

UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: X HELD APRIL 29, 2004
 X 8:00 A.M.
 NATIONAL ORGANIC STANDARDS X BEST WESTERN INN OF
 BOARD MEETING X BUCKINGHAM ROOM
 X 162 E. OHIO STREET
 X CHICAGO, ILLINOIS 60611
 VOLUME II OF III

APPEARANCES:

COMMITTEE CHAIRMAN: MR. MARK KING

BOARD MEMBERS: MS. REBECCA J. GOLDBURG
 MR. MICHAEL P. LACY
 MS. GOLDIE CAUGHLAN
 MR. KEVIN O'RELL
 MS. NANCY M. OSTIGUY
 MS. KIM M. DIETZ
 MR. JAMES RIDDLE
 MR. DAVID CARTER
 MR. GEORGE SIEMON
 MS. ANDREA CAROE
 MS. ROSALIE KOENIG
 MS. ANN L. COOPER

ALSO PRESENT:

MR. RICHARD MATTHEWS
 MS. KATHERINE BENHAM
 MS. BARBARA ROBINSON
 MR. ARTHUR NEAL
 MS. ZEA SONNABEND
 MS. LESLIE ZUCK
 MS. MERRILL CLARK
 MR. MARTY MESH
 MR. DAVE ENGEL
 MS. KELLI SHEA

REPORTER: MS. LEAH JOHNSON

CONTRACTOR (NOT PRESENT): R & S TYPING SERVICE
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P R O C E E D I N G S

8:05 a.m.

1
2
3 CHAIRMAN KING: I'd like to call to order the
4 Meeting of the National Organic Standards Board.

5 First off I'd like to thank everyone for their
6 patience and persistence in your input yesterday; I think
7 it was really valuable.

8 This morning the first thing we're going to start
9 with is the .606 Task Force report, or the Jim & Kim Show,
10 if you will.

11 A quick reminder for everyone: please put your
12 cell phones to vibrate; if you have a comment, conversa-
13 tion, so on and so forth, take it out in the hallway,
14 please; and then also, there's a sign-up sheet for Friday
15 public input. I would remind everyone that we have two
16 hours allotted for public input, so please sign up early,
17 if you have comments, because we certainly want you to be a
18 part of that.

19 So without further ado, I'll turn it over to
20 Mr. Jim Riddle.

21 MR. RIDDLE: Okay. Good morning, and we're still
22 getting the technology set up, but --

23 Yesterday afternoon I passed out the current
24 draft from the task force, and this task force is for
25 commercial availability, recommended rule changes, and just

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1 a little background, while you're digging out that report:

2 It came to the Executive Committee attention
3 early this year, I guess in January, that, you know, there
4 remain issues on commercial availability and the need for
5 consistency and how it's being interpreted in the field,
6 and this was actually -- when the Final Rule was published
7 in 2000, there was a request for comments at that time and
8 recognition of the need for further rulemaking on
9 commercial availability, and so it's -- it's remained an
10 open issue.

11 There were comments originally submitted,
12 including comments from the Board, and then further
13 recommendations on the -- from the Board as it relates to
14 the agricultural ingredients on the list, 205.606.

15 And so that was really the basis of the work, the
16 starting point, of this task force, and the objective was:
17 to establish acceptable practices to be followed by
18 certification applicants, certified operators, and
19 certifiers, for consistent, transparent, and predictable
20 determinations of commercial availability that provide
21 regulatory certainty, and commercial availability, really,
22 applies to two different sections of the Rule, the one
23 being seeds, where a producer can use non-organic seeds if
24 it's documented that organic seeds are not commercially
25 available in the equivalent variety and form, quality, and

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1 quantity needed by the operation; and then it also applies
2 to minor agricultural ingredients used in processed
3 products, where a handler must attempt to source organic
4 ingredients if the product is to be labeled as organic,
5 they must attempt to source organic ingredients for
6 everything agricultural in that product, and if it's
7 documented that an ingredient is not available in an
8 organic form, is not commercially available, then the
9 certifier can allow a non-organic form of the ingredient,
10 but there's been no further guidance to provide consistency
11 in how those determinations are being made or to spell out
12 the requirements for the operators to meet in order to
13 state their case.

14 So that was the background for our discussion,
15 and in the recommendation from the task force, you see a
16 fairly length introduction section, and then background
17 section, which has the definition of "commercial avail-
18 ability," some citations from the regulation and from the
19 preamble, and I'm not going to read through that at all,
20 that's all been posted on the web, and -- yes, George.

21 MR. SIEMON: Jim, is there an extra one of the
22 handouts? I can't seem to find mine from yesterday.

23 (Document handed Mr. Siemon.)

24 MR. SIEMON: Thank you.

25 MR. RIDDLE: In case it's not commercially

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1 available, we will get you another one.

2 (Laughter.)

3 MR. RIDDLE: Okay. So skipping down now to
4 Recommendation 1a, which is found on Page 3. So, Ann, if
5 you can scroll down a ways. All the Board members have
6 this in front of you; I wanted to put it up on the screen
7 so that members of the public could follow along.

8 I'm not seeing how that -- okay, so the first
9 part of our recommendation was simply reaffirmation of a
10 recommendation the Board made in May 2002 concerning the --
11 really the title and heading, the paragraph, in 205.606,
12 and part of that is to remove the words "as ingredients,"
13 which don't appear in this recommendation, they do appear
14 in the Rule currently, as written, and it's redundant,
15 because when it says "allowed in or on agricultural
16 processed products," "in or on" includes ingredients. So
17 it's not to remove ingredients from consideration.

