again, just a
3 suggestion and a recommendation, not anything
4 we can really do much about as far as what the
5 NOP and NOSB can do.

6 That's the gist of the changes.

7 And I wanted to turn it over to Joe to discuss
8 the ACA's part of this. Most of the public
9 comment we have been receiving is coming from
10 the certifier saying mostly their objection to
11 a lot of this, so I thought I'd let Joe see if
12 he can deal with that.

13 MR. SMILLIE: All of a sudden, the
14 seat seems to get hotter here.

15 (Laughter.)

16 Yes, I represent the
17 Certification, Accreditation and Compliance
18 Committee, and these are certification,
19 accreditation, and compliance issues we are
20 talking about.

21 Number one, the overview is that
22 seed is really important. Seed is like

1 critical and essential to the survival of the
2 organic industry. And as we all know, organic
3 is an agricultural methodology. You know, it
4 may be looked at as a labeling claim, but what
5 it's about is about agriculture, and
6 agriculture is about seed.

7 If we don't protect our future and
8 protect organic seed, we are going to be very
9 limited as to what we can do to affect
10 agriculture around the world.

11 That's why even though this is an
12 extremely complex and complicated issue, we
13 must address it, and we have to be really firm
14 about it.

15 It's going to cause a fair bit of
16 pain, and what we're saying as the Joint
17 Committee is we want everyone to share the
18 pain. We are not trying to -- we don't want
19 to have what so often occurs is, you know,
20 called the circular firing squad, where the
21 seed companies blame the growers, the growers
22 blame this, the certification blames that,

1 everybody blames each other. You're not doing
2 enough, and sort of a "not in my backyard"
3 approach. Don't put the burden on me. I'm
4 the poor grower. Don't put the burden on me.
5 I'm just the seed company trying to survive.

6 And so what we have to do is bite
7 the bullet and all agree that we have to
8 address this issue. We had a public comment
9 the other day that just rocked me, and I don't
10 usually get rocked too often by public
11 comments. But the guy said, yeah, we can put
12 -- you know, we'll advertise, we'll put it in
13 a letter to a grower that says how they can,
14 you know, beat the certification analysis of
15 did you search for organic seed. We'll even
16 write the letter for you, so you can buy our
17 conventional seed and get this letter that,
18 you know, will suffice for the certification
19 agent.

20 I mean, you know, it's got to
21 stop. We've got to move forward on organic
22 seed, and that's the principle which our

1 committee took, is that everybody has to share
2 in the burden of doing it. Nobody wants to.
3 It's going to be burdensome, but we have to do
4 it. There's no choice on this issue.

5 So as far as the certifications,
6 which I represent, which I'm sure they're not
7 going to be happy with me, even though we're -
8 - you know, certification organizations do
9 have already, you know, a pretty large role in
10 it, I think everything in this recommendation
11 is doable.

12 Now, again, when you get to
13 recommendation -- you know, this
14 recommendation, you know, it has words like
15 "verify" and "should" and, you know, it's a
16 guidance document.

17 So what the NOP will be doing and
18 what the certifiers will be doing will depend
19 on I think a series of negotiations between
20 the sectors. And what we're pointing out, I
21 think, more than anything else is that there
22 has to be negotiation on this. Nobody can

1 hide their head in the sand on this issue.
2 It's in the regulation. We have a regulation
3 that's clear. It's clearer, I think, than
4 401(c). It says you should use organic seed,
5 period.

6 MR. DAVIS: Must.

7 MR. SMILLIE: Must use organic
8 seed. Thank you, Gerry.

9 You must use organic seed, and yet
10 we're not. And we have to. And what we have
11 to do is figure out the best way to leverage
12 it bit by bit. Somebody does a little bit,
13 then somebody else does a little bit more, and
14 we leverage it all up.

15 The NOP has to dance with the
16 partners on this one. This is going to
17 require careful coordination. We don't want
18 to see, you know, people coming and hitting
19 the certification writer and saying you didn't
20 enforce it. It says in the regulation you
21 have to do this, you didn't do it, you know,
22 you're going to lose your accreditation. We

1 don't want to see that happen to the grower,
2 we don't want to see that happen to the seed
3 companies. Everybody has to work together to
4 make this work.

5 I think this recommendation, even
6 though there's all sorts of issues with it,
7 and we did hear a lot of good public comment
8 on it, I think nonetheless as a guidance
9 document, we want to move this one forward at
10 this meeting and really start to tackle what
11 I think is a big problem in the organic
12 industry, and everybody has to share in the
13 work to get it done.

14 MR. DELGADO: Any questions? Jim,
15 followed by Kevin and Jennifer.

16 MR. MOYER: Thank you, Mr.
17 Chairman.

18 I just wanted to follow up on what
19 Joe said in that as we were working on this
20 document, the whole idea of shared pain was
21 really, really important, and this idea that
22 we do need to work together, particularly that

1 the program include this as part of their
2 auditing of the ACAs, as we look at what
3 they're doing and what their inspectors are
4 doing with the boots on the ground, as we
5 heard, they are the folks that are out there
6 and can help collect this information.

7 At the same time, the ACAs need to
8 enforce or need to impress upon their growers
9 that this is something that's being taken
10 seriously now, and that they do risk at some
11 point decertification of a particular crop if
12 they have shown repeatedly that they are not
13 interested in finding seed that is known to be
14 available.

15 So I think everybody shares in the
16 burden this way, everybody has a little bit of
17 extra work to do, but the outcome should be
18 well worth the work.

19 MR. DELGADO: Kevin, followed by
20 Jennifer.

21 MR. ENGELBERT: Briefly, I just
22 wanted to add, there's no additional burden

1 for growers large or small that use organic
2 seed. The situation continues to present
3 itself where the intent of the rule in OFPA is
4 clear. And we don't know how much farther we
5 can go, how much more prescriptive we can be,
6 and if we may eventually get to the point
7 where we just recommend that organic seed must
8 be used, period.

9 We don't think we're at that
10 point, but we hope that the industry, the
11 community of farmers, certifiers, realize that
12 this is a serious issue because, like Joe
13 said, organic agriculture begins with organic
14 seed, and this industry has to move forward.

15 MR. DELGADO: Jennifer.

16 MS. HALL: I have three things.
17 I'll start with the easiest one first.

18 One is just a correction on some
19 language. On the last page, where it starts,
20 "Further, the NOSB recommends and encourages,"
21 number one, just after the inserted language,
22 where it stops, "private company business

1 information," I think due to the insertion
2 into a prior document that there's a little
3 bit lost in translation. It continues that
4 "producers using nonorganic varieties not
5 appearing on the database," which is a little
6 bit incorrect in the sense that the way the
7 database is described in the document, it
8 would actually only list organic varieties
9 available, so nonorganic would never appear on
10 the database. So it just kind of needs to be
11 finessed.

12 I think we get the intent, but the
13 language is off.

14 The second point is that as I
15 listened to the comment and I listened to --
16 reread from Gerry of the overriding goal of
17 continuous improvement in the use of organic
18 seed, that perhaps there is a way to keep all
19 the components and put them in a little bit
20 different order and really emphasize the
21 improvement end of it, and that in
22 inspections, if the inspector could first look

1 to demonstrated improvement. And since we've
2 inserted "looking at the last year's
3 inspection," if there is a percentage
4 improvement in the amount that that is
5 obviously displaying the intent of the grower
6 and the progress of the grower to go the right
7 direction, but only if there isn't some --
8 maybe there's some level of percentage you're
9 looking for before you would then go looking
10 for the documentation and kind of do the
11 deeper dive on all of the letters and all
12 those things, that would then supplement why
13 that person was not able to go and improve
14 their process. So opportunity there.

15 And then the third one is in
16 looking at this, as we also spotlight at this
17 meeting a little bit the conversation about
18 biodiversity, I think it is important to
19 remember that biodiversity is not just about
20 wildlife, but it is also about the
21 biodiversity in the crops that are grown, and
22 that not all of the crops that enhance that

1 fundamental equation right now are available
2 in organic form, and I think it is a little
3 bit dangerous to go marching too far and head-
4 long into demanding organic seed, and then
5 discriminate where heirlooms are not available
6 organically right now, and where that
7 biodiversity could then be diminished over
8 time, and that right now organic certainly
9 shares the halo that heirlooms convey with
10 flavor, and it's great. In the public eye,
11 it's a lot of consumer candy, if you will, to
12 still want to go this direction. And I would
13 hate to see that get decreased as a means of
14 people wanting to support organic because it
15 excludes some other really great things.

16 MR. DELGADO: Comments from the
17 chairs?

18 Okay, any other questions? Dan.

19 MR. GIACOMINI: You know, based on
20 the intent and what we're looking at here, I
21 support the document. There's one little bit
22 in it that I am concerned actually could slow

1 development of the usage, and that is
2 expressed in A(2) and in 5(b) where we talk
3 about the monitored improvement and
4 calculating percentages.

5 If improvement is measured as
6 going from five to 10 to 15 to 20, that's one
7 thing. If improvement -- but that's not the
8 way everybody buys seed. If you're a
9 livestock producer and you have your pasture
10 ground with your pasture crops and then you
11 have, say, corn silage, that corn silage that
12 year may take you from 20 to 80 percent, or 20
13 to 100 percent.

14 But even with field trials, or
15 even on farm field trials with variations from
16 year to year, with variations in germination
17 rates, variations in contamination from weeds
18 and other things, you may run a small trial
19 that worked, and the next year you put all
20 your corn in there, and it's a disaster.

21 The way we're describing the sort
22 of requirement to constant improvement, that

1 guy took a huge risk in improvement, and it
2 may be that the only thing -- the best thing
3 he can do to survive -- he can't live with
4 another year like that corn crop. He may need
5 to go back to 20 percent next year. And I'm
6 concerned that when we're monitoring these
7 numbers and we're just looking at that
8 percentage and saying, okay, it has to stay
9 the same or it has to grow, well, then, the
10 only way we're going to -- farmers is going to
11 do that is by taking it in very small bites.

12 If you were not -- if we're going
13 to punish them for trying to take the big
14 risk, I think there's a potential that we're
15 actually going to be slowing the progress and
16 the implementation of utilizing organic seed.

17 MR. DELGADO: Comments from the
18 chairs?

19 MR. DAVIS: Dan, you make a good
20 point. In certain situations where the grower
21 only grows one item, you know, silage corn,
22 for example, and he does take that big jump

1 and he says I like this variety, I'm going to
2 buy all this organic seed -- I don't know how
3 to answer that. That is a potential risk.

4 MR. GIACOMINI: Even though --
5 even from a case of somebody who grows 10
6 different crops at 10 percent each, I mean you
7 make the commitment of trying an organic
8 variety on one of those, it didn't work, you
9 pull back and you go looking again over the
10 next couple of years.

11 I can see it even in the case of
12 other crops.

13 MR. DAVIS: Yes, and it can
14 happen. You can have crop failures where a
15 100 percent of one crop one year could be all
16 organic seed, and there's a crop failure and
17 there's no seed of that available in the next
18 year, then it makes you look bad if you only
19 have one crop.

20 This is -- you know, it's an
21 overall picture. So I guess -- me,
22 personally, I didn't think of the more one-

1 dimensional grower that only has one thing and
2 what that would mean to -- you're right, he
3 would probably choose the more cautious course
4 of saying, okay, Mr. Seed Supplier, I want a
5 little more organic seed, give me this
6 variety, and they'll just slowly work up
7 rather than take the big jump.

8 MR. DELGADO: Jim.

9 MR. MOYER: Well, Dan, I think
10 we've tried to make some allowances within
11 this document for that -- not that we were
12 considering that very thing, because I mean it
13 could happen. But if you read -- if you
14 listened to what Gerry said initially when he
15 said it's not the committee's intention to
16 have major, minor, or noncompliances handed
17 down or decertification of a crop, that is the
18 intention is not to do that.

19 If you look at the certified
20 grower's role in increasing organic seed under
21 C(4)(a), it does allow for the justification
22 of the use of farmers under that circumstance

1 could justify why they changed their
2 percentage, and again it's not the intention
3 to file a major or a minor noncompliance.
4 That's the relationship you have with the ACA
5 and the inspector on the ground, and you work
6 that out. That's the dance that I think Joe
7 was talking about, and the program is going to
8 recognize that when they do an audit of that
9 ACA.

10 You know, if that particular item
11 was selected and viewed during the audit,
12 there would be a justification for it.

13 MR. GIACOMINI: I just felt that
14 there was a need to sort of get that concept
15 and that idea on the record so that those
16 considerations would be made during the
17 evaluation processes, that it wouldn't be a
18 required of holding or increasing every year.

19 MR. DELGADO: Joe.

20 MR. SMILLIE: We agree, and it's a
21 case by case, as Jeff pointed out. The key --
22 I think the key component is that we want to

1 see the ACAs have a monitoring tool. You
2 know, in other words, that there's some -- if
3 the crop is from 80 to 20, and you go out and
4 he's got pictures of the crop fallen down or
5 whatever, well, that's justified, and it's not
6 an issue.

7 But we want to see the tool, the
8 monitoring tool, being used.

9 MR. DELGADO: Comments from the
10 program?

11 DR. ROBINSON: Well, I think, Dan,
12 your point is more about results and not
13 intent or effort, and I think this
14 recommendation, and I think the question being
15 asked and Joe's point about what the program
16 would do or not do, is to look at effort and
17 intent by the producer, and then by the ACA,
18 and then of course by us, in order to get this
19 thing going and ratchet it up.

20 There's certainly in crop
21 production -- nobody can predict. You are
22 never going to be able to predict the results.

1 I mean that's the nature of crop production.
2 That's just what happens in agriculture. You
3 can plant and, you know, there's always going
4 to be crop failures, and that will happen.
5 That is the nature of the risk of agriculture.

6 So you can't penalize somebody for
7 taking a risk. You can penalize them for not
8 taking the risk in perpetuity or after a
9 certain number of years, and that's what the
10 recommendation is saying, you know. If your
11 SOP demonstrates or fails to demonstrate that
12 you do not make the attempt to source organic
13 seed, then after, you know, a period of two
14 years, first the ACA should take enforcement
15 action, and then if the ACA fails to take the
16 enforcement action, the program should step in
17 and take the enforcement action.

18 At least that's the way I'm
19 reading this. And I think that's what you're
20 trying to communicate. But if you take the
21 action and, you know, the results fail, well,
22 the results fail. At least you tried.

1 MR. DELGADO: Any other questions?

2 Julie.

3 MS. WEISMAN: I just wanted to
4 make an observation as someone who has been
5 involved in this process but not as a crops
6 person, that -- and not -- and to pull the
7 focus over to the issue of availability of
8 seed for farmers to used, as opposed to what
9 we were talking about just now, what happens
10 after it's been available, that this issue of
11 commercial availability of seed is -- but it
12 is very similar to the issue of commercial
13 availability when we are considering whether
14 items should or shouldn't go on 606.

15 Basically it's the same problem of
16 how can we encourage the -- the problem is
17 encouraging, I'm going to just say
18 cultivating, but that might confuse things.
19 So the problem with encouraging the
20 development of more and more varieties of
21 organic seed is identical to the problem of
22 encouraging processors to make organic minor

1 ingredients.

2 I think that -- I guess I'm
3 encouraging everyone to keep that in mind, the
4 crops people to keep that in mind as we start
5 to continue to address the issues of
6 commercial availability, not only with regard
7 to putting things on the list but also with
8 regard to taking things off the list.

9 Also I think that as that
10 situation unfolds, there will also be tools,
11 maybe, or lessons or things that will help
12 inform the continued progress on this issue
13 with seed.

14 That's it.

15 MR. DELGADO: Any other questions
16 or comments?

17 Okay. Let's move on then to the
18 next topic, Gerry, and I'll just remind the
19 board that we are running late, and this is
20 it. So if you can summarize it for us,
21 please. Barry.

22 MR. FLAMM: I'll make it short.

1 This is a discussion document implementing
2 biodiversity consummation to move forward
3 requirements in the regulations, move forward
4 guidance that the NOSB has already issued. I
5 think the discussion document has worked to an
6 extent, but we received about 60 public
7 comments, and I've got to give special credit
8 to the Wild Farm Alliance for all the work
9 they've done on this. They have done some
10 really excellent work.

11 I see some parallels to seed
12 discussion we've had. For example, the
13 regulation does state that we must consider
14 biodiversity. This is, I think, not a
15 conflict for the concepts of organic farming
16 and, in fact, I think probably about everybody
17 in this room agrees with the need to consider
18 biodiversity, not for a larger human society
19 but also the value it presents to their own
20 farm.

21 So the discussion document gives
22 the background and outlines four potential

1 avenues to pursue a recommendation this coming
2 spring. And again it's sort of like the seed
3 document. It's divided up so everybody is
4 involved. I won't say pain, I'll say gain in
5 this case. But in this case, it will be
6 because of our material involvement has a
7 particularly important role in something that
8 in 2004 the board had issued guidance
9 documents, but there's been sort of a gap in
10 the follow-through because of our checklist on
11 materials does not specifically address NOSB.

12 You have probably all read this,
13 and I think one of the emphases is on training
14 at every level, but another emphasis is a
15 follow-through by certainly a certifier, and
16 there has already been for the OSP some great
17 work done that can and should be used. And
18 many inspectors and many certifiers are
19 already using it, but it's not uniform, and I
20 think part of what I would see the
21 recommendation coming out of this is how to
22 get more uniformity and further compliance.

1 So to accomplish that, there is a
2 role spelled out for NOP, and also
3 specifically on the audit policies.

4 So from the comments, most people
5 must have read the document, so I don't think
6 I have to go into any more detail on it at
7 this time. We will be working on it with the
8 intent of presenting recommendations at the
9 spring meeting.

10 MR. DELGADO: Very good. Any
11 questions from the board? Bea.

12 MS. JAMES: Just one suggestion.
13 During your deliberation of the
14 recommendation, I would recommend that you
15 look at the possibility of adding biodiversity
16 under 205.2, terms defined, so that we can
17 eliminate that confusion that often comes out
18 when we are talking about the word "it."

19 MR. FLAMM: It's -- we'll look at
20 that. But the regulations themselves,
21 biodiversity is addressed in several places
22 already in the regulation, so it's my feeling

1 the regulation does not need any additions or
2 -- it's strong enough. I think to me the
3 emphasis is on looking forward and
4 implementing what we already have.

5 We'll look at everything, and I'll
6 call on you.

7 MR. DELGADO: Any other questions?

8 MR. FLAMM: She's included now.

9 (Laughter.)

10 MR. DELGADO: Any other questions?

11 Let's move on then. That concludes, Gerry,
12 with your Joint Committee work. I appreciate
13 both of you for that, and we will continue on
14 to the next point, always conscious of the
15 time budget we have here, so we appreciate
16 your briefness on this.

17 Gerry, we are going on to the
18 Crops Committee, and back to you, sir.

19 CROPS COMMITTEE

20 MR. DAVIS: The Crops Committee
21 has four items, four petition materials, that
22 is, on the agenda.

1 The first one would be
2 tetracycline hydrochloride. The petition is
3 for adding tetracycline, oxytetracycline
4 hydrochloride, in particular, for control on
5 the national list under section 205.601, I
6 think that says.

7 Currently there is a tetracycline,
8 a different formulation of tetracycline, on
9 the list, so that the petitioner was quick to
10 point out that this could be looked at as
11 adding new material or actually just changing
12 the specific annotation on the original
13 material to not just oxytetracycline calcium
14 as it currently lists, but all forms of
15 oxytetracycline.

16 The committee considered it, and
17 felt -- and went through the evaluation
18 criteria, and felt that it maybe marginally
19 satisfied criteria one. There was
20 disagreement on that within the committee, but
21 we, through consensus, agreed that, okay, it's
22 relatively benign to the environment and

1 humans, but arguably there are some factors
2 there that were considered that were not.

3 But the real gist of it, of the
4 discussion centered on the fact that we felt
5 the material failed both evaluation criteria
6 two and three, and to give a little
7 institutional history on this material, when
8 tetracycline calcium, the form it's currently
9 on the list, came up for sunset the last time
10 and was voted on at the NOSB meeting, it
11 barely, barely passed.

12 In fact, I distinctly remember the
13 vote in that it was so close that the final
14 person giving their vote I believe was Nancy
15 Ostiguy, and she was actually counting in her
16 head all the votes and analyzed -- she sat
17 there for a minute deciding how she was going
18 to vote because her vote either way would have
19 either approved or killed the material.

20 So I only say that now to say that
21 this material in general has been on the verge
22 of being removed from the list, and many, many

1 people within the community would like to see
2 it gone, and that's enough said about that.

3 We felt there are other
4 alternatives that are beginning to be
5 developed in the apple and pear production
6 areas. Some growers in the Pacific Northwest,
7 for example, are already exporting to Europe
8 where this material is not allowed in crop
9 production, so they are somehow accomplishing
10 that, although with difficulty, I hear.

11 So there are other materials
12 slowly in principles and practices becoming
13 available that are coming into production to
14 allow the use without this material -- I mean
15 allow production without this material.

16 On category three, is it
17 compatible and consistent with the organic
18 regulation? This is where we felt as a
19 committee it really falls down. There are no
20 other instances in the rule anywhere that
21 allow antibiotic use in livestock or anywhere
22 else.

1 So we felt it is very inconsistent
2 to leave these materials on the list, and the
3 thought of adding another form of the same
4 material, that was really the area that the
5 Crops Committee just couldn't get past, and
6 it's all spelled out up here in that section
7 B for anyone that wanted to read the more
8 detail of the reasoning.

9 The vote within the committee was
10 zero yes and six no, and I'll open the floor
11 to any questions or discussion on that. Hugh.

12 MR. KARREMAN: I'm not going to
13 reiterate my feelings on this. I'm just
14 wondering maybe as a procedural type thing, is
15 the petitioner now asking for this to be
16 recommended simply as tetracycline? Could you
17 clarify it? Or was it tetracycline
18 hydrochloride? I need to know that for the
19 next question.

20 MR. DAVIS: Specifically the top
21 line says in parentheses, oxytetracycline
22 hydrochloride. That's the specific material.

1 MR. KARREMAN: Okay. Because --
2 well, at some point in the future I'm going to
3 do something about it, but if it was
4 tetracycline itself and only tetracycline, so
5 it covers both the salts of the tetracycline,
6 which this manufacturer makes the other one,
7 what's already on the list, and we voted a
8 straight-up vote on tetracycline here, and it
9 didn't make it at the board level, what would
10 that do to the tetracycline salt that's
11 already on the list?

12 MR. DELGADO: Jerry?

13 MR. DAVIS: I don't have an answer
14 for that. Dan probably does.

15 MR. GIACOMINI: The petition as
16 the Crop Committee presents it to the board
17 today is as the petition was originally
18 submitted, which is a new listing, a new
19 addition of an additional item.

20 The alternative that was what they
21 tried to propose, what the Crop Committee also
22 considered, would be considered an annotation

1 change. So it would either be presenting it
2 like this as a new item on a separate line, or
3 it would be, without getting my book out,
4 deleting the specification of the salt within
5 tetracycline listing.

6 MR. KARREMAN: Okay. So then if
7 someone were to make an amendment to just add
8 this, if it was -- I guess it would have be up
9 to the petitioner, I'm just asking if this
10 comes up to a board vote as tetracycline, and
11 then it doesn't pass, what would happen to the
12 other tetracycline that's already on the list?
13 That's really the question.

14 MR. GIACOMINI: If it had come up
15 as an annotation change and it failed, then
16 the existing listing would stand. Because
17 it's not a petition to remove.

18 MR. DELGADO: No, but the question
19 is what would happen if a motion is to list
20 tetracycline and it's --

21 MR. GIACOMINI: That's still
22 separate and in a petition to remove any

1 existing listing.

2 MR. DELGADO: Is that clear?

3 MR. KARREMAN: Yes, but how can
4 that be if we vote no to tetracycline? I
5 understand where you're coming from, but I
6 mean how is it logically that we would both
7 say vote no to tetracycline in general, at a
8 current board in public, and then there's
9 still a tetracycline on the list? That just
10 can't -- that doesn't jive except for
11 procedural technicalities.

12 MR. DELGADO: We were talking
13 about a specific petition that is clear as to
14 what they want. They're not asking for a
15 renewal of material, so we would not be able
16 to proceed with a hypothetical scenario that
17 you're talking about.

18 Julie first, then followed by
19 Gerry.

20 MS. WEISMAN: I just only want to
21 reiterate what you already started to say,
22 which is that removing a material requires

1 very specific criteria to be met that would in
2 no way be met with this procedure.

3 MR. KARREMAN: And I guess I have
4 a question.

5 MR. DELGADO: Excuse me, Gerry,
6 and then we'll go back to you.

7 MR. DAVIS: Julie, your statement
8 just now was referring to removing the
9 annotation.

10 MS. WEISMAN: No, I'm following on
11 his -- on the hypothetical, that if it gets --
12 the petition is tetracycline. Because of this
13 specific petition for adding to the list, and
14 it fails the board as tetracycline, he wants
15 to know if then procedurally what's already on
16 the list then goes away, has to come off the
17 list, and I am saying things have to come off
18 the list in a very certain specific way. And
19 this can't be the way it happens.

20 MR. DAVIS: Okay, so my follow-up
21 comment to that is the original, as Dan said,
22 the original petition presented it as a

1 separate material, but in the statement from
2 the petitioner in public comment, you know,
3 now that they are learning more about the
4 process, they don't care if it's add the new
5 material or change the annotation, they're
6 willing to go either way.

7 MR. DELGADO: Thank you.

8 MR. KARREMAN: I apologize. I
9 just wanted to say how would they look at
10 that? I realize there's a whole separate
11 thing to take something off, but isn't there
12 some legal oddity if we -- at the program
13 level?

14 MR. DELGADO: Let's consider the
15 questions we have from Joe and Bea.

16 MR. SMILLIE: You know, that's an
17 issue and I understand the issue, but that's
18 not the place for this issue. The petition --
19 we have to address the petition. The petition
20 is asking for -- to add the material or change
21 the annotation. That's what we have to
22 address, and I think the board, regardless of

1 its feelings on tetracycline in general, has
2 to look at the petition for its own value, and
3 all they're saying is equal playing field for
4 material that's already allowed.

5 So, to me, unless the Crops
6 Committee can demonstrate to me that there's
7 a reason why this material is different from -
8 - and again, I didn't study this like you
9 guys, so I'm relying on you, but I'm asking
10 you as a committee explain to me why this
11 material would be rejected when a comparable
12 material has already been allowed. I need to
13 know the answer to that.

14 MR. DELGADO: Bea, followed by
15 Jeff.

16 MS. JAMES: Well, logically it
17 seems like, you know, what Hugh is pointing
18 out is there's a contradiction. But there's
19 a procedure also for how we remove petitions.

20 However, just because something is
21 already on the list doesn't mean that that's
22 justification for adding something similar to

1 that. It has to stand on its own accord. And
2 you can't say that just because tetracycline
3 is already on the list, why would we reject a
4 petition for another form of it to be added.
5 They are separate issues and they should be
6 looked at separately, in my opinion. Just
7 like petitioning for the removal is a separate
8 issue, petitioning for the addition should
9 also be looked at as its own petition and not
10 just because something is already on the list
11 similar to it.

12 MR. DELGADO: Jeff, followed by
13 Kim.

14 MR. MOYER: Yes. Joe, I think
15 what you're going to see with a lot of the
16 materials that we're starting to look at,
17 there's great similarities in the material,
18 but it does have a different CAS number, so it
19 is recognized as a separate material. You're
20 going to see that with sorbitol as well. I
21 mean we're starting to get different
22 iterations of the same material that was on

1 before, and eventually that list gets that
2 very long. It's like, okay, you know, this,
3 this, and this. And the next one on the list,
4 this, this, and this, because they're all
5 similar but yet they are different, and that's
6 why they're being marketed that way.

7 MR. DELGADO: Gerry, please
8 respond to that.

9 MR. DAVIS: I do want in fairness
10 to this petitioner, this material, to compare
11 sorbitol octanoate to sucrose octanoate and
12 say they are similar, their relation to each
13 other is the same as this, it's much, much
14 more specifically the same than that analogy.

15 MR. DELGADO: Tina, followed by
16 Kevin.

17 MS. ELLOR: Yes. And Jeff made my
18 point. We chose to look at this as a separate
19 material because it is a different CAS number,
20 and we didn't send it out a separate TAP. So
21 we chose not to do that. I mean, you know,
22 but we are looking at it as a different

1 material.

2 MR. DELGADO: Kevin, followed by
3 Joe.

4 MR. ENGELBERT: We heard from Bob
5 Pooler at our meeting, at our last meeting,
6 and his quote from that meeting is, "It's
7 different from the calcium complex that's
8 currently on the list, so it would have to be
9 a separate material."

10 MR. DELGADO: Joe.

11 MR. SMILLIE: Well, okay, I'm not
12 going to beat this horse to death, but my
13 understanding is the petition says to change
14 the annotaton as well as add the material,
15 whichever the committee in its wisdom -- did
16 you consider both of these?

17 MR. DELGADO: Gerry.

18 MR. DAVIS: The petition did not
19 actually state to change the annotation. That
20 was something that was brought up in committee
21 discussions, that that was one way to
22 accomplish their goal. You know, they're not

1 experts in the petition process, to understand
2 going into the process, which way to
3 accomplish that. So I believe the petition
4 itself -- but I guess the petitioner could
5 maybe -- you know your petition very well, and
6 maybe you could state that for the public
7 record, what it did say.

8 MR. DELGADO: Petitioner, can you
9 approach the microphone and identify yourself,
10 please? And the question is very specific.
11 Are you willing to change your petition from
12 adding to the list to changing the annotation?

13 MR. DAVIS: I just was asking him
14 what did your petition state. Was it stated
15 as I want to add this material to the list, or
16 do I want to change the annotation?

17 MR. RICHARDSON: Taw Richardson
18 with Agrosource.

19 And the petition requested to
20 address tetracycline, the listing for
21 tetracycline, which is the listing. And we
22 initially, just as a piece of history,

1 initially we followed the guide -- what we
2 were asked to do by NOP for our petition.

3 That's why the original petition
4 was structured the way it was because we were
5 asked to do it -- we were told we had to do
6 it.

7 After going through the main
8 meeting, we realized, which we thought
9 initially, that it should have been dealt with
10 as tetracycline. So we came back with
11 specifically either -- and we used the term
12 "parenthetical" in our petition, which should
13 have in your vernacular been annotation, but
14 we asked that the annotation either be removed
15 or in the wisdom of the board, if they thought
16 it should be included as part of the
17 annotation, to use the calcium complex and
18 hydrochloride.

19 But our first preference was a
20 removal of the annotation. We thought that
21 was the best way to address it.

22 MR. DELGADO: Okay, okays?

1 MR. MOYER: Taw, your original
2 petition was for expanded use as well?

3 MR. RICHARDSON: Yes. Yes. But,
4 again, we didn't understand the implications
5 of that at the time. That's why we withdrew
6 that in this revised petition. So it stricly
7 is related to apples and pears, which is the
8 current usage for tetracycline.

9 MR. DELGADO: Any other questions
10 for the petitioner? Okay, thank you very
11 much.

12 MR. RICHARDSON: Thank you.

13 MR. DELGADO: Any other questions
14 on the part of the board for this material?

15 Okay, Gerry, back to you.

16 MR. DAVIS: I have a question.

17 (Laughter.)

18 We did discuss whether we'd change
19 the annotation or just leave it this way.

20 There was -- I believe there was some
21 uncertainty on the difficulty of changing the
22 annotation versus just addressing this as a

1 stand-alone material, and I guess I would like
2 input from the program on changing the
3 annotation -- if this were amended to a vote
4 for changing the annotation or not on the
5 already listed material, are there problems
6 with that procedure?

7 MR. DELGADO: Comment from --

8 MR. MATTHEWS: If you wanted to
9 add it as a new item, then we would propose
10 that. If you wanted to change the annotation
11 in some way, we would propose a change to the
12 annotation.

13 MR. DELGADO: Okay, at this point
14 the chair would like to recommend that the
15 committee get together and discuss this.

16 MR. DAVIS: Definitely.

17 MR. DELGADO: And find the motion
18 that they want to bring to the table tomorrow.

19 MR. DAVIS: Okay. Moving on to
20 the next material.

21 Sorbitol octanoate. The petition
22 is for adding sorbitol octanoate as insect

1 control on the national list in section
2 205.601(e). The committee felt that it failed
3 evaluation criteria 2 and 3, No. 2 being that
4 it's not essential. This material is not
5 essential to organic farming, as there are
6 many alternative insect control methods and
7 materials already available. Adding another
8 synthetic material to the national list in
9 this case would be inconsistent with the
10 original intent of the OFPA, which was
11 intended to severely limit the routine
12 addition of exempted synthetics.

13 We put an attachment of that OFPA
14 preamble to document that statement.

15 The petition was clear in its
16 statement in that it was -- this is just like
17 sucrose octanoate, pretty close, but it's a
18 lot cheaper. And I guess the committee really
19 objected to that, because it voted to add
20 sucrose octanoate two or three years in a
21 different board, different situation, that now
22 we must accept another material that's not

1 identical but, you know, similar.

2 The vote was zero yes to add it to
3 the list by nos or absent. Any discussion?

4 MR. DELGADO: Questions from the
5 board? Hugh?

6 MR. KARREMAN: I certainly can
7 understand why your committee didn't like the
8 response that, well, it's going to be cheaper.
9 I hear that a lot from my farmers, you know,
10 alternatives when I'm out in the field, but
11 also I just think we need to keep in mind what
12 Jeff said, actually, about CAS numbers, and if
13 this is a different material, even if it's a
14 cousin, it's a different material.

15 MR. DELGADO: Dan?

16 MR. GIACOMINI: Could the Crops
17 Committee address the issue of -- I understand
18 how it's close and it's cheaper. I don't like
19 buying the cheaper argument, either. Could
20 you address the discussions of difference in
21 solubility and difference in target organisms?

22 MR. DAVIS: Well, there was public

1 testimony yesterday that was brought to bear
2 on the difference in target organisms a little
3 bit, different crops, greenhouse production.
4 It was mentioned that the sorbitol material
5 would be more appropriate for that, and the
6 sucrose material is not.

7 Evidently the sucrose material is
8 not working on mite control in hops, so they
9 have hop growers who are very interested in
10 it. So there are differences in activity.
11 They are not identical materials, but they are
12 close. The same principle. It's a suffocant
13 type soft-bodied insect control.

14 MR. DELGADO: Joe.

15 MR. SMILLIE: Well, again, the
16 same issue. I want to hear from the Crops
17 Committee because you guys studied it -- I
18 didn't -- I want to hear what the criteria --
19 was the criteria you applied to this material
20 different than the criteria that was applied
21 to the other material?

22 MR. DELGADO: Gerry, do you want

1 to respond? Tina.

2 MR. DAVIS: I can respond to that.
3 But first I want to go into a little history
4 on the sucrose material. That one was
5 presented mainly as a livestock material at
6 the -- I forget which year that was, my first
7 year on the board, I believe, or second year -
8 - for its benefits and perceived need in the
9 apiculture production as a mite control for
10 application to bees.

11 And so that was the big thrust of
12 it. Nancy Ostiguy, former board member, the
13 expert, spoke up for it, and the -- but it was
14 determined at that time, well, if it's
15 approved for crops, we probably should approve
16 the crops usages also, so as not to have a
17 discrepancy, and it kind of piggy-backed in on
18 the perceived need in livestock, in my
19 opinion.

20 So now we have another material
21 piggy-backing on something that was piggy-
22 backed on a livestock material.

1 MR. DELGADO: We have Tina,
2 followed by Joe.

3 MS. ELLOR: And, you know, we
4 always use the same checklist and the same
5 criteria where, you know, the committee
6 compositions constantly change, but we always
7 use the same checklist, but what changes is
8 that as we add materials to the list we have
9 to consider those materials as we go through
10 the checklist.

11 So we also looked at it that way,
12 that there was already this other material.
13 So in that way, you know, we did look at it
14 differently. But we always use the same
15 criteria.

16 MR. DAVIS: So to flesh that out a
17 little more, the original sucrose material, it
18 passed the criteria on is it essential,
19 because there was nothing else available for
20 mite control in bees. That was the driving
21 force for that material being approved.

22 That is considerably different

1 than the criteria as it applies to the
2 sorbitol material for general crop usage.

3 So that sucrose passed that
4 criteria back then. It can be, you know,
5 decided by the committee that the sorbitol
6 material doesn't pass the general crop use
7 criteria because there are several good
8 materials as well as practices for insect, and
9 particularly aphid, soft-bodied insect
10 control.

11 So we are not being capricious in
12 approving the one or the other. There are
13 different circumstances.

14 MR. DELGADO: Joe.

15 MR. SMILLIE: As Rigo, in his list
16 earlier, we still have more public comment to
17 go. So I'm looking for the public to also
18 comment on this issue in general. So I'll
19 hold any more comments.

20 MR. DELGADO: Jeff.

21 MR. MOYER: Well, I was just going
22 to say, Joe, that in the context of this

1 committee makeup, we do, as Tina said, follow
2 the same checklist that everybody follows, and
3 we look at that. But we do have to take into
4 account materials that were passed. We did
5 talk with Nancy about this particular
6 material. I went back and spoke with her
7 about it, and what her feeling was on it, on
8 the subject.

9 And then for better or for worse,
10 you know, this committee does look at OFPA and
11 say what is the intent of the rule which is,
12 in my opinion -- I speak for myself, not the
13 committee -- is to -- and we heard testimony
14 yesterday to the contrary -- but is to keep
15 the list small, and to not allow that many
16 synthetic materials on there.

17 So if there is a synthetic
18 material that is currently on the list, it's
19 not -- at least I don't feel it's in my best
20 interest, representing consumers, to try to
21 make that list as long as possible when
22 somebody else comes up with a material that's

1 similar and says, hey, about me, and then how
2 about me, and how about me, and how about me,
3 and how about me, and how about me. I can't
4 help it.

5 That's my view.

6 MR. DELGADO: Joe.

7 MR. SMILLIE: That one I have
8 trouble with, Jeff. I have trouble with that,
9 that reasoning. I don't have trouble with the
10 necessary needs for mites and honey. I didn't
11 know that was part of the first reason,
12 because essential needs are just that, and for
13 all the mites and honey it is a big issue and
14 important.

15 So that makes sense to me as a
16 differentiation between the two materials.

17 Your second reason, going back to
18 OFPA that doesn't want to allow synthetics,
19 you have to go to the criteria, you know, not
20 -- nothing else.

21 MR. MOYER: Right, but when you go
22 to the criteria, those other materials on the

1 list, and that was my point. There's other
2 materials on the list that do that.

3 MR. SMILLIE: Yes, but we've heard
4 testimony that there's different effects on
5 different things and, you know, being a
6 hophead myself, you know, if the hop growers
7 need this -- you know, I got blasted for
8 getting hops on 606, which I think was a good
9 decision, and I'd love to take it off. And if
10 this material helps me get hops off 606, then
11 God bless it.

12 MR. DELGADO: Any other comments
13 from board members? Questions? Okay.

14 Well, we're done. We reached --
15 it's 12 o'clock right now, so I guess it's
16 fair to take a lunch break of about one hour.
17 We'll come back here at 1 o'clock, the
18 scheduled time, and we'll proceed with
19 discussion on the Crops Committee. An hour.
20 See you at 1 o'clock.

21 (Whereupon, at 12:03 p.m., the meeting
22 recessed for lunch, to reconvene at 1:00 p.m.)

1 AFTERNOON SESSION

2 (1:08 p.m.)

3 MR. DELGADO: We'd like to resume
4 the discussion of the Crops Committee, and we
5 had just finished one item, and we are moving
6 on to pelargonic acid and ammonium salts in
7 fatty acids. While the Crops Committee chair
8 is getting ready, please be mindful of the
9 time. We are running half an hour late, and
10 we have a lot to cover, and I know it's
11 important to get feedback and provide input,
12 but please bear that in mind.

13 We also have afterwards a session
14 for public comment. We have a number of
15 people who have already signed up for our
16 discussion.

17 Are you ready, Mr. Chairman?

18 MR. DAVIS: Yes.

19 MR. DELGADO: Please proceed.

20 MR. DAVIS: The next material is
21 pelargonic acid petitioned for use as an
22 herbicide, with the condition of -- with the

1 existing annotation for use only in farmstead
2 maintenance, roadways, ditches, rights of way,
3 building perimeters, and ornamental crops.
4 It's on the national list 205.601(b)(1).

5 Another material that was
6 petitioned earlier, considered at another
7 meeting, and then withdrawn, similar to the
8 other herbicide. So some of this work is from
9 a little while back that the committee did.

10 The committee felt that it -- as
11 far as going through the evaluation criteria,
12 criterion one, impact on humans and
13 environment, we thought it was relatively
14 benign and satisfied the criteria for that.

15 On criterion two, whether it was
16 essential and availability criteria, the
17 committee agreed that they felt it did not
18 pass the criteria, as well as the number
19 three, the compatibility and consistency with
20 organic farming regulations. We felt that it
21 did not satisfy that, either.

22 On the criterion three, the main

1 reason that we felt it was inconsistent was
2 that they were petitioning for use as if it
3 was a soap-based herbicide, and we, after
4 investigating it and questioning the
5 petitioner for further information and
6 response from them, that they never did
7 support that it is in fact a soap, even though
8 it's in -- it's a fatty acid, but they never
9 did claim that it qualifies as a soap.

10 So that was one question we had to
11 answer.

12 The other thing on the -- is it
13 essential or not, the next -- this material
14 and the next material both called to question
15 the ideas are synthetic herbicides appropriate
16 in organic farming practice. Are they
17 necessary, are they essential, and some people
18 might say that herbicides would be helpful,
19 and some growers might say, yes, we would like
20 such a thing, although I fail to see a big
21 groundswell of public comment in the written
22 transmissions, at least, that spoke up for

1 that.

2 We just felt that there are a lot
3 of weed control options other than adding
4 synthetic chemicals to the national list to
5 accommodate that.

6 Just basically that was why the
7 committee voted zero yes, five no, to not add
8 this to the list, the national list.

9 Any discussion or questions?

10 MR. DELGADO: Questions, comments
11 from the board? No comments, questions?
12 Okay. You can proceed with the next one.

13 MR. DAVIS: The next material, we
14 compared to what was posted on the Web site.
15 We -- I'm going to have to find it in a
16 different spot here. Excuse me a minute.

17 We did make a -- based on input
18 from the petitioner, who requested in their
19 public comment yesterday, they asked that we
20 change the name from ammonium salts of fatty
21 acids to a more specific name, ammonium
22 nonanoate, so that editing was done last

1 night, and the CAS number is actually put
2 there in the -- where it says "petition is
3 for," ammonium nonanoate, CAS number such and
4 such, to be allowed as an herbicide in organic
5 crop production.

6 As part of the committee
7 deliberations, it was determined that this
8 material is a soap-based herbicide. It does
9 qualify as a soap, a true soap, going by EPA
10 regulation and determination.

11 So we did put in here a comment
12 that the -- we felt that the substance was not
13 compatible with the provisions of the rules
14 for general use on crops or cropland, but
15 since this material is a soap-based herbicide,
16 the current listing in 205.601(b)(1) as
17 annotated would apply to this form of salt,
18 which is ammonium salt of fatty acid.

19 So that was in effect a
20 clarification for this material, specific
21 material, that it would be eligible for use,
22 for farmstead use, ditches, roadways, and

1 ornamental crops.

2 This has -- as far as the
3 evaluation criteria, again, relatively benign
4 in the environment; in fact, all these fatty
5 acids would be consumed by soil bacteria and
6 degraded very quickly. They would use it as
7 a food source and actually grow on it,
8 probably.

9 Criterion number two, is it
10 essential for organic farming, and the
11 committee voted that it was not, based on
12 many, many alternative practices, and weed
13 control. We list many of them. And also the
14 fact that this material, as well as the
15 pelargonic acid, we did not want to discourage
16 the development of natural herbicide options
17 that are coming to the fore, such as the -- an
18 example would be lemon grass oil formulations
19 that are fairly effective herbicides that are
20 fairly new on the market.

21 We felt that approving synthetics
22 out of hand would very readily squash the

1 development of natural herbicide options if
2 that is what organic growers want, is a
3 material to be able to spray on weeds to kill
4 them. We did not want to select -- give
5 preference to the synthetics over the
6 development of naturals.

7 So in a nutshell that was, I
8 believe, why the committee voted zero yes,
9 five no, there was one absent, to reject this
10 being put on the national list.

11 Any discussion or questions?

12 MR. DELGADO: Questions? No
13 comments?

14 Yes, Julie.

15 MS. WEISMAN: I was just
16 wondering, like you mentioned these lemon
17 grass preparations. Are those -- do those
18 specifically target the same kinds of weeds
19 that the ammonium nonanoate would be
20 attacking?

21 MR. DAVIS: They are -- the lemon
22 grass oil formulations, that is brand new on

1 the market. I have tested it personally, just
2 beginning to develop by a company who has
3 provided input to us before, the Murone
4 Enterprise. I'm not sure of the exact company
5 name. But she has spoken before us before
6 several times.

7 Very broad spectrum, will burn
8 most anything they touch. I don't think they
9 would be -- I don't know -- I haven't tested
10 either one of them enough to speak to whether
11 they are all very broad spectrum or contact
12 herbicides.

13 MR. DELGADO: Any other questions?
14 Okay. There are no questions. Let's proceed
15 with the next item, please.

16 MR. DAVIS: Excuse me just a
17 minute.

18 The next item is the soilless
19 growing systems discussion item. It was not
20 posted. I would like to defer that to the
21 work plan section of the meeting tomorrow,
22 because essentially that is really all it is,

1 is just a work plan update for the Crops
2 Committee. There's nothing new there.

3 MR. DELGADO: So you'll give us
4 more details on that tomorrow?

5 MR. DAVIS: Yes.

6 MR. DELGADO: Very well. Let's
7 move on then to the next topic, which is list
8 4 inerts.

9 MR. DAVIS: Okay. The background
10 on this for list 4 inerts in pesticide
11 formulations is that the EPA has changed their
12 policy somewhat in that the national listing
13 for the -- the organic national list
14 references list 4 inerts used in pesticide
15 formulations as a one-item entry that
16 encompasses many, many materials as they are
17 used in pesticides.

18 The EPA determined that they
19 wanted to do away with that, that listing and
20 nomenclature, and notified the program that
21 the NOSB would have to look at changing that
22 listing and coming up with something

1 different, because we could not allow the
2 status quo to continue because they were
3 changing their stats on it and their listing
4 of it.

5 They have since changed the
6 listing of these minimal risk type inerts --
7 I'd say that in quotes, minimal risk. They
8 have listed it specifically in section 40 CFR
9 180.950, titled as "Tolerance Exemptions for
10 Minimal Risk Active and Inert Ingredients,"
11 which is attached to the end of this document.

12 So we are seeking input from the
13 public to see what is the consensus, see if
14 there is a consensus on which way to go. Do
15 we -- and there are several options that we
16 list here as possible solutions. I'll read
17 them now.

18 The NOSB will begin public
19 discussion of these matters as this meeting,
20 November 2008. Public comment is invited to
21 comment on the possible solutions described
22 below. Public comment is heavily encouraged

1 to identify the number and nature of synthetic
2 materials deemed to be vital in pesticide
3 formulations used in organic farming. We are
4 hoping to get some good input from various
5 concerns that have that expertise.

6 Possible solution options. The
7 NOP has suggested that a substitution of the
8 language in the rule currently as list 4 with
9 the new regulatory reference of 40 CFR
10 180.950, the minimal risk ingredients.

11 They do correlate, but they are
12 not identical at all. There are a lot of
13 materials that are on one that are not on the
14 other, but they are similar, I guess.

15 Number two, adopt the original
16 2000 version of the list 4-A inerts, which is
17 attached as attachment 1, as an itemized list
18 with ongoing reassessment through the sunset
19 process.

20 Number three, adopt the minimal
21 risk ingredients currently found in 40 CFR
22 180.950. This would entail a one-time

1 adoption of the materials currently on this
2 list, with ongoing reassessment through the
3 sunset process.

4 Option four, eliminate blanket
5 inerts lists and adopt a policy of requiring
6 inerts and pesticides to be petitioned
7 individually.

8 Five concerns the list 3 inerts
9 currently used in passive pheromone
10 dispensers. The current policy is that they
11 need to be petitioned individually and are
12 subject to regular sunset reevaluations, that
13 that has already been in place as an NOP
14 policy for a couple years now, since we were
15 first notified about the EPA change.

16 We wanted to throw this out to the
17 community to where we get input and begin work
18 on a possible recommendation for the spring
19 2009 meeting, and that was the purpose of this
20 discussion document.

21 MR. DELGADO: Any questions?

22 Jeff.

1 MR. MOYER: One of the things that
2 we wanted to mention that didn't make it into
3 this document at posting was on item three,
4 option three. What we were talking about
5 doing there was a one-time acceptance of CFR
6 180.95, but then moving forward, any new
7 materials that would be -- want to be added to
8 the list would have to be petitioned.

9 And, furthermore, if EPA changes
10 lists CFR 180.950, it would not affect this
11 list. So in that regard, it begins to
12 separate us from the EPA's list because there
13 was a lot of things that they'll put on their
14 list that we don't want to have on our list.

15 So it's a one-time acceptance by
16 reference, but from then on any new materials
17 would have to be petitioned to us. They would
18 not automatically go on if EPA changed their
19 list again in the future.

20 MR. DELGADO: Comments from --
21 Gerry?

22 MR. DAVIS: No, that's absolutely

1 correct.

2 MR. DELGADO: Dan?

3 MR. GIACOMINI: Just a question.

4 As we go through this process, we don't really
5 need to discuss it now, but I'd like to know
6 what the answer is. What is going to be the
7 implication, the impact on the pesticide
8 formulations because of this change? Is the
9 change that we're making going to fit in with
10 what they're going to be forced to do or not
11 forced to do because of these regulations,
12 these numbering changes?

13 MR. DAVIS: Right. And there was
14 some public comment that I'll call attention
15 to from OMRI yesterday where they mentioned
16 that they thought that the former list 4-B
17 materials, which are not part of this new CFR
18 listing with EPA -- generally they've been
19 left off of that list -- the statement was
20 made that fully 50 percent of their approved
21 formulations contain list 4-B ingredients,
22 which would be a problem.

1 MR. GIACOMINI: No, what I'm
2 asking, though, is within the pesticide
3 formulation industry, is this change that has
4 gone on at EPA going to affect the way they
5 formulate things?

6 MR. DAVIS: For even conventional
7 agriculture, you mean?

8 MR. GIACOMINI: Yes. I mean, for
9 instance, those formulations, are they likely
10 to be changed because of this EPA change?
11 That's sort of what I'm wondering in deciding
12 how we can go about it.

13 It may be solved within what we're
14 doing simply by knowing how -- what their
15 forced reaction is going to be.

16 MR. DAVIS: Okay. There are
17 people here that might be able to comment on
18 that, but I can't speak for them.

19 MR. DELGADO: Gerry, you're
20 calling someone specifically from the public?

21 MR. DAVIS: Emily.

22 MS. ROSEN: Well, I was just going

1 to say Chris Pfeifer from the EPA is going to
2 be dealing with that.

3 MR. DAVIS: If he's willing, sure.

4 MR. DELGADO: Yes. Come to the
5 microphone, please.

6 MS. FRANCES: I wanted to follow
7 up on what Jeff said.

8 MR. DELGADO: Okay. Can you hang
9 on, please.

10 MS. FRANCES: What we currently do
11 is incorporate by reference. A one-time
12 adoption would be an adoption of the list of
13 individual items, and that's not the same
14 language. I just wanted to make sure it was
15 understood for the record.

16 MR. MOYER: I think that that's a
17 very important point because that is what we
18 talked about, was not doing it by reference as
19 I stated. I apologize for that.

20 But reading the list over as a
21 list of itemized materials, not bringing the
22 list by reference number but bringing it over

1 as an itemized list of material, there is 83
2 materials on that list. And all of the 83
3 materials are listed individually so that they
4 can be sunset as individual materials, and we
5 can then deal with them as a board. Coming
6 forward, the new materials, even though the
7 EPA might put them on their list, we would
8 not.

9 Thank you, Valerie. I appreciate
10 that.

11 MR. DELGADO: Please identify
12 yourself for the record.

13 MR. PFEIFER: Yes, my name is
14 Chris Pfeifer. I'm the EPA's liaison to USDA
15 NOP, and I work with the biopesticides
16 program.

17 MR. DELGADO: We have specific
18 questions for you. Dan, why don't you ask
19 your question?

20 MR. GIACOMINI: Is the change that
21 you've made in your listing, does that have a
22 direct impact on how formulations of those

1 pesticides will be made?

2 MR. PFEIFER: No. List 4 has
3 never been, or the list system, has never been
4 a system that has actually determined how our
5 pesticides were formulated. It was more or
6 less a thumbnail way to do reassessment or a
7 quick and dirty way to work with different
8 programs, whether they were the organic
9 program or unregulated pesticide program for
10 25(b)s.

11 So, no, the list system does not
12 affect that. We have always used 40 CFR as
13 our source material for pesticide formulation.

14 MR. DELGADO: Any other questions?
15 Gerry.

16 MR. DAVIS: I have a lot that in
17 speaking with Mr. Pfeifer earlier I don't
18 think he is prepared to answer my type of
19 questions until he consults more with his
20 associates.

21 MR. PFEIFER: To finalize, I just
22 can't speak for the agency going forward. I

1 can give a little thought on the historical
2 thinking.

3 The agency in the past has
4 expressed an interest in narrowing the inerts
5 list a little bit simply because they believe
6 that it would reflect better on the integrity
7 of the program, mainly because there has not
8 been any ecological assessment attached with
9 the inerts determinations in the past.

10 So list 4 as it was originally
11 contrived was not really built around any
12 ecological thinking, and as reassessment came
13 again and it spoke more or less to human
14 toxicology and didn't really address the
15 ecological issues.

16 You know, again, this is USDA's
17 program, but it's always been our feeling that
18 it's a principal program built around both
19 ecological and human health concerns.

20 So that's about as much as I'm
21 prepared to say unless there are some specific
22 questions.

1 MR. DELGADO: Any other questions?

2 Okay, well, thank you very much. We are going

3 back to the schedule, and we have Tina next.

4 Do you have a presentation?

5 MS. ELLOR: No, Gerry already

6 covered it.

7 MR. DELGADO: Okay, any other
8 questions? Very good. Does that conclude --

9 MR. DAVIS: That concludes our
10 presentation.

11 MR. DELGADO: Thank you very much.
12 We will proceed right away with the Livestock
13 Committee. Dr. Karreman.

14 LIVESTOCK COMMITTEE

15 MR. KARREMAN: Okay, thank you,
16 Mr. Chair.

17 I would like to discuss our
18 recommendation for fish feed and net pens.
19 This is a continuation of a rather lengthy
20 assignment that the Livestock Committee of the
21 National Organic Standards Board has had in
22 conjunction with the agricultural working

1 group.

2 After that, I would like to ask
3 Jennifer to talk about the bivalves and due to
4 time and everything, the animal husbandry
5 discussion we'll just let go for now as a work
6 plan like Gerry mentioned.

7 So I think everyone knows that the
8 board passed a estimate of agriculture
9 recommendations to send up to the board
10 February 2007, and they are in the hopper
11 right now. They have not been acted on by the
12 board as far as we know.

13 Regardless of what happens with
14 these recommendations in the next day when we
15 vote, we would like to have the board start
16 promulgating those recommendations that we
17 have already passed on up to that in February
18 2007.

19 MR. SMILLIE: You mean the NOP
20 program?

21 MR. KARREMAN: Yes. I'm sorry.
22 The program. I misspoke. Okay.

1 So we have that already on record.

2 And so before I get into the fish feed issue
3 document, which will be first, I just want to
4 say that, you know, we have a lot of science
5 on both sides of the issue, and hopefully
6 there's some nice middle ground as well, and
7 that's what we try to strive to attain here at
8 the board.

9 Okay, so for our document,
10 basically I already gave you the background
11 about where we're at and how the -- is that
12 hurting your eyes, Joe? I apologize. I don't
13 know what's up.

14 All right. I'll sit back. How's
15 that? I'm trying to hide behind this post,
16 you guys.

17 (Laughter.)

18 All right. How's that back here?
19 Is that okay? All right.

20 So what I want to get at is
21 basically I want to go over the discussion
22 points a little bit, and then get into the

1 regulatory framework, and then our
2 recommendation, the red-letter changes that
3 were already posted on the Web. Okay.

4 So we as a board, you know, wanted
5 to respect the current knowledge of
6 nutritional needs of aquatic animals for fish
7 meal and fish oil that they need, if they need
8 it, and we would expect a certified organic
9 fish meal and fish oil would be becoming
10 increasingly available in the future if this
11 program starts.

12 We want to make sure that their
13 diets are nutritionally complete, and we want
14 to make sure as a board that the sourcing of
15 fish meal and fish oil sources are from
16 responsibly managed sustainably caught fish.
17 And the sustainability of wild-caught
18 fisheries is paramount. Okay.

19 And then we also discussed in the
20 discussion part of the document still why we
21 feel that marine-based fish oil is needed for
22 potentially farmed organic aquaculture species

1 because plant-based oils, oils from plant-
2 based feed, as well as even freshwater fish,
3 may not have, according to what we know from
4 the agriculture working group and other
5 scientific folks, the correct -- the exact
6 correct oils that are needed in the diets of
7 fish.

8 Okay. All right. So that's
9 somewhat the background discussion.

10 We believe that we have the
11 regulatory framework to consider this
12 document. Under OFPA 2102, section 2102,
13 under the term livestock -- the term livestock
14 means any cattle, goat, swine, poultry, equine
15 animals used for food and the production of
16 fish used for food, wild or domesticated game
17 or other nonplant life.

18 We also relied upon OFPA section
19 2107(a), No. 6, that would require periodic
20 residue testing by certifying agents of
21 agricultural products.

22 Also then in 2107(c) of OFPA,

1 regarding wild seafood, in general
2 notwithstanding the requirement of
3 2107(a)(1)(a) requiring products to be
4 produced only on certified organic farms, the
5 Secretary shall allow through regulations
6 promulgated after public notice an opportunity
7 for comment, wild seafood to be certified as
8 labeled -- to be certified or labeled as
9 organic, in consultation and accommodation
10 with the Secretary of Commerce, the NOSB,
11 producers, processors, and sellers, and other
12 interested members of the public.

13 So we believe that we are at this
14 point potentially promulgating OFPA in regards
15 to fish oil or fish oils from wild-caught
16 species. We think we have that in OFPA to go
17 on.

18 And so the committee voted seven
19 in favor, zero opposed, to go ahead with this
20 document.

21 Okay. So now how do you want me
22 to go through the recommendations? I mean

1 there's quite a bit. Just the --

2 MR. DELGADO: Concentrate on the
3 highlights. You can review the comments of
4 the public and discuss what approaches to
5 take. You can incorporate those.

6 MR. KARREMAN: I'll do the
7 comments like that at the end but, you know,
8 there's a fair amount of red-lining here.

9 MR. DELGADO: I think the public
10 has had sufficient time to review the
11 recommendations.

12 MR. KARREMAN: Okay. All right.

13 MR. DELGADO: So just briefly
14 highlight them, the most important ones.

15 MR. KARREMAN: Well, basically
16 part of the public comment regarding this
17 issue of wild-caught fish oil has been based
18 on that it's not allowable in OFPA, and I just
19 mentioned that we believe it is, and that the
20 -- that livestock, which fish would fall
21 under, under OFPA, need to be fed 100 percent
22 organic feed, which we understand.

1 And the reason we put the
2 exemption to use in a step-down fashion, fish
3 oil derived from marine wild-caught fish in
4 612(a) essentially on the national list, and
5 not in let's say 252 under the feed section,
6 is because if it's in the feed section, it
7 would have to be certified organic 100 percent
8 for the animals that are eating it, whereas as
9 an exemption on 612, we feel that it can be
10 used but in a stepped-down, phase-out type
11 situation in order to get the industry
12 started.

13 That was actually in consultation
14 with the program, and that's what we've done.

15 Okay. Is there any discussion at
16 this point here?

17 MR. DELGADO: Any comments,
18 questions? Please proceed.

19 MR. KARREMAN: Okay. We
20 definitely -- we got a lot of public comment
21 written -- go ahead, Valerie.

22 MS. FRANCES: I guess I'm just

1 wondering how you're going to put the aquatic
2 animal versus the aquatic livestock
3 terminology.

4 MR. KARREMAN: I think it was the
5 AWG that's supposed to use aquatic animals
6 instead of aquatic livestock, and we certainly
7 -- I think we could make that change without
8 any substantive, you know, meaning change.

9 So and just so the public knows,
10 we have taken public comment seriously, and
11 there's some very strong views on either side
12 of this, and we do plan to have a Livestock
13 Committee meeting this evening to take into
14 account further public comment this afternoon
15 as well.

16 So one thing that we definitely
17 don't want to do is have byproducts of land-
18 based livestock going into the fish because
19 there's a lot of consumers that would not want
20 to have that for organic fish. That's why we
21 have kept it at a byproducts for edible fish
22 or for fisheries. Okay. That has come up as

1 a question.

2 I think we need to define,
3 perhaps, better the term sustainably, since we
4 did say wild fisheries need -- the
5 sustainability of the wild fisheries is
6 paramount in potentially harvesting the
7 byproduct.

8 We think that using the byproduct
9 of edible fish is a good, complete usage of a
10 resource that's already there. We were told
11 by the agriculture working group that right
12 now they actually use fish oil, they make it
13 into diesel fuel and run it in their boats up
14 there because it costs too much to bring it to
15 the mainland, and we think it would be better
16 used to feed fish than be used as diesel oil.
17 That's part of the reason we want to use that.

18 Let's see. One thing, the Ocean
19 Conservancy, George Leonard, gave a lot of
20 valuable input at the symposium, and the idea
21 of performance standards, which might apply
22 more to net pens which I'll talk about in a

1 minute, but there were some good -- I think we
2 could use some performance standards in our
3 document that we might want to mention.

4 Let's see. There has been
5 questioning about the extra label on products,
6 on aquatic animal products that have been
7 potentially fed these wild-caught trimmings.

8 Some people yesterday and also in
9 a written comment said that it would be
10 confusing to the consumer. We also know,
11 however, that some consumers of organic fish
12 may not want to buy that fish that was fed
13 wild-caught, and yet other consumers we know
14 would actually want that because they know
15 that those fish have been fed a very complete
16 natural diet. That may become certified.

17 Go ahead, Kevin.

18 MR. ENGELBERT: And we also wanted
19 to make the point that by adding that label,
20 there's no deception involved whatsoever. We
21 want to be sure that also consumers realize
22 that that organic fish was fed wild-caught

1 trimmings.

2 MR. KARREMAN: Okay. So I'm open
3 to any discussion you guys want on this. I
4 can go on to net pens.

5 MR. DELGADO: Questions on the
6 topic of feed. No questions? Dan?

7 MR. GIACOMINI: Just one further
8 statement, and I had a lot of work to do so
9 you may have covered this, but in separating
10 off the national list in consulting with the
11 program, it was also -- it was pretty well
12 established that even if fish and aquaculture
13 stayed in 603, they wouldn't automatically be
14 granted the use of everything that was on 603.

15 So by saying that by separating it
16 off to this other section we would create this
17 new work and new petitioning -- well, they
18 would all pretty much have to be reconsidered,
19 anyway, to the information that we received at
20 that time.

21 MR. KARREMAN: That's a very good
22 point. As a matter of fact, we are proposing

1 -- but you don't want me to go into all the
2 details -- section 609, 610, 611, and 612, and
3 I think it's very clear that there are no
4 other materials so far on that list, and they
5 will need petitioning. So it's not a
6 transfer. I just wanted to make that clear.

7 But we can't go there yet until
8 this might pass.

9 MR. GIACOMINI: We even looked at
10 the consideration of the possibility of
11 bringing over the things as generic as the
12 vitamins and minerals, and we were recommended
13 not to do that, either.

14 MR. KARREMAN: Well, we did bring
15 over the structure, though.

16 MR. GIACOMINI: The structure,
17 yes.

18 MR. KARREMAN: The structure is
19 all we brought over. So basically we're just
20 -- we're trying to have aquatic animals have
21 their own section in the rule because they are
22 very different than land-based animals. There

1 are some similarities, but as everyone has
2 said, they're very different, so that's how
3 we're -- that's why we created the new
4 section.

5 MR. DELGADO: Any other questions,
6 comments? Go on to next one.

7 MR. KARREMAN: All right. Net
8 pens. So this is another part of the issue
9 that was put off in February and March 2007,
10 and we have come up with a recommendation
11 based once again a lot on the agriculture
12 working group, which they have been
13 indispensable. They have been always willing
14 to work with us every minute over time, and
15 yet at some point we did have to say, hey,
16 look, you know, now we have to work on it as
17 the board, as the Livestock Committee.

18 So a lot of this has agriculture
19 working group input, but we have also tempered
20 it to try to take into account the organic
21 community, because net pens have been
22 historically kind of a hot button issue, as I

1 think we all know.

2 So basically -- first it should be
3 said that -- I want to say, and I think I said
4 yesterday, that net pens, everyone always
5 associates net pens and salmon together, but
6 there are other species out there that are
7 grown in net pens. Tilapia is grown in net
8 pens, just so everyone knows that. I heard
9 that today. And so we have to be, you know,
10 careful in accepting and think about
11 ramifications of net pens not just for salmon,
12 okay, because there are other species out
13 there, too.

14 And, as well, just so people know,
15 closed containment systems, if the program
16 does enact rulemaking, we are already past at
17 the March 2007 meeting. So we already have a
18 containment type situation, and now we are
19 looking at open water net pens.

20 So essentially what we believe we
21 have done is looked at net pens and said,
22 okay, we know how they've been used from the

1 aquaculture symposium; we know what is
2 possible; and we tried to tighten up, and
3 perhaps we can tighten more by more specific
4 language, the performance metrics.

5 The issue of escapes, the issue of
6 the nutrient management, some people have
7 commented that the 50 percent nutrient
8 recycling is not feasible. Some people say it
9 is feasible.

10 So we are going to hopefully err
11 on the side of the people that agree with us
12 on the 50 percent nutrients are, you know,
13 recyclable.

14 As far as the issue, I think we
15 need to -- and in our document we do address
16 the siting of net pens. Perhaps we need to
17 tighten that up more or even preclude certain
18 areas of having net pens.

19 But I think that a lot of the
20 public comment posed on net pens has been
21 really strongly based on existing conventional
22 salmon farming in the Northwest, and our

1 proposal is truly a major improvement, we
2 believe, and not even attainable by a lot of
3 growers out there. And organics isn't for
4 everybody, and I realize people will say not
5 everything can be organic, and I would agree
6 with that.

7 But if people can meet these
8 standards that we have for these net pens --
9 and we're open to tightening up some language
10 from the public comment we got -- then I
11 believe that net pens can be done in an
12 environmentally friendly fashion that improves
13 the environment as well as provide food for
14 people.

15 So I guess I'll take comments from
16 rest of the board.

17 MR. DELGADO: Questions?
18 Questions from the board? None. I'm
19 surprised.

20 MR. KARREMAN: Okay. Well, okay,
21 that's fine. We're going to have public
22 comment this afternoon, and I do look forward

1 to it. I guess yesterday I was pretty engaged
2 in public comment and with the aquaculture
3 commenters, and I apologize to anyone if I had
4 been a little bit too aggressive. I didn't
5 mean that, but I think it brought out really
6 a lot of good information that the whole board
7 can use as we deliberate on this before we
8 vote tomorrow. And we'll have some more this
9 afternoon.

10 So I guess if that's it for net
11 pens right now, then I would like to turn it
12 over to Jennifer to just briefly discuss the
13 discussion item on bivalves and mollusks.

14 MS. HALL: So I am presenting on
15 behalf of the Livestock Committee our current
16 state of art as it regards the interim final
17 report on bivalves and mollusks.

18 The committee has continued its
19 partnership with the aquaculture working group
20 to bring the organic community another
21 document for consideration in our attempt to
22 determine a correct fit for cultured aquatic

1 animals with the existing regulations, and we
2 present here a revised interim final report on
3 bivalve mollusks from the AWG for comment.

4 It is a discussion document at
5 this meeting. We have already voted to accept
6 the report as it was presented by the AWG.
7 They did receive, when it was open to comment,
8 a fairly comprehensive comment from the
9 Pacific Coast Shellfish Growers Association,
10 and while the Livestock Committee continued
11 pretty in-depth work on net pen and feed
12 issues that we had delayed from prior
13 meetings, we thought it best to allow their
14 expertise to dig into the concerns raised by
15 that comment and continue to revise the
16 document for another submission. So that is
17 what this is, is their final work that replies
18 to the comments that were received.

19 So we are basically open for
20 comment on this document. We have used much
21 of the very strong and detailed language from
22 the bivalve mollusk document to enhance our

1 presentations on the net pen one. Their
2 siting language was much more detailed. It
3 was very helpful as we tried to tighten our
4 own language as we revised the net pens.

5 I would say that due to the
6 complexity that has been raised by the
7 community that sits before us today, as well
8 as kind of in our own committee, as we move
9 forward we will still wrestle I think perhaps
10 even a little bit more in this piece of work
11 with where it fits in the regulation vis-a-vis
12 the management of inputs.

13 It does a pretty great job of
14 raising the bar on siting and where to place
15 these operations, and on managing the
16 environmental impact. But due to the way they
17 are cultured, it is not an intensive system of
18 input management. And so that is something we
19 will continue to discuss and invite comments
20 as it regards that topic, too.

21 That's it. Discussion?

22 MR. DELGADO: Any questions?

1 Questions from the board? Okay, no questions.

2 Thank you.

3 MR. KARREMAN: That pretty much
4 wraps it up, Rigo. That pretty much finishes
5 the aquaculture presentation as we have it.

6 The animal welfare, as I
7 mentioned, has been put off because of every
8 Tuesday at 3 o'clock we were talking
9 aquaculture since the last meeting, and we
10 hope to get back to that, so we're going to
11 put that off, but otherwise as everyone knows,
12 we have a meeting tonight after dinner for
13 livestock. Okay.

14 MR. DELGADO: Jim?

15 MR. MOYER: I just want to take
16 this moment to put on the record to thank the
17 entire Livestock Committee for the amount of
18 work that they put into this aquaculture
19 standard.

20 While it is only a few pages long,
21 it represents a tremendous amount of work, not
22 only in committee but working on subsequent

1 calls with the aquaculture working group, and
2 also to thank Valerie for sitting in on all
3 those calls as well. I think that there was
4 a tremendous amount of work done here, and
5 hopefully we can get something going. Thank
6 you.

7 MR. DELGADO: Very good comments,
8 and I join in those congratulations.

9 That does conclude the Livestock
10 Committee, and we're going on to our next
11 topic right away. We're almost on schedule,
12 back on schedule, and it's now Julie Weisman,
13 please.

14 HANDLING COMMITTEE

15 MS. WEISMAN: On schedule, you
16 say? We can fix that.

17 (Laughter.)

18 MR. DELGADO: You were kidding.

19 MS. WEISMAN: Actually -- no.
20 Actually we have nine materials on our agenda,
21 which is a record low for us, although it's a
22 substantial amount of work.

1 I think what I want to address
2 first, because it's come to my attention that
3 it was cause for some consternation, is
4 although there are nine materials on the
5 agenda for the meeting, seven recommendations
6 were delivered. And I think that because our
7 -- I don't know. I don't want to get us off
8 schedule, so I want to acknowledge that there
9 are materials that we don't have
10 recommendations for at this meeting that were
11 on the agenda, and I understand that there are
12 people who traveled down here particularly and
13 especially and spent money and fare to be here
14 for the recommendations.

15 So I want to acknowledge that
16 there is some justified disappointment.

17 I also do want to say that I think
18 that it's not the first time that this has
19 happened, and that I think that we have a --
20 we're becoming more professional in getting
21 agendas agreed on farther ahead before the
22 meetings, and having them posted in time, and

1 this is I think an unfortunate consequence of
2 that improvement in our procedures, that now
3 all of our timelines have gotten pushed out.
4 So I'll move on from there.

5 MR. DELGADO: Julie, just a
6 clarification. Is it the intent of the
7 committee then to include these materials in
8 the work plan?

9 MS. WEISMAN: Absolutely.

10 MR. DELGADO: Great. Thank you.

11 MS. WEISMAN: Also -- this is what
12 I meant when I said I'll take care of us being
13 almost caught up. I wanted to say something -
14 - I felt that it was warranted to say
15 something about a petition or a couple of
16 petitions that are not on the agenda for
17 today's meeting. And those are -- there are
18 two petitions for -- concerning lecithin.

19 We, everyone in this room, we have
20 about almost 20 years of experience in looking
21 at and thinking about and figuring out what
22 should be required for a material to be

1 listed, to be added to the national list.

2 Throughout that time period,
3 organic stakeholders have remained to this
4 day, as of yesterday and including this
5 afternoon, I'm sure, in continuing to inform
6 the NOSB and the program on what the
7 requirements should be and what that process
8 should be.

9 In recent years, in the past
10 couple of years since I've been on the board,
11 we've been covering some new ground. The
12 redefined requirement to list agricultural
13 products on 606 has caused us to review those
14 requirements anew and to look at things like
15 commercial availability.

16 This summer the Handling Committee
17 received their first petitions for the removal
18 of a listed item. Now it's not the first time
19 that the board has looked at petitions to
20 remove, but in the past those have always been
21 based on new information coming to light that
22 had to do with the safety of the material or

1 new information about toxicity, either to
2 people or the environment. This is the first
3 time that we have looked at petitions to
4 remove on the basis of the commercial
5 availability of the organic version of a
6 listed item.

7 So we should be kind of used to
8 this by now. We are once again in virgin
9 territory.

10 Now it could be that I'm a little
11 short on history. That's possible, and if
12 that's the cause, I'm sure someone is going to
13 step forward and help me out. But there's
14 been alarmingly little, if any, precedent on
15 which the board right now can base this kind
16 of a decision. But we figured it out before
17 and I'm sure we'll figure it out now.

18 The issue is very intimately
19 related to the issue of items being listed on
20 606, and I will go on record as saying that
21 personally I did push for encouragement, I did
22 encourage people to have a positive attitude

1 towards listing items on 606, and because I
2 personally believe that that spurs the
3 development of organic ingredients.

4 That is with the ultimate goal
5 being the delisting of nonorganic ingredients.

6 The other piece I'd like people to
7 keep in mind is the current state of the
8 national list, where there is no organic
9 preference, and commercial availability does
10 not apply to items on 605, and at times I have
11 been concerned that some of my fellow non-
12 handling board members don't realize that
13 there's no incentive for manufacturers to put
14 time and energy into developing organic
15 ingredients if there is no incentive such as
16 commercial availability or organic preference.

17 So developing potential,
18 developers and manufacturers of organic
19 ingredients won't remain engaged in that
20 process very long if we don't figure out a way
21 to -- if we don't figure out the ways to bring
22 those things off the list when those materials

1 do get developed.

2 And if that happens, then
3 everyone's fears become realized, that the
4 listing of 606 ingredients does then become
5 hollow and static and possibly detrimental to
6 the organic industry.

7 But we're not there yet, and I
8 don't think that's where we're going to go.
9 The Handling Committee, in looking at this new
10 territory, has a lot of questions that have
11 come up. We have been already discussing this
12 on committee calls since the summer, and I
13 would like to share some of those questions
14 because I would like to refine further the
15 kind of public comment that we're getting
16 about this.

17 One question is are TAPs as
18 essential, are technical reviews as essential
19 to the removal of an ingredient as they are to
20 the listing. And if there is a difference,
21 how are they different. If there's a
22 difference in what should be in those

1 technical reviews, we would like to know what
2 those differences -- what people think those
3 differences should be.

4 Should commercial availability --
5 this is another question -- should commercial
6 availability be considered in a different
7 light for removal than it is currently for
8 listing.

9 And then there are some factors
10 probably that don't change with whether it's
11 a petition for removal or a petition for
12 addition.

13 An example of that would be how we
14 weigh the competing views of different
15 stakeholders, that that's probably going to
16 remain the same.

17 But it's because of these kind of
18 questions that the Handling Committee made --
19 took the unprecedented step of asking for
20 public comment on an item which is not even on
21 the agenda for this meeting. Because we are
22 wanting to address this in a very timely

1 fashion.

2 The need to act expediently but
3 methodically on this issue is great, and we
4 felt compelled to begin the process of
5 eliciting public comment way ahead of the
6 spring meeting, which is where I am hoping we
7 will be maybe taking action on these, but then
8 we'll see how it goes.

9 And I will say that we did get a
10 lot of comments, which I was heartened by.
11 So, anyway, a lot has been said so far in the
12 meeting about what I think of as a dialectical
13 relationship between the board and the
14 stakeholder community that takes place through
15 the public comment process, and so I am asking
16 all of you out there to remain as actively
17 engaged as you have always been and consider
18 the questions that we are posing to you, so
19 that we can be that much farther along in our
20 thinking, and our fleshing out of this issue
21 by the spring meeting, that we will be able to
22 make a well-considered recommendation based on

1 well-articulated criteria.

2 And with that, I will now -- we
3 will plunge into the actual materials that are
4 on the agenda for this meeting.

5 I'm going to start with the 605
6 materials. There are four of them on the
7 agenda. Two of them are being deferred
8 because the TAPS -- we were waiting for
9 technical reviews, and they couldn't be
10 completed in time.

11 Now, with that, I will say that in
12 the old days, because I'm looking at my -- one
13 of them -- the two materials in question, I'll
14 specify them now, we had sodium chloride
15 acidified that was being petitioned to 605(b)
16 in the category of chlorine materials. And
17 then we also have proprionic acid, also being
18 petitioned to 605(b).

19 The agenda for this meeting was
20 voted on at the executive committee call on
21 August 8th. That is the date that the
22 Handling Committee received the technical

1 review for sodium chloride acidified.

2 In the old days, probably we could
3 have cranked that sucker out on the 30th day
4 before the meeting date, with just like
5 seconds to make the requirement for public
6 comment.

7 But we've gotten more professional
8 since then, and we don't fly on that tight a
9 timeline. I apologize that I think the
10 organic community and petitioners may not --
11 have no way of knowing that we're improving
12 our processes.

13 So the way things are working now
14 in late 2008, that's not enough time for us to
15 turn around a recommendation. And with the
16 proprionic acid, actually, that technical
17 review was received by the Handling Committee
18 on October 9th, and I think that our
19 publication deadline for recommendations had
20 already passed by then, so that wasn't even a
21 possibility. So I am sorry for anyone out
22 there who was disappointed and was expecting

1 to hear recommendations on these today. And
2 I am sure that we are -- well, around here
3 I've learned not to ever say I'm totally sure,
4 but I'm pretty sure we're going to have those
5 delivered at the spring meeting.

6 That being said, I would like to
7 move on now to recommendations that we do
8 have. The first one is going to be calcium
9 from seaweed, and actually Katrina Heinze was
10 originally supposed to present this, so I'm
11 kind of doing it on the fly here a little bit,
12 but I think we'll be okay. I do miss Katrina
13 right now, though.

14 Calcium derived from seaweed is
15 produced from basically the skeleton of
16 seaweed on the ocean floor that's mineralized.
17 In this particular case it is harvested, if I
18 can use that word, off the Irish coast.

19 This mineralized seaweed gets
20 washed and it's hard, it gets milled into a
21 powder, and the result is a substance that's
22 intended to be used as an ingredient for

1 nutritional -- for added nutritional value,
2 for its health benefit.

3 The chemical composition of this
4 is over 95 percent the calcium and then the
5 other 5 percent are kind of calcium-related
6 compounds, calcium carbonate and magnesium
7 carbonate.

8 We had a lot of discussion earlier
9 today about minerals that potentially were
10 agricultural products. There's a lot of
11 issues based potentially, but the Handling
12 Committee has managed to avoid them this time
13 around because we believe that calcium for
14 this use is included in the listing of
15 nutrients, vitamins, and minerals already on
16 605(b).

17 So we did not feel that it was
18 appropriate for this material to be added
19 separately to the national list to 605(a)
20 since the use of the material is currently
21 allowed through that existing listing for
22 nutrient minerals.

1 And this -- so that actually, that
2 is our recommendation. Calcium seaweed
3 derived as petitioned does not need to be
4 considered for addition to the national list
5 since the use of this material is currently
6 allowed through the existing listing of
7 nutrient minerals on the national list,
8 section 205.605(b). That was passed by
9 committee vote five yes, no dissenting, there
10 was one absent that day.

11 MR. DELGADO: Questions, Dan?

12 MR. GIACOMINI: We've been
13 discussing this quite a bit, and I just feel
14 it's important and vital to the industry to
15 understand this, what we're doing here.

16 The committee is determining that
17 this is a nonsynthetic product. That's
18 605(a). They are saying that it is already
19 allowed because of a listing on 605(b) for
20 synthetics.

21 We have requested the program to
22 address the issue of whether this is a blanket

1 crossover between 605(a) and (b) or a specific
2 implementation because of the specific
3 annotation for the minerals listed in 605(b).

4 Barbara, can you address that?

5 DR. ROBINSON: I did answer it
6 before.

7 MR. GIACOMINI: Yes.

8 DR. ROBINSON: The FDA's
9 regulations -- in fact, I think I sent you the
10 citation there. It is in fact -- I can't
11 remember the exact wording, but it is -- I
12 think when I sent you back the citation from
13 FDA's regulations, I don't remember the exact
14 wording, but in the FDA regulations it's
15 illegal to -- in fact, or of a fashion to
16 discriminate or promote one nutrient over
17 another because one is natural or one is
18 nonsynthetic and one is synthetic.

19 So that nutrient, vitamins, and
20 minerals, even though it shows up on our list
21 under the synthetics, under FDA's regulations,
22 those include both nonsynthetics and

1 synthetics.

2 So the fact that you determine it
3 to be a nonsynthetic is of really -- doesn't
4 matter.

5 MR. GIACOMINI: Right.

6 DR. ROBINSON: Okay.

7 MR. GIACOMINI: It's specific --
8 so that everyone here and it is in the record,
9 it's specific to the annotation and not a
10 blanket crossover, if it's listed on the one
11 and it comes from the other, we can go use
12 that over there.

13 DR. ROBINSON: Yes.

14 MR. GIACOMINI: Okay.

15 MR. DELGADO: Any other questions?
16 Thank you. Julie.

17 MS. WEISMAN: We have one other
18 605 material that's being petitioned for
19 addition to the 605(b) synthetic, and that is
20 ethylene for pears, and Steve DeMuri is going
21 to present that.

22 MR. DeMURI: Thank you, Julie.

1 As Julie mentioned, we did have a
2 petition for ethylene specifically for
3 ripening of pears on the national list
4 205.605(b).

5 As you heard in public comment
6 yesterday and in written comment, we want to
7 note that it's been approved by previous
8 boards for use in tropical fruits and for the
9 degreening of citrus.

10 It is produced by pyrolysis of
11 hydrocarbon feedstocks, such as natural gases.
12 It includes crude oil. Or from ethanol. So
13 it definitely is a synthetic material.

14 It is produced naturally by
15 ripening fruits. However, this petition is
16 specifically for synthetic ethylene, and the
17 naturally occurring ethylene is not
18 commercialized as a process, so making
19 ethylene for use in post-harvest handling at
20 this point.

21 We did receive a good amount of
22 written and public comment, both during the

1 comment period and again yesterday. Thank you
2 very much for that. Including a couple of
3 folks who were able to provide some TAP
4 information that was not available to us on
5 the Web site previously. That was very
6 helpful, and we appreciate those comments.

7 Many of the commenters believed
8 that the approval of the use of ethylene for
9 organic pears would increase that market. A
10 lot more pears appear to be available as
11 organic and also possibly increase the length
12 of the season for the availability of organic
13 pears. That was derived from several of the
14 comments.

15 What the Handling Committee does
16 is vote on the addition of this synthetic to
17 the list, four yes, zero no, and two absent.

18 Any questions?

19 MR. DELGADO: Questions? None.

20 Okay. Can you repeat the vote, please?

21 MR. DeMURI: The vote was four yes
22 and zero no, two absent.

1 MR. DELGADO: Thank you. Any
2 other questions? Julie.

3 MS. WEISMAN: Next I have two
4 petitions which were petitions that were made
5 with yet to be determined whether they were
6 going to be appropriate more for 605(a) or for
7 606, and these are two algae. One is
8 chlorella, and the second dumontiaca.

9 I will make a general comment
10 about this. Both of these petitions failed,
11 I think unanimously. Both were -- and this is
12 where, you know, petitioning onto 606 is still
13 a new process and there is an exchange that is
14 continuing and a feedback loop that is going
15 on where it's actually through the petition
16 process that we are getting a better handle on
17 what these -- what 606 petitions need to
18 contain in order to be viable petitions.

19 So this, like a number of
20 petitions -- many petitions that were heard at
21 the two previous meetings, there was a kind of
22 a blanket statement made about searching

1 databases and not finding any mention of any
2 of these being available organically. And we
3 want more specific information than that.

4 So I'll start with the chlorella
5 petition. Is that chlorella up there? Okay.

6 This is an algae. I think there
7 have been times when it's been questioned as
8 to whether that would be considered a
9 potentially agricultural or a nonagricultural
10 product, but the line up until now at least at
11 the state that we're now is that anything
12 that's photosynthesizing will be considered
13 potentially agricultural and therefore
14 eligible for 606.

15 So this is a red algae, a red-
16 brown algae, which photosynthesizes. It is
17 produced in tanks, and it is then -- in what
18 is described in the petition as a hermetically
19 sealed unit, and it's collected, extracted,
20 and spray-dried onto astragalus root, and then
21 ground. And it is a powder that is used for
22 health benefits.

1 Our biggest problem with this
2 petition and where it did not -- it actually -
3 - we felt that it met criteria as being
4 agricultural, and the problem is that there is
5 certified organic chlorella out there.

6 Now it may not be in the form that
7 this petitioner wants it, but the petition
8 didn't make any mention of the existence of
9 this organic material, and so -- and therefore
10 did not even address why the organic material
11 wasn't adequate for their use and what might
12 be the obstacles towards making a form that
13 was available for their use.

14 So this voted -- this was a --
15 this failed to pass a recommendation at the
16 committee level. The vote was zero yes, four
17 no, and two people were absent that day.

18 I do want to say, though, that in
19 light of the -- this also raises some issues
20 that came up this morning in the material
21 working group presentation which is the
22 question of an agricultural product, and does

1 it have to be land based, or is it a system
2 that's managed, and the question of whether we
3 have standards for that management. And these
4 are all issues that are swirling around these
5 two. Even though they're not passing this
6 time, I think that the issues that they raised
7 are important to point out.

8 So before I -- should I just move
9 into the next algae? Okay. We're going to
10 move on to the dumontiaceae. I think I've been
11 pronouncing that right.

12 MR. DAVIS: It would probably be
13 "dumontiaceae" (pronouncing).

14 (Laughter.)

15 MS. WEISMAN: Okay, I'm going to
16 try this again. Dumontiaceae is also a red --
17 a photosynthesizing red algae which is
18 indigenous to Pacific coastal areas of North
19 America from Alaska down to southern
20 California. Unlike the previous algae we
21 discussed, this is -- and I'm quoting the
22 petitioner here -- ethically wild harvested

1 from the ocean floor in the Pacific, and it is
2 then air dried and packaged. I don't think
3 the process gets too much more simple.

4 But we did have questions about
5 what was meant by ethically wild harvested.
6 It is also a material that would be added for
7 nutritional and health benefit added
8 ingredient.

9 Once again, we did not -- as with
10 the other petition, we did not feel that the
11 petitioner's broad statement that they had,
12 you know, checked a couple of well-known
13 places that -- I think I'm not allowed to say
14 specifically because then -- anyway. It
15 didn't state the usual places that we all
16 look, and didn't find anything, and didn't
17 look any further or make any other comment
18 about why the wild harvested could not -- you
19 know, what the obstacles might be of that
20 being certified organic.

21 And so we did not feel that there
22 was -- that the evidence -- that they really

1 had done their homework, and so this petition
2 also failed for the same reasons as the other.
3 I believe by the same vote. It was zero yes,
4 four nos, and two were absent that day.

5 MR. DELGADO: Any questions?

6 Hugh.

7 MR. KARREMAN: This is something I
8 brought up a few meetings ago when you spoke
9 the Latin names, Rigo, of the petitions at
10 that time, but I really would like to see on
11 petitions with plants the Latin binomial name.
12 We had this discussion before, and Richard
13 agreed, or the program agreed, I should say,
14 sorry, that the Latin binomial name is the
15 preferred thing. Because this is a very -- I
16 don't know what level, you know, terminology
17 that is, but that's a much more big-umbrella
18 term than the Latin binomial. So, please --
19 maybe that should be in the policy and
20 procedure manual or something, I don't know.

21 MR. FLAMM: That's a family name.

22 MR. KARREMAN: Well, I would

1 recommend --

2 MR. FLAMM: The ending always the
3 family. So it's the same for every plant
4 family.

5 MR. KARREMAN: Extremely. And so
6 it should be the genus and species, and
7 however many of them they want, just not the
8 family name, or higher. I mean it's just kind
9 of vague, that's all.

10 MR. DELGADO: Any other questions?

11 MR. KARREMAN: One other thing
12 that Kevin just mentioned also, if that is
13 what they petition for, for that family name,
14 then they're even on a weaker kind of basis
15 because, you know -- I mean there's that much
16 more they could be looking for in the organic
17 availability.

18 MR. DELGADO: Any other comments,
19 questions? Very well. You can go to the
20 next.

21 MS. WEISMAN: Okay. We also had
22 three materials that we looked at this time

1 around that were being petitioned for 606.
2 And they are buck hull powder, black pepper
3 extract, and dried orange pulp.

4 Gerry, I just had a moment of
5 panic as to whether -- are you prepared to
6 present the buck hull powder?

7 MR. DAVIS: Sure.

8 MS. WEISMAN: Okay. Okay. I
9 couldn't remember if I asked you or not. I
10 would like to ask my colleague Gerry to
11 present the recommendation for buck hull
12 powder.

13 MR. DAVIS: The buck hull powder
14 refers to the hulls of buckwheat. When the
15 grain is milled, they typically pull the outer
16 black hull off of it, and this particular
17 petitioner was petitioning -- the use was it's
18 a colorant for soba noodles, buckwheat
19 noodles, and we checked into claims of
20 commercial unavailability and felt that the
21 petitioner did not provide sufficient
22 information on their investigation of global

1 supplies from other buckwheat production
2 areas.

3 They mentioned at the bottom of
4 page 1, we kind of put it in a nutshell or a
5 buckwheat shell, the petition provided
6 information on the obstacles for growing and
7 importing organic buckwheat to Australia where
8 the petitioner, being a manufacturer of soba
9 noodles, is located.

10 However, the petition does not
11 address the fact that the organic soba noodles
12 are currently made and sold in the U.S. from
13 certified organic buckwheat. They refer to
14 Chinese supplies of buckwheat and Japanese
15 millers and they kind of focused on that
16 sector, and did not consider the global
17 supply, or they considered it and they did not
18 put it in their petition that they considered
19 it, and explained anything about it.

20 So we felt they did not do the
21 job, and going to page -- the last page,
22 category four, some pertinent -- the grain is

1 produced all over the place, and they just did
2 not investigate why other areas of the globe
3 could not be a potential supply.

4 There may be reasons, but they
5 didn't spell it out. And the fact that we
6 were able to find soba noodles produced in the
7 U.S. from Canadian grain sources that were
8 certified organic, those two things
9 essentially caused the committee to vote to
10 deny the petition and not include it on 606.

11 MR. DELGADO: Any questions on
12 that? Okay. Julie.

13 MS. WEISMAN: Okay, I'd like to
14 now look at the black pepper extract powder,
15 and Joe Smillie is going to talk about that
16 recommendation.

17 MR. SMILLIE: Right. This
18 petition basically is -- was denied. The
19 petition does not provide sufficient
20 information to demonstrate the material cannot
21 be obtained organically in the appropriate
22 form, quality, or quantity.

1 So it meets the first three
2 criteria, no problem, but criteria No. 4, we
3 had issues with, in a similar sense of a lot
4 of the things we have discussed.

5 Basically, we felt that the search
6 by this petitioner was not exhaustive in the
7 least, and that we felt that it would be --
8 that they did not present us a convincing
9 argument that they could not use currently
10 available organic black pepper, both fruit and
11 oil extract, for further processing.

12 The petition was very complete. I
13 mean the technical information was good. They
14 went into great detail about this product,
15 which is used as a -- in the sense of a black
16 pepper as a flavor or a condiment. It's used
17 to increase bioavailability of other
18 nutrients, and hence it's processed in three
19 or four steps, and they said that the final
20 step product wasn't available, but going back
21 two steps, there is black pepper available and
22 there is black pepper oil available, and why

1 this couldn't be contracted for further
2 processing -- I mean it's possible that it
3 can't. But they did not present that
4 argument, and we can't fill in blanks. We
5 have to see that as a major part.

6 All the rest of the petition was
7 accurate and thorough, but again the
8 exhaustive search.

9 So moving to the last page once
10 again, good old category four, which seems to
11 be -- I mean we need to put out -- we need to
12 get the information out to petitioners to
13 point out that they are continually failing on
14 the same issue.

15 In other words, show us that you
16 can't get organic. You know, the information
17 is always good on, you know, the process and
18 grass and all the other things, but it always
19 fails when it comes down to why couldn't you
20 get it orgg. And we, you know, off in this
21 magical world of ours of, you know, Google and
22 all these other search engines, we go out

1 there and we see it there, you know. So we
2 know it's there. Maybe it's not there in
3 sufficient quantities, and we have gone this
4 argument with other materials, but again, the
5 petitioner didn't present any kind of detailed
6 information on why the current organic black
7 pepper supplies and black pepper oil supplies
8 couldn't fill this need.

9 I can't find the voting on my
10 document. Valerie, can you -- So it was
11 petitioned to be added, and it was zero yes,
12 six no, no absent, and no abstained and no
13 recused.

14 MR. DELGADO: Any questions?

15 Okay. Yes?

16 MS. FRANCES: I just wanted for
17 the record to state to put these
18 recommendations out there, and petitioners
19 have the opportunity to provide you with that
20 additional information during the public
21 comment process, either through
22 writtencommentsandregulations.gov, or here, or

1 come to the meeting and tell us more. So I
2 just wanted to say that. So it's not a done
3 deal once the committee makes its
4 recommendations.

5 MR. DELGADO: Good comment. Yes.

6 Julie, do you want to add
7 something else to that?

8 MS. WEISMAN: You know, what I can
9 -- I'll -- we have one more material, and
10 Steve is going to present that, and you know,
11 and actually I think at that time I'll say
12 something more general about the 606
13 petitions.

14 MR. DeMURI: Okay. The last one
15 for the Handling Committee today is dried
16 orange pulp, and we had a petition for
17 205.606. It is used as a moisture retention
18 agent and that substitute in baked goods,
19 pastas, salad dressings, confectionery,
20 processed cheese spreads, and frozen food
21 entrees.

22 As you heard yesterday, it's a

1 fairly benign process to make this stuff.
2 It's -- the material is a byproduct of orange
3 juice processing. It's kind of what's left
4 over from the physical extraction process to
5 make orange juice, and basically what the
6 producer does is heat treat it to stabilize
7 it. They mix it, dry it, and mill it,
8 physically mill it. So it's a pretty simple
9 process.

10 It did pass fine categories one
11 through three, impact on humans, environment,
12 essential and available, and compatability and
13 consistency, but again like the previous
14 material, it failed category four in our minds
15 because the petitioner did not provide
16 sufficient information to demonstrate that
17 material could not be obtained organically in
18 an appropriate form, quantity, or quality.

19 Now there were two things with
20 this petition. First of all, we weren't
21 convinced that there weren't enough organic
22 oranges out there to produce the dried orange

1 pulp in an organic form. And also there was
2 an equipment issue. That came up a couple
3 times yesterday during the public comment
4 period, that this particular producer has very
5 large equipment, which is understood, but
6 never really was answered on the question why
7 couldn't you build something on a little bit
8 smaller scale to produce the organic version
9 of this dried orange pulp.

10 So it did fail based on that
11 criteria No. 4.

12 There was a little bit of public
13 comment on that. We thank you for that. Mr.
14 Lundberg did a good job yesterday of giving us
15 background on the material. Thank you. That
16 was very good.

17 The committee vote was zero yes,
18 five no, and one absent.

19 MR. DELGADO: Okay, any questions
20 on that material? Gerry.

21 MR. DAVIS: The one question left
22 in my mind from the public comment yesterday

1 was we discussed the fact that the data
2 presented on the amount of organic orange
3 juice being produced in Florida was fairly old
4 data. I'm not sure how much more is there now
5 that the organic marketplace has grown.

6 But also I never really got an
7 impression of if smaller equipment was built
8 and installed next to an organic source, that
9 would fulfill their requirements on quick
10 handling and so forth.

11 With newer data of what's
12 available for orange pulp from organic orange
13 juice, how much of a percentage of their -- of
14 the marketplace for orange juice in organic
15 products would that represent? I'm not sure
16 that was made clear. I don't know if anyone
17 else on the board heard something that I
18 missed.

19 MR. DeMURI: I did not have an
20 answer to that myself. Is the petitioner in
21 the audience today? Can you let him answer
22 that?

1 MR. DELGADO: Yes. Please come up
2 to the microphone.

3 MR. DAVIS: And I guess the
4 question would be, to try to boil it down, if
5 you first exhausted the supply of orange pulp
6 from organic orange juice with one
7 installation of the equipment, then how much
8 additional would have to come from
9 conventional?

10 MR. LUNDBERG: Well, first, the --

11 MR. DELGADO: State your name,
12 please.

13 MR. LUNDBERG: Brock Lundberg with
14 Fiberstar, petitioner for the dried orange
15 pulp.

16 First regarding the data, the
17 amount of available orange pulp, it is a --
18 half a truckload is the current number, 20,000
19 pounds on a dry basis, and I'm not sure how it
20 got misunderstood that that was old data. I
21 apologize for that. But it actually is
22 current data. We did talk to the largest

1 orange juice processors in Florida about this
2 information, and that's where the source came.
3 That's less than a month old, that
4 information.

5 I did talk to Marty Mesh about
6 that, too, to confirm, and he didn't disagree
7 that that is reliable numbers. He's with the
8 Florida Organic Association.

9 And regarding that 20,000 pounds,
10 that would represent roughly 1 percent of our
11 total market, and that's now -- that's only
12 after three years of manufacturing. Our
13 business is growing and the organic is going
14 to be a large part of the business. That's
15 approximately at least 10 percent of our
16 business opportunity is in the organic area.

17 We have many large manufacturers
18 that have been asking for us to be on the
19 list, and large and small, I should say, and
20 but the reasons for the availability -- I mean
21 there's two different reasons. We get -- when
22 there's orange pulp, we get 20 times less. We

1 have a 100 pounds of raw pulp, we get five
2 pounds of finished product. That's the first
3 thing.

4 Secondly is all of the pulp has
5 much higher value when it's used in juice, and
6 most of the pulp does go back into making
7 juice, organic juice is a growing industry.
8 But a lot of the pulp that's used goes back in
9 the juice.

10 We use the byproduct that's left
11 over and made into otherwise cattle feed, so
12 we are -- essentially when the organic
13 industry -- we'll benefit the organic juice
14 manufacturers, when there is growth, by
15 providing them with added value for their
16 product stream.

17 But -- go ahead.

18 MR. DAVIS: So while that might
19 help us to understand the small amount of
20 supply then that you just highlighted was the
21 organically grown and produced orange juice
22 typically retains most of the pulp and is not

1 as much being pulled out.

2 MR. LUNDBERG: Exactly. The
3 majority of the pulp goes into orange juice.
4 Exactly.

5 Thank you.

6 MR. DELGADO: There were a few
7 comments. Hugh.

8 MR. KARREMAN: I apologize. How
9 many orange growers are there in Florida, and
10 what percent are organic, certified organic,
11 and is there a major difference in size of the
12 groves between certified organic and
13 conventional?

14 MR. LUNDBERG: Sure. Yes, there
15 is a difference in supply. There's two
16 different issues regarding supply.

17 First there's -- on a -- I don't
18 know that I know the acres off the top of my
19 head, but I know in terms of total oranges
20 produced. There's approximately 2.7 million
21 boxes of fruit produced in the United States,
22 and most of that is in Florida, and the pulp

1 is -- the pulp goes into juice, but regarding
2 what that represents compared to the total,
3 the total is in the range of approximately 20
4 million boxes is produced in -- I'm sorry, not
5 20, 20 is at Southern Gardens Citrus. Two
6 hundred million -- Southern Gardens Citrus,
7 which is where our processing operation is at,
8 includes that 200 million boxes is the total
9 amount produced of the standard nonorganic
10 variety of oranges that goes into juice.

11 That's about -- yes. Yes, that
12 2.69 is there on that slide.

13 MR. DELGADO: Jennifer.

14 MS. HALL: Yes, thank you.

15 Do I remember correctly that
16 yesterday you said that the function of this
17 organic pulp is as a thickener, and that it
18 can potentially replace chemically derived
19 options that are currently used?

20 MR. LUNDBERG: Exactly. And
21 that's what -- that's why so many organic
22 producers or food ingredient manufacturers

1 like the product, is just because of the
2 functionality it delivers of normal -- of a
3 lot of chemically derived preservatives,
4 stabilizers, emulsifiers. It's got a very
5 creamy mouth feel, and it's unique compared to
6 a lot of gums because of the cleanness of both
7 the label, as well as the mouth feel of the
8 product.

9 MS. HALL: Thanks.

10 MR. DELGADO: Barbara.

11 DR. ROBINSON: I just -- did I
12 hear the committee say that you thought was an
13 alternative was having the company make
14 smaller equipment?

15 MS. WEISMAN: That was just me
16 yesterday. You can't pin that on the
17 committee. That was just my personal
18 question.

19 DR. ROBINSON: Okay. All right.

20 MR. DELGADO: So the answer to
21 your question is yes, we were looking at an
22 alternative.

1 MS. WEISMAN: That was my question
2 why can't it be done on a smaller scale. I'd
3 like to elaborate, okay, because I think that
4 sometimes we get petitions from the end user
5 who has no control over how this is going to
6 be manufactured, and I looked at that
7 differently than when the petition comes from
8 a manufacturer.

9 I'm a manufacturer, and the scale
10 on which I do organic production, I do much
11 smaller than what I did conventional
12 production. And so I'm trying to understand
13 why that can't happen in this instance.

14 DR. ROBINSON: Okay. I was just
15 hoping we weren't making -- we weren't voting
16 against something because of the scale. We
17 could ask them to make smaller equipment, and
18 then we'd reconsider this.

19 MR. DAVIS: That was why I asked
20 the question, Barbara, of what percentage of
21 your marketplace, if you were to build
22 equipment to exhaust all that organic orange

1 pulp that there is, if you did that first and
2 then moved on to conventional for the
3 additional, I wanted to see what is that
4 marketplace. And he said only about 1 percent
5 of what we need for our organic -- for your
6 organic customers or all customers?

7 DR. ROBINSON: Right, but you also
8 want to consider the potential market, too.

9 MR. DAVIS: Right. True. True.

10 MS. WEISMAN: And that's very
11 important because there is this dynamic
12 relationship between the demand and then
13 supplying. When the supply starts to come,
14 then the demand follows.

15 DR. ROBINSON: Correct.

16 MR. DELGADO: Okay. Let's go back
17 to Dan.

18 MR. GIACOMINI: I think what Julie
19 was saying is important here. I think another
20 factor that's important is that this is a
21 proprietary process, and by putting it on the
22 list, we are allowing them to say we'll never

1 have to.

2 DR. ROBINSON: Never have to what?

3 MR. GIACOMINI: Never have to have
4 an organic source because no one can ever push
5 us into having one. There will never be a
6 commercial availability -- there's a
7 possibility of never having a commercial
8 availability of an organic source when they
9 own the process of making this product.

10 MR. DELGADO: Tracy.

11 MS. MIEDEMA: I sense that we are
12 so engaged in this topic, like we were with
13 okra, because something intuitive feels like,
14 hey, there's an organic version of that
15 commodity. Come on. And we're really not
16 looking at the processing side.

17 And as someone who works for a
18 large organic processor who processes millions
19 and millions of pounds, I understand that. We
20 don't flip on our "on" switch for anything
21 under 20,000 pounds, and we can't. It's just
22 not feasible.

1 You know, what we're really
2 getting to here -- and this is to your
3 comment, Dan -- is this philosophy behind
4 statistics, whether it spurs or spurns demand
5 -- or sorry, supply of organic products out
6 there in the marketplace.

7 If you use 606 as an opportunity
8 list, then we think it spurs the supply of new
9 organic product.

10 So, you know, in the case of okra,
11 Marty came up here and made this very
12 compelling argument that, hey, nobody has come
13 to me and asked for organic okra. Well, what
14 if organic IQF -- I'm sorry, what if IQF okra
15 had been put on 606? Some products that
16 developed? Guess what. Now there's this
17 opportunity list of organic growers who'd say
18 I get to go to the front of the line, and that
19 manufacturer has to buy my organic okra.

20 Somebody can look at dried orange
21 pulp, for instance, on 606 and say, hey, I
22 want to make that, and I'll beat Fiberstar

1 because those manufacturers have to come to me
2 for the organic version.

3 So, you know, we don't have enough
4 evidence yet to know how often it spurs and
5 how often it spurms the supply, but we're
6 going to start accumulating that evidence, and
7 it's reasonable to think that in many
8 instances we will have more organic products
9 because of its presence on 606.

10 MR. DELGADO: Dan.

11 MR. GIACOMINI: I completely agree
12 with what you're saying, but anybody can grow
13 okra, relatively. But in the case where you
14 own the proprietary rights to process, that
15 makes it a little bit different.

16 MS. MIEDEMA: A point of order.
17 And I -- it was not okra, and it's not organic
18 oranges, it's not oranges we're talking about.
19 It was IQF okra, and this says dried orange
20 pulp. And there are some very specific things
21 that happen in processing about heat and
22 transportation, and you don't get to just sort

1 of accumulate a bunch of this stuff and set it
2 aside over a year's time and wait to turn your
3 processing machine on.

4 What Brock was explaining to us is
5 if little dribs and drabs of organic oranges
6 showed up, they can't kind of turn on their
7 machines for those 100 pounds each day as it
8 shows up.

9 So we have to keep in mind the
10 specific item that's being petitioned.

11 MR. LUNDBERG: Just one follow-up
12 comment. I do know other processors coming
13 out with dried orange pulp, and it's -- and I
14 don't know whether or not that would infringe
15 patents. I can't comment on that, but
16 certainly it has been made before. It's been
17 made before us, and just that alone would mean
18 that there's ways that other people can
19 produce it.

20 MR. DELGADO: Steve, followed by
21 Bea.

22 MR. DeMURI: In my mind, the

1 process worked here because when we first --
2 when we visited about a few months ago we
3 didn't have all the information we needed.
4 You saw that, came and gave us more
5 information, and backed it up, and now we can
6 make a more informed decision.

7 So I commend you for that. For
8 future reference, I think for anybody here
9 that wants to petition us, it also helps to
10 get back-up from the people you're selling to.
11 If they come to us and say we need this, then
12 we know that it's necessary for the industry.

13 MR. DELGADO: Am I to understand
14 that the committee will be changing their
15 position on this?

16 MR. DeMURI: We'll talk about it.

17 MR. DELGADO: Very good. We have
18 Bea, followed by Jennifer.

19 MS. JAMES: Under the evaluation
20 criteria, it says here that it is produced by
21 taking the pulp and washing it with water,
22 stabilizing with heat and water, mixing,

1 drying, grinding. I'm just curious as a
2 stabilizer and an emulsifier, is the flavor in
3 there, so everything you use it for would have
4 an orange --

5 MR. LUNDBERG: No, it's very
6 bland. We remove the flavors in the washing,
7 so that allows us more market and that it can
8 be used in more products, because of the bland
9 flavor and neutral odor.

10 MS. JAMES: So there's no
11 chemicals used when you take the flavor out?

12 MR. LUNDBERG: It's just water.

13 MR. DELGADO: Any other questions?
14 Jennifer.

15 MS. HALL: In addition, I think
16 it's helpful to, if there are specific items
17 that might be able to be removed from the list
18 as the result of the addition that are more
19 harmful, it's helpful to know that.

20 MR. LUNDBERG: Okay.

21 MR. DELGADO: Any other comments,
22 questions?

1 MS. JAMES: Well, you know, to
2 just kind of -- off of what Jennifer just
3 said, do you know offhand what other items on
4 the list could potentially be affected by this
5 being added?

6 MR. LUNDBERG: I'm sorry, I don't
7 know offhand. I could come back up and
8 probably in an hour's time and tell you that.

9 MS. JAMES: Will you be here
10 tomorrow?

11 MR. LUNDBERG: Yes.

12 MR. DELGADO: Any other questions,
13 comments? Okay, Julie, back to you.

14 MS. WEISMAN: We're done with
15 materials, but we have -- oh, I'm sorry. Yes,
16 we're done. Thank you very much for being
17 here.

18 MR. DELGADO: Right. So we can
19 move on to the next item, which is --

20 MS. WEISMAN: Right. The next
21 item is the pet food recommendation. And for
22 that presentation, I'm going to turn it over

1 to Tracy Miedema.

2 MR. DELGADO: Tracy.

3 MS. MIEDEMA: I'm so glad we have
4 something warm and fuzzy to talk about.

5 (Laughter.)

6 I hope.

7 Okay, the National Organic Program
8 came to us four years ago and asked for the
9 recommendations that we are presenting today -
10 - Barbara's over there telling me, and we
11 thought they were slow.

12 (Laughter.)

13 Six months later, a task force had
14 been formed, and this group was comprised of
15 experts from industry and certification, and
16 some other groups, 12 people. They spent
17 about a year coming up with a task force
18 recommendation and brought it to the board,
19 and to this board in April 2006.

20 Just a little bit of background
21 ground. Pet food regulations are quite
22 baffling, actually. All 50 states have their

1 own rubric certification, and you really need
2 a professional consultant every time you build
3 a pet food package because you have to build
4 a label that cuts across all 50 states.

5 Then, you know, what we were doing
6 is layering on top of that our regulations.
7 So it was very complex, and this group did a
8 fantastic job of threading the needle.

9 But something happened after April
10 2006 which was the Harvey case, and we had to
11 reevaluate the way this recommendation by the
12 task force was written.

13 Frankly, it languished. This
14 recommendation languished in a back room for
15 about a year, and tremendous demand for this
16 information has been coming from the industry,
17 but just an anecdote here. A few days at one
18 of the country's biggest pet food product
19 shows in Las Vegas, called Superzoo, a couple
20 of months ago, and I talked with a lot of
21 people about organic pet food, and just kind
22 of beating the bushes and finding out how

1 people were feeling about what was happening
2 there, and a tremendous amount of confusion,
3 anxiety. They feel like they were in neutral.
4 They had invested money in developing organic
5 pet food, and so what we have is a little
6 subindustry here that wants to grow and wants
7 to fulfill its destiny, and it's time we
8 really give them what they need.

9 So what our committee did in
10 conjunction -- we've still been working with
11 the task force -- is revise the organic pet
12 food task force recommendation to reflect
13 changes based on Harvey. Based on some
14 excellent comment that has come in in the last
15 few weeks, we even made a few more tweaks
16 which, Valerie, when she pulls our
17 recommendation, I'm going to show those
18 additional highlights, because we really
19 wanted to get this right.

20 It's a very technical
21 recommendation. One thing that I would say to
22 the organic pet food people out there is that

1 just like an organic shortbread cookie might
2 not be more nutritious than a regular old
3 conventional shortbread cookie, the organic
4 pet food does not present itself as somehow
5 having a nutritionally superior line of pet
6 food, and that was one of the main points of
7 confusion I found at that pet food show.

8 So, you know, this is talking
9 about the practices and everything that's been
10 tried in OFPA and not reinventing pet food,
11 per se. However, we do comply with everything
12 in AAFCO in this recommendation. That takes
13 primacy to what we did here.

14 In terms of the -- you know, some
15 of the highlights of the proposed rule change,
16 we're talking about putting this regulation in
17 the pet food -- or, sorry, in the Livestock
18 section, because we're feeding animals, but
19 the label claims labeled the same way human
20 food does, because it's humans that are buying
21 it. So that's why that split has occurred.

22 And at this point I would like to

1 invite Emily Brown Rosen up to the podium
2 because no doubt there could or will be
3 questions that Emily can do much a better job
4 answering than I can.

5 MR. DELGADO: Emily, can you
6 approach, please.

7 MS. MIEDEMA: One other highlight
8 I guess I wanted to make based on some comment
9 that came in yesterday is how 606 items would
10 appear, and we proposed parsing 606 into A and
11 B, and we got help from the program on how
12 this should be parsed, so that a bunch of pet
13 food-sounding ingredients didn't kind of get
14 commingled with the other 606 items. It's
15 just an appearances thing.

16 And with that, I would turn it
17 over to the board.

18 MR. DELGADO: Questions?
19 Questions from the board? Jeff?

20 MR. MOYER: Yes, I was just going
21 to say sitting in on the few calls that I did
22 sit in on, I was completely amazed at how

1 complex the basic pet food industry is in
2 terms of labeling and the way they work, and
3 for us to have dovetailed into there like we
4 did I think was just a real credit to those
5 people that did much more work than I did. So
6 it's a very well thought-out document.

7 MS. ROSEN: I think it was a
8 challenge, because I've -- I mean I've already
9 given presentations to AAFCO on what organic
10 means, but we're going to need more
11 presentations to organic to what AAFCO means,
12 because there's two sets of regulations that
13 they have to comply with, and it's a little
14 bit of a puzzle.

15 MR. MOYER: I think after reading
16 this, my dog should apply for another home
17 because my dog gets what he gets and this is -
18 -

19 (Laughter.)

20 MR. MOYER: -- much more complex.

21 MS. ROSEN: These are just little
22 minor changes that we picked out where we

1 missed a few spots on the 606 changes. So
2 it's basically what you saw earlier.

3 MR. DELGADO: Are you going to
4 review those changes?

5 MS. MIEDEMA: Sure. Let's just go
6 through those very quickly. There's three
7 items, and comments came up from our eagle
8 eye, Gwendolyn Wyard, and were seconded by
9 Emily, who was vice chair of the organic pet
10 food task force. So I went ahead and layered
11 those in.

12 One of the additional comments was
13 to propose an entirely different section of
14 the regulation devoted to organic pet food,
15 and we are not recommending that because I
16 feel that that's a programmatic decision that
17 the program can opt to do or not do later on.

18 So if you look at -- what page are
19 we on there, Valerie?

20 MR. MOYER: Seven.

21 MS. MIEDEMA: Okay.

22 MS. ROSEN: This is 237(c), and

1 this fits in with the livestock section which
2 we are now calling livestock feed and pet
3 food, so we've added this new step (c) which
4 was in addition to the -- I should back up a
5 little bit.

6 The 237(b) are things that are not
7 prohibited for organic livestock operations,
8 but not prohibited for pet food formulations.
9 So this is a separate addition.

10 Pet food must be composed of
11 agricultural products that are organically
12 produced and, if applicable, organically
13 handled, except that nonagricultural
14 nonsynthetic substances and synthetic
15 substances are allowed under 603 and 605 may
16 be used as food supplements.

17 And so this goes along with the
18 proposed change in the livestock feed pasture
19 rules, actually, so that we are just
20 identifying that items on 603 or 605 that are
21 natural, nonsynthetic, but they're not
22 agricultural, they'll be allowed for use. If

1 they're agricultural, they still have to go
2 through the 606 process. So this was put in
3 more to clear that up, which has been a little
4 bit of a -- livestock feed and also now it's
5 trying to be all the same with the Harvey
6 thing.

7 And then it goes on to add that
8 nonorganic agricultural ingredients allowed
9 under 606 may be used in products labeled
10 organic provided they are commercially
11 unavailable in organic form and allowed by FDA
12 for animal feed.

13 So it just covers all bases. It's
14 not -- it was our intent to do this, but we
15 had missed it before.

16 MS. FRANCES: The addition for the
17 livestock community's benefit was (b)(7), the
18 feed, it cannot feed organic pet food to
19 livestock was requested.

20 MS. ROSEN: That happened over the
21 summer. That was earlier.

22 MS. FRANCES: Yes. Just to make

1 sure people didn't see that.

2 MS. ROSEN: That should be
3 underlined also, actually, yes. Because
4 that's not in the -- that was a concern to the
5 committee that somehow, you know, this
6 loophole for like maybe they're getting pet
7 food or it will end up in the livestock
8 feedstream, which does happen. In the real
9 world there is what they call salvage or
10 distressed pet food that ends up as livestock
11 feed. So that's a prohibition here.

12 MR. DELGADO: Any questions?
13 Jeff.

14 MR. MOYER: I just have one
15 question, Tracy. I'm going well outside my
16 realm of expertise, but in terms of definition
17 that you have on page 2, at the very end of
18 that we say that this does not apply to the
19 zoo animals, and I understand that, but as I
20 think about the near term and what's happen
21 with the -- sort of the greening of all
22 industries and the whole claims of

1 sustainability, I can see where in the near
2 future zoos would be very interested in
3 feeding organic diets to their animals. Is
4 this the groundwork for that, or is that way
5 outside --

6 MS. MIEDEMA: That came from the
7 pet food industry. They didn't -- I guess
8 they're feeling there's a whole different
9 nutrient recommendations for zoo animals, and
10 they just felt like this is the bread-and-
11 butter, this is cats and dogs, and you know,
12 minor other species, and we just -- they had
13 their reasons they didn't want to throw that
14 in here because I think it's still undeveloped
15 in the natural world, too, and the committee
16 really talked about it, didn't want to add
17 that to the mix right now.

18 You know, it's not really pressing
19 at this moment, and we need to get this thing
20 done first. So I mean we could take it up
21 later if there became a pressing need for it.

22 MR. DELGADO: Any other comments,

1 questions? Tracy, anything else?

2 MS. ROSEN: Oh, well, there was a
3 few other changes we didn't finish.

4 MS. FRANCES: One thing I just
5 did, the language that was recommended for
6 another program for 605 and 606 to be offered,
7 because that wasn't really -- it was
8 incorporated as a concept in the Handling
9 Committee's recommendation, but not the actual
10 wording for 605 and 606. Do I just drop that
11 into this document?

12 MS. ROSEN: Oh, you mean this
13 change that actually happened?

14 MS. FRANCES: How it will actually
15 impact the rules. I just wanted to -- just so
16 people understand the language. Okay.

17 MS. ROSEN: Where are you putting
18 that? In the regulatory part in the
19 beginning, or are you just --

20 MS. FRANCES: Yes, the 605
21 includes pet food.

22 MS. MIEDEMA: Valerie, I would

1 rather you didn't do that. We did discuss
2 this very point in committee, and we preferred
3 to keep it as a note that the Handling
4 Committee recommends, and since we discussed
5 it already, I just prefer we keep it out of
6 there.

7 MS. FRANCES: But just for people
8 to see how it would look. You can take it out
9 if you want, out of your recommendation, but
10 this was what was discussed as to how it would
11 ultimately appear.

12 MS. MIEDEMA: I think we're going
13 to get --

14 MR. DELGADO: When you come to a
15 decision, it's up to the committee to decide
16 what is it that they want to vote on.

17 Any other questions on the part of
18 the board? And we thank you very much for all
19 your help. We appreciate it.

20 Back to you, Julie. Does that
21 conclude this segment?

22 MS. WEISMAN: That's all, folks.

1 MR. DELGADO: Fantastic. Thank
2 you very much. We are only a couple of
3 minutes off schedule, and we are due for a
4 nice break.

5 (Recess.)

6 MR. DELGADO: We're ready for the
7 board members to come and take your places so
8 we can start the public comment.

9 (Pause.)

10 Okay, we're ready to start with
11 our public comment section, day two, of our
12 meeting, and the first person up to provide
13 comment is Carrie Brownstein. If you could
14 please approach the podium, and followed by
15 Urvashi Rangan.

16 Carrie Brownstein, please approach
17 the podium. Carrie will be followed by
18 Urvashi Rangan and Brian Connolly.

19 While our presenter makes her way
20 up to the podium, I would like to remind the
21 board members that we have an hour and 45
22 minutes of public comment scheduled, but we

1 have 35 presenters.

2 Carrie, can you please introduce
3 yourself for the record, and your comments
4 start right now.

5 MS. BROWNSTEIN: Five minutes?

6 MR. DELGADO: Five minutes, yes.

7 MS. BROWNSTEIN: Okay.

8 PUBLIC COMMENT ON NOSB ACTION AND
9 DISCUSSION ITEMS

10 MS. BROWNSTEIN: I am Carrie
11 Brownstein from Whole Foods Market.

12 I submitted comments and posted
13 them to the site, the NOSB site, so I probably
14 will not read through all of my comments, but
15 hopefully the group has a chance to look at
16 those comments.

17 There are a couple points that I
18 wanted to make that I made in my printed
19 comments. I think that there is some greater
20 clarity needed on a few of the proposed
21 standards with respect to how some of the
22 terms are defined and greater specificity

1 needed on some of the standards.

2 So just a couple examples of this.

3 In the aquatic livestock feed, livestock feed,
4 about using wild fish, and calculating the --
5 you know, figuring out how much wild fish is
6 acceptable, I think that it needs to be
7 specified whether the trimmings from fish
8 processing will be counted in a calculation,
9 and in our standards at Whole Foods Market, we
10 do not require that trimmings or processing
11 wastes are calculated in what we call the
12 fish-in, fish-out. So I think that could use
13 some specification.

14 Around contaminants, I think the
15 important point is that environmental
16 contaminants, is that the standard refers to
17 regulatory levels, but -- for allowable levels
18 of contaminants, but there are no regulatory
19 levels really, and so as it's written it's
20 kind of unclear whether the group was talking
21 about following European regulatory levels or
22 if there was an error in assuming that there

1 are established standards for PCBs, mercury
2 and things like that, in feed.

3 So I just wanted to mention that.

4 The term sustainably sourced for
5 the fish meal, fish oil that goes into feed,
6 I really think that needs to be defined. It's
7 -- for Whole Foods Market, we have reserved
8 the term sustainable for just products that
9 are certified by the Marine Stewardship
10 Council. You know, as you know, in terms of
11 production fisheries, you know, there aren't
12 really that many that would qualify from the
13 MSC group.

14 So I think that's just -- that
15 kind of specificity is needed.

16 And when it comes to the net pen
17 category, there's a bunch of areas where I
18 think more clarification is needed. For
19 example, will hormones for sex reversal be
20 prohibited for grow-out stock only, or also
21 for brood stock? That's important. It's used
22 for brood stock in trout, but, okay, I have to

1 hurry.

2 So there's a couple of really
3 quick points then.

4 The aquaculture working group had
5 a couple of interesting comments, so I agree
6 with them that the aquatic plants and aquatic
7 animals are good terms to use rather than
8 livestock and crops when you're talking about
9 aquaculture.

10 I also like some of the specifics
11 that they put in their comments, like the use
12 of acoustic harassment devices should be
13 prohibited. Those are the kinds of specifics
14 in our Whole Foods Market's standards that we
15 try to put in so that people knew exactly what
16 kinds of practices on the farm are allowed and
17 are not allowed.

18 So I also like this point that in
19 the rules for fish meal and fish oil that they
20 should apply to terrestrial livestock. I
21 thought that was an interesting point as well.

22 Finally, it's really a great thing

1 to have performance targets, and we tried to
2 do this in our standards as much as possible.
3 But regarding the nutrient reduction of 50
4 percent through cycling, I'm just a little
5 curious where that number came from. I tried
6 to find numbers as we were working on our
7 standard that we could do, and I wasn't quite
8 sure if there was science supporting that
9 particular number, because I think it's great
10 to have a performance target, but if it's
11 arbitrary, I'm not sure if that gets you
12 necessarily where you want to go in terms of
13 on-the-farm performance level.

14 So I do please hope that you can
15 check out the printed comments that we
16 submitted online, and hopefully find
17 opportunities for greater specificity,
18 especially on things like predator standards,
19 where there are specific things that you could
20 require, like no acoustic harassment devices
21 and greater definition on those kinds of
22 standards.

1 Thank you.

2 MR. DELGADO: questions, Dan?

3 MR. GIACOMINI: Carrie, excuse me.

4 MS. BROWNSTEIN: Sir.

5 MR. GIACOMINI: Yes. I notice

6 when I go into your stores, you do have

7 accredited farm fishing program. Without

8 going into the specifics of it, I have talked

9 to some of the guys behind your fish counters

10 at some of your various stores, and -- but as

11 from your perspective, the store's

12 perspective, how is that program -- how is it

13 going, how is it being accepted by the

14 consumer to be dealing with these kind of

15 things, which we're being told are not

16 acceptable by the consumer? What are you

17 seeing?

18 MS. BROWNSTEIN: Well, we just

19 released the new aquaculture standards in July

20 of 2008, so they are new. But the feedback

21 that we have received has been really

22 positive, and in terms of the implementation

1 of the standards, we are in the implementation
2 phase.

3 So, you know, it's going to take a
4 little while, but the point is that all of the
5 farms will have to be operating completely
6 under those standards. And so, you know, it's
7 a process of getting everybody up to speed,
8 and so far I think it's going really well.
9 We've got some great relationships with these
10 producers that are working really hard to make
11 this happen.

12 MR. DELGADO: Any other questions?
13 Joe?

14 MR. SMILLIE: Yes, I just wanted
15 to clarify, you guys have the ability to note
16 a sustainability standard you can adhere to.
17 We lack that ability. We can't refer to a
18 nongovernmental sustainability standard.

19 We explored that earlier because
20 that's one of the things that we wanted to do
21 is pin it to sustainability as far as the feed
22 mill goes, but basically it's difficult for us

1 to have a nongovernmental standard and a
2 governmental regulation.

3 So until such time as the
4 community create, you know, sustainability
5 standards that are acceptable, we are stuck
6 without, you know, a donkey to pin the tail to
7 as far as our desire for sustainability.

8 Isn't that correct, Hugh?

9 MR. DELGADO: Jeff?

10 MR. MOYER: Yes. Carrie, I was
11 just wondering if you can expand just briefly
12 on what your waste management standards are.
13 You brought up the 50 percent recycling. What
14 exactly is doing that?

15 MS. BROWNSTEIN: We looked at it
16 from the input side in terms of looking for
17 the producers to reduce the amount of nutrient
18 inputs in the form of feed and fertilizer.

19 We did not put a 50 percent
20 reduction or a particular percentage reduction
21 on that particular standard. But we did look
22 at it from the input side, especially because

1 of the context of net pens and open water
2 systems, it seemed a little bit easier to keep
3 track of the inputs.

4 But we are looking -- I mean I
5 think there's a lot of consistency here in
6 terms of what we are trying to achieve, you
7 know, in terms of recycling nutrients. We are
8 looking to producers to find ways to recycle
9 these nutrients, and so, you know, the kinds
10 of integrated multitrophe, integrated
11 aquaculture systems that I think you probably
12 had in mind in this standard, I think those
13 are fantastic, and we're looking to find
14 producers who can do that. It was just that
15 that particular number of 50 percent of
16 reduction, we just had a little trouble
17 finding, you know, a justification for that
18 exact number.

19 MR. MOYER: Thank you.

20 MR. DELGADO: Kevin.

21 MR. ENGELBERT: How many producers
22 are you working with? Do you know, off the

1 top of your head? And what types of seafood --

2 MS. BROWNSTEIN: So our
3 aquaculture standards cover all farm fish
4 except for mullet. So we're talking about
5 salmon, Arctic char, steelhead, tilapia,
6 farmed shrimp, and then, you know, those are
7 really the big ones, and then there's
8 obviously some fish that are not quite as
9 popular. You know, here we're talking about
10 Mediterranean sea bass, sea bream, and of
11 course there's cod, we don't really deal much
12 with farmed cod.

13 But there are other species that
14 are covered under the standards, but the
15 standards were really designed for those big
16 ones.

17 And in terms of producers, I don't
18 have the number of producers offhand. It's
19 not an enormous number because we try to
20 develop long-term partnerships with our
21 suppliers that are working to, you know, be a
22 part of our firm.

1 MR. DELGADO: Kevin.

2 MR. ENGELBERT: And how are you
3 finding the enforcement of your standards
4 working out? Are you having trouble doing it,
5 or is it -- or are you able to follow through
6 on these standards?

7 MS. BROWNSTEIN: It's going okay
8 so far, and you know, in the beginning there
9 were some producers that had to be eliminated
10 because they weren't meeting the standards,
11 but many of our producers have already had the
12 same kind of outlook on how aquaculture should
13 be done, and we've had long-term relationships
14 with these suppliers.

15 So many of these suppliers were
16 really already on this honor program before we
17 had a chance to release them. But there were
18 some that, you know, that didn't make it.

19 MR. DELGADO: Bea.

20 MS. JAMES: On your Web site, you
21 have a page that's devoted to seafoods and
22 talk about Whole Foods' commitment to making

1 sure that you are committed to sustainable
2 practices and you talk about supporting
3 fishing practices that ensure the ecological
4 health of oceans and the abundance of marine
5 life.

6 Do you consider the ocean net pen
7 farming method be one that does not?

8 MS. BROWNSTEIN: Well, I think
9 with net pen aquaculture, there's a huge range
10 in the kind of practices that are out there.
11 So I think if it's done well, it can be a good
12 source of seafood, and I don't use the term
13 sustainable in general, but we tend to say
14 environmentally responsible, environmentally
15 friendly.

16 But it's -- you know, I think with
17 net pen aquaculture specifically, because that
18 sounds like what you're specifically
19 interested in, it's a question of finding
20 people that are doing it right. And so, you
21 know, with our -- we talk about suppliers on
22 our Web site a bit. We have a blog on our

1 site, if you check it out we have a couple
2 features. You know, we're only working with
3 maybe three salmon suppliers, you know, so
4 it's not like we're speaking about the rest of
5 the universe in the salmon industry.

6 But I think it can be done well.

7 MR. DELGADO: Bea.

8 MS. JAMES: Another follow-up
9 question.

10 I know in your stores, when I go
11 into your stores, that there is an emphasis,
12 a heavy emphasis on sustainability in your
13 fish department, and if you ask the guy behind
14 the counter, they usually have answers that
15 focus around that aspect of the fish that you
16 sell.

17 Do you have consumers that are
18 asking for organic fish, or is the main
19 concern for consumers that you see at Whole
20 Foods around sustainability?

21 MS. BROWNSTEIN: Well, we have had
22 a policy for a little while now that we don't

1 sell fish that is labeled organic, and we do
2 have people asking us sometimes why, and we
3 explain it to them. And, you know, we do
4 provide this kind of information to our
5 customers in various formats.

6 We did a podcast and we explained
7 this to our customers, and we respond to
8 customer e-mails about these kinds of
9 questions. But we have people asking about,
10 you know, all aspects of seafood, whether it's
11 from questions about sustainability, or
12 whether it's questions about contaminants, or
13 whether it's, you know, about aquaculture. We
14 get all kinds of questions. We have pretty
15 engaged customers that, you know, really want
16 to know. Maybe they're a representative
17 sample of the general people, so we see all
18 kinds of things.

19 MR. DELGADO: Hugh.

20 MR. KARREMAN: I apologize,
21 Carrie, for not being in the room when you
22 spoke, but I did read your written comments,

1 so I'm happy to have them.

2 I just wanted to -- so maybe
3 you've already mentioned this, but of your
4 producers that you have in your program right
5 now, would they be able to -- how do our
6 standards -- I'm not trying to compare
7 standards with NOSB and you guys, but would
8 your producers be able to produce also
9 certified organic by these standards that we
10 are proposing, or, you know, amending
11 slightly?

12 MS. BROWNSTEIN: Well, I think
13 that's a good question because in the process
14 of developing my comments, I did speak to a
15 number of our producers, the ones who I know
16 would be interested in producing under an
17 organic standard. So I was very curious about
18 what their perspective on it would be.

19 So specifically related to the net
20 pen standard, one of our most engaged
21 producers said, you know, it's not clear to me
22 from many of these standards exactly how we

1 can or can't produce fish.

2 And so that -- I tried to address
3 some of those things in my comments about the
4 need for greater specificity.

5 You know, for example, under the
6 predator standards of how you handle
7 predators, it doesn't say whether you can use
8 acoustic deterrent devices or not, and it
9 doesn't explain I think quite enough on how
10 things can or can't be done.

11 And I know you don't want to be
12 too prescriptive, I'm sure, but at the same
13 time I think there was in the net pen
14 standards a little too much vagueness. And
15 that was coming, you know, from some of the
16 producers who said it's not totally clear to
17 me if I would comply with these standards.
18 I'm not sure what I can and can't do.

19 MR. DELGADO: Hugh?

20 MR. KARREMAN: Just a follow-up.

21 I really appreciate everyone's
22 comments for sure, and I -- George Leonard

1 from the Ocean Conservancy now, did you
2 consult with him or to look to their -- to
3 what he always is talking about, performance
4 metrics, and how do you feel about that,
5 performance metrics to show compliance?

6 MS. BROWNSTEIN: Right. Well, in
7 the development of our standards, we did talk
8 a lot with George Leonard and folks at other
9 organizations, and obviously there's a lot of
10 support for having performance metrics, and we
11 try to do that in our work as much as we can,
12 as long as we can find a performance metric
13 that seemed logical and not arbitrary. So I
14 think they're really good to have if you can -
15 - if there's one that's sensible, I think it's
16 a great idea.

17 It makes it, you know, a lot
18 easier to interpret the standards and informs
19 the producers more specifically as to what
20 they need to work toward.

21 MR. KARREMAN: Okay. Thanks.

22 MR. DELGADO: Bea?

1 MS. JAMES: Sorry, one more
2 question.

3 I know and respect that you --
4 Whole Foods stopped selling live lobster
5 because of the inhumane standards that you
6 felt were not being followed for that, and do
7 you see net pen or pond-raised as being humane
8 for aquaculture?

9 MS. BROWNSTEIN: Well, as you
10 know, we have a very big effort under way on
11 animal welfare for farm animals under our
12 five-step program, and this is something that
13 we have not yet addressed in our aquaculture
14 standards. We felt like there was a lot to
15 tackle in the first round of standards for
16 farmed fish so, you know, in terms of, you
17 know, what it looks like right now, I mean I
18 think that there are questions to look into
19 and say -- there are arguments on both sides
20 of it. We spent two years doing research on
21 the sustainability components of aquaculture,
22 so without spending a little time looking into

1 the animal welfare aspects of it, you know,
2 it's really hard for me to say because I
3 understand that, you know, in some people's
4 perspective, it's more natural or more humane
5 to be in an open water pen than it would be to
6 be in a tank.

7 And on the other side, you know,
8 there's other points. So it's difficult to
9 say yet.

10 MS. JAMES: Is that something that
11 Whole Foods plans on doing some research on?

12 MS. BROWNSTEIN: I'm sure we'll
13 look into that. Our next big project, I know
14 you mentioned wild fish, and the
15 sustainability. Right now we're focusing our
16 efforts on developing our guidelines for wild-
17 capture fisheries.

18 MS. JAMES: Thank you.

19 MR. DELGADO: Any other questions?
20 Thank you very much, Carrie.

21 Next is Urvashi Rangan, followed
22 by Brian Connolly.

1 MS. RANGAN: Thank you. I sound a
2 little different because I'm sick from my
3 baby, but I'm going to try and make it through
4 these comments.

5 The first thing I want to do is
6 stress -- my name is Urvashi Rangan. I'm a
7 senior scientist at Consumers Union. We
8 publish Consumer Reports magazine, which
9 reaches over seven million people.

10 Consumers Union opposes the use of
11 animal byproducts in the pet food
12 recommendation. We feel that pet food should
13 be in line with the livestock feed
14 recommendations, that consumers will not
15 understand why they are not the same, and at
16 the very least we would like to see the
17 loophole or the allowance for conventional
18 animal byproducts in the nonorganic portion of
19 pet food to be omitted.

20 The fact of the matter is that
21 cats are also subject to mad cow disease.
22 There are studies on this in the UK, at least

1 100 cases of mad cat, and the primary vector
2 for mad cow disease is the transference of
3 animal byproducts in the feed. So we would
4 like to see that closed. And I'm happy to
5 provide those references for you.

6 I would like to now turn my
7 comments to what we heard during the Livestock
8 Committee's discussion of aquaculture. And,
9 Hugh, my comments are responding to your
10 comments.

11 We don't think the job of this
12 board is to find a middle ground. Your job is
13 to uphold the principles of the National
14 Organic Program, and not to dilute the
15 standards so that a substandard market can
16 cash in and charge consumers a premium price
17 for something that isn't as organic as other
18 organic food that they are buying.

19 And an extra labeling proviso is
20 not an answer, and it's not legal, and your
21 obligation under section 2102 is to provide
22 consistency to the meaning of that label. The

1 standards you have currently for aquaculture
2 do not do that.

3 American consumers have in fact
4 overwhelmingly, more than 90 percent, said
5 they expect organic fish to be produced with
6 100 percent of organic feed.

7 I don't understand how you have
8 arrived at that some consumers maybe will be
9 happy about wild fish food or happy about less
10 than 100 percent, but we have two national
11 polls that indicate that that is not the case.

12 Environmental pollution from open
13 net fish farms is not limited to the Pacific
14 Northwest. They are in fact widespread
15 problems that happen in Norway, in Scotland,
16 in Ireland. There are plenty of scientific
17 studies to document that, and Chile as well.
18 And that's just to name a few.

19 So we are concerned about what is
20 being considered here in terms of science and
21 fact in these recommendations.

22 Let's just be clear, too, about

1 open net pen systems. We are not just talking
2 about salmon. We are talking about a system
3 that is an open system into the natural
4 environment. No matter what you farm in it,
5 you flush it into the environment and that is
6 not in line with organic principles that
7 control for waste management. It's just not
8 in line with that.

9 We think that the use of the
10 amendment for wild fish feed in this
11 recommendation is erroneous. If you are
12 promulgating on that amendment, I would like
13 that to be made clear that those are the
14 recommendations you are making so that the
15 USDA can in fact promulgate, and what part of
16 it you are trying to promulgate.

17 But to say that you are doing that
18 and then to shoehorn this into the national
19 list because if you looked at the 100 percent
20 organic feed requirement under livestock, it
21 wouldn't work, and it would require 100
22 percent organic feed.

1 So to now allow a prohibited
2 substance on the national list as a fix to
3 that for fish? It's a disservice to the
4 organic marketplace, it's a disservice to
5 consumers. It's not in fact following the job
6 that you need to do. It sets a really bad
7 precedent.

8 We have had other industries in
9 here try to get their exemptions to the 100
10 percent organic feed requirement. Consumers
11 were vociferous about their opposition to
12 that, and what you are doing here is setting
13 a precedent to show how other industries can
14 therefore go about it again.

15 This is a serious dilution of the
16 organic standards. If enacted, we will have
17 no choice but to advise consumers through our
18 Advice and Consumer Reports, through our
19 advice to the public, that they should not buy
20 organic fish.

21 Thank you.

22 MR. DELGADO: Questions? Kevin.

1 MR. ENGELBERT: Urvashi, we've
2 been told by people in the agriculture
3 business that the only way to get these
4 necessary nutrients into the start-up industry
5 is to allow these wild-caught fish oils and
6 fish meals to be included.

7 Am I jumping to a conclusion by
8 saying that you don't think there's any way
9 that aquaculture could ever be certified as
10 organic?

11 MS. RANGAN: No. This isn't a
12 jump-start program, though. This is a program
13 that allows a label for any fashion that they
14 qualify for it, and then to charge a premium
15 price for the value that they've added.

16 You are trying to create a sliding
17 value scale here. That's not what the organic
18 program is about, and it's like consumers pay
19 more for it. They pay more for it because it
20 meets a consistent high bar. We are not
21 saying that you will not be able to produce
22 100 percent organic fish meal with organic

1 certified fish. We welcome it. That's how it
2 should be done.

3 But the bar needs to be set at 100
4 percent and let the industry innovate to get
5 to that point. By giving them this jump-
6 start, this sort of dilution in the standard
7 so that they can capture this label before
8 they are really ready to is basically allowing
9 a product on the market that will be
10 inconsistent in meaning, that will not have
11 eaten the same 100 percent feed as other
12 livestock, that could be contaminated, that
13 may have come from polluting systems.

14 It's not what consumers want from
15 the organic fish that they buy, and they have
16 registered that sentiment overwhelmingly.

17 MR. DELGADO: Hugh.

18 MR. KARREMAN: On this topic right
19 here right now, we would foresee that farms
20 that produce with the organic feed right at
21 the outset, which would be some but not a
22 whole lot, would indeed even given a higher

1 premium than those that are having to use some
2 wild caught, and there would be incentive to
3 go as fast as they could to the fully organic
4 fed, you know, type version, and not use that
5 label.

6 It is also -- I think a lot of the
7 commenters have, I think, forgotten that it is
8 a step-down, prescribed step-down. It's not
9 like it's going to be there forever. And I
10 agree, it is a jump-start. I think that
11 that's your term, or maybe Kevin's, or
12 whatever. But it is.

13 And we -- it's not to lower the
14 bar of organics at all. It is to help an
15 industry start and hopefully get to that 100
16 percent as quickly as possible. That's our
17 intent. With the step-down and that label.

18 Okay. I don't know if that label
19 will stick or not, but that is the intent
20 there.

21 MS. RANGAN: I mean I appreciate
22 that, Hugh. The first thing is unfortunately

1 you don't set what a premium can be, and so
2 anyone can set the premium where they want to.
3 And where deception comes in the marketplace
4 is people who do try to capture that premium,
5 and they will, they will exploit it to charge
6 that premium.

7 If it says USDA organic, people
8 are not going to differentiate, and that is
9 significant. And I don't know how to keep
10 explaining that this isn't a jump-start
11 program. This is a program that consumers
12 expect a certain bar achieved, and you are in
13 fact lowering that bar. You are not requiring
14 100 percent organic feed. You have lowered
15 that bar, and you have done it in a way that
16 circumvents the livestock feed requirement by
17 amending the national list. That's not the
18 way to address this issue.

19 MR. DELGADO: Bea.

20 MS. JAMES: So what I think I hear
21 you saying is that it's not speed to shelf
22 that you're looking for; that you would

1 rather, and the consumers that you have gotten
2 feedback from, would rather see a
3 recommendation that would put forward the
4 development of organic seafeed that was truly
5 organic, with organic fish feed, even if it
6 takes the industry five, six, seven years to
7 get to the point where the fish meal is
8 available for producing organic fish.

9 MS. RANGAN: That is correct.
10 That is what we are trying to do. And in
11 order -- and just to sort of flip this, you
12 come out with this and a consumer says, wow,
13 and they hear all this controversy and they
14 can't quite understand what the debate is
15 about. And so someone like me is trying to
16 educate consumers, says, well, there are
17 certain kinds of fish they do eat 100 percent,
18 and for other kinds they don't eat 100
19 percent, and a consumer says, why isn't it the
20 same?

21 And I say because the National
22 Organic Standards Board wanted to cast the net

1 as widely as possible to jump-start the
2 market. That's not an answer that consumers
3 want to hear, and they're not willing to pay
4 more for that, and in fact it can undermine
5 consumer confidence not only in that organic
6 fish but they will translate that to other
7 organic food products that they buy.

8 MR. DELGADO: Kevin.

9 MR. ENGELBERT: Urvashi, I know
10 this isn't an exact analogy, but the dairy
11 industry was given a huge, in your
12 terminology, jump-start by allowing dairy
13 animals to transition into organic production
14 and then produce certified organic milk.

15 Is this really that big a leap,
16 that big a difference, in your mind, from the
17 aid that was given to the dairy industry to
18 get started, and with enough volume that the
19 plants could have enough product to process
20 that consumers could go to the store, knowing
21 that it was there, knowing that these animals
22 transitioned to organic production over a

1 period of originally nine months, now 12
2 months?

3 MS. RANGAN: Well, Kevin,
4 consumers don't perceive that as a jump-start,
5 they perceive it as a loophole. And we have
6 survey data to show that consumers do not want
7 this shifting going around, with these
8 conventional animals coming on the farm, and
9 after 12 months milking them for organic milk.

10 We have survey data to show that.

11 They would never have accepted it
12 had it been presented to them as a jump-start
13 program. It was, frankly, a loophole, and we
14 perceived it as that, and one that needed to
15 be closed. It wasn't the case for other
16 organic livestock, so why was it the case for
17 dairy farms?

18 So, frankly, that's been another
19 piece of information that's sort of been
20 flying under the radar but, you know,
21 consumers do want to know how come some
22 organic milk is cheaper than others? And we

1 constantly have to say because some of them
2 aren't getting pasture, actually, and so that
3 allows a farm to produce a cheaper milk to be
4 sold as a cheaper organic milk, and that's
5 what's happening. And consumers aren't happy
6 about that.

7 Let's fix these loopholes. Let's
8 not use one loophole as a precedent for
9 another one. That's not the way this program
10 needs to be operating, and I'll tell you, it's
11 really frustrating, and it's really
12 undermining the quality of what organics
13 should be out there.

14 MR. DELGADO: Hugh, this is the
15 last question.

16 MR. KARREMAN: Yes. I just want
17 to clarify what Kevin was getting at. It's
18 not what you're talking about now with the
19 original livestock that were coming in. I
20 don't want to get into pasture and all that
21 right now, but it was the old way to get in
22 with the last third of gestation, and you had

1 to feed 100 percent organic for the last three
2 months. That's what he was talking about.
3 Just so you know that. Just so you know that.

4 Now the other thing I wanted to
5 ask you, though, is if in the European system
6 they allow, let's say, poultry byproducts --
7 we're not going to be allowed to do that here,
8 but just philosophically, would you be in
9 favor of that to feed agriculture -- poultry
10 byproducts?

11 MS. RANGAN: No. Animal
12 byproducts are prohibited in this program.

13 MR. DELGADO: Any other questions?
14 All right. Thank you very much.

15 Next up is Brian Connolly,
16 followed by Greg Aldrich.

17 MR. CONNOLLY: Thank you to the
18 committee. My name is Brian Connolly. I was
19 on the pet food task force, and I'll be very
20 brief.

21 My company is based in Portland,
22 Oregon, called Caster Pollux. We formulate

1 and produce organic pet food, and I just
2 wanted to thank the NOSB as well as the USDA
3 for forming the pet food task force, allowing
4 us to have a say in these regulations, and for
5 as when of you decide to adopt the
6 regulations, it really will help level the
7 playing field out there. I think there's a
8 lot of consumer confusion, the way some brands
9 have chosen to label and package and produce
10 their food. So I applaud the committee and
11 thank you again for allowing our input from
12 the industry.

13 MR. DELGADO: Any questions? All
14 right.

15 MR. CONNOLLY: Thank you.

16 MR. DELGADO: We'll move on next
17 to Greg Aldrich, followed by Kristy Korb.

18 MR. ALDRICH: Good afternoon. My
19 name is Greg Aldrich. I am an independent
20 nutritionist in the pet food industry. I am
21 also a columnist for the pet food industry
22 magazine, and I write a column every month on

1 ingredient issues.

2 I am also an adjunct professor of
3 animal sciences at Kansas State University.

4 I am here as an independent
5 nutritionist to give comments briefly on these
6 rules that the task force has put together as
7 it relates to the NOSB for pet food as an
8 organic amendment, and generally speaking, I
9 want to first off encourage the committee to
10 accept the standards that were recommended by
11 the task force.

12 What I want to do is remind
13 everybody that pet foods are complete and
14 balanced, are 100 percent of the animal's
15 daily requirements today, so we will combine
16 typically anywhere from 40 to 60 different
17 ingredients to meet 40 to 60 different
18 nutrients on a given animal's requirement on
19 an every-day basis.

20 These pets now, there are some 170
21 million in the United States, living in one
22 out of every two homes. The industry

1 represents somewhere between \$15 billion in
2 the U.S. to \$30 billion annually on a global
3 sales volume.

4 The organic opportunity is
5 somewhere in the neighborhood of 5 percent,
6 and we are probably now somewhere around a
7 half percent.

8 There is tremendous opportunity to
9 grow this industry, but the consumer has to
10 understand what organic is, and currently they
11 feel pretty good about what the ingredient
12 rules and regulations are under the livestock
13 guidelines, outlined by AAFCO, the American
14 Association of Feed Control Officials.

15 Most of those restrictions and
16 guidelines give us specific identification for
17 ingredients that we use on a regular basis and
18 also nutrients that we have to meet.

19 One thing I also want to bring to
20 the committee's attention is that in 2006, the
21 nutrient -- or National Research Council came
22 out with the 2006 nutrient requirements for

1 dogs and cats, and that will now promulgate
2 the change and update for the AAFCO nutrient
3 profiles for dog and cat foods over the next
4 couple of years.

5 The only change that really will
6 manifest itself in those upcoming nutrient
7 requirements is an increase or a recognition
8 now for a conditional requirement for omega-3
9 fatty acids, and in some of the discussions
10 earlier in this room, talking about
11 aquaculture, some of the same ingredients that
12 aquaculture uses to fortify diets with omega-3
13 fatty acids from fish or marine oil sources
14 are going to be required for dog and cat diets
15 as well.

16 To the committee's question
17 earlier about zoo and exotic animals, those
18 are not under the auspices of the American
19 Association of Feed Control Officials or the
20 FDA as livestock or domestic animals.

21 So with that, I will answer any
22 questions.

1 MR. DELGADO: Questions, comments?

2 Thank you very much.

3 MR. ALDRICH: Thank you.

4 MR. DELGADO: Okay. We do have a
5 question here.

6 MR. ALDRICH: Yes.

7 MS. JAMES: Do you work with
8 Caster and Pollux? Are you - with regards to
9 the other -- no? Yes?

10 MR. ALDRICH: Yes and no. First
11 off, Brian, I'm going to disclose that I work
12 with Caster and Pollux. I ordinarily do not
13 disclose who my clients are. I'm here today
14 to represent the dog and cat, though. That's
15 it.

16 MS. JAMES: Okay. Okay. Well, my
17 question was actually more directed on the
18 organics, so I'll ask you at a break.

19 MR. ALDRICH: Yes. Thank you.

20 MR. DELGADO: Next, Kristy Korb,
21 followed by Dennis Kihlstadius. Kristy?
22 Gwen?

1 MS. WYARD: Kristy couldn't make
2 it to the meeting today, so I'm going to take
3 her place.

4 Gwendolyn Wyard. I'm a processing
5 reviewer technical specialist for Oregon
6 Tilth.

7 I'll try to be brief. Thank you.

8 I'm going to talk about the
9 material working group clarifications, give
10 you a personal perspective from Oregon Tilth,
11 where we're at in this issue.

12 If possible, we encourage NOSB to
13 minimize regulatory changes, and clarify the
14 definitions via guidance documents. The
15 guidance documents that are circulated for
16 public comment approved by the NOP and clearly
17 posted to the NOP Web site as official
18 guidance. The decision tree that was provided
19 in appendix C. We feel that that is a great
20 example of how this could be accomplished.

21 This was the original idea that
22 was submitted by Oregon Tilth in 2004. At

1 that time we didn't suggest any regulatory
2 changes, but rather a flow chart accompanied
3 by a narrative.

4 With respect to agricultural and
5 nonagricultural, there are two primary issues
6 that we think can be clarified with minimal
7 changes to the regulation. At this point we
8 do feel that change to the definition of
9 nonagricultural is necessary.

10 We support the concept that an
11 agricultural product extends to any living
12 organism that's raised, cultivated, or
13 gathered by humans, for human or livestock
14 consumption, and we find that the NOP
15 definitions of crop, livestock, and wild
16 harvest cover the spectrum from itty bitty
17 little creatures to large creatures living in
18 soil, air, or water. So this concept, we
19 feel, is captured by the nonagricultural
20 definition A.

21 And then whether or not living
22 organisms can be certified depends on whether

1 appropriate standards exist, so you first
2 determine whether it can be agricultural, and
3 then you ask whether it can be certified.

4 The second issue is at what point
5 something stops being agricultural. In the
6 context of OFPA, we do believe that the loss
7 of agricultural identity is connected to the
8 term synthetic, but it also aligns with the
9 processing standards.

10 The OFPA definition of
11 agricultural includes raw or processed. The
12 term synthetic should not include the effects
13 of normal food processing activities. In
14 other words, the term synthetic should not be
15 applied to an otherwise nonsynthetic substance
16 that's formulated or manufactured by
17 processing.

18 In this respect, there is no such
19 thing as a synthetic agricultural product, but
20 rather a processed agricultural product.

21 We also encourage the material
22 working group and the board to persevere with

1 the NOSB documents of August 2005 and the NOP
2 recommended framework document of March of
3 2006 to clarify the definitions of synthetic
4 and nonsynthetic.

5 On the yeast front, we also would
6 like to reiterate the message we have stood by
7 for many years. Yeast are living organisms
8 and their production relies primarily on
9 agricultural material that is available in
10 organic form.

11 Yeast may not be grown on a farm
12 in the traditional sense, but yeast can be
13 manufactured in accordance with the
14 composition standards for processed organic
15 product.

16 We recognize that there are
17 agricultural and environmental implications,
18 and we feel that these should be addressed by
19 applying organic principles to yeast used in
20 organic food.

21 In this respect, yeast should be
22 eligible for organic certification, and

1 labeled as organic yeast.

2 While we strongly believe that the
3 handling requirements in 205.270 provide
4 adequate standards, we accept that the larger
5 community may feel more comfortable if organic
6 yeast guidelines are in place, and the
7 appropriate place to house such guidelines is
8 in a guidance document, and we offer our
9 assistance in helping to create such
10 guidelines.

11 I have a background degree in
12 fermentation science. I'm very familiar with
13 raising yeast, and that is an area where
14 Oregon Tilth and myself could assist the
15 board.

16 In respect to lecithin, we do not
17 support the removal of bleached or unbleached
18 lecithin from the national list. We applaud
19 the petition. We think it's excellent that
20 somebody has petitioned to have it removed.
21 That is the correct process.

22 However, we think that bleached

1 lecithin should be listed on 606. It is
2 importantly available in organic form.
3 Therefore, its listing as a nonagricultural
4 substance is no longer appropriate.

5 Complete removal of one or all the
6 forms is premature with the stable market
7 availability. The supply is fragile. To date
8 there's one supplier for organic lecithin, and
9 based on the information that we diligently
10 collect from our clients, the products offered
11 are in some cases still in testing phase, not
12 consistently available, or they are available
13 in a form that is not suitable.

14 So we ask that both forms, all
15 forms that are regulated under 21 CFR 184.1400
16 remain listed, and the commercial
17 availability, form, quality, and quantity left
18 to the discretion of accredited certifiers.

19 And then finally I just want to
20 point out a little nuance with the algae that
21 were petitioned for 606. We understand that
22 they are not being recommended for addition.

1 I am aware that chlorella and
2 nonorganic chlorella is currently being used
3 in organic products. While they were
4 classified or they were referred to as being
5 photosynthesizing plants, they are being
6 petitioned to 606, they also can be
7 categorized as a microorganism, and this is
8 going to get back to the job of agricultural
9 and nonagricultural. We don't have a very
10 good TAP review on microorganisms, so while
11 they're not going to be added to 606, they
12 still can be allowed if somebody submits them
13 and points to the listing of microorganisms on
14 605.

15 We don't think that
16 microorganisms, when they are placed on 605,
17 were necessarily meant to extend onto certain
18 types of algae, but it is covered under that
19 category.

20 With respect to the certification
21 of algae, the one that was harvested from the
22 bottom of the Pacific Ocean, when we look at

1 wild harvest practice standards, we are not
2 sure how this could ever be certified.

3 We really believe that items that
4 go on the 606 standards should be -- should
5 exist. We're not sure how contamination
6 prevention could take place at the bottom of
7 the Pacific Ocean, so that's just another
8 nuance to take into consideration.

9 Thank you very much. And if I
10 don't have any questions --

11 MR. DELGADO: Questions from the
12 board?

13 Moving on then, we have Dennis
14 Kihlstadius, followed by Ron Gonsalves.

15 MR. KIHLESTADIUS: Good afternoon.
16 Thank you.

17 My name is Dennis Kihlstadius. I
18 have a company called Produce Technical
19 Services in, of all places, Bemidji, Minnesota,
20 and I work for different commodity groups on
21 ripening fruit.

22 If you sit on an airplane and tell

1 somebody you work in ripening fruit, they
2 laugh at you.

3 So this is your traditional -- I'm
4 sure you've all done this, put some fruit in
5 a bag, have a ripening bowl, either a banana
6 or an apple, and I'm here to tell you to use
7 an apple, bang it, bruise it, it produces 10
8 times more ethylene than the apple does. The
9 apple produces four times more ethylene than
10 the banana.

11 So -- and there used to be an old
12 rule that you always had to ripen bananas with
13 ethylene, and they will ripen on their own,
14 but not consistently, and what the retailers
15 want -- I'm going to read you something out of
16 a Post Harvest Technology of Horticulture
17 Crops, published by UC-Davis. It's kind of
18 the authority in ripening in the horticulture
19 for post harvest world, and ethylene, which is
20 C₂H₄.

21 The simplest of organic compounds
22 affecting the physiology processes of plants

1 is a natural product of plant metabolism and
2 it's produced by all tissues of higher plants
3 and by some microorganisms. As a plant
4 hormone, C₂H₄, ethylene, regulates many
5 aspects of growth, development, senescence,
6 and ripening.

7 And I just wanted for you to
8 understand that. We have tried in many
9 different ways to produce ripened fruit with
10 let's say a bin of rotting apples or a bin of
11 rotting pears. So it's very consistent, and
12 you can't really do it, because when you're
13 dealing with ripening, you're dealing with
14 parts per million.

15 So what we found is we can produce
16 this -- and I've read it said synthetically,
17 but what you do is you can break down an ethyl
18 gel and you can create water, carbon oxide,
19 and ethylene. And the ethylene is taken in
20 from the fruit. The fruit doesn't care where
21 it comes from. The group of fruit needs
22 ethylene to have starch-to-sugar conversion.

1 Without it, you will not have
2 sugar into the fruit, and I'm sure everyone
3 here has had a banana. You wanted it and you
4 ate it, and it was just pasty tasting. There
5 was really no flavor to it. It was a banana,
6 yes, but there was no flavor.

7 I can guarantee you that was a
8 banana that was ripened at too high of a
9 temperature, where the ethylene receptor site
10 was shut down and it was not received into the
11 banana to convert starch to sugar.

12 So the pear industry, what we
13 found on the conventional side -- I've been
14 working with the pear industry for over 12
15 years -- that we can take some of the pears
16 that have high starch content, and instead of
17 putting them into storage for two months and
18 then selling them in the market, we can take
19 them basically off the harvest line, put them
20 in an ethylene process, send them to the
21 retailer, and the consumer will have a good
22 tasting pear. And I'm not asking them to put

1 it in this bag and eat it in five days. I
2 don't know what product you'd ever want that
3 you can buy on Monday but you can't enjoy it
4 until Friday or Saturday. That's just not the
5 way it works.

6 Avocados. I worked for the
7 avocado industry for seven-and-a-half years,
8 and ethylene is approved on avocados for
9 organic.

10 Well, the recipe for pears is the
11 same as avocados and it's the same as bananas.
12 By recipe, I mean the process it would take to
13 condition the pears with ethylene process.

14 I am just here to say that I think
15 what it will do is increase the use of organic
16 pears on the consumer level, because there is
17 a gap from the time of harvesting until the
18 time of going to market right now for organic
19 pears.

20 We have proven it with the Anjou
21 pear on the conventional side. We can
22 actually go to market roughly five to six

1 weeks sooner than we could in the past. And
2 that just means that the consumer can have a
3 pear, you know, that's usable.

4 Fruit comes from different parts
5 of the world, and during that time, that gap,
6 the offshore pears that would come into the
7 United States during that time, it takes 21
8 days to get here, first, but they've been off
9 the tree roughly for about four months anyway.
10 So there is no place that we can source pears
11 around the world in the beginning of our
12 season because it's already done in the other
13 season. It's almost six-month reversals of
14 seasons for pears around the world.

15 So I'm asking that you take a
16 serious look at this. It is used on other
17 products already, organic products, and I
18 think it would be very good for the pear
19 industry.

20 I have no economic incentive,
21 whether you approve it or not. I don't get
22 paid whether one retailer goes on this program

1 or not. I'm just here to educate and to bring
2 up, you know, the points that -- or answer
3 questions that you might have about this.

4 MR. DELGADO: Questions from the
5 board? Gerry.

6 MR. DAVIS: Could you speak to the
7 comment that we received that they referred to
8 the degreening of citrus using ethylene and
9 the effect it had on imported fruit coming in
10 often in unripe status, and then used to color
11 up with ethylene, but it's not flavorful.
12 Would that exist at all in the pear realm,
13 coming from other northern hemisphere sources?

14 MR. KIHSTADIUS: It's very
15 interesting. When you talk about degreening
16 of citrus or the degreening of pineapple, once
17 you pick citrus and once you pick pineapple,
18 you cannot make them taste any better. It's
19 strictly appearance.

20 And to me, it's kind of the old
21 shell game. You're just painting it a
22 different color. You're not going to do

1 anything for the flavor of it.

2 On a pear, you can actually affect
3 the flavor of it. But as I said, during that
4 time of the season, when we would really like
5 this to be used -- we don't use it through a
6 whole season.

7 On the conventional side, we will
8 stop adding ethylene to the pears probably
9 about February, maybe even April, and that's
10 because the starch in the fruit is pretty well
11 used up, so there's not a real economic gain
12 in the fruit.

13 And I'm here to tell you if you
14 can store pears -- I don't care what it is, if
15 you can store any fruit for 12 months, your
16 flavor life may be only 10 months. That last
17 end of any fruit, I don't care what it is,
18 it's just not going to have the flavor that it
19 does in the beginning.

20 The fruit has vigor in it and has
21 life, and if you can give that pear or that
22 banana or that apple -- even apples use

1 ethylene to convert starch to sugar. If you
2 can give to the beginning, you have a better
3 tasting piece of fruit.

4 So to answer your question, no,
5 there's really nothing in -- when I hear --
6 sit in in grocery stores or I talk to people
7 at grocery stores and they talk about ripening
8 this or how do I tell the pineapple, and
9 they're pulling a leaf on it, that means the
10 leaf is loose. That pineapple isn't going to
11 get any better, you know, once it's sitting
12 there.

13 So you cannot make it better.
14 It's just the degreening. Now you use
15 probably five to seven parts per million to
16 degree citrus. We use 100 parts per billion
17 to ripen pears or bananas or mangoes, papaya.

18 MR. DAVIS: So it's not an apples-
19 to-apples comparison, to compare degreening
20 citrus --

21 MR. KIHSTADIUS: Exactly.
22 Exactly. It's a whole separate process.

1 MR. DAVIS: -- to pears.

2 MR. KIHSTADIUS: It's -- ethylene
3 is used to green tobacco. I mean it's on that
4 same principle. You're degreening the
5 chlorophyll.

6 MR. DAVIS: Thank you.

7 MR. KIHSTADIUS: You're welcome.

8 MR. DELGADO: Any other comments,
9 questions? Well, thank you very much.

10 MR. KIHSTADIUS: Thank you.

11 MR. DELGADO: Next is Ron
12 Gonsalves, followed by Deborah Carter.

13 MR. GONSALVES: Good afternoon.
14 As a representative of the organic pear
15 growers, I'd like to thank the organic
16 standards board for the opportunity to speak
17 today in support of the petition to allow the
18 use of ethylene for post-harvest ripening of
19 organic pears.

20 My name is Ron Gonsalves. I'm the
21 president of Bluebird, a Peshastin, Washington
22 tree fruit packing co-op, a grower's co-op of

1 over 200 growers celebrating our 95th
2 anniversary.

3 Bluebird's historical reputation
4 has been that of a dynamic leader of the
5 Pacific Northwest pear industry, currently
6 packing and shipping approximately 7 percent
7 of the Northwest total pear crop.

8 Many of Bluebird's growers are
9 second- and third-generation pear and apple
10 growers. Bluebird growers are located
11 throughout the state of Washington, harvesting
12 multiple varieties of pears, apples, cherries,
13 and apricots.

14 Within that varietal tree fruit
15 mix, Bluebird growers follow conventional as
16 well as organic practices.

17 The Bluebird co-op is also unique
18 in that in addition to its member-growers, the
19 co-op owns and operates over 750 acres of
20 orchard, with half of that acreage in
21 certified organic production.

22 Bluebird packs and ships fruit

1 from 51 certified organic tree fruit growers,
2 of which 18 growers farm organic winter and
3 summer pears.

4 I'm trying to set the stage here
5 as far as our involvement in the tree fruit
6 industry, especially the pear industry.

7 Bluebird has been involved in
8 packing certified organic pears and apples for
9 over 20 years at our dedicated organic packing
10 facility located in Wenatchee, Washington.

11 Bluebird's board of directors has
12 invested considerable capital to provide for
13 its growers a dedicated organic packing
14 facility that has helped to position its
15 growers for success in a very fast and
16 expanding organic tree fruit market.

17 Our dedicated facility also helps
18 to assure that the retailer and ultimately the
19 consumer, that their organic purchase has been
20 packed and handled following strict adherence
21 to both WSDA organic standards as well as
22 national retail fruit safety requirements.

1 During the past 12 years, the
2 Pacific Northwest has seen significant
3 increases in the organic pear production with
4 Bluebird being an industry leader.

5 With the current 2008 crop that
6 has just been finished harvesting, Bluebird
7 will pack approximately 10 million pounds of
8 organic pears. This will represent roughly 20
9 percent of the total Northwest organic pear
10 production.

11 The consumer demand for
12 conventional winter pears has seen significant
13 increases over the past five years, with all
14 major U.S. retailers committing more retail
15 shelf space to all pear varieties.

16 One of the reasons for the
17 increased consumption of winter pears has been
18 directly attributed to the increased use of
19 ethylene for conditioning.

20 The actual ethylene treatment is
21 being done by the pear packer prior to the
22 shipments on on-site ripening rooms and

1 affordable ripening trailers for following
2 delivery by the retailer at their regional
3 distribution centers.

4 In-store consumer testing
5 conducted by the Pear Bureau of the Northwest
6 at major retail stores across the country has
7 found that pears ripened by the use of
8 ethylene takes the guesswork out of as to
9 whether a pear is ripe.

10 For example, when most produce
11 ripens, it changes colors and textures.
12 Pears, on the other hand, do not significantly
13 change color, therefore making it more
14 confusing to the average consumer as to when
15 the best time to eat a pear might be.

16 Consumers have expressed an
17 enhanced eating experience when they try pears
18 that have been conditioned with ethylene and
19 are more inclined to repeat the purchase of
20 all pears.

21 Additional research has shown that
22 pears harvested from different orchard

1 locations throughout the Northwest do not
2 ripen evenly under normal cold storage.

3 The diversity of the large
4 geographic growing regions in the Northwest
5 makes it impossible for all winter pears to be
6 harvested in exactly the same maturity and
7 storage quality.

8 Ethylene conditioning affects the
9 ripening process without altering or changing
10 the natural inherent aspects of the fruit,
11 such as texture, aroma, or flavor.

12 Ethylene treatment has allowed for
13 a more uniform ripening of the pear. It also
14 increases the rate of ripening, thus resulting
15 in a more consistent pear to be offered to the
16 consumer sooner each year following the
17 completion of harvest.

18 Organic production of the
19 Northwest is increasing not only with
20 traditional varieties, such as the Anjou and
21 Bartlett pears, but also with new varieties
22 such as the Concord and Comice pear.

1 While the conventional pear
2 growers have seen benefits with the increased
3 use of ethylene for conditioning pears, not
4 having this tool available for organic growers
5 and shippers can put them at a disadvantage in
6 today's marketplace.

7 As more acreage is transitioned
8 into organic farming, the increased production
9 will also be at a disadvantage in the future.

10 The benefits that the conventional
11 pear growers have experienced and that the
12 consumer has expressed should also be
13 available to the organic growers and the
14 consumer of all pears.

15 This board has heard and read the
16 petition to use ethylene for ripening organic
17 pears presented by the Northwest Council and
18 the Pear Bureau of the Northwest.

19 The petition speaks of the
20 scientific considerations and specifically
21 references that ethylene is currently approved
22 for ripening of organic tropical fruits,

1 organic bananas, and organic citrus in the
2 U.S.

3 The petition further states that
4 ethylene is consistent with the principles of
5 organic production and is widely accepted in
6 other countries and by other governing bodies.

7 As a representative of the organic
8 pear growers of the Pacific Northwest, I would
9 like to ask that the National Organic
10 Standards Board consider this petition and
11 support the use of ethylene on organic pears.

12 I strongly believe that the
13 ethylene would be an important tool for the
14 organic pear growers in a very competitive
15 produce arena.

16 I also believe that the consumer
17 would be provided a better product when they
18 purchase organic pears that have been
19 conditioned with ethylene.

20 MR. DELGADO: Your time is up.
21 Can you wrap up?

22 MR. GONSALVES: I'm finished.

1 MR. DELGADO: Thank you.

2 MS. HALL: So I live in Spokane.

3 MR. GONSALVES: Yes.

4 MS. HALL: And there is an organic
5 pear grower just north of me, very well known
6 throughout the state, smaller, but sells
7 direct at farmers markets, and I have
8 consistently bought from that farm and enjoyed
9 it.

10 I have never really had issues
11 even buying in I mean what I consider bulk on
12 a personal level with uneven ripening to a
13 large degree, and I'm just curious if there is
14 an issue of scale, if it's different for a
15 smaller producer versus large in how you
16 harvest that has some implication on that
17 uneven ripening?

18 I mean I know pears are really
19 fragile, so I'm just curious how that measures
20 up.

21 MR. GONSALVES: Well, I think on a
22 scale basis, you know, there obviously is a

1 scale issue there because of the amount of
2 pears that are truly grown in the Northwest,
3 and we can't diminish the fact that that
4 volume of pears is actually being grown.

5 And so in our harvesting
6 procedures, we actually are looking at a pear
7 that is being harvested to being marketed over
8 a six- to seven-month period.

9 So as we get into the volumes that
10 we currently have, as well as additional
11 volumes that are being transitioned into
12 pears, I don't think it's strictly just an
13 issue of scope or how large this industry has
14 become, is the fact that we are here now. We
15 are here with significant volumes of organic
16 pears, and I think the consideration needs to
17 be given of how best to deliver that pear to
18 the consumer and ultimately enhance that
19 eating experience.

20 As it's been said earlier, the use
21 of ethylene has been certified for other
22 produce. If you buy organic bananas, it is

1 more than likely that your organic bananas
2 that you may feed your children are being
3 ripened by ethylene as well.

4 So it's not something that we're
5 here petitioning the fact that this is
6 something new that we want to use just on
7 pears, but the actual reality is that we do
8 have large volumes of pears coming out of the
9 Northwest, a large volume of organic pears,
10 and I have seen what the research as far as
11 the conventional pears that the consumer has
12 benefited by that -- by the volume of the
13 pears that are currently available to them on
14 a conventional level that have been ripened by
15 ethylene.

16 MS. HALL: But it is fundamentally
17 about holding time and extending the season?

18 MR. GONSALVES: No, not strictly,
19 because the biggest -- the use of ethylene
20 would be more on the front end of the season
21 as opposed to the tail end of the season. As
22 Dennis said, there comes a point late in the

1 season where ethylene is not needed.

2 The primary benefit of ethylene is
3 to get pears to the market sooner because as
4 the biggest pear variety, be it Anjou pears --
5 not sooner in the sense of it being harvested
6 sooner, but all pears, all Anjou pears are --
7 their natural quality issue needs to remain in
8 storage, an Anjou pear needs to remain in
9 storage from 30 to 45 days after harvest
10 before it will trigger maturity to ripen.

11 So the Northwest is confronted
12 with the fact that the Anjou pear being the
13 primary organic pear, to hold that pear in
14 storage for that period of time, 30 to 45
15 days.

16 We have seen increased demand by
17 the consumer to get Anjou pears on the market,
18 into the market, sooner each year as they
19 become available.

20 So the grower that you made
21 reference of, you know, as small as he may be
22 or as big as he may be, he may have advantages

1 with his harvesting that is unique to him and
2 is unique to his specific marketplace. But
3 he's potentially selling pears early into the
4 season that may or may not be properly
5 ripened, or may not be in a position to be
6 properly ripened.

7 MR. DELGADO: Any other questions,
8 comments? Tracy.

9 MS. MIEDEMA: I have another
10 question. If you have an organic pear and you
11 put it in the paper bag and five days later
12 you took it out of the bag, and you have
13 another organic pear, and you put ethylene
14 around it and it ripened in -- I don't know
15 what the duration is, like 24 hours?

16 MR. GONSALVES: It takes about a
17 three-day period to ripen.

18 MS. MIEDEMA: Okay. So after
19 three days, I'd have the ethylene-ripened pear
20 and the paper bag-ripened pear, both organic,
21 and if I sent them to a lab for analysis,
22 would the scientist be able to tell the

1 difference in some sort of chemical change to
2 the artificially ethylene versus the good old
3 home paper bag pear?

4 MR. GONSALVES: Well, what you're
5 ripening that pear with in that paper bag is
6 ethylene. You're ripening it with ethylene
7 that the pear is actually producing in a small
8 confined environment. It's not being -- it's
9 not ripened because it's in a paper bag and
10 it's dark; it's ripened because the pear is
11 giving off ethylene and you're trapping that
12 ethylene into that small container, which is
13 your paper bag. And so the ethylene that you
14 are ripening in that paper bag is very similar
15 to the ethylene that we would use on a large
16 scale to ripen a whole trailer of pears.

17 The advantage you would have is
18 that you as a consumer would be able to go to
19 the marketplace and, as Dennis said, you can
20 purchase a preripened pear on Monday and take
21 it home and eat it that evening.

22 On the nonconditioned pear you may

1 purchase on Monday and take it home and be
2 able to eat it on Friday.

3 So it's a matter of you as a
4 consumer having the basic knowledge about a
5 ripened pear and five or six other consumers
6 who don't have that background as far as
7 ripening a pear. You may take that pear home
8 and put it in a bag and have an enjoyable
9 eating experience, whereas the average
10 consumer may take that pear home and try to
11 eat it in the current state that it's in and
12 may not enjoy it as much as they would if that
13 pear had been conditioned.

14 MS. MIEDEMA: Okay. And
15 specifically to my question, I realize it's
16 the ethylene trapped in the bag that's making
17 it ripen. What I'm trying to get at is from
18 an organic consumer's perspective, am I eating
19 a different fruit? You know, our concern is
20 going to be something around -- you know --

21 MR. GONSALVES: Is there good
22 ethylene and bad ethylene?

1 MS. MIEDEMA: Specifically to the
2 question would a chemist look at those two
3 pieces of fruit and tell -- could they tell
4 the difference?

5 MR. GONSALVES: That would be more
6 for the chemist to answer that question, but
7 it is my understanding that ethylene is
8 ethylene, regardless of how it is produced.
9 The molecular structure of ethylene is the
10 same whether or not it's given out by produce
11 or it's generated from ethanol, from corn-
12 based ethanol, which is also a source of
13 ethylene. So there are multiple sources of
14 ethylene that can be used for the
15 conditioning.

16 So ethylene is ethylene in the
17 sense of where the source may come from is the
18 question in hand is whether or not that's
19 certifiable, but the ethylene itself, whether
20 you trap it in a bag that's being produced by
21 the pear itself, or that it's been produced
22 off site somewhere, and used in a commercial

1 scale, that ethylene is still the same
2 ethylene.

3 MR. DELGADO: Jerry.

4 MR. DAVIS: I'd like to ask you
5 within your production system, are you using -
6 - what form of starting material are you using
7 to make the ethylene? Is it corn-based
8 ethanol or is it something different?

9 MR. GONSALVES: The ethylene that
10 we use on our conventional pears today is from
11 an ethanol-based corn that we use in our
12 catalytic generators that then produces the
13 vapor that allows the chamber to be
14 conditioned.

15 MR. DAVIS: But it is starting as
16 ethanol, not some other method of doing it?

17 MR. GONSALVES: Yes, that's
18 exactly right.

19 MR. DAVIS: How common is that
20 with your competitors? Is that the same
21 generally or --

22 MR. GONSALVES: Yes, I would say

1 that on the conventional pears, using that as
2 the gauge, that the source of ethylene is
3 pretty much a one-dimensional source, and
4 everybody uses that same source
5 conventionally. So I would imagine that would
6 just carry over into the organic arena.

7 MR. DAVIS: Okay.

8 MR. DELGADO: Any other questions?

9 MR. MOYER: Well, yes, now you
10 bring that up, Gerry, it brings to mind the
11 question are there any other materials that
12 outgas or are generated along with the ethanol
13 that would not happen from the ethanol that's
14 given off by the pear itself? Because you're
15 using ethanol, which is something totally
16 different.

17 MR. GONSALVES: No, no, no, we're
18 not using ethanol. We're using ethanol as a
19 source of ethylene, so there's a process that
20 the ethanol is converted through a chemical
21 reaction, the ethanol is converted into
22 ethylene.

1 MR. MOYER: I understand that, but
2 along with that process, what else moves with
3 it?

4 MR. GONSALVES: We don't convert
5 it on site. We actually purchase containers
6 that are 100 percent ethylene that we use for
7 ripening. So we're not converting it from
8 ethanol. On site. We're purchasing a product
9 that's --

10 MR. DAVIS: I think maybe we might
11 want to ask Mr. Kihlstadius that question.

12 MS. CARTER: I'm a chemist, and I
13 might be able to answer that.

14 MR. DELGADO: You're a chemist?

15 MS. CARTER: Yes, I'm a chemist,
16 and I probably can answer your question for
17 you.

18 MR. DELGADO: Would you state your
19 name, please.

20 MS. CARTER: Yes. I'm Deborah
21 Carter with Northwest Horticultural Council in
22 Yakima, Washington. I am the next speaker.

1 MR. DELGADO: Why don't you get
2 started?

3 MR. GONSALVES: Have you got any
4 other additional questions?

5 MS. CARTER: Sure.

6 MR. DELGADO: And go on with your
7 presentation, and we might come up with a
8 question for you.

9 MS. CARTER: Okay. The first
10 question, though, that was asked was about
11 whether ethylene generated by fruit is the
12 same as ethylene generated by any other
13 process, whether it be a cogenerator or -- the
14 fruit sees it as C₂H₄, so it sees it as
15 ethylene rather -- no matter how it's
16 generated, that's how the fruit sees it.

17 And if you would take it to a lab
18 and you had cut a piece of organic fruit up
19 and you cut a conventional piece of fruit up,
20 both of them would be C₂H₄. Both of them
21 would be ethylene.

22 Now as far as the catalytic

1 generator is concerned, that was another
2 question, the way that operates is that the
3 ethanol that is produced comes from non-GMO
4 corn, and so the ethanol is non-GMO derived,
5 and what it is, it's put into a box which has
6 a zeolite -- has zeolite laying in the bottom
7 of the box. The ethanol is sent into the box,
8 and the temperature is raised, and what
9 happens is that when the temperature is
10 raised, CO2 and water is given off, and
11 ethylene is produced.

12 And so what happens is the
13 zeolite, or the zeolite that's in the bottom
14 of the containers, picks up the water and
15 picks up the CO2 and leaves the ethylene.

16 MR. DELGADO: Any questions?

17 Steve.

18 MR. DeMURI: The TAP reports that
19 were submitted to us indicated there are other
20 methods of manufacture for that?

21 MS. CARTER: That's correct.

22 MR. DeMURI: Like crude oil. Do

1 you use any of those methods?

2 MS. CARTER: Not that I know of in
3 our industry. I do know that in the banana
4 industry, they do use those other methods, but
5 Ron is right, in our industry, most people use
6 what's called the epogen for conventional
7 ethylene production, and that's for the
8 ethanol process.

9 I don't know, maybe there's
10 somebody out there in a small company who's
11 doing it, but most of the ones in the Pacific
12 Northwest do use that process.

13 MR. DAVIS: So just to clarify, in
14 the actual storages where the pears are
15 stored, are most growers purchasing ethylene
16 made from that process, or they actually have
17 converters in the storage that are doing it on
18 site?

19 MS. CARTER: Most people have
20 converters. Most of the producers in our area
21 use the converters, ethanol --

22 MR. GONSALVES: No, no, but the

1 converter is to convert the liquid ethylene
2 into a vapor process that releases the
3 ethylene.

4 MR. DAVIS: Most growers are
5 starting with ethanol.

6 MS. CARTER: Yes.

7 MR. DAVIS: Putting it in the
8 converter on site at the farm.

9 MS. CARTER: Yes.

10 MR. DAVIS: Storage area. Okay.

11 MR. GONSALVES: Yes. So she's
12 clarifying that technical point that I'm not
13 as clear on as far as that.

14 MR. DELGADO: Kevin.

15 MR. ENGELBERT: Ron, I had trouble
16 with your statement that the use of ethanol is
17 compatible with organic agriculture. Most
18 consumers walk into a store and purchase a
19 pear, an organic pear, under the assumption
20 that there's a minimum amount of any type of
21 treatment or processing from the time the pear
22 is grown, harvested, and put on that shelf.

1 How can you explain the reasoning behind the
2 statement?

3 MR. GONSALVES: Well, again, as
4 Dennis said, and as well as Deborah mentioned,
5 all pears are ripened by ethanol -- by
6 ethylene. All pears are ripened by ethylene,
7 whether that pear produces it itself or
8 whether we trigger that process by putting it
9 in an environment with ethylene generated
10 creating more of an environment for ethylene.

11 So all pears are producing, all
12 apples are producing its own ethylene for a
13 natural ripening process. And so when I say
14 it's -- it follows that standard is that
15 ethylene is ethylene, as Deborah said, and
16 whether that pear is producing that ethylene
17 and being trapped in a paper bag, or whether
18 we're producing that ethylene in ripening a
19 greater volume of pears, triggering its
20 natural production of ethylene, because it's
21 all a trigger response, and Dennis could
22 probably talk about that more specifically.

1 But the ethylene is triggering the
2 receptors within that pear to begin the
3 ripening process.

4 So as that pear stays in storage
5 for that 30 to 40-day period, it's those
6 receptors that are maturing during that period
7 of time that then will then start producing
8 its own ethylene.

9 What we are saying is that we
10 would like to be in an environment where we
11 can trigger those receptors sooner to allow
12 that ripening to take place earlier in the
13 season so that we can then market organic
14 pears sooner to the consumer, as opposed to
15 having to wait that 30 to 45-day period in
16 regular cold storage.

17 MR. DELGADO: Any other questions?

18 MR. DAVIS: I have one.

19 MR. DELGADO: Gerry.

20 MR. DAVIS: Pears that are ripened
21 without the use of ethylene for that 30 to 45-
22 day period, their eventual storage ability,

1 the length of time they will stay in storage,
2 can you comment to, either one of you, on does
3 the nonethylene -- does it start the clock to
4 where they store the same amount of time
5 either way, you just have a more limited
6 marketing period? That's the question.

7 MR. GONSALVES: There's two ways
8 that we obviously store pears. One is just
9 cold storage, cold treatment, whereas we're
10 putting that pear in a 30-degree environment,
11 we store pears at 30 degrees, 30 to 32
12 degrees, but primarily 30 degrees.

13 That temperature is one way we
14 store pears. The other way we store pears,
15 organic, conventional, whatever, is under
16 controlled atmosphere, where you're all
17 familiar with controlled atmosphere, where we
18 take the oxygen out of the environment and we
19 store the pears at a reduced level of oxygen.

20 So pears have a certain shelf life
21 is what I think you're getting to, is how we
22 actually store the pear at the beginning of

1 the season.

2 So when we say we hold that pear
3 for 30 to 45 days, that pear is in cold
4 storage basically going through its maturation
5 that it does in normal storage.

6 Once we begin to pack that pear,
7 then those receptors are more mature and they
8 begin to develop ethylene themselves.

9 When you break that cold chain is
10 when that ethylene may or may not be triggered
11 in a more rapid way in the sense of that pear
12 ripening a lot faster than if you maintain the
13 cold chain and keep that pear under cold
14 storage.

15 You can maintain the quality of a
16 pear for about 90 days under just cold
17 storage. Under CA conditions you can probably
18 hold a pear up to seven months.

19 So, again, how we store and where
20 the cold chain is broken is really when those
21 receptors start to trigger the ripening
22 process. But they have to sit in the 30 to

1 45-day period just to allow those receptors to
2 mature and that pear be put in position to
3 mature.

4 If I could just make one quick
5 comment just briefly on pear and apple
6 production.

7 We can't turn back the clock as
8 far as the amount of pears and apples that are
9 being produced. The Northwest currently is
10 looking at the largest organic apple crop ever
11 produced, and we are looking at large
12 increases on the pear volumes as well.

13 As we go forward with these
14 productions, we need to keep pace with what is
15 going to allow us to market, to make these
16 products available to the consumer. We have
17 to keep pace to allow that the quality as well
18 as the "eatability" to be marketed to the
19 consumer. Because at the end of each season
20 over the last five years, we run out of pears.
21 The demand for organic pears exceeds the
22 supply that we're currently under. So as more

1 and more pears become transitioned, is the
2 sole benefit of sustaining the demand that
3 exists currently as we go forward.

4 And so we need to maintain these
5 tools that are going to allow us to market a
6 quality pear to the consumer.

7 MR. DELGADO: Okay. We have to
8 move on. Deborah, would you like to go ahead?
9 Thank you, Ron.

10 MS. CARTER: As I mentioned, my
11 name is Deborah Carter with Northwest
12 Horticultural Council.

13 On behalf of the organic pear
14 industry of the West Coast I would like to
15 thank you for the opportunity to speak in
16 support of the petition to allow the use of
17 ethylene on post-harvest ripening pears.

18 The Northwest Horticultural
19 Council represents the pear grower and
20 shippers of Idaho, Oregon, and Washington on
21 technical matters, national and international
22 policy issues, trade and food safety concerns.

1 The California Pear Advisory Board
2 has also allowed me to speak on their behalf.

3 Oregon and Washington produce 84
4 percent of the pear crop produced in the
5 United States, and if we add California to
6 that, 98 percent of the U.S. pear crop is
7 produced on the West Coast, and so I am
8 representing 98 percent of the pear crop
9 produced in the United States.

10 California, Oregon, and Washington
11 have about 2,000 organic pear acres, and there
12 are another 700 acres in transition to
13 organic.

14 In 2007, 2008, these states
15 produced about 17,000 tons of marketable
16 organic pears. The average pear farm is less
17 than 20 acres.

18 Like tomatoes, avocados, and
19 bananas, pears are climacteric, and that means
20 that there is a marked respiration that
21 accompanies the onset of ripening, so that's
22 the conversion of starch to sugar.

1 Both the ripening and the increase
2 of climacteric respiration are triggered by
3 endogenous production of ethylene, which is a
4 natural plant hormone, which is what one of
5 the questions was about earlier.

6 Pears are harvested at a mature
7 but not a ripe stage, which is very different
8 from degreening pineapple and also degreening
9 citrus.

10 If left on the trees, pears tend
11 to soften from the inside out, so the center
12 will become mushy by the time the outside
13 flesh is ready.

14 A mature pear ready for harvest is
15 fully formed but still hard. It can require
16 up to two months of cold storage, depending on
17 the variety, to complete the physiological
18 changes that drive the ripening process.

19 This is particularly true for pear
20 varieties, our winter pear varieties, and
21 that's basically everything of the Barlett
22 cultivar.

1 Both ripening and respiration
2 processes are stimulated to occur by an
3 exogenous application of ethylene, and sources
4 of ethylene do vary. But no matter the
5 source, whether natural or external, the pear
6 interacts with the molecule of ethylene as
7 C₂H₄.

8 Externally applied ethylene set at
9 about 100 parts per million triggers the pear
10 to start producing its own ethylene. So
11 what's ripening the pear is the pear's own
12 ethylene. What we add to it only triggers the
13 pear to start to produce its own.

14 Now some may suggest that ethylene
15 is not compatible with organic certification,
16 but as we look at ethylene in the organic
17 scheme, we see that the use of ethylene is
18 consistent with organic practices.

19 The NOSB's definition states that
20 organic agriculture promotes and enhances
21 biologic cycles, and on a molecular scale this
22 is exactly what ethylene does when it triggers

1 the ripening process in a pear.

2 In fact, this board has already
3 approved the use of ethylene for degreening
4 organic pineapple, bananas, citrus, as already
5 discussed.

6 Exogenously applied ethylene
7 causes no adverse effect on the fruit's
8 biological processes. Research has indicated,
9 and it's been reported in our petition, that
10 although exogenous ethylene may be introduced,
11 the fruit has an internal self-limiting step
12 which inhibits too much ethylene from being
13 produced.

14 Now this is important. Exogenous
15 ethylene is simply the trigger for the fruit
16 to do what it does naturally. Exogenously
17 applied ethylene does not physiologically
18 alter the ripening process which is consistent
19 with organic production.

20 You may ask why we need ethylene.
21 We know that increased volumes, as Ron
22 mentioned, it allows producers to reach out to

1 a broader organic consumer. We all know that
2 consumer demands for organic products are
3 growing, and it's grown probably 20 percent
4 per year over the last 10 years.

5 We know that researchers in Oregon
6 State University have developed a plan to ship
7 pears which are delivered to the market can be
8 ripened to eating quality in about five days,
9 and maintain a normal shelf life, eliminating
10 the consumer guesswork.

11 But this process is best obtained
12 using exogenously applied ethylene. If
13 ethylene could be used for organic pears, this
14 same process could be implemented providing
15 the organic consumer a better quality product
16 with no guesswork.

17 And this process also helps the
18 retailer to better manage his stock.

19 MR. DELGADO: Deborah, your time
20 is up.

21 MS. CARTER: Thank you very much.

22 MR. DELGADO: Any questions from

1 the board? Okay. Thank you very much. Next
2 is Brian Kozisek. After Brian, we have Maury
3 Johnson.

4 MR. KOZISEK: Hello. I'm Brian
5 Kozisek with the Organic Crop Improvement
6 Association.

7 We certify approximately 100
8 grower groups and I'm here to speak a little
9 bit on grower certification. One of the key
10 ideas behind grower certification is that a
11 group operates as a single unit, even though
12 it's made up of discrete individual production
13 units.

14 They agree with the stated
15 prerequisites and the organizational
16 requirements with a strong emphasis on
17 geographic proximity for the individual units.

18 While there is strong evidence
19 that supports the use of the square root group
20 size for sampling, we feel that using the
21 square of principle is not effective for
22 groups larger than 100.

1 One of the reasons is that sample
2 size for inspections can be an effective tool
3 to manage groups that have a struggling
4 internal control system and other issues that
5 contribute to higher risk.

6 Increasing sample for the
7 inspections based on risk gives a greater
8 assurance that the organic integrity is
9 maintained, but also has the residual effect
10 of placing economic pressures on the group
11 that encourages ICS development and
12 functioning.

13 For well-managed groups with good
14 ICS, reduced external inspections should
15 contribute to the financial success of the
16 individual operators.

17 We feel that for these reasons
18 that the lower limit for required sample size
19 be no less than 15 percent, with no
20 established upper limit.

21 This would be set at the
22 discretion of the certifier. In practice, OCA

1 typically uses 20 percent as the size of the
2 sample for even established groups, with the
3 idea that all members will have been inspected
4 at least once in a five-year period.

5 We feel that a good compromise
6 with the minority opinion is to have all new
7 entrants be inspected but to also include this
8 in the count towards the total for the sample
9 size.

10 It is our belief that a
11 responsible certifier will consider the number
12 of new entrants into a grower group and adjust
13 the risk evaluation for a higher sampling rate
14 as needed.

15 The use of subunits may be a tool
16 to manage large group size, but it must not be
17 a subunit in name only. The recommendation
18 should establish a maximum size for a subunit
19 and firm criteria, rather than relying on the
20 certifier to establish this.

21 As a tool for training by the
22 certifier, we recommend that a minimum of

1 three of the inspections conducted by a new
2 internal control staff be witnessed by the
3 external inspector in the form of witness
4 audits. This way they identify
5 inconsistencies and also serve as a training
6 tool for the ICS.

7 Any questions?

8 MR. DELGADO: Questions from the
9 board?

10 MR. KOZISEK: Okay, thank you.

11 MR. DELGADO: Thank you very much.
12 Moving on, we have Maury Johnson, followed by
13 Matthew Johnson.

14 MR. HOWARD: I'm Luke Howard. I'm
15 here as a representative for Maury from Blue
16 River Hybrids.

17 Blue River Hybrids is an organic
18 seed company that produces corn and soybeans,
19 organic corn and soybeans, a little bit of red
20 clover, and a little bit of alfalfa. And so
21 we are here to comment on your further
22 guidance on commercial availability of organic

1 seed.

2 We want to thank you for your
3 continuing to discuss the important issues of
4 organic seed and organic crop production under
5 the NOP.

6 There are several comments and
7 points that we would like to make regarding
8 this document.

9 The first one. Although it is
10 true that for certain species, the supply of
11 organic seed is limited or nonexistent, it
12 should be recognized and noted that some
13 species -- for instance, field corn -- is
14 sufficiently available, and only about 60 to
15 65 percent of organic corn acres today are
16 planted with organic field corn seeds.

17 Supplies are available to plant a
18 higher percentage, and if growers used organic
19 rather than conventional seed, that would be
20 available.

21 Companies and individuals
22 providing conventional seed to the organic

1 market often have a significant financial
2 incentive to continue marketing conventional
3 rather than organic seed.

4 Conventional seed is cheaper to
5 produce and involves less risk, and can be
6 sold to the organic marketplace at a lower
7 price and a better profit margin than organic
8 seed.

9 Point number three. The document
10 correctly notes that there have been issues of
11 substandard organic seed. A first step to
12 correct this problem would be to emphasize
13 that the organic seed must comply with all
14 Federal and state seed laws, especially when
15 it comes to labeling.

16 We appreciate that the Joint
17 Committee members recognize in the document
18 that the conventional seed business is moving
19 in the direction of biotechnology, and that it
20 is of utmost importance for organic farmers to
21 recognize that by supporting the organic seed
22 suppliers and growers today, they will have a

1 better and more secure organic seed supply in
2 the future.

3 I really want to emphasize the
4 point that there's no justifiable excuses for
5 certifiers to accept not using organic seed.
6 We appreciate the efforts of the NOSB Joint
7 Committee to prepare this document and to
8 consider the public comments that have been
9 submitted on previous versions.

10 Because this topic has had such
11 serious consideration by the NOSB and has been
12 openly discussed at NOSB meetings, we have
13 noticed that certifiers and growers are
14 becoming more responsible in their
15 consideration and decisions on their use and
16 availability of organic seed.

17 I also want to switch hats a
18 little bit and I have an organic farm on the
19 eastern shore of Maryland, where we grow about
20 200 acres of grain and five acres of
21 vegetables, fresh market vegetables, so we
22 kind of do both things. And the name of that

1 farm is Homestead Farms. And my wife and I
2 own that.

3 So when I look at the seed issue,
4 I see two different issues. I see the row
5 crops issue and I see the vegetables issue.
6 And when it comes to row crops, and we talk
7 about different varieties, one of the things
8 you need to keep in mind is that when we speak
9 of varieties in corn and soybeans, we talk
10 about maturity length. And so we really can't
11 compare Blue River XYZ hybrid to Pioneer ABC
12 hybrid because if they are in different
13 maturity length -- if one is a 98 day and the
14 other one is a 120 day, they really don't
15 compare. But if they are in the same maturity
16 length, then really they do compare.

17 So if one is a 110 day and one is
18 a 112 day, they are a comparable hybrid.

19 The other thing to remember is
20 that in vegetables, a lot of things are done
21 in taste and texture and consumer driven. And
22 again, having the five acres of fresh market

1 vegetables, I know that sometimes a consumer
2 really wants a certain tomato, and if we can't
3 find that organically, we really need to plant
4 that tomato for our marketing aspect.

5 So those are really two different
6 issues that you need to evaluate as you look
7 at this.

8 Really, finding organic seed from
9 a corn and soybean standpoint is not
10 impossible and it's not even difficult today.
11 And when we have competitors out there who are
12 marketing conventional seed against some like
13 a Blue River, it really discredits the
14 situation.

15 Some of the field testing -- as a
16 farmer, I want to say that some of the field
17 testing that goes on to compare organic
18 hybrids against conventional hybrids, I think
19 is a little slanted to one side.

20 I've been on several farms where
21 they've planted an organic hybrid next to
22 their favorite conventional untreated hybrid,

1 and they put that organic hybrid in the lowest
2 spot in the field or the driest spot in the
3 field to kind of weigh the results. And
4 that's a little frustrating.

5 As a grower, I try to do the right
6 thing.

7 Another thing, the percent of seed
8 used on a farm -- and as some of the
9 discussions were going on earlier, I was
10 thinking about my own farm and having just
11 gone through inspection, and at the risk of my
12 certifier being in the room, I don't want to
13 get too deep into it, but --

14 (Laughter.)

15 -- the question was asked what
16 percentage of organic seed do I use. Well,
17 because we have 200 acres of organic field
18 crops that are all organic seed and we have
19 five acres of fresh market vegetables, it's an
20 unfair weighted example.

21 And so I just caution you going
22 forward that you reevaluate that. I know you

1 want probably some sort of measurement tool,
2 but just be careful with that because it would
3 be easy for me to say, well, I plant 200 of my
4 205 acres organically. So just another point.

5 MR. DELGADO: Your time is up.

6 MR. HOWARD: Any questions?

7 MR. DELGADO: Any questions from
8 the board? That's it. Okay, Jim, followed by
9 Gerry.

10 MR. SMILLIE: Do you have any
11 other specific comments to make on the
12 recommendation itself? I really appreciated
13 all your comments, and you know, that's where
14 we are headed with this recommendation.

15 But I mean from your point of
16 view, like, for example, the database, the
17 two-way database, as a seed producer, is there
18 anything in this recommendation that you think
19 needs tweaking as far as your perspective?

20 MR. HOWARD: I'm glad you brought
21 up the database because I know there have been
22 some comments made in the written statements

1 that some farmers don't have access to
2 Internet. We do have electricity at my house
3 and we do have a computer, and we do have
4 access to Internet, and I have never used the
5 database.

6 Really, I don't see that as an
7 important tool for me. Now if it helps 50 or
8 75 percent of the other farmers, then that's
9 not saying it's a bad tool. But developing
10 that database, I don't think should limit the
11 enforcement of using organic seed. I see it
12 as a tool and I feel like the excuse is being
13 used as a crutch.

14 MR. DELGADO: Gerry.

15 MR. DAVIS: So in the sample of
16 your farm that uses all organic seed on 200
17 acres of grain, and on the 5 percent that is
18 vegetables -- five acres, excuse me -- in your
19 case what the recommendation is calling for is
20 that we would ask your certifier to check with
21 you on the five acres of vegetables to see if
22 you are showing any improvement at all working

1 towards more organic seed. Do you have an
2 issue with that?

3 MR. HOWARD: Yes. You know, as a
4 producer we evaluate that every year, and I
5 would say of the vegetable varieties -- I mean
6 we all kind of know what a market garden is.
7 You know, it's all these different varieties,
8 and my wife kind of manages that, so I try not
9 to get too deep into choosing varieties.

10 But we know that there are dozens
11 of varieties, and I would say off the top of
12 my head, looking down the list of seeds we
13 bought this year, a third to 40 percent -- I
14 don't want to say 50 percent because I think
15 that's stretching it, but I would say over a
16 third are certified organic seeds.

17 And, you know, when we want to try
18 something new, we try it on a very small
19 scale, try to find it organically; if it's not
20 available organically we then use it
21 conventional and treat it. And hopefully with
22 the seed suppliers that we have in place today

1 -- you know, they're pretty gung-ho at
2 producing organic seed, and that's really been
3 very helpful.

4 I would say five years ago or four
5 years ago, it was a different situation, but
6 today it's a much easier situation. Not
7 perfect, but much easier.

8 MR. DELGADO: Any other questions?
9 Thank you very much.

10 MR. HOWARD: Thank you.

11 MS. FRANCES: I just want to say
12 one thing. Rick is actually signed up right
13 now. He had himself, so you cut him off at
14 five minutes. I didn't know if you really
15 didn't have anything more to add, or just
16 wanted to say that he was on as a proxy as
17 well as himself. So just to offer that.

18 MR. DELGADO: Next is Matt Dillon.
19 And I would like to point out for the board
20 members, we are running extremely late. I
21 would like to move on as fast as possible. We
22 do have a total of 27 speakers. We've got 10

1 wait-listed there, and we might not have time
2 to go to them, but, please, measure your
3 questions.

4 Please proceed, sir.

5 MR. DILLON: At first I had
6 comments today, but after this morning's
7 session when I heard such goodwill towards
8 organic seed by the committee, I felt the need
9 to amend my manifesto and maybe tone things
10 down a bit.

11 First, I want to thank the board
12 for their work, particularly the Joint and CAC
13 Committees. I also want to thank all the
14 folks here. This is my first time attending,
15 and your persistence is awe inspiring. It's
16 something.

17 While it's my first time here, I'm
18 not new to organics and I'm not new to seed.
19 My first organic crop was in 1982 at a
20 Benedictine monastery where I lived and went
21 to school in Elkhorn, Nebraska. I bring that
22 up because in '82, we didn't have NOSB

1 guidance, but the monks claimed we had divine
2 guidance --

3 (Laughter.)

4 -- and as often as I keep hearing
5 about us bringing in the devil in the details,
6 I'm a little nervous about my loss of faith,
7 and I think I might need that.

8 (Laughter.)

9 I also as the director of an
10 heirloom seed nonprofit, Abundant Life Seed
11 Foundation and Organic Seed Catalogue, founder
12 and the current director of Advocacy for the
13 Organic Seed Alliance, which is an educational
14 research nonprofit that's published also
15 things like a guide for on-farm variety
16 trials, which might be very useful for some
17 farmers after the last comments.

18 I am currently also the policy
19 analyst for the Organic Seed Growers and Trade
20 Association on whose behalf I am here today.

21 You heard from Woody Dericks of
22 the Organic Seed Growers Trade Association

1 last in the spring, and I'm going to touch on
2 some of his comments, but go further.

3 First let me say that OSGATA, as
4 we call the Organic Seed Growers and Trade
5 Association, OSGATA develops, protects, and
6 promotes the organic seed trade and its
7 growers and assures that the organic community
8 has access to excellent quality organic seed
9 that's free of contaminants and adapted to the
10 diverse needs of local organic agriculture.

11 Now we are a new organization
12 starting in January 2009, but already very
13 diverse with plant readers, seed producers,
14 seed companies, and 47 members at present, a
15 variety of scale from people like Blue River
16 and Seeds of Change to people like Judy
17 Owsowitz in Montana and Brian Campbell in
18 Washington, who are seed producers but also
19 fresh market producers, producing dozens --
20 Judy produces 78 different varieties of fresh
21 market crops. So we are a diverse group.

22 So I first want to talk about the

1 reasons to use organic seed, and Joe did a
2 good job of that this morning, but I just want
3 to touch on it real quickly. There are three,
4 as I see it.

5 One is because it's the rule.
6 It's the NOP rule, and the producers need to
7 use the seed with some allowance, and also
8 there's also the approved 2005 guidance
9 recommendations requiring full reporting of
10 allowances to use nonorganic seed.

11 Second, because of contamination.
12 By contamination I don't just mean transgenic,
13 I also mean chemical contamination. If you
14 lived in my neck of the woods, where the vast
15 majority of the world's veg seed is produced,
16 you would see the chemical contamination
17 occurring in our waterways, and I'm happy to
18 provide anybody with an Excel spreadsheet of
19 some very toxic chemicals that go into
20 conventional seed production.

21 There's also transgenic
22 contamination, and at present the seed we are

1 planting in our fields, particularly in corn,
2 is helping to contaminate organic food
3 products, both from the conventional seed and
4 also some of the organic seed companies are
5 releasing conventional lines are releasing
6 conventional and knowingly selling
7 contaminated seed. And there are no rules to
8 prevent that.

9 Third, really the most important
10 reason is the benefit. And the benefit is
11 multiple. It's a benefit primarily to organic
12 producers. It's also a benefit to the
13 markets, and it's really a benefit to the
14 overall spirit of the organic rule and organic
15 integrity.

16 Now that said, as an association
17 we recognize the need for allowances to plant
18 conventional untreated seed. We understand
19 the folly of drop-dead deadlines, and do not
20 support restricting usage to European style
21 registry that would damage genetic diversity.

22 And obviously the organic seed

1 sector would not profit by growers losing
2 their certification or leaving certification
3 altogether because of the rules. We want this
4 to work for one and all.

5 And as such, we are happy to hear
6 the recommendations, but we really think we
7 need to continue to work together on
8 implementation.

9 To the recommendations at hand:
10 Enforcement. We support the recommendation of
11 the committees that the NOP auditors better
12 monitor the ACA's use of exemptions.

13 We also support reporting
14 percentage use but with some caveats that I
15 don't think I'll have time to get to, and we
16 do see that with that reporting of the ACAs,
17 it needs to be a full reporting of all
18 varieties for which there is an allowance.

19 Data collection. The database,
20 the two-way database is a great idea, it needs
21 to have crop variety and treat data, not just
22 variety name data.

1 Third, on the buyers of organic
2 products --

3 MR. DELGADO: Your time is up.

4 MR. DILLON: The last minute went
5 fast. Questions?

6 MR. DELGADO: Questions? Yes,
7 Julie.

8 MS. WEISMAN: You went through
9 really quickly, and I appreciate why you did
10 that, because you were trying to get
11 everything in, but I just want to -- when you
12 were talking about transgenic contamination,
13 can you repeat more slowly the part that came
14 there's no rule for that? Can you repeat
15 slowly the --

16 MR. DILLON: Well, there's
17 currently a rule on transgenic seed, correct,
18 biotech seed, that's currently in the rule.
19 A farmer, an organic farmer cannot plant
20 genetically modified transgenic seed.

21 However, it's being done. The way
22 it's being done is that our corn lines are

1 contaminated with transgenic. The
2 conventional lines that we're using to create
3 organic lines, as well as the conventional
4 seed that's being planted by organic farmers
5 who are not using the organic seed that Blue
6 River is producing.

7 And that seed then gets, you know,
8 into the fields and into organic products. So
9 the seed industry is helping contaminate
10 organically.

11 Seed companies are not required to
12 report to their customers that they don't test
13 for contamination. Last year there was a
14 sweet corn variety tested positive for
15 contamination. One seed company came forward
16 and reported that hybrid variety had been
17 contaminated and pulled it. The other seed
18 companies who bought from that producer did
19 not.

20 So organic farmers planted
21 contaminated organic sweet corn seed last
22 year. There's nothing to stop that. Seed

1 companies are not required to reveal that, but
2 it's breaking the rule, and the farmers are
3 now planting transgenic seed.

4 We're going to be back here again.
5 I mean this exemption -- that regulatory piece
6 is one piece where there's been great effort
7 to move forward. I applaud that. And we need
8 to all work together to continue to work on
9 the regulatory piece.

10 But we need a seed task force
11 because there are so many complexities, as
12 Luke pointed out, crop-specific complexities,
13 technology complexities in producing hybrid
14 seed, complexities of contamination.

15 And the seed issue is not going to
16 go away just with these recommendations. We
17 went over it with the ACAs and the farmers to
18 work on solutions together.

19 MR. DELGADO: Any other questions?
20 All right, Gerry.

21 MR. DAVIS: In the public
22 comments, it was brought up about foundation

1 seed and a request to be able to use treated
2 seed from foundation seed growers. Do you
3 have any comments on that?

4 MR. DILLON: I think that is a
5 slippery slope. I think it's pretty clear
6 that is not allowed, again it's using
7 conventional seed and it's not supporting the
8 organic industry.

9 I think particularly in corn there
10 is plenty of public material in red lines
11 available. It's not an issue of availability
12 of germplasm, and so I see no reason for that
13 exemption.

14 Any other questions?

15 MR. DELGADO: Any other questions?

16 MR. DILLON: Okay. Thank you all
17 for your work.

18 MR. DELGADO: Thank you. Next is
19 Marc Cool, followed by DeEtta Bilek.

20 MR. COOL: Hi, everybody. My name
21 is Marc Cool with Seasons Change of Santa Fe,
22 New Mexico. I would like to thank the board

1 and program for allowing us to continue to
2 talk with the seed issue here.

3 I'll talk about the commercial
4 supply of organic seed.

5 I put a couple of comments on the
6 Web, on your site. You can read those and
7 talk a little bit more about some other things
8 here.

9 First of all, it was said today
10 earlier by Joe why we need organic seed, and
11 frankly, ditto. That's the whole story right
12 there. So thanks, Joe, for that.

13 You also mentioned shared pain. I
14 would like to say that I see it much more as
15 shared gain. If there's more organic seed
16 being used because of regulations and
17 enforcements, that's going to drive the
18 organic seed industry. They will produce more
19 organic seed of specific varieties for growers
20 who will be more successful in the enterprise,
21 producing higher quality products for the end
22 consumer, who then has confidence in the

1 organic business.

2 In my mind, that is a gain that
3 we are trying to push here from the beginning,
4 the first link of the food chain, which is
5 seed, indeed. So that's how I see it.

6 The recommendation as put forth in
7 my mind with one small exception is quite
8 good, and I thank the two committees, Gerry
9 and Joe, for doing that, with everyone that
10 helped with that.

11 You clearly understand the issue,
12 you describe it very well, you know all the
13 pluses and minuses. You have heard all the
14 stakeholders. We've had a number of meetings
15 here. We've talked about this issue. You
16 have voted as two committees very often to
17 support the recommendation. It's not yet
18 passed the full NOSB board.

19 And on the one hand, it's a little
20 disappointing because it's taken so much. On
21 the other hand, due process has been followed
22 and public comment has been heard, and there's

1 been slight modifications made to the
2 recommendation to comply with all the requests
3 and needs of all the different stakeholders.

4 I believe we are there now, and I
5 would strongly encourage the full board
6 tomorrow to vote in favor of this current
7 Joint Committee proposal.

8 One thing I would like to add is -
9 - I'm not sure if this is intentionally left
10 out or just purposely -- is that in the two-
11 way reporting section, it talks about -- it no
12 longer talks about the requirements to report
13 derogations.

14 I feel that if there is on the OSP
15 a list of varieties which are being planted by
16 a grower which are not organic and there is
17 justification to the certifier in their
18 communication on why they are not using
19 organic varieties, I believe that information
20 should be written down and it should also be
21 passed to an organization or in some fashion
22 to NOP, and we could talk in detail about what

1 that is, but that opportunity list, as we've
2 called it often, is in my mind very important
3 to show the organic industry what organic seed
4 varieties growers want, and therefore what we
5 need to do in our development or to achieve
6 that.

7 So I'd like to ask if that
8 reporting requirement of derogations could be
9 reincluded before you vote on that tomorrow.

10 There's a couple of comments that
11 have been made in the last couple of days I'd
12 like to I guess respond to.

13 One is about biodiversity in
14 organic. I very strongly -- in fact, in our
15 company biodiversity is part of our mission
16 statement. I very strongly want to encourage
17 biodiversity.

18 In fact, as I have explained last
19 May, a very important part of what I see as
20 the future organic seed industry is developing
21 organic specific varieties which use
22 biodiversity available from the past as a way

1 to bring genes back in that will allow plants
2 to be adapted to low input conditions and also
3 have end consumer trades that are very
4 valuable.

5 So biodiversity, in my mind, and
6 organics actually go hand in hand, and they
7 are not at all in conflict with each other.

8 A comment was made also that
9 certification done by certifiers on farms in
10 many cases is -- it's kind of scary, frankly,
11 to say --- in many cases it's done on a basis
12 of has process been followed versus has every
13 single variety been looked at to determine if
14 it's organic or not. That, frankly, is wrong.
15 Every single input, as we all know, on an
16 organic farm has to comply with organic
17 standards, including every single variety.

18 That clearly, to me, is the
19 current rule and the way it should happen.

20 People have said there's a large
21 number of varieties available for farmers, and
22 many farmers plant a large number of

1 varieties. Absolutely true.

2 It doesn't mean, however, it's
3 difficult for farmers to write down on their
4 OSP what varieties they use. Farmers know
5 exactly what varieties they use. They write
6 it down all the time. They know exactly what
7 they used last year, the year before, next
8 year, et cetera. Writing down what they are
9 using is not a big deal at all.

10 Organic seed supplies have
11 increased. Two years ago I commented to the
12 board that less than 1 percent of fruit and
13 vegetables organic farms were using organic
14 seed. That's not somewhere up towards 5 and
15 6 percent. It's improving; it's doing better.
16 But after six years, we can still do a lot
17 better, in my opinion.

18 So I'd like to ask you to please
19 vote in favor of this recommendation. What we
20 will then do as a seed industry is work with
21 program, work with ACAs, work with growers,
22 work with yourselves to find a way to

1 accomplish the goals that you put forth, and
2 then you can move on in your deliberations
3 onto a lot of other important issues.

4 So with that, thank you, and I
5 have a few questions.

6 MR. DELGADO: Joe.

7 MR. SMILLIE: Yes. Marc, the
8 section you're referring to on reporting of --
9 I love that European word, derogations. We
10 often get compared to the Europeans, and you
11 know, sometimes we don't realize that the role
12 of derogations in the European system is a
13 fairly interesting topic. But that's a
14 different topic.

15 We are on 5(d) right now. Val,
16 could you put that one up there for everyone,
17 on the CA document, 5(d).

18 MS. FRANCES: Oh, okay.

19 MR. SMILLIE: And I've got to ask
20 help from Gerry and Jeff on this, because
21 basically what was said in the earlier
22 recommendation was maintain and submit upon

1 request to the National Organic Program crop
2 varieties permitted by each agency.

3 We struck "crop varieties
4 permitted by each agency" and substituted
5 "maintain and submit upon request to the
6 National Organic Program documentation of the
7 organic seed usage status current percent
8 levels as compared to historic levels of usage
9 by acre of each certified operator."

10 MR. DAVIS: I'm taking your
11 question as concerning why don't we have a
12 specific reporting to the program on what all
13 these varieties are and so forth in there any
14 more? Is that what you're saying?

15 MR. SMILLIE: I think what Marc is
16 after -- and correct me if I'm wrong, Marc --
17 is like lots of -- well, what were the
18 allowances made? What seed was granted
19 permission -- what varieties were granted
20 permission to be used conventionally rather
21 than organically?

22 And your reason for that, Marc, is

1 to try and get a fix on --

2 MR. COOL: Opportunities, demands.

3 MR. DELGADO: Jim.

4 MR. MOYER: Well, two things, Joe,
5 that came up. At the last meeting, the ACAs
6 and the growers, they said that's too much
7 work for both sides to handle. So I was
8 wondering --

9 MR. DAVIS: And the program.

10 MR. MOYER: Not the programmers,
11 the ACAs and the growers.

12 MR. DAVIS: No, no, the program
13 also.

14 MR. MOYER: Well, and the program.
15 Everybody pushed back on that and said that
16 was a lot of extra work, a lot of extra
17 paperwork. Growers that we spoke to also said
18 it's not their job to do their job for
19 marketing. If you want to find out what
20 growers want, you go ask them. It's not their
21 job to make this list of opportunities for the
22 seed industry.

1 So we got pushback in a lot of
2 different areas, and so we came to this
3 decision that within the context of what we're
4 trying to do, which is grow the entire seed
5 industry, checking percentages is an easier
6 way for everybody to say I know whether I do
7 100 percent of my seed as organic, I don't
8 have to write anything down except 100
9 percent. I know I'm doing 50 percent or 10
10 percent. I mean we know what that is, and
11 it's very easy for everybody to track that
12 across the board.

13 Unless you get to the point where
14 there's somebody willing to handle a database,
15 then that would work. But to this point in
16 time nobody has stepped up and said we're
17 going to fund the opportunity -- that database
18 which would then create that opportunity list.

19 MR. COOL: Is there a question
20 there for me somewhere?

21 (Laughter.)

22 MR. DAVIS: Are you a sharing

1 company? Are you going to share some of that

2 --

3 MR. COOL: I'm not sure if it was
4 May this year or November last year or some
5 other time, I actually did offer to help with
6 the program on the database. I believe that's
7 a huge deal. I believe it's really
8 straightforward. I'll bet 10 bucks that we
9 can get Anita's coalition together to help
10 with that if necessary in both resources and
11 everything else.

12 MR. DELGADO: Jerry?

13 MR. DAVIS: From the committee's
14 point of view, the Crops Committee at least,
15 that is what we attempted to hand to you in
16 the last version of this in previous meetings.
17 The industry -- because the NOP said that it's
18 not our role, that is not -- it's just going
19 to get -- it's go nowhere. They have told us
20 repeatedly that is going nowhere for the
21 program to administer that database.

22 So we didn't want the important

1 step of improving organic seed availability
2 hindered by the program saying this isn't
3 going anywhere.

4 So we came out with a second step
5 of, okay, let's see if the industry will fund
6 it and have a third party such as OMRI or
7 someone like that do the leg work with the
8 organic seed industry to fund it. It went
9 nowhere. No one made any comments at the last
10 meeting to step up to the plate to say, yes,
11 we'll do that.

12 Maybe you guys weren't ready yet,
13 it was too soon, but that's what we perceive
14 as what happened.

15 MR. DELGADO: Tracy.

16 MS. MIEDEMA: I just think we need
17 to be very frank here about basic economics
18 and supply and demand requires transparency.
19 And the certifiers have come back to us loud
20 and clear that it is overly burdensome, really
21 put their foot down at the last two meetings,
22 that they do not want to report back that

1 information, it's just overly cumbersome. And
2 without transparency to match up buyers and
3 sellers in any economic model, you have
4 failure.

5 I think our failure to develop
6 organic seed is evidence that we just don't
7 have transparency. This recommendation
8 doesn't get us there, either, on that one
9 point of transparency. To answer his question
10 very specifically, yes, it was left out
11 deliberately because it got killed by
12 certifiers in the last two meetings.

13 MR. COOL: Could I respond to that
14 very briefly?

15 MR. DELGADO: Please respond very
16 quickly.

17 MR. COOL: So I'm not asking that
18 we develop a database tomorrow. I'm saying I
19 think in the recommendation that we work
20 towards a database with all stakeholders, I
21 think would be a good direction.

22 MR. DELGADO: Thank you very much.

1 DeEtta Bilek, and after that we'll have a
2 short break to recover.

3 MS. BILEK: I want to thank you
4 for this opportunity. I am DeEtta Bilek. I
5 am an organic farmer from Minnesota, and I am
6 currently the second vice president of the
7 OCIA International Board of Directors.

8 I also chair the Education
9 Committee for the Minnesota Chapter, and our
10 farmer members would disagree with what has
11 been stated here, that there's plenty of corn
12 available to them.

13 They live in northwest Minnesota,
14 so the climate is definitely different than
15 out east or in Nebraska, and they have not be
16 able to find short season specialty corn, they
17 tell us. They talk about soybean qualities
18 that they can plant there for seed.

19 So they have brought this concern
20 to the chapter committee, and then we brought
21 it to the International Seed Committee for
22 their discussion.

1 We also discovered that OCIA
2 International does certify Blue River hybrids,
3 and they certify Lakeland organic seed.

4 A Lakeland organic seed member has
5 brought forward that they are not able to find
6 foundation seed stock in quantities with
7 diversity that they can produce seed for
8 organic farmers.

9 So I'd have to disagree a little
10 bit with -- or I'm kind of the opposite of a
11 couple of the speakers prior to me.

12 OCIA International is a
13 certification agency based in Nebraska. We
14 have been operating for more than 20 years.
15 We certify nearly 1500 chapter members in the
16 U.S. and Canada, plus 700 direct associates,
17 and of those Blue River and Lakeland organic
18 seeds as licensed seed producers for organic
19 corn.

20 We agree with NOSB that further
21 development of the organic seed industry is
22 key to increasing commercial availability of

1 organically grown seeds and subsequent
2 increased usage by growers.

3 While OCIA supports the draft
4 recommendation, we believe that an important
5 issue has not been addressed, and that is
6 being the seed sourcing for seed producers.

7 Seed companies purchase foundation
8 seed varieties that they cross-breed to
9 produce various hybrids which are harvested
10 and processed for resale the following year.
11 So they have one year to provide seed to
12 farmers.

13 Several regional seed companies
14 that provide the germplasm and treats have
15 been purchased so now there are only a few
16 remaining that are providing that form in an
17 untreated form for the seed producers.

18 Nearly all foundation seed stock
19 purchased for seed production has been treated
20 with material that is currently prohibited by
21 NOP. These treatments that are mentioned by
22 our committee are names like Captain and

1 Apron. They are fungicides and insecticides
2 that are used to protect seed from seed
3 diseases, including seed rot.

4 There is a statement that's in my
5 full -- in our full comment from Walter
6 Goldstein that indicates minimal adverse
7 ecological effects from these treatments.

8 Maury Johnson from Blue River has
9 a statement in our full comment. Also he has
10 stated that the seed stock landscape has
11 changed a lot in the last two to five years.

12 This concern was brought to NOSB a
13 number of years ago. I think, if I remember
14 right, it was 2001, so it is from what our
15 seed producers are telling us, it's more of a
16 concern now than ever.

17 Seed grower Ray Boughton of
18 Lakeland Seeds states that the organic seed
19 producer has a very limited access to quality
20 nontreated seed.

21 Our concern is that as long as
22 organic seed producers can only use untreated

1 seed stock, most foundation seed continues to
2 be available only as treated, organic hybrid
3 developers and organic producers will be very
4 limited in their hybrid selections.

5 Organic farmers are allowed to
6 plant untreated seed which was grown by
7 conventional seed companies, using treated
8 foundation seed stock commercial fertilizers
9 and chemical pesticides. And this is what Jim
10 Riddle mentioned yesterday.

11 This is a very unrealistic
12 situation for the organic seed producer. So
13 we are asking that you consider changing 205,
14 204, to allow treated seed stock.

15 Thank you.

16 MR. DELGADO: Thank you. Any
17 questions? Thank you very much.

18 We are due for a well-deserved
19 break. We are halfway there with the list of
20 speakers, and I would ask you to come back
21 promptly in 20 minutes from now -- five.

22 (Laughter.)

1 I will say let's do 10.

2 (Recess.)

3 MR. DELGADO: Let's start with
4 public comment. Board members, please.
5 Robin.

6 MS. ALLAN: In the interest of
7 time, I'm going to read this, and I'll try to
8 do it fast.

9 Thank you to the board for this
10 opportunity to comment, to all of the
11 committees for all their hard work on all
12 these important topics.

13 My name is Robin Allan. I'm the
14 grower and livestock certification supervisor
15 with CCOF, an accredited certification agency
16 based out of Santa Cruz, California.

17 I would like to comment today on
18 behalf of CCOF on three subjects --
19 biodiversity, commercial availability of
20 organic seed, and 100 percent organic
21 labeling.

22 First, biodiversity. Of course,

1 CCOF supports the preservation of biodiversity
2 in organic farm systems. We agree with the
3 the Wild Farm Alliance that the NOP
4 regulations as written require organic farmers
5 to protect and preserve biodiversity and
6 preserve natural resources.

7 In the pursuit of this goal, CCOF
8 includes questions in our inspection reports
9 that specifically address biodiversity issues,
10 and we have been communicating with our
11 clients the need to take biodiversity issues
12 into consideration in their farming systems.

13 While we agree with the stated
14 goal of the committee discussion paper to
15 improve and increase biodiversity
16 conservation, we do not agree with the No. 2
17 under the section titled "Main Points of
18 Possible Recommendation," which points the way
19 to biodiversity conservation through the
20 development and implementation of a template
21 organic system plan.

22 Each accredited certification

1 agency develops their own organic system plan
2 documents, which are approved by the NOP via
3 the accreditation process.

4 Requiring specific questions or
5 wording for organic system plans regarding
6 biodiversity would circumvent this process and
7 create additional paperwork burdens for
8 certifiers and growers which are not justified
9 at this time.

10 The contents of the organic system
11 plan should be left to the certifier to
12 develop and should continue to be approved
13 through the accreditation process and not
14 through additional regulations that mandate
15 specific language to be used.

16 It is important to note the
17 biodiversity concerns often intersect with
18 other laws, regulations, or industry
19 agreements, such as the California Leafy
20 Greens Marketing Agreement.

21 While it is important to take
22 biodiversity concern into consideration, it is

1 also essential that we do not put growers into
2 a catch-22 position by forcing conditions for
3 organic certification which are in direct
4 contradiction with other production
5 requirements.

6 Again, I reiterate CCOF's support
7 for increased attention to the biodiversity
8 concerns and organic production, and we will
9 comply with any requirements imposed by the
10 NOP equally on all certifiers.

11 We strongly urge the NOP to notify
12 all certifiers at the same time in writing of
13 any new requirements.

14 Second, I would like to comment on
15 the document titled "Further Guidance on
16 Commercial Availability of Organic Seed,"
17 dated September 22nd.

18 CCOF is grateful to the committee
19 for the time and effort that they have
20 obviously put into considering the comments
21 they have received on the previous version of
22 this document. We appreciate the revisions

1 made and believe that this version is a step
2 in the right direction.

3 CCOF continues to support the
4 growth and development of the organic seed
5 industry, and we are pleased to see the
6 efforts made on multiple fronts to encourage
7 more use of organic seed by organic growers.

8 While it is clear to us that this
9 version of the guidance is an improvement over
10 the previous version, the recommendation still
11 appears to be based on a few fundamental
12 assumptions that are incorrect.

13 While the recommendation states
14 that the committee "acknowledges that only a
15 small proportion of the seed currently used by
16 organic growers is certified organically grown
17 seed," CCOF questions the validity of this
18 assumption. Many of our growers are
19 purchasing all or most of their seed from
20 organic sources or growing and seeding their
21 organic seed.

22 We also strongly disagree that

1 comparing the percent of organic seed used
2 from year to year is a legitimate or accurate
3 way to measure the increase in the use of
4 organic seed.

5 Many of our farmers plant 100 if
6 not more varieties of seed each year, and if
7 a grower changes varieties or changes the
8 crops they're planting altogether, comparing
9 whether or not the seed is organic from year
10 to year does not give you an accurate picture
11 of whether or not the grower is properly
12 seeking out organic seed.

13 We strongly caution against
14 relying on this information to determine a
15 grower's compliance with the regulation.

16 I have a proxy also.

17 While we do not think that
18 percentages are a way to get an accurate
19 reading on the state of the organic seed
20 industry, we do recognize that obtaining
21 information on organic seed use will require
22 an increased paperwork burden on the part of

1 organic growers and accredited certifiers, and
2 we are willing to collect and report the data
3 needed if it is required of all certifiers.

4 We believe organic seed use is an
5 important part of certification, and we all
6 need to do our part to encourage the use of
7 organic seed by organic growers.

8 Another flawed assumption in this
9 document is that certifiers are approving the
10 use of nonorganic seed for each variety of
11 seed used. Certifiers cannot possibly do
12 this.

13 Instead we approve the producers'
14 management plan for seeking organic seeds in
15 the marketplace.

16 While on-site inspectors review
17 the documentation for all seed purchased,
18 requiring explicit certifier approval for all
19 varieties would create a mass burden for
20 certification agencies. It would unduly
21 affect small farmers who plant a large number
22 of different seed varieties.

1 As was mentioned earlier today,
2 there is an inevitable burden to be shared by
3 all members, including growers, the NOP, and
4 certifiers.

5 It is the ACA's job to review and
6 inspect and certify the management system of
7 growers, and if the grower describes in their
8 organic system plan their method of seeking
9 organic seed and determining when it is not
10 commercially available, certifiers should not
11 be expected to individually approve specific
12 varieties.

13 So, finally, as a proxy for Jody
14 Bergeal -- she's Jeff's handler certification
15 supervisor -- I'm going to comment on the
16 recommended guidelines for the use of
17 packaging and processing aids with products
18 labeled and sold as 100 percent organic.

19 The 100 percent category is unique
20 to the NOP, and the level of complexity
21 required to implement is avoided under other
22 organic standards that do not include this

1 category.

2 CCOF often wonders if continuing
3 to allow the 100 percent organic claim is
4 worth the time and energy we spend
5 interpreting it.

6 However, since the provisions of
7 the 100 percent organic labeling claim do
8 currently exist, it is essential that all
9 stakeholders be completely clear with what the
10 requirements for its use are.

11 The small business owner who would
12 like to use the 100 percent organic label on
13 their product cannot be expected to meet a
14 standard that is so complex and convoluted as
15 to require high levels of research to
16 understand.

17 The level of complexity in the
18 proposed guidelines and lack of understanding
19 in the marketplace makes the certifiers' jobs
20 much more difficult as we must then spend time
21 untangling the knots of regulation for our
22 clients in order to allow them to comply.

1 CCOF feels that the recommended
2 guidelines, while thorough and knowledgeable,
3 are focused on some points that confuse the
4 issue instead of clarifying it. Including
5 information about several other regulations
6 and their interaction with the organic
7 standards is unnecessary.

8 NOP regulation section 205.301
9 says nothing may be used to produce a 100
10 percent organic product except organic
11 ingredients and processing aids.

12 Therefore, we understand that all
13 components of a 100 percent organic product,
14 regardless of function, must be organic in
15 order for the product to be labeled as a 100
16 percent organic, and no synthetic or
17 nonorganic processing aids may be used.

18 Any additional nonorganic
19 material, whether defined as a processing aid,
20 an additive, a sanitizer, a microbial, would
21 preclude the product from being called 100
22 percent organic.

1 Therefore, there is no need in the
2 recommendation to differentiate between
3 processing aids, antimicrobials, sanitizers,
4 or additives, as the regulation does not
5 distinguish between these classes of
6 materials.

7 The spirit of the 100 percent
8 organic category was intended for
9 unadulterated, unprocessed product.

10 Continuing the use of our current
11 interpretation would assure consumers the the
12 products they are purchasing are free of all
13 nonorganic materials.

14 CCOF presents this step toward
15 consistency in certifying to the 100 percent
16 labeling category. However, we suggest taking
17 a deep breath and a step back and simplifying
18 the approach.

19 We are glad to hear that the
20 committee has taken the previous public
21 comment into account and may reconsider the
22 current recommendation.

1 Additional changes to the
2 recommendation should be based on the tenets
3 of the NOP, not on other food safety or
4 production regulations.

5 They should consider the spirit
6 and philosophy in which the NOP and OFPA were
7 written and be comprehensible by organic
8 operators and consumers.

9 In the long term we should ask
10 ourself if the 100 percent organic claim is
11 worth the time and energy spent interpreting
12 it.

13 Please see our written comments
14 for further discussion on this issue.

15 Thank you very much for your time.

16 MR. DELGADO: Any questions?

17 Julie.

18 MS. WEISMAN: Well, I think you're
19 very clear about the use of sanitizer -- your
20 position about sanitizers in the 100 percent
21 claim for retail packaged products. Do you
22 have -- do you look at differently how it

1 impacts say on farm processing?

2 MS. ALLAN: We do. We don't -- if
3 it's not going to -- if that product is not
4 going to be labeled as 100 percent organic, we
5 don't feel that the use of sanitizers or
6 microbials is an issue in the post-harvest
7 handling.

8 MR. DELGADO: Any other questions?
9 Hugh.

10 MR. KARREMAN: I'm not sure if I
11 heard it or not, did you speak at all on
12 animal husbandry?

13 MS. ALLAN: No. I don't have
14 anything to say about that.

15 MR. SMILLIE: I want to thank you
16 and CCOF for supporting the commercial
17 availability and being willing to do your
18 share to carry the load. I really appreciate
19 that from accredited certifiers.

20 Your comments on the 100 percent,
21 I couldn't agree more. I think that, you
22 know, we're going to go back and look at it,

1 and I think one of the things we will suggest
2 is just eliminating it because the candle
3 doesn't seem to be worth the flame in this
4 case.

5 But we have to also provide
6 alternatives, and we would like to get some
7 input from CCOF, especially on the post-
8 harvest handling part of it rather than the
9 processing. And again, that's the mistake --
10 one of the mistakes we made in the document as
11 not sufficiently -- you know, the difference
12 between post-harvest handling and processing
13 is there, and you guys do a lot of that, so
14 we'll look forward to working with you to get
15 some comments specifically on that.

16 You said that the sanitizers, the
17 microbials basically if they are not making a
18 100 percent claim, could you just go through
19 what you said there again in answer to Julie's
20 question?

21 MS. ALLAN: Sure. I guess what
22 I'm saying is I'm referencing when you're

1 calculating a percentage of organic product.
2 I'm assuming that's what your question was
3 going toward.

4 MR. SMILLIE: Right.

5 MS. ALLAN: That if that
6 individual ingredient is not being labeled as
7 100 percent organic, it's going into a final
8 product, we don't have a problem assuming that
9 that is a 100 percent product.

10 MR. SMILLIE: Got it.

11 MR. DELGADO: Bea.

12 MS. JAMES: You mentioned that you
13 thought -- CCOF feels that the 100 percent
14 claim should just be eliminated, it's too
15 complicated. It was intended for
16 unadulterated products like -- give me an
17 example. Are there still some out there? I
18 mean you're basically saying like produce and
19 nothing really -- or your standards qualify
20 for that anymore?

21 MS. ALLAN: No, I think there are
22 definitely products that can meet the 100

1 percent requirements. I think that we're
2 talking about the spirit of it, and I think
3 that's what we're trying to say, is you don't
4 necessarily need a 100 percent -- you don't
5 need highly processed products to be able to
6 be labeled as 100 percent organic. And that
7 is okay if we don't have that.

8 MR. DELGADO: Any other questions?
9 Thank you very much.

10 MS. ALLAN: Thank you.

11 MR. DELGADO: Next is Kelly Shea,
12 followed by Coni Francis.

13 MS. SHEA: Hi, there. I'm Kelly
14 Shea with White Wave Foods, and you know us as
15 Horizon Organic Dairy and Silk Soy Milk.

16 Mr. Chair, in the interest of
17 time, if the board members would review the
18 written comments that we submitted, I would be
19 willing to not take my full five minutes up
20 here.

21 Instead, I just want to thank the
22 NOSB, both past NOSB boards and present NOSB

1 board, for the work that you have done around
2 the pasture rulemaking.

3 I sat down and looked a little
4 back in history, and do you realize that
5 beginning in 1994, with subsequent work in
6 '95, '98, 2000, 2001, twice in 2005, and then
7 again with the ANPR in the symposium in April
8 2006, this board has attempted to help USDA
9 and help the community address this issue?

10 So I thank you very much for not
11 giving up.

12 We have finally a proposed rule on
13 pasture we can celebrate. It's not perfect,
14 but I think it will be a very, very workable
15 rule.

16 As well, we are not looking for an
17 extension on this, and I know that this
18 rulemaking is not in your hands, but I really
19 do want to thank this board for everything
20 they've done.

21 I think we also commend the USDA
22 for their stated intent to begin further

1 rulemaking to deal with the uneven playing
2 field on original of livestock in the rule.

3 So we are going to continue to
4 follow that as well, and we are asking the
5 NOSB that you would as well continue to follow
6 that issue, and urge the USDA to move forward
7 with the next piece of rulemaking that we're
8 waiting for.

9 Okay. So thank you guys for
10 everything you do. I know it's a lot of hard,
11 rough hours, and we really appreciate it.

12 MR. DELGADO: Thank you. Any
13 questions? Thanks. Moving on then to Coni
14 Francis, followed by Rich Theuer.

15 MS. FRANCIS: I think Valerie is
16 putting up my little presentation for you, but
17 I can start with saying that my name is Coni
18 Francis, and I represent GTC Nutrition. GTC
19 Nutrition is a manufacturer and supplier of
20 science-based nutritional ingredients to the
21 traditional and organic food markets, and one
22 of the things that I want to do is to thank

1 the board for the opportunity to comment
2 today, and I especially want to thank the
3 Handling Committee for all their hard work in
4 reviewing the petition materials. I know that
5 this takes a lot of your time, and I know you
6 take your work very seriously.

7 My comment is on calcium from
8 seaweed, and although yesterday we did hear
9 comments regarding the thoroughness of the
10 review process in regards to the manufacturing
11 of petition materials, in my experience the
12 Handling Committee is quite thorough in their
13 review process and, in fact, they look very
14 seriously at the manufacturing of the
15 materials that are petitioned.

16 In addition, the material, the
17 calcium from seaweed, has undergone GRAS
18 review, which requires extensive manufacturing
19 information and has received a "no questions"
20 letter from GRAS with the petition GRN-00028.

21 Further, this material has been
22 certified by the Organic Trust, Ltd., which is

1 an EU organic body that is there, and if we
2 could go to the next slide.

3 The petition material is calcium
4 that comes from a seaweed. It's produced
5 actually from a red algae, lithothamnium, and
6 it grows for about four to five years in the
7 ocean naturally. It absorbs the essential
8 minerals and nutrients from the sea, and then
9 when it is mineralized, the portion drops to
10 the ocean floor and then it's harvested,
11 washed, and milled for use as an ingredient in
12 foods.

13 The composition of this substance
14 is over 95 percent minerals. The rest is
15 essentially moisture that's there.

16 The mineralized seaweed, in fact,
17 is a very positive organism in terms of the
18 fact that this is a very sustainable process
19 because we don't touch the living seaweed. We
20 only take that that has died, and so it
21 continues to produce, and we aren't, you know,
22 touching them by plant at all.

1 If I could go to the next slide.
2 So just to give you a real quick
3 history of the petition for those of you who
4 didn't sit on the Handling Committee, in the
5 spring of 2007 we did send this petition in
6 and asked that it be put on the national list.
7 We asked for it specifically because we
8 weren't sure where to place it and wanted to
9 make sure that we were putting it in the right
10 place.

11 In September of 2008, it was
12 reviewed by the Handling Committee -- if you'd
13 go to next slide -- and the Handling
14 Committee, as you heard here today, believes
15 that this is a nutrient mineral in accordance
16 with 21 CFR 104.2, and they recommend that
17 this petition doesn't need to be considered
18 and it is currently allowed through the
19 existing things in the 205.605(b).

20 The next two slides that I have
21 will show you just some composition data so
22 that you can see. The first is looking at

1 cations and anions, and you can see that
2 largely it is calcium that we are looking at,
3 with small amounts of other minerals that are
4 there.

5 And then the next slide. This
6 just shows in terms of daily contribution.
7 Since most manufacturers will be using this
8 product to provide either a good or an
9 excellent source of calcium in their product,
10 what you would likely see is that they are
11 going to be looking at that 10 or 20 percent
12 level of calcium, and therefore, as you can
13 see here, if we have a good source of calcium,
14 that's going to provide about 10 percent
15 calcium, and really the only other nutrient
16 that's going to be in very large amounts would
17 be iodine at 7 percent, and an excellent
18 source, you're going to have calcium at 20
19 percent and iodine at less than 15 percent.

20 So it is largely calcium that we
21 are talking about.

22 Next slide, please.

1 So, in summary, this is mainly a
2 source of calcium. We appreciate the
3 consideration of this material, and we want to
4 applaud the Handling Committee for their
5 recommendation not to crowd the list with
6 materials that are already covered under
7 another category. And we feel that it has
8 been correctly classified and support what the
9 Handling Committee has recommended.

10 Are there any questions?

11 MR. DELGADO: Any questions?

12 Okay, thanks very much.

13 MS. FRANCIS: Thank you.

14 MR. DELGADO: We now have Rich
15 Theuer, followed by Lynn Coody.

16 MR. THEUER: Thank you very much
17 for hanging in. I admire your stamina and
18 applaud your dedication.

19 As you may know, I am Rich Theuer,
20 and I have a presentation.

21 The reason I am coming to talk to
22 you today is basically to bring to your

1 attention to the NOP an issue relating to
2 micronutrients in organic crop production.

3 There currently is a section in
4 the rule 205.601(j) that I believe is being
5 misinterpreted by all of the certifiers, or at
6 least many of them, and since we work on the
7 paradigm that healthy soil creates healthy
8 plants that create healthy animals, we should
9 think of that as we go through what I have to
10 say.

11 This is the regulation. It
12 describes micronutrients, and then gets into
13 two, Roman numeral I and Roman numeral II.

14 Can I have the next?

15 If you look at this, the J61 and
16 J62 mention specific nutrients. Most
17 certifiers are interpreting the 1 and 2 as
18 constituting list of allowed synthetic
19 micronutrients. And the question, the basic
20 question, are those the only specific
21 micronutrients, the ones mentioned, are they
22 the only ones allowed, or do these

1 subparagraphs pertain simply to the mentioned
2 micronutrients?

3 In other words, where it says --
4 it lists zinc and a bunch of others, it
5 doesn't mention, for example, nickle, and
6 nickle is an essential nutrient.

7 Can I have the next one.

8 In the regulatory world, for
9 fertilizers, part 205 governs organic crop
10 production, but fertilizers are regulated on
11 a state-by-state basis, not by the Federal
12 government, and AAPFCO, the American
13 Association of Plant Food Control Officials,
14 is the one that establishes standards for
15 fertilizer.

16 Could I have the next.

17 In their terms, in their
18 standards, they have this particular
19 definition, and I would like to call your
20 attention to two things:

21 One, it's essential for the normal
22 growth of plants -- they're agronomists, and

1 they don't mention animals. And they mention
2 certain nutrients that they consider the
3 microplant nutrients.

4 Can I have the next.

5 Well, we got two problems. One is
6 a fuzzy definition of a micronutrient. J6
7 talks to soil, the fish, and the sea. The
8 AAPFCO standard talks to microplant nutrients
9 essential for the normal growth of plants.

10 So what micronutrients are we
11 talking about in the regulation?

12 The other thing is that there's a
13 conflicting list of allowable micronutrients
14 where the rule is inconsistent with the AAPFCO
15 fertilizer standard.

16 Could I have the next.

17 So what should be the definition
18 of micronutrient? Is it a nutrient needed in
19 micro amounts for normal growth of plants? Is
20 it also a nutrient needed in micro amounts for
21 the normal growth of animals and humans
22 consuming the plants?

1 The example there is selenium,
2 which is actually in the rule.

3 Now 205.601, you refer to soil
4 deficiency, you do not refer to plant
5 deficiency. That gives me hope that we are
6 talking also about the animals that eat the
7 plants, not just the plants.

8 Can I have the next.

9 You also have conflicting lists,
10 that they're not the same.

11 Could I have the next.

12 These are okay. Chlorine, you get
13 enough naturally, you don't need synthetic.

14 Next.

15 These are the same. Sodium, again
16 it's like chlorine.

17 But now we get to four nutrients
18 in the next slide -- cobalt, selenium, nickle,
19 and iodine.

20 Cobalt is listed in both places,
21 but if you apply a standard that what is
22 enough for a plant is enough, you're going --

1 you can have a problem with the animals
2 consuming the pasture, sheep, livestock,
3 ruminants, and so you can have wonderful
4 pasture and dead sheep. And that can occur.

5 On selenium, somehow the selenium
6 is mentioned in 205.601. It's not listed in
7 the AAPFCO standard. There are some hints
8 that it might be important for plants, but the
9 other side would be it's definitely needed for
10 animals, so I have to talk to the AAPFCO next.
11 I have already been in correspondence with
12 them.

13 Nickle is not on your list in the
14 NOP, in the rule, but AAPFCO approved it a
15 year ago.

16 And iodine is not in either.

17 Can I have the next.

18 And so nickle is essential
19 according to AAPFCO. It's a documented
20 deficiency. Certifiers are not permitting
21 organic growers to use nickle supplemented
22 fertilizers when soil deficiency is

1 documented.

2 Why? J6 is considered an
3 exclusive list. If it's not on the list,
4 they're saying, no, you can't have it, even if
5 it's documented.

6 The next is iodine. And that's --
7 I'm a nutritionist by training. There's a
8 goiter belt in the United States, cretinism is
9 a source of mental retardation.

10 OMRI last week just dropped iodine
11 from its listing of acceptable micronutrients.
12 Why? Because the provisions of this rule are
13 considered an exclusive list. If it's not in
14 the list, the certifiers are using that as
15 their exclusive list in forbidding any other
16 additions. And I thought both the Secretary
17 and his representatives should know it, and I
18 thought it would be useful for you to be aware
19 of that as well.

20 Thank you.

21 MR. DELGADO: Questions? Joe.

22 MR. SMILLIE: I think we've been

1 around this before, right, in the gums issue.
2 And I thought the intention of the board at
3 that point was that if it's -- that your
4 interpretation of what the certifiers are
5 interpreting is correct. This is an exclusive
6 list, because it doesn't say "including but
7 not limited to" kind of language.

8 But, Dan, I'll defer to you on it.

9 MR. DELGADO: Dan.

10 MR. GIACOMINI: The one thing that
11 I would like would be the language that had
12 been in the list originally with the animal
13 mineral listing and see how that language
14 compared. I really don't know where it stands
15 right now, and it would be up to
16 interpretation, you know.

17 MR. THEUER: In the absence of the
18 Roman numeral I and Roman numeral II sections,
19 the deficiency is documented. So if you just
20 take the 6 without subparagraph I and II, it
21 would actually not be an exclusive.

22 Thank you.

1 MR. DELGADO: Any other questions?

2 Next we have Lynn Coody, followed by Lynn
3 Clarkson.

4 MS. COODY: Hi, everyone. I'm
5 here to talk today about biodiversity. I'm
6 presenting testimony for the Wild Farm
7 Alliance.

8 Wild Farm Alliance is a
9 California-based organization working to
10 promote healthy viable agriculture that
11 protects and restores wild nature.

12 Our activities in the realm of
13 organic agriculture are varied and include
14 publication of two booklets on biodiversity
15 conservation, which I brought copies of if
16 anybody would like to see them. I've brought
17 them here before, but if you'd take a closer
18 look, you may.

19 They're also available on the Web
20 site free, and they'll be happy to send you
21 copies if you'd like copies of it. They'd
22 like to distribute them widely.

1 The latest publication is a
2 document that contains specific suggestions
3 about differentiating major and minor
4 noncompliances related to implementation of
5 the biodiversity standard, so it's very
6 specific.

7 Wild Farm Alliance would like to
8 express thanks to the NOSB's Joint Committee
9 for its discussion paper on biodiversity, and
10 to the NOSB as a whole for taking action on
11 the points we presented in our public comments
12 during the board's meeting last May.

13 Today I would like to present
14 comments on four topics raised in the Joint
15 Committee's discussion paper.

16 So the first topic is considering
17 biodiversity during the materials review
18 process. Wild Farm Alliance concurs with the
19 Joint Committee's recommendation that NOSB
20 fully implement a decision made by the board
21 in 2004 to adopt a criterion for a materials
22 evaluation that would ensure that materials on

1 the national list have a positive impact on
2 biodiversity. That's what the NOSB had
3 passed, and we would like to see that included
4 now.

5 So Wild Farm Alliance notes the
6 paper's findings, that the evaluation
7 criterion has been added to the materials --
8 has not been added to the materials checklist
9 used by the committees in evaluating
10 materials. This in spite of the fact that
11 this recommendation received strong support by
12 all commenters.

13 We ask the NOSB to take all
14 necessary steps to incorporate this criterion
15 when evaluating materials for addition or
16 removal from the national list as well as for
17 decisions related to the sunseting process.

18 Topic two. Revising AHRQ's
19 checklist to include assessment of
20 biodiversity. This is the point that we spoke
21 about last May.

22 We strongly support the Joint

1 Committee's point that NOP should work with
2 the audit review and compliance branch to
3 revise the checklist used to audit
4 certification agents.

5 This change would support
6 implementation of the biodiversity standards
7 by all NOP accredited certifiers.

8 Last May, Wild Farm Alliance came
9 before the NOSB with testimony about our
10 organization's efforts to bring this issue to
11 the attention of both AHRQ and NOP. At that
12 time we identified three specific changes in
13 the checklist that we believe would completely
14 correct this problem.

15 We have resubmitted the details of
16 this proposal in our written testimony, which
17 hopefully you have on the Web site, and we
18 believe that revisions of AHRQ's checklist
19 represent a critically important step toward
20 implementing NOP regulations for biodiversity
21 in conservation of natural resources.

22 Taking this step will allow

1 certifiers to compete on an equitable basis.
2 It will ensure that consumers are getting what
3 they pay for, organic products whose claims of
4 environmental friendliness are backed by
5 accreditation and certification systems that
6 verify these claims.

7 The third topic is implementation
8 of the biodiversity standard through the
9 organization system plan. We support all the
10 suggestions by the committee about methods for
11 implementing the biodiversity standard through
12 certification and accreditation systems.

13 We included an attachment to our
14 written comments that provides detailed
15 marked-up versions of the committee's paper
16 containing more suggestions on this topic.

17 And the fourth and last one is
18 training with regard to the suggestion that
19 the role of NOP in providing training about
20 biodiversity. We have contributed some
21 specific ideas about the contents of such
22 trainings in our written comments and, as

1 mentioned earlier, Wild Farm Alliance has
2 published booklets designed to provide
3 practical information, suggestions, and
4 examples about implementation of biodiversity
5 standard, so if desired, we would be happy to
6 supply these documents as background
7 information for NOP trainings.

8 In closing, I would like to thank
9 again the committee and we appreciate the
10 opportunity to review and provide comments on
11 the document and to work with you as
12 additional resources for information if you
13 would like.

14 Thank you.

15 MR. DELGADO: Questions? Barry?

16 MR. FLAMM: Just a comment. I
17 want to publicly thank you, Lynn, and Wild
18 Farm Alliance for the great work that they've
19 done, and also I want to extend my
20 appreciation to everyone that provided
21 comments, and we'll be going over them --
22 we've already read them, but we'll be going

1 over them carefully as we prepare our paper.

2 MS. COODY: Thanks, Barry. I look
3 forward to working you some more.

4 MR. DELGADO: Any other comments,
5 questions? We go now to Lynn Clarkson,
6 followed by Bill Wolf.

7 MR. CLARKSON: Good evening. My
8 name is Lynn Clarkson. I'm managing director
9 of Clarkson Soy Products. My company's name
10 is on two petitions that have been submitted
11 to your board, and the petitions are quite
12 complete. We are quite pleased with the way
13 they came out.

14 I'm here to give you some insight
15 into why we timed our petitions as we did, and
16 to address Julie Weisman's comments about how
17 you encourage an organic ingredients supplier
18 to step into this marketplace.

19 To do that, I have to give you a
20 little history. Lecithin, which many of you
21 probably can't spell real well, but will be by
22 the time you're done, lecithin is principally

1 an emulsifier. It's used in almost every
2 process and product on the grocery store
3 shelf.

4 When the national list started,
5 there was no organic source of lecithin. Why
6 did we get into it? Because we were
7 challenged by a major food company who was in
8 this room a little earlier today who wanted,
9 who embraced the organic policy. They wanted
10 organic lecithin. They asked us if we could
11 try and make it.

12 Three years later, having fallen
13 off the learning curve at least five times and
14 broken our financial neck at least twice, we
15 learned how to make it. We have been
16 providing commercial lecithin since 2004.

17 It is in baby food, it is in candy
18 bars, it's in chocolate, it's in energy bars,
19 it's in oil sprays, it's in baked goods, it's
20 in ice cream, and somebody on my way up here
21 just handed me this topic, which is a 70
22 committee organic product using organic

1 lecithin. This is one of the companies that
2 cares.

3 Okay. I'd like you to invite you
4 for a virtual hike down the hill to an organic
5 grocery store that looks a lot like the ones
6 that are actually down there.

7 We can walk up to almost any
8 category of product on the grocery store
9 shelf. We can walk up and I can put my hand
10 on product A, let's say vegetable oil spray,
11 hand it to you, you read the label, organic
12 lecithin.

13 Immediately to the left or right
14 of that, I can put my hand on product B, C,
15 and D, hand it to you. You will not be able
16 as a consumer to tell the difference in those
17 products, but those other three products are
18 using conventional lecithin.

19 I can do this time and time again.
20 We have been relying on the organic-first
21 policy, we have relying on NOP, and we have
22 been relying on certifiers, and I would guess

1 that there are probably four times as many
2 people scamming the system as
3 really embracing the policy of organic first.

4 So what are the consequences of
5 that? The organic food chain stays open to
6 the use of hexane, which is a volatile
7 synthetic solvent and a neurotoxic. There's
8 no need for that.

9 The organic food chain stays open
10 to nonorganic soybeans. No need for that.

11 Every pesticide that's allowed by
12 the USDA, still involved in the organic food
13 chain. No need for that.

14 Who wins, who loses? Well, who
15 loses, the organic consumer, the organic
16 farmer, he doesn't get supported, the organic
17 manufacturer of foods who really embraces
18 organic first, and the organic ingredient
19 supplier.

20 Who wins? The guy who wins is the
21 guy that's gaming the system and looking for
22 the lowest common denominator to get him into

1 a label category.

2 What approach have other bodies
3 taken? Take a look at the Soil Association.
4 Effective January 1, 2009, they will certify
5 no product as organic unless it has -- if it's
6 a product that uses lecithin, unless it has
7 organic lecithin in it. None.

8 Now that's a polar position.

9 Take a look at the Canadian rule.
10 The Canadians have done something interesting.
11 They've said if you have to have a form of
12 lecithin that's not available organically,
13 it's okay as long as you start with organic
14 lecithin. Soy lecithin. Thank you.

15 So that removes 99 percent of the
16 incentive for gaming the system because you
17 have to start with organic lecithin. And
18 everybody's organic lecithin starts as a
19 fluid, and then you modify it.

20 So what we are basically saying is
21 we have lost complete faith in the regulatory
22 system as we have it today to encourage people

1 to be organic first. We would like something
2 that's clear enough that the NOP knows how and
3 can enforce it without being tied up for years
4 in controversial arguments, at their
5 discretion and judgment and reason.

6 So that's why we're asking two
7 invitations to you. We are one of the world's
8 lecithin experts, third party. We are
9 available to you in your deliberations if it
10 would be helpful.

11 If any of you wish to visit the
12 plant where this is done at some time, to help
13 your deliberations, tell us.

14 Thanks.

15 MR. DELGADO: Any questions? Joe.

16 MR. SMILLIE: Good presentation,
17 Lynn. I know exactly what you mean. You can
18 see that on the shelves. It's there for
19 everyone to see. But let's cut to the case,
20 two big issues. We have heard presentations
21 from certification agencies saying that their
22 clients are telling them that the organic

1 lecithin doesn't meet their needs, form,
2 quality, function. That's number one.

3 Let me get both of them. The
4 second one is this new -- I shouldn't be
5 surprised, but the allergen issue, okay. It's
6 only soy lecithin that you're providing and
7 that there is an allergen issue up there also,
8 that other forms of lecithin or lecithin
9 replacements.

10 So I'd like to hear you address
11 those two issues.

12 MR. CLARKSON: Number one, many
13 people said the quality won't work, you have
14 a cognate product that's almost identical. So
15 I wonder.

16 Secondly, we intercept a lot of e-
17 mails we never intended to as we hit the
18 "respond to all" key.

19 (Laughter.)

20 Every one of those goes back to an
21 economic issue, not a quality issue. So I'm
22 saying there are no issues. I'm saying it

1 puzzles me greatly why three candy bars have
2 to use conventional and another one that just
3 looks like is using organic.

4 The second thing is I don't know
5 what to do about the allergen issue. Ninety-
6 nine percent of all the lecithin used in the
7 world is soy-based lecithin, so I don't really
8 know how to address that other than cut out a
9 niche for it. I don't know what to do about
10 that.

11 MR. DELGADO: Any other questions?
12 Bea.

13 MS. JAMES: Is your lecithin 100
14 percent organic?

15 MR. CLARKSON: We have been
16 offering 100 percent organic lecithin --

17 MS. JAMES: Unadulterated, 100
18 percent organic?

19 MR. CLARKSON: Unadulterated. Now
20 if you want the yeast lecithin, that's at 95
21 percent.

22 MR. DELGADO: Any other questions?

1 Thank you very much. Gerry, you have a
2 question?

3 MR. DAVIS: Sorry. I was just a
4 little slow. You were speaking quickly in the
5 area of talking about the Canadian system, and
6 I want to make sure I understood what you
7 said, if you could slow down and repeat that
8 about it's okay as long as you start with 100
9 percent.

10 MR. CLARKSON: The draft version
11 of the Canadian rule that was supposed to go
12 into effect a month or so about now, it now
13 looks like it's coming into effect the middle
14 of next year, said addressing the issue of
15 bleach lecithin, said if you wish to bleach
16 lecithin and it's not available organically,
17 it's okay to bleach lecithin as long as you
18 start on organic lecithin.

19 Now that would get us out of the
20 situation where people run to the conventional
21 supplier, and that would be faithful to the
22 consumer, blah, blah, blah.

1 So there is one. We're not -- and
2 I need to make the point we're not asking to
3 rule out every form of lecithin from the
4 national list. But we can do it the way the
5 Canadians do, and say as long as you start
6 with organic lecithin, it's okay then to use
7 acetone. But right now everything
8 conventional is using hexane, and if it's the
9 oil, they're using acetone.

10 MR. DAVIS: Joe, could you go back
11 to the expert and how that would be available
12 to the Handling Committee if we have
13 questions?

14 MR. SMILLIE: We went to the
15 University of Illinois Soy Food and said who
16 is a retired expert who hasn't spent his life
17 on phosphate lipids that we could consult. We
18 have him as part of our presentation in our
19 petitions. He has no tie to us. His
20 reputation is far broader than us. If you
21 wish to put him into debate with anyone, if
22 you wish to ask him questions, we will be

1 happy to make him available to you.

2 MR. DELGADO: Any other questions?

3 Thank you very much.

4 MR. CLARKSON: You're welcome.

5 MR. DELGADO: Now Bill Wolf, and
6 followed by Patti Bursten-Deutsch.

7 MR. WOLF: Hello again. First of
8 all, I am proxying for -- I need to speak very
9 briefly on behalf of Blue River Hybrids, thus
10 the hat.

11 I am Bill Wolf, and I will get
12 into some other of the issues I was originally
13 planning to talk about, but first I'd like to
14 make a statement for Blue River because of
15 some of the comments and clarify it. This is
16 really for clarification.

17 MR. DELGADO: You're saying you
18 have a proxy in addition to this time, or you
19 actually --

20 MR. WOLF: I am going to make
21 every effort to stay within five minutes
22 because I really feel for you guys. This is

1 just horrible.

2 MR. DELGADO: Thank you. Thank
3 you.

4 MR. WOLF: Two issues. One, Blue
5 River is not in favor of using treated seed
6 stock to grow organic seed. They have been
7 referenced as though they were.

8 Two, Blue River has multiple
9 varieties of corn and soybeans for the north
10 central part of the country, and those were
11 just clarifications because there were
12 implications or statements in other testimony
13 that implied that Blue River was -- that was
14 not the case.

15 I'd like to take my hat off and
16 switch to some tough topics that you are
17 facing, but first I want to say that the first
18 NOSB meeting I attended was the first NOSB
19 meeting. It was just over the bridge in Key
20 Bridge. And there were 15 board members, one
21 person from the USDA, and four people, four
22 presenters, and I'm -- I just want to say that

1 the continuous improvement in public comment
2 and interaction is extraordinary, and the
3 issues have gotten way more complicated.

4 I would like to talk first about
5 the -- as you recall, I submitted and handed
6 out to everyone a comment that was submitted.
7 Has everybody got copies of it? If they
8 don't, I have additional copies.

9 But I talked about the fact that
10 the ag-non-ag debate is a debater's heaven,
11 and if I were a debate coach, I would say now
12 there's the issue you can debate every year
13 and you will always have a different outcome
14 of the debating team, depending on who is
15 really good at it.

16 And that's why we at Wolf-DiMatteo
17 strongly recommended that you look at option
18 three or four of the materials working group,
19 because it wasn't intended to be a loophole
20 for organic preference, and that's what is
21 happening in many areas on 605, and you will
22 continue to have that problem unless you solve

1 the structural problem of having one materials
2 list with organic preference required on all
3 materials.

4 Item two, I had listed five
5 specific recommendations we had. I'm going to
6 add a sixth, and that is that I strongly
7 encourage you to go forward with the multisite
8 recommendation pretty much the way it is
9 presented with some of the editing, minor
10 edits that I've heard about, and I'm going to
11 talk from my own experience.

12 I have been involved in my own
13 certifications, helping others being
14 certified, writing robust organic system
15 plans, and reviewing operating systems of
16 grower groups.

17 I have never seen an inspection
18 that looked closely at every field, at every
19 corner of a barn. The most important part of
20 the organic certification is the organic
21 system plan and the audit of that plan, and
22 reviewing and verifying it and reviewing and

1 having a really tight internal control system.

2 In fact, my company believes that
3 everybody who is certified should have their
4 own OSP, like a HASOP plan, not a form that
5 was filled out, and I'm really glad to hear
6 that the NOP is going to tackle as its first
7 guidance document what an OSP contains.

8 And finally, the last item I need
9 to clarify a few things about materials in
10 sorbitol, and the general -- the statement I
11 made yesterday about the fact that I think
12 there is some issues around materials are
13 being reviewed are substantially structurally
14 different.

15 I think you all received a copy of
16 seven letters from growers and from PCOs
17 asking for sorbitol to be approved.

18 I am concerned that the actual
19 process for reviewing has shifted. In the
20 case of sorbitol, it differed radically from
21 the sucrose in that it was declared that it
22 wasn't compatible with organic production on

1 the petition.

2 The second point I'd like to make
3 is since some of the comments were made, I
4 went back and looked at the sucrose vote and
5 comments in the 2005 discussion by the board,
6 and this was really a chain of events about
7 how the product was registered.

8 It was first registered, then the
9 petition was submitted, then the petition was
10 amended to add crops because EPA in fact
11 approved it for those crops. And the only
12 reason sorbitol wasn't applied for at that
13 time is because there was no EPA registration.

14 So I think I am really concerned
15 that you follow your protocols of consistent
16 review and look closely at the need dynamic,
17 and that's really what I had to say.

18 Thank you.

19 MR. DELGADO: Any questions from
20 the board? Thank you.

21 MR. WOLF: I do have one statement
22 that was your -- when I spoke yesterday, you

1 said -- someone said, oh, can you tell the
2 difference between sucrose and sorbitol? And
3 I said I shouldn't be speaking to that, I
4 don't know, you should ask the petitioner.
5 And I was told it would come up during the
6 committee's discussed deliberation or
7 presentation of the sorbitol conversation
8 yesterday. My understanding is that because -
9 - I mean today, right before lunch. My
10 understanding is that that difference still
11 has not been described to you. So I wasn't
12 able to answer that question yesterday. I'm
13 sorry it didn't come up at noon time today.
14 But I do know that the petitioner changed his
15 flight to be available for either now or for
16 tomorrow if there are any questions.

17 MR. DELGADO: Gerry.

18 MR. DAVIS: I hear what you're
19 saying, and I think it would be worthwhile to
20 have them delineate the difference, because I
21 think the petition that we saw was fairly
22 deficient in explaining the difference between

1 the two.

2 MR. DELGADO: Is the petitioner
3 here? Can you please come up to the podium
4 and identify yourself?

5 MR. REYNOLDS: Sure. Thank you
6 very much. Again, Devlin Reynolds with
7 Natural Forces.

8 I'll cut right to the crux of the
9 matter.

10 The first thing I want to point
11 out is in the letters sent to you from the
12 growers, I just want to read one paragraph
13 from a hops grower. It appears hops is a big
14 item here. This is from Tim Perault, if you
15 want to call him. He's in Washington State,
16 if you all know him.

17 "There are not enough insect
18 control substances on the NOP national list to
19 warrant an investment in additional organic
20 hop acres. A shortage of organic production
21 of hops exists today as the industry cannot
22 produce enough to keep up with demand.

1 Without additional materials approved for use,
2 we cannot grow our business and meet the
3 demand of the consumer by increasing our
4 organic acreages to help meet the demand."

5 I don't know any simpler than
6 that. The difference between the two
7 products, first of all, one, the REI. I think
8 we all understand what that is. You spray
9 today, how soon can you go back in and work as
10 a handler or a harvester.

11 Sucrose octanoate ester has a 48-
12 hour REI based upon the U.S. EPA standards.
13 Sorbitol octanoate is 24 hours.

14 Everybody here who grows a crop
15 that's perishable understands the difference
16 between 24 and 48 hours. If you have berries,
17 if you have greenhouse vegetables, if you have
18 a you-pick operation, you can't spray day one
19 at 6 a.m. and your crop is ripe and have to
20 wait 48 hours before you can let anybody in
21 there.

22 So that is a giant difference when

1 you're talking about perishable crops at the
2 end of the season.

3 You've got instances that are in
4 those letters from a grape grower in North
5 Carolina. We've got hurricanes coming in,
6 we've got fruit flies, what can we spray in
7 there that we can get out?

8 Well, they need a product they can
9 spray and get out of there that they haven't
10 already applied this year that socked their
11 beneficials. That's one. And that's the
12 biggest deal.

13 Leafy vegetables. We all know
14 what we're talking about. Perishable goods.

15 The second thing is in sustainable
16 agriculture, the processing and the making of
17 sucrose octanoate ester involves recovering
18 the use of solvents. It also has about a 10
19 X energy use rate to be able to make sucrose
20 versus sorbitol. Sorbitol is a much simpler
21 process. There is no use of solvent, there's
22 no solvent recovery. It's a much more

1 sustainable type product.

2 The third thing is the insect
3 control. The two active ingredients -- you
4 know, the one is marketed as a 40 percent AI,
5 the other is a 90 percent AI. Just the
6 consistency of the materials, sorbitol is
7 heavier. When it attacks a larger insect, it
8 will burn a bigger hole in the insect. Don't
9 mean to be crude, but the way it works is it
10 eats the cuticle layer of an insect, burn it
11 out, uncontrollable loss of moisture, okay.

12 A thinner product does a better
13 job on certain insects, but a thicker product
14 does a much better job -- going back to my
15 mealy bug example. When you have a larger
16 insect, you need something that's going to be
17 stronger on that insect, and that is what
18 sorbitol does that sucrose cannot do.

19 That's probably not the case with
20 bee mites, but it is the case with mealy bugs,
21 it is the case with leps, it is the case with
22 some of the stronger insects that cannot be

1 controlled by sucrose.

2 And so those are the three primary
3 differences. And my question is if we can't
4 vote to allow it now, I'd like to see if we
5 could at least allow for, you know, a review
6 of the product or at least table it.

7 MR. DELGADO: Gerry.

8 MR. DAVIS: The question on the
9 two materials on mite control in bees, is it
10 sucrose only?

11 MR. REYNOLDS: Sucrose is the only
12 one that's registered today for bee control.

13 MR. DAVIS: That wasn't real clear
14 to us when we were going through it.

15 MR. REYNOLDS: No, it's -- I'm
16 just saying mathematically from a chemistry
17 standpoint, the molecules in sorbitol probably
18 would not be as good on bee control of mites
19 than sucrose is. But it is not registered
20 today for been control.

21 MR. DAVIS: And what would have
22 been the scenario if both of those materials

1 received EPA registration at the same time?

2 MR. REYNOLDS: I have absolutely
3 no idea.

4 MR. DAVIS: I mean as far as your
5 submitting them for organic consideration.
6 Would you have submitted them at the same
7 time?

8 MR. REYNOLDS: I would have, yes.

9 MR. DAVIS: The only reason we --
10 it's taken a few years longer for us to see
11 sorbitol is because you did not have an EPA
12 registration at the time that the sucrose
13 petition was put in.

14 MR. REYNOLDS: It was my
15 understanding -- and again, I was not part of
16 the process when they put it in, so you're
17 asking me something that I have no idea about,
18 and you're asking me if it was me. It's my
19 understanding we can't submit anything until
20 we get an EPA registration, period.

21 MR. DAVIS: Right, yes, I
22 understand that. But that explains the delay

1 in -- because now the issue is, well, we
2 already have sucrose octanoate on the list,
3 why should we allow sorbitol. That's one of
4 the reasons.

5 MR. REYNOLDS: Sure. Exactly.
6 And again, my reason is because they are two
7 different products doing two different things.

8 Again, you have white sugar and
9 brown sugar. When you make molasses cookies,
10 do you make them with white sugar? No. You
11 make them with brown. Same difference with
12 insect control.

13 MR. DELGADO: Any questions,
14 comments? Okay. Thank you very much. We
15 will now continue with Patti Bursten-Deutsch,
16 followed by Grace Marroquin.

17 MS. BURSTEN-DEUTSCH: Hi,
18 everybody. Good evening. I am Patti Bursten-
19 Deutsch, president of Organic Concepts, an
20 independent organic inspector and a certified
21 organic dairy farmer.

22 It is my plan to comment in five

1 sentences, and this is now two. Will the
2 verification of the 30 percent DMI requirement
3 be based on an assumption of how much each cow
4 is consuming, or is each producer required to
5 demonstrate in some explicit way that each cow
6 actually consumed 30 percent dry matter?

7 Please consider this and provide
8 clear, concise, and unambiguous guidance to
9 farmers, inspectors, and certifiers.

10 I appreciate very much all of your
11 earnestness and hard work in what I hope is
12 not a thankless effort.

13 MR. DELGADO: Very good. Are you
14 addressing that to the board at the moment?

15 MS. BURSTEN-DEUTSCH: I was hoping
16 Richard would be here, and I feel like it
17 needs to be inserted in the public comment.

18 MR. DELGADO: Yes.

19 MS. BURSTEN-DEUTSCH: Thank you.

20 MR. DELGADO: As I also remind the
21 public, there is always the option of
22 submitting written comments, questions.

1 Going on with Grace Marroquin.

2 MS. MARROQUIN: I'm Grace
3 Marroquin with Marroquin Organic,
4 International. I promise I'm not going to
5 talk about yeast. I promise.

6 Besides being an organic
7 ingredients supplier, I also have a reputation
8 for minor ingredient suppliers. That means
9 those ingredients that are generally used from
10 a half to 3 or 4 percent. And of course,
11 yeast -- I did say the word once -- fits into
12 that category.

13 But I am here actually because you
14 are discussing citrus pulp, and there were
15 some questions raised in this discussion, and
16 I want to give some support to this issue
17 because I think, Dan, you brought up the
18 question about other companies -- because they
19 have these five patents out there, there
20 wouldn't be this incentive for anyone to do
21 this.

22 Well, I represent a company called

1 the Marma Corporation, and they are based in
2 Labelle, Florida, and we are producing a
3 product, we're calling it citrus hummus, which
4 is comprised of citrus pulp and membrane,
5 which is the same product, in addition to the
6 flavino, which is the orange part of the
7 orange, and albedo, which is the white part of
8 the orange. Very similar in action, but it
9 has other additional properties.

10 But already there is another
11 company standing in there, and at one point it
12 was our understanding that China was producing
13 the citrus-type hummus product a long time
14 ago.

15 So I want to give them support to
16 the idea also about the problem with raw
17 material availability. Their product, as he
18 mentioned to you, has a 20-to-1 ratio. The
19 product that we are producing is an 8-to-1
20 ratio, and I called my supplier here about an
21 hour and a half ago to confirm what they had
22 told me, which is there's not enough organic

1 fruit to be able to do this organically yet.

2 Now I wouldn't have even aligned
3 myself with the Marma Corporation if it wasn't
4 because I thought there was a possibility of
5 bringing this product out organically, because
6 that's what we do. And there's not too many
7 companies as foolish as ours who look at that
8 little minor ingredient and goes after it,
9 because we feel that with the idea of organic
10 preferences, you put it on 606, and it
11 motivates companies to produce things. And
12 just as if you put this on it, and you're
13 going to find that there will be other
14 companies who will be looking at it, and they
15 may be coming in from Honduras or El Salvador
16 where maybe they have more control of smaller
17 production and they will be able to do it.

18 But this is how this industry
19 grew, this is why we are here where we are
20 today is because of organic preference.

21 The industry needs things like
22 shelf life extenders and antioxidants and

1 preservatives. This product gives them an
2 opportunity for shelf life extenders.

3 Our product, when we bring it out,
4 will be also a powerful antioxidant. I didn't
5 know they were going to be here today, and I
6 was trying to get my guts up to be able to do
7 another petition which, you know -- and it is
8 a daunting process, but at least if you put
9 something on the 606, there's the opportunity
10 then to produce something organic.

11 That's all I have to say. And how
12 am I going to petition this? That would be my
13 next question. If someone is petitioning for
14 pulp, then we go pulp and fiber and albedo and
15 flavedo, you know -- but you can talk to me
16 about that separately.

17 But, again, I just wanted to give
18 some support.

19 MR. DELGADO: Thank you.

20 Questions?

21 MS. MARROQUIN: Thank you all, and
22 good luck tonight.

1 MR. DELGADO: I guess there's a
2 question. Joe.

3 MR. SMILLIE: I'll keep it brief.
4 I have a comment that I believe that the
5 evidence is slowly turning that when you put
6 something on 606, it spurs the growth of
7 organic, and I think that we're starting -- I
8 think the Handling Committee, dealing with
9 this every day, that's what we're seeing.

10 MR. DELGADO: Thank you. Next we
11 have Katherine DiMatteo.

12 MS. DiMATTEO: Thank you. Hello.
13 My name is Katherine DiMatteo, and I'm with
14 Wolf, DiMatteo & Associates today.

15 I like being sort of at the end of
16 the list because I'm picking up the bits and
17 pieces of things that haven't come up yet, I
18 hope.

19 What I wanted to say is that
20 National Organic Coalition, which is made up
21 of a broad group of environmental and organic
22 farming organizations, including Beyond

1 Pesticides, Center for Food Safety, Equal
2 Exchange, Food and Water Watch, Maine Organic
3 Farmers and Gardeners Association, Midwest
4 Organic and Sustainable Education Services,
5 the National Co-Op Grocers Association,
6 Northwest Dairy Producers Association,
7 Northeast Organic Farming Association State
8 Council through the U.S.A. and the Union of
9 Concerned Scientists -- their electronic
10 comment did not appear. So you did not see
11 it, and it was on a number of issues,
12 including the multisite certification.

13 In it, they do support the current
14 recommendation with some suggestions for
15 changes to make clear that the recommendation
16 and the criteria are about producer groups
17 now.

18 So I just wanted to make you aware
19 that this broad coalition in their comment
20 also supports the current statement with some
21 suggestions for changes, and if you can get
22 your hands on that, I think you've seen that -

1 - some of those suggestions already.

2 And I just want to -- I bring that
3 up because I wanted to say that over the
4 course of the last year, we in the community
5 have closer together on supporting the
6 recommendation.

7 So a lot of suggestions that we
8 had come out individually in terms of how to
9 define what a smallholder is, how to define to
10 do the samples, how to put requiring limits or
11 the five-year having -- making sure that
12 everyone got inspected once every five years -
13 - what you are seeing now with the support for
14 the current recommendation is that we have
15 come closer together to support the criteria
16 and the protocols that are being set up in
17 that recommendation.

18 I would just caution you, a number
19 of people have said this on different issues
20 during this -- these meetings, that we -- the
21 organic sector is defining ourselves out of
22 existence if we're not careful about how much

1 we write in as prescription as opposed to
2 process and to clear criterion protocol.

3 We must be careful. Don't let
4 ourselves be destroyed by lack of trust and
5 giving up on the process-based system that we
6 really believe in.

7 And I want to add to that comment,
8 I want to read from Grace Keshuni's comment.
9 She had to leave. She was also one of the
10 people who have fallen off the list, but I'm
11 reading this from Grace's comment, which you
12 have, because I agree with it.

13 Again, now I'm Grace.

14 "Once upon a time when I was an
15 activist and small organic farmer, organic
16 standards were a self-imposed system of rules
17 developed primarily by organic farmers, those
18 who had to work with them on the ground.
19 Consumer expectations have always figured into
20 organic standards, but there was a general
21 understanding that consumer perceptions of
22 what is pure and natural did not always fit

1 the reality of organic farming, let alone food
2 processing. Organic standards were not just
3 about marketing products, either. We thought
4 that consumers might well be ignorant about
5 farming and food production, but they could
6 learn. It was more important to support
7 farmers who did the right thing than to pander
8 to consumer fears. Today no one seems
9 bothered by the assertion that consumer
10 expectations, even those grounded in
11 ignorance, are all that matters. Add to that
12 the argument that consumers cannot understand
13 and could care less about the nuances of
14 organic methods and only want to be assured
15 that organic products meet the toughest
16 possible standards. What it often adds up to
17 is unparalleled hypocrisy and betrayal of the
18 early vision of organic in the name of an
19 ideological anticorporate agenda that actually
20 works against the interest of both small
21 farmers and ordinary citizens. In fact,
22 tightening the rules creates more obstacles

1 for small players to enter the market than for
2 large players who are accustomed to meeting
3 bureaucratic requirements and have paid
4 compliance staffs. They actually prefer to
5 have tighter standards to protect the
6 substantial investment needed to get in. With
7 the myriad crisis we face, not least of them
8 climate change, why on Earth would anyone want
9 to limit the possibility of the broadest
10 possible transition to organic methods without
11 delay."

12 Thank you very much.

13 MR. DELGADO: Questions for
14 Katherine? Tracy.

15 MS. MIEDEMA: Just a quick
16 clarification. Valerie did e-mail out the
17 National Organic Coalition comments, and I
18 have spoken with Lynn Coody about specific
19 wording confusion. So we are on top of that.

20 MS. DiMATTEO: Okay.

21 MR. DELGADO: Joe.

22 MR. SMILLIE: I just wanted to

1 say, Katherine, you mentioned a fairly large
2 group of people, and you are saying that there
3 was consensus and support of the multisite
4 document, and you said there was a few issues.
5 Could you just briefly hit those ones? We're
6 on top of --

7 MS. DiMATTEO: Lynn or Emily -- I
8 don't have it in front of me.

9 MR. SMILLIE: Brief. Well, we've
10 got the one that says change -- oh, my brain.

11 MS. DiMATTEO: Change post-harvest
12 handling.

13 MR. SMILLIE: Yes. Change
14 handling to post-harvest handling. We've got
15 that one. If we could just get the titles.

16 MS. DiMATTEO: Yes. Yes.

17 MS. ROSEN: Okay, page 1, the
18 title, and all references to multisite to
19 grower groups.

20 Page 4, change definitions of --
21 well, there's an insertion of farmer livestock
22 producers in a few places. Definitions. Add

1 the definition of post-harvest handling.
2 Production unit. Change the definition to
3 include -- so it says, portion of an organic
4 operation where agricultural products are
5 produced, delete "and/or handled." I mean,
6 you know, if you want us to, we can print it
7 out and give it to you.

8 MR. SMILLIE: Yes, if you could,
9 that would be great.

10 I think -- but again we're not
11 talking big ticket items here.

12 MR. DELGADO: We have Bea.

13 MS. JAMES: Thank you for your
14 comments, Katherine. Does the group that you
15 are representing, do you know if they support
16 the idea of addressing the multisite construct
17 for retailers and/or processors?

18 MS. DiMATTEO: Okay, let me just
19 clarify. I am not representing the National
20 Organic Coalition. Wouldn't that be lovely.

21 (Laughter.)

22 But I brought them up because I

1 thought it was -- I felt it was important that
2 this -- the group, the National Organic
3 Coalition, and some of the other positions
4 that have been presented over time, which were
5 further apart, we have come closer together
6 on. And I think that the National Organic
7 Coalition's position now still would prefer to
8 make it unambiguous that currently this is not
9 a recommendation about handlers or retailers.

10 MS. JAMES: Separate, as a
11 separate --

12 MS. DiMATTEO: Well, I'm not going
13 to answer for them on the separate.
14 Personally, for me, Wolf, DiMatteo &
15 Associates, I support that there can be
16 criteria developed that is specific and
17 appropriate for other types of growers.

18 MS. JAMES: We would love to work
19 with the NOC.

20 MS. DiMATTEO: Thank you.

21 MR. DELGADO: Any other questions?
22 Thank you very much, Katherine. Let's move on

1 then to Will Fantle, and you have a proxy.

2 MR. FANTLE: Yes, I have a proxy
3 from Mark Kastel, the codirector of the
4 Cornucopia Institute. I gave that to Valerie
5 earlier today some time.

6 MR. DELGADO: Please.

7 MR. FANTLE: I am speaking for
8 Mark Kastel of the Cornucopia Institute, our
9 codirector, and I am going to be talking about
10 the livestock rule. Yes, the livestock rule.

11 What began as an exercise many
12 years ago in the middle of the last decade to
13 address the problems, the interpretations
14 between pasture and dairy, morphed somehow.
15 It got transformed into the rule that was
16 delivered to us on the 23rd, the proposal that
17 we are calling the livestock rule for its
18 inclusion of additional species under
19 livestock, fish, bee, only, not bees but bee,
20 its take on how we should treat beef,
21 finishing of beef.

22 In fact, we will suggest that this

1 is an overly broad and sweeping revision of
2 many, many parts that extend far beyond the
3 problem that has been identified of pasture
4 and dairy.

5 It is our opinion that the
6 implementation of the rule as proposed will
7 put out of business hundreds of legitimate
8 organic livestock producers. This is
9 something that we need to consider.

10 And we are left in somewhat of an
11 awkward position with this because our citizen
12 advisers here haven't had the opportunity to
13 comment and weigh in on this rule on many of
14 the provisions -- the new definitions, the
15 rewrites, the new language, that have not been
16 fully discussed, publicly vetted in our
17 hearing process. This is very disappointing.

18 What that has left us to do, as
19 the organic community consisting of farmers,
20 processors, handlers, certifiers, and
21 retailers, to try and identify what this rule
22 means.

1 We have been reading hard, we have
2 been trying to pull together different ideas
3 and alternatives and thoughts on what to do,
4 but it's a difficult proposition for us, with
5 so much never being publicly discussed before,
6 and trying to weigh its implications.

7 The other thing that leaves, at
8 least in the opinion of the Cornucopia
9 Institute, is for the current rule to continue
10 to be enforced.

11 That means investigations cannot
12 be deferred, as has happened in the past. We
13 have FOIA documents from the NOP indicating
14 that investigations were deferred several
15 years ago because a pasture rule rewrite was
16 underway. This is unacceptable.

17 We know this rule can be enforced,
18 the existing rule. We have the incident of
19 the Vanderick Farm, the 10,000 herd operation
20 in California that was decertified under this
21 rule. We know that the Aurora Facilities and
22 the findings of fact that were found by the

1 NOP investigators, 14 willful violations of
2 organic law, further evidence that this
3 existing rule can be enforced, can be used to
4 manage our process. This still needs to be
5 done over the next foreseeable future, for
6 however long this takes to be vetted.

7 We know that even under the
8 optimistic scenario that this rule, if
9 everything were to sail through as soon as
10 possible, would not take effect until the
11 growing season of 2010.

12 We have some other specific
13 concerns that I'm going to make a comment on.

14 Pasturing of cattle for the entire
15 grazing season is important, not just for 120
16 days, but the entire grazing season.

17 We know this would be a challenge
18 in parts of the country, in parts of
19 California where the rainfall is much more
20 compressed into perhaps a two-month period of
21 time. We met with dairy farmers last week out
22 there, and we heard this would be a challenge

1 to them to even meet the 120 days, but they
2 were willing to do it, to try and make their
3 best effort at doing that.

4 The desert dairies in the
5 Southwest, some of the larger dairies, we
6 think their pasture must be required to be
7 irrigated much like any other crop that's
8 grown in that region. Irrigation is
9 fundamental to keep that playing field level
10 so that they can't use lack of pasture as an
11 excuse to haul those animals off the range or
12 the pasture.

13 We would also suggest that three
14 times a day milking be prohibited. It's a
15 challenge logistically for any farmer to bring
16 animals in and out, in and out, in and out,
17 with a three time a day milking scheme.

18 If it is allowed in the
19 continuation, it's not proposed to be
20 eliminated, we are suggesting it should be, we
21 think there needs to be more strenuous
22 auditing done by certifiers to ensure that

1 this rule is not being cheated on.

2 The origin of livestock is a
3 biggie. The proposed language that is in this
4 rule is not acceptable. In fact, it flies in
5 the face of what has been suggested by the
6 NOSB in their recommendation.

7 We would suggest that the last
8 recommendation from the NOSB, looking at last
9 third of gestation, be substituted for the
10 language that is currently in the rule.

11 Lastly, I just want to talk a
12 little bit about the process on this. We have
13 formally asked for a 30-day extension on this.
14 We think this is important. The community is
15 still trying to figure this out. I know there
16 is not even harmony within the community on
17 whether or not we need an extension. It's our
18 opinion we do.

19 Farmers we know that we're talking
20 with are still just learning of this rule and
21 looking at it. Transparency and inclusion
22 have been hallmarks of the organic process.

1 This needs to be brought to the sweeping rule
2 to make sure that all of its ramifications are
3 looked at by the process.

4 Barbara Robinson, the acting
5 program director, just yesterday, when talking
6 about the philosophy of the NOP, said it's
7 better to do it right than quick. Her exact
8 words.

9 We think that should be applied to
10 this rule as well.

11 Whatever emerges out of the back
12 end of this, Cornucopia wants this rule to be
13 strict. We also want this rule to be
14 enforced.

15 Thank you.

16 MR. DELGADO: Thank you.

17 Questions? Thank you. And that is the last
18 of the listed official speakers.

19 MS. FRANCES: Lisa Engelbert
20 postponed her comment to give you space last
21 night.

22 MR. DELGADO: All right. We have

1 a couple of speakers that signed up recently.
2 We will allow them to go, and I will ask the
3 board members to consider being economical
4 with your questions. I'm concerned about the
5 time. I know the committees need to work on
6 the specific change, and I would appreciate
7 the members to be brief and concentrate on the
8 issues. That's what we are looking for.

9 Yes, Tracy?

10 MS. MIEDEMA: How many more?

11 MR. DELGADO: We have one, two,
12 three, four, five, six. Yes.

13 MS. MIEDEMA: Mr. Chair, with all
14 due respect, I move that we adjourn simply to
15 prevent fatigue for tomorrow when we are
16 voting.

17 MR. DELGADO: The Chair will
18 intend to take up the rest of them here, and
19 we will have an extension of 10 minutes, 15
20 minutes, to allow a couple of speakers. Hugh?

21 MR. KARREMAN: I know that someone
22 from the AWG came down from Maine. I'd like

1 to hear him, Sebastian Belle, if possible. If
2 he's on the list. I think he is.

3 MR. DELGADO: I really don't know.
4 If we allow one, we have to allow all of them,
5 and we do have six of them. So if the
6 question was --

7 MR. KARREMAN: There is a motion.
8 I mean there's a motion that you were asking
9 if there was any questions. I did not second
10 it.

11 MR. DELGADO: Indeed we have a
12 motion that we adjourn, and we ask if there is
13 a second. Do we have a second? We don't.

14 We are going up to 20 minutes
15 after the hour, and try to get as many people
16 as possible, and members of the public, I
17 would request that you limit your time as much
18 as possible and concentrate issues so we can
19 be productive and allow this board to go
20 concentrate on dinner.

21 Up next then we have Luke Howard.
22 Is he here? Okay, let's move on to Lisa

1 Engelbert. And after Lisa we're going to have
2 Harriet Behar.

3 MS. ENGELBERT: Lisa Engelbert,
4 dairy program administrator, NOFA New York
5 certified organic in Binghamton, New York.

6 I definitely will be brief. I'm
7 hungry, too.

8 A few things that I'd like to
9 comment on, multisite certification. I'm
10 still not clear if the recommendation includes
11 retail establishments. I heard two different
12 comments that took it both ways.

13 So we don't believe retail
14 establishments should be included in multisite
15 certification. Retail establishments should
16 not be exempt from inspection each year. We
17 feel that there is a high potential for fraud,
18 mainly due to high employee turnover in retail
19 establishments.

20 Multisite certification should be
21 limited to producers outside the U.S. Anybody
22 inside the U.S. really should be inspected

1 each year.

2 NOP training. Thank you for --
3 glad to hear that we're going to be having
4 additional face-to-face trainings. We were a
5 little concerned that we were going to Web-
6 based training format, and we weren't really
7 happy about that, so thank you. It's
8 important to have the face to face with the
9 NOP in training.

10 Ethylene gas for ripening pears.
11 We don't agree that it should be added to list
12 for ripening pears. We don't believe it's
13 necessary to add substances to make things
14 easier or faster or get them on the shelf
15 sooner or keep them on the shelf longer.
16 That's not really what organic is all about.

17 Organic consumers want less
18 processing and fewer substances used on their
19 products, not more.

20 And quite honestly, if organic
21 consumers really truly understood some of the
22 things that are on the list that are being

1 used, they probably wouldn't be buying those
2 products.

3 The NOSB is a gatekeeper in the
4 organic industry. It's really up to you guys
5 what goes on the list and what really truly is
6 needed in this industry.

7 If unnecessary substances keep
8 getting added to the national list, at some
9 point the word "organic" will become
10 meaningless.

11 Hundred percent organic label.
12 Overall, we agree with the recommendation. I
13 don't like seeing livestock feed labeling
14 lumped in with human feed labeling. They're
15 really kind of two different issues there. So
16 hopefully you'll take that into consideration.

17 Most feed mills are not labeling
18 their feed as 100 percent organic. Obviously
19 anything going into an animal has to be 100
20 percent organic if it's an agricultural
21 product, to which you can add allowed
22 substances, like minerals and things like

1 that.

2 Commercial availability of seeds.
3 We overall agree with the recommendation, but
4 the section -- it's B5D, I believe --
5 requiring certifiers to submit historical data
6 on acreage and percent of organic seeds used
7 for each producer is problematic.

8 I really can't imagine the amount
9 of staff time that that is going to take.
10 It's going to be additional staff people
11 needed as certifiers for that one
12 recommendation.

13 Hopefully this can be handled
14 through ACA trainings and through the
15 accreditation process. Our experience at NOFA
16 New York is producers seem to be using more
17 seeds each year. We are not allowing cost as
18 a factor in determining commercial
19 availability.

20 I'm not going to comment on the
21 proposed pasture rule. I've already commented
22 in Auburn at the listening session, and we are

1 going to be submitting written comments on
2 that, other than saying thank you for getting
3 it out to the NOP.

4 Lastly, I would like to comment on
5 civil penalties. I know they are not being
6 assessed to operations that are being revoked,
7 that are found to be fraudulent. I've said
8 this in prior public comments. I really
9 believe that's the only way we're going to
10 stop some of the fraud that's potentially
11 going on.

12 A lot of these operations are in
13 it for the money. They don't care about the
14 organic integrity. They don't care about the
15 organic industry. They care about their
16 bottom line. If they can take short-cuts,
17 they're going to do it. If they do it and
18 they get caught and it's jeopardizing the
19 integrity of organic products in the
20 marketplace, they need to pay the penalty for
21 that. Revocation is not enough. They have
22 already made their money on the organic

1 system. They don't care if they lose their
2 certification at that point. They need to be
3 fined.

4 That's all I have. Thank you.

5 MR. DELGADO: Questions? Bea.

6 MS. JAMES: Thank you for your
7 comments. I have a question for you. If we
8 can't make multisite certification work within
9 our own country, how can you justify that it's
10 a construct that can work internationally?

11 MS. ENGELBERT: I would prefer to
12 see every operation inspected every year,
13 actually. I realize in some of the Third
14 World countries there are some small grower
15 groups in close proximity, all under the same
16 organic system plan. They have a strong
17 internal control system, where people say it
18 can work. We're not certifying any of them.
19 I can't really comment on that.

20 MS. JAMES: But you support the
21 idea of multisite certification for --

22 MS. ENGELBERT: Those really small

1 operations that are under really close
2 supervision.

3 MR. DELGADO: Any other questions?

4 Thank you.

5 MS. ENGELBERT: Thank you.

6 MR. DELGADO: Jennifer, you have a
7 question?

8 MS. BEHAR: Hello. I'm Harriet
9 Behar, and I believe you all have my comments
10 in front of you. Is that right?

11 MR. DELGADO: We do.

12 MS. BEHAR: Okay. Technical
13 review panels. The organic community has
14 lobbied hard to get more NOP funds to cover
15 costs for third-party TAP reviews, so dollars
16 should not be an issue here.

17 The NOSB puts in many hours
18 working together and strives for a continual
19 atmosphere, making it difficult to challenge
20 the work of another member. With no third-
21 party TAPs, the board is relying on the
22 petitioner as their only source of outside

1 information.

2 The board itself is one organism
3 and cannot do TAPs and approve them as
4 complete. This is an inherent conflict of
5 interest, as well as not meeting both the
6 letter and the intent of the OFPA.

7 The NOSB is a stakeholder board
8 and should not be converted into a board of
9 experts. The OFPA gives the guardianship of
10 the national list to the NOSB as well as
11 giving them the tools to perform this
12 responsibility with the depth and expert input
13 that is necessary.

14 Please err on the side of more
15 information rather than less. Do not put a
16 responsibility on your shoulders that is not
17 required in the OFPA, nor acceptable for a
18 volunteer board.

19 Judging a material as
20 straightforward that does not need an outside
21 TAP review assumes that you already know the
22 status of the material before it has gone

1 through the review.

2 Again, I ask the NOSB to pressure
3 the NOP, as I look at Mark Bradley, for the
4 implementation of the peer review panel as
5 required in the OFPA, as well as a transparent
6 program manual as required by ISO.

7 This should include a clear
8 procedure that informs the NOSB and the public
9 on how best to make --

10 MR. DELGADO: Excuse me, can you
11 just --

12 MS. BEHAR: Am I too far away?

13 MR. DELGADO: -- move closer to
14 the microphone.

15 MS. BEHAR: Okay. -- make
16 recommendations on specific standards they are
17 drafting on the content as well as the
18 timeline for the NOP to respond, or ask for
19 further information to move the
20 recommendations forward.

21 The NOSB and the public spend
22 massive hours on these recommendations and are

1 frustrated when the NOP decides they are not
2 a priority.

3 Having a written transparent
4 process for the NOP and the NOSB with
5 communication will help both groups understand
6 each other's priorities in order to move the
7 recommendations forward.

8 I'm going to skip down to
9 biodiversity.

10 I support the rewording of the
11 document as presented by Lynn Coody for the
12 Wild Farm Alliance. This does not burden
13 farmers. Biodiversity is the basis of organic
14 farming, a system that mimics natural
15 processes.

16 There are multiple ecological
17 services provided to farmers such as lower
18 insect problems, as well as improved quality
19 of life and ecosystem when the farmer
20 consciously works to enhance and expand
21 biodiversity on their farm.

22 And this brings me to materials

1 and the view of organic as a functioning
2 organic system. Tetracycline, I agree with
3 the committee recommendation to reject this,
4 especially with the thought that two other
5 related items should remove when they sunset.

6 There is documented evidence of
7 resistance in orchards to these antibiotics as
8 well as ongoing research in both the organic
9 and nonorganic community to find alternatives
10 which include technologically sophisticated
11 monitoring paired with more benign inputs.

12 Approving this product sends the
13 wrong message that this family of products is
14 not problematic.

15 Sorbitol. I agree with the
16 committee recommendation to reject this
17 product. While I appreciate growers would
18 like less expensive inputs for insect control,
19 adding more products to the national list
20 sends the wrong message, approving synthetics
21 rather than encouraging the management of
22 insect problems with a systems approach.

1 Pelargonic acid. This is the same
2 issue. The longer that organic farmers work
3 with their systems, the less weeds are an
4 issue. We do not want to offer material
5 crutches that can be used on farms to cover up
6 poor management rather than having farmers
7 learn their own systems that are site specific
8 for control of their specific weed challenges.

9 I am also concerned about removing
10 weeds from roadsides and ditches and the
11 negative effect this has on biodiversity and
12 soil erosion.

13 Ethylene for ripening pears --

14 MR. DELGADO: Your time is up.

15 MS. BEHAR: Okay. You have my
16 comments.

17 MR. DELGADO: Any questions?

18 Let's move on then to -- we have Barbara

19 Blakistone, followed by Sebastian Belle.

20 Barbara, are you with us? We don't see her.

21 Sebastian, please step to the microphone.

22 Marty Mesh will follow Sebastian, and then we

1 have Brock Lundberg.

2 MR. BELLE: Good evening, I think.

3 I don't know how you guys do it. I'm very
4 impressed, I have to say, and my sympathies
5 are with you.

6 I'm going to be very brief. Dr.
7 Karreman, thank you very much for mentioning
8 me in recognizing that I was in the room. I
9 appreciate that.

10 I just wanted to make a couple of
11 comments. One is, first and foremost,
12 recognize the hard work and long time that the
13 Livestock Committee has put in on the
14 aquaculture issues. I know this is an issue
15 which you would probably at this stage of the
16 game would much rather see go down the road
17 and not coming back, and I don't blame you.
18 So my apologies for being the source of some
19 hard work and angst there.

20 I also recognize and appreciate
21 the fact that the Livestock Committee, or at
22 least that the AGW may have become

1 overengaged, and that the Livestock Committee
2 has needed to have an independent and rigorous
3 discussion amongst themselves, without the AWG
4 engaging, and I want to recognize that and
5 appreciate that.

6 Having said that, I want to make a
7 couple comments. I want to make clear that
8 I'm not commenting on behalf of the AWG. I am
9 commenting as a person who works for the Maine
10 Aquaculture Association. We represent about
11 140, 150 farms on any given year. We are old-
12 family owned, and we are very small, so I am
13 not probably the best commenter from the
14 aquaculture perspective, but I do represent a
15 group of growers.

16 At the risk of alienating the
17 Livestock Committee members, because I'm
18 coming from the AWG side, I would like to
19 suggest that you very seriously look carefully
20 at the latest AWG comments. Those comments
21 were made respectfully and in the spirit of
22 trying to take our technical expertise and

1 seeking to help the Livestock Committee
2 achieve the goals that they had articulated,
3 but making sure that the way you did that was
4 technically sound. And I think that's the key
5 piece.

6 I'll highlight a couple things.

7 One, on the feeds. Recycling processing
8 waste. Our interpretation, at least my
9 interpretation is that the one-to-one wild
10 fish to cultured fish ratio as it's currently
11 crafted in the standards applies to processing
12 waste as well as fish coming from industrial
13 commercial fisheries. We think that is a
14 mistake. I think that's a mistake.

15 We should try to reward processors
16 who are trying to take byproducts that would
17 normally be thrown away and put in landfills
18 and allow them to put as much of that as they
19 can in, and we shouldn't hold them to this
20 one-to-one wild fish to cultured fish ratio
21 for processing byproducts.

22 I certainly support the one-to-one

1 ratio for the industrial fish commercial end
2 of things.

3 Also under the feeds, the
4 requirement that all pollutants are removed.
5 I would respectfully assert that there is no
6 feed in the world and, in fact, no grazing
7 system in the world that could achieve that
8 standard. I think that's just not possible.

9 So AWG did have some language that
10 they submitted to try to highlight the need to
11 deal with pollutants and make sure that the
12 standard was higher than anything else, but
13 didn't fall into the trap of this all-or-
14 nothing trap, which I think from a
15 certification point of view you're just not
16 going to be able to certify anything.

17 Net pens. Three key points. Zero
18 impact on predators, and I think is probably
19 an unintended consequence, but the reality is
20 the rest of the standards establish very
21 strict control and standards with respect to
22 predator interactions and requires farmers to

1 maintain biodiversity and establish a
2 proactive predator deterrence program.

3 Effective deterrence inherently
4 implies impacts. Okay. Because you are
5 talking about either exclusion or behavioral
6 modification of predators. So you cannot have
7 a zero impact standard and still have a
8 predator deterrence program.

9 The term "prevent the spread of
10 disease in a facility or to surrounding
11 ecosystems and populations," I would argue
12 that no culture system in the world can
13 prevent. They can seek to prevent, but they
14 cannot prevent, and so that was a modification
15 that AWG put forward.

16 And finally, the waste management
17 plan. The 50 percent recycling requirement,
18 very high standard. I think when that rolls
19 out, we're going to find that even fish which
20 are so-called from rivers, are going to have
21 a very hard time meeting that. It's going to
22 be very complicated to measure. I don't

1 oppose that. I would only ask that you have
2 a phase-in period much the same way as you had
3 a phase-out period for fish meal and fish oil.
4 I think that accomplishes, sets the goal,
5 holds people to it clearly, allows them to
6 work toward something --

7 MR. DELGADO: Sebastian, your time
8 is up.

9 MR. BELLE: Thank you.

10 MR. DELGADO: Any questions?
11 Hugh.

12 MR. KARREMAN: Thanks for coming,
13 Sebastian. I was just wondering -- two
14 questions. One real quick. Demographics of
15 your farmers up there that you work with, like
16 what do they grow, and are they using a lot of
17 net pens or not? I just want to have an idea
18 what it looks like up in Maine.

19 MR. BELLE: Yes. Fifteen species
20 we grow. Most of my members are actually
21 shellfish growers, but we do also grow salmon,
22 halibut, and cod. Our halibut farms are land

1 based. Our cod and salmon farms are net pen
2 based. We have 40 sites that are net pen
3 based in the state. On any given year, about
4 a third of those are used, because we rotate
5 between sites on a three-year cycle, so we do
6 crop rotation. I don't know if that helps.

7 MR. KARREMAN: And then also I did
8 read all your comments, and there are a lot of
9 technical details that the program -- if this
10 gets up to the program, they will take care of
11 some of those details. Okay.

12 But are you in -- with George
13 Leonard's performance metrics, how do you feel
14 about that kind of approach?

15 MR. BELLE: Thank you for asking
16 that question. Performance standards are --
17 well, just as a little bit of background. I
18 engage in the World Wildlife Fund dialogue.
19 I sit on the ISO standards, a committee which
20 is promulgating aquaculture standards for ISO.
21 I sit on the Standards Oversight Committee for
22 the Global Aquaculture Alliance. All of those

1 groups are debating performance standards.

2 The AWG talked about performance
3 standards for probably three-and-a-half to
4 four months. The conclusion we came to is if
5 you're really going to do it, it's got to be
6 species specific and it's very complicated,
7 and it's very easy to promulgate performance
8 standards which work for one species and are
9 completely unworkable for another species.

10 I'll give you an example. Zero
11 interaction genetically between farmed animals
12 and wild animals. In fin fish, there are ways
13 that you can come very close to that. In
14 shellfish, which are broadcast spawners, or in
15 pelagic marine fin fish, which are also
16 broadcast spawners, probably the only way to
17 even get close to that is to use triploidy to
18 induce sterility, currently prohibited under
19 the organic standards.

20 So that's a case where you've got
21 to kind of go through it on a case-by-case
22 basis.

1 Performance standards are very
2 sexy, I think. They're very -- I mean who can
3 argue against performance standards? But when
4 you really get down into the weeds, they are
5 very, very, very difficult to work through.

6 MR. DELGADO: Any other questions?
7 Jennifer.

8 MS. HALL: It's not a question,
9 Sebastian, but just a thank you to you and all
10 your colleagues on the aquaculture working
11 group. Thanking us for our commitment is --
12 it's not comparable to what you guys have
13 committed to this cause, and I appreciate you
14 and several others who have also made the trip
15 to this meeting several times personally to
16 share your wisdom with us.

17 MR. BELLE: Well, I appreciate
18 that. Thank you.

19 MR. DELGADO: Any other questions?
20 Thank you very much. We are moving on to
21 Marty Mesh. He's not here. We're moving on
22 to Brock Lundberg.

1 MR. LUNDBERG: Hi. Good to see
2 you again.

3 As an engineer, instead of saying
4 I'm going to keep it brief, I'm going to say
5 one minute. One minute.

6 Okay. I just wanted to provide a
7 follow-up response to the question asked about
8 possible replacements for gums or possible
9 replacements on the ingredients that show up
10 on 605 or the 606 list.

11 I did take a look and some of the
12 possible replacements -- it's not necessarily
13 going to be exact one-to-one replacements, but
14 it's all going to be low usage level, and
15 there are some functionality for fat
16 replacement in emulsifying, and those
17 ingredients are alginates, pectin, xanthan
18 gum, and then the wider extract gums that show
19 up on the list as well as the gelatins. So
20 those are the possible replacements. I don't
21 have exact data specifically how it works, but
22 just conceptually those are some of the items.

1 MR. DELGADO: Any questions?

2 Thank you very much.

3 Well, that concludes this session.

4 (Applause.)

5 I thank all of you for your
6 patience and input from the public. Yes, Joe?

7 MR. SMILLIE: I don't know if
8 anybody else has got announcements, but I'd
9 like to say that I'd really like to see a CACC
10 meeting tomorrow morning 20 minutes before we
11 start. Twenty minutes before the start of
12 tomorrow morning's CACC.

13 MR. DELGADO: We start tomorrow at
14 8 o'clock.

15 MR. SMILLIE: Not tonight. So
16 7:40, CACC meeting. Attendance is not
17 optional.

18 MR. DELGADO: Julie.

19 MS. WEISMAN: The Handling
20 Committee -- unfortunately we need to find a
21 way to pal out tonight, hopefully not for too
22 long.

1 MR. DELGADO: Specific time?

2 MS. WEISMAN: Right now, I guess,
3 you know, we need to eat.

4 MR. DELGADO: Talk to Julie after
5 dinner, see if they have a specific time for
6 the meeting.

7 MR. KARREMAN: We can do it after
8 dinner. That's fine with me. Nine o'clock in
9 here?

10 (Whereupon, at 7:22 p.m., the
11 meeting was adjourned.)

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