18 And then also this section only applies to
19 organic products. "Made with organic" products can include
20 conventional ingredients.

21 MS. DIETZ: And the other reason that we had
22 originally recommended that we take "as ingredients" off is
23 that materials on 205.606, in processing and ingredients,
24 is defined as something that's put on the label, and
25 processing aids are not ingredients, so there was some

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1 confusion on whether or not people needed to have
2 processing aids, and it's our everything that everything
3 needs to be on the list, so we wanted to take away that
4 confusion and basically state processing aids or anything
5 used in or on must appear on the National List.

6 MR. RIDDLE: Right. So that really, 1a, was an
7 affirmation of the prior standing recommendation of the
8 Board, and then there's some new rationale which has been
9 added to this version, and all of the new language is
10 underlined in the Board's text and the language to be
11 deleted has strikethrough.

12 Okay, moving to Recommendation 1b, and this is
13 where this new draft is recommending some changes to the
14 previous draft from the task force, and this is in response
15 to comments submitted to the web posting, and here we are
16 -- would be -- you know, if the Board supports this
17 recommendation, we would be calling for replacement of the
18 current Section 205.606 with a new Section 205.606, which
19 would be entitled:

20 Non-organically-produced agricultural substances
21 prohibited or restricted for use in or on processed
22 products labeled as "organic" or "made with organic."

23 And, I'm not sure, maybe that "made with" should
24 be deleted. Yeah. That's an oversight there. So --

25 MS. CAROE: Well, wait a second, do you want to

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1 delete it, because you're talking about processing aids as
2 well, and you would want it -- processing aids --

3 MR. RIDDLE: Okay, no -- yeah. I'm sorry. Yeah,
4 that's -- Andrea. We would leave this in this section.
5 I'm confused. I was -- because the intent --

6 UNIDENTIFIED FEMALE VOICE: (Inaudible.)

7 MR. RIDDLE: Yeah. Just to explain first, the
8 intent of this new section would be similar to crop inputs
9 and livestock inputs, where there's a category for
10 prohibited naturals.

11 There may be certain agricultural ingredients
12 which, after a petition, rulemaking, recommendation, that
13 the Board may recommend are inappropriate for use in
14 organic or should have some restrictions. There's no place
15 on the current 205.605 List for such substances to be
16 addressed. This -- especially the prohibition of
17 agricultural materials.

18 So this would create a placeholder -- we don't
19 have any specific substances in mind right now, but it
20 would create a placeholder in order to address either
21 prohibited naturals or agricultural substances that need
22 very specific restrictions on their use, and that would
23 apply to a product that's labeled "organic" or "made with."

24 Okay. And then, you know, it just follows with
25 the language of the text for that section, which basically

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1 repeats the title.

2 Any other questions or comments on that?

3 MS. DIETZ: Just a comment. The further
4 rationale for doing this is that the current materials
5 listed under 205.606 were confusing the industry there.
6 There were materials on there that people were considering
7 okay to use even though organic substances were out there
8 in the area, so they were using them as a commercial
9 availability list, and that was not the intent of 205.606.
10 Again, the intent was to put materials on there that the
11 Board wanted to restrict in some way.

12 MR. SIEMON: Jim?

13 MR. RIDDLE: Yeah.

14 MR. SIEMON: I'm sorry, I'm confused. 1a and --
15 1b is building on 1a? These aren't alternatives, are they?

16 MR. RIDDLE: Well, yeah --

17 MR. SIEMON: Because you're talking about the
18 same .606 in both of them.

19 MR. RIDDLE: Right.

20 MR. SIEMON: I'm confused, as usual, so --

21 MR. RIDDLE: Good (chuckles), and I was reading
22 back through it this morning, and I felt the same way:
23 they are contradictory to one another.

24 In the first instance we were reaffirming an
25 existing recommendation, but now that we have altered 1b --

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1 originally 1b, as you can see, was written to call for a
2 new Subsection .607, but that's really unnecessary. It
3 really should just replace .606 and --

4 MR. SIEMON: So if we've got 1b, we don't do 1a?

5 MR. RIDDLE: Right.

6 MR. SIEMON: I wasn't clear.

7 MR. RIDDLE: Yeah. And I think the task force
8 should meet briefly during the break outside session to
9 address that, and maybe we'll just scrap the whole
10 discussion of 1a and focus on 1b, so --

11 MR. SIEMON: Well, and we get to 1c, I'll ask
12 about that one too.

13 MR. RIDDLE: Well, yeah, I'm ready to go there,
14 if you are. But yeah, thanks for -- thanks for pointing
15 that out, George. I did want to mention that.

16 MS. DIETZ: Yeah. It could just be wordsmithing,
17 where we say "prior recommendation NOSB May 2002" and just
18 take away that Recommendation 1a.

19 MR. RIDDLE: Yeah, just as part of the
20 background.

21 MR. SIEMON: Yeah.

22 MS. DIETZ: Because it's not really a
23 recommendation.

24 MR. RIDDLE: Okay. 1c. Now, this one is an
25 attempt to deal with the substances that are currently on

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1 .606 and two substances that the Board has reviewed and
2 recommended be added to .606, gelatin and shellac, and our
3 recommendation is that the Board look at those substances
4 again, we use the words "review," but we're not talking
5 about another TAP review or anything to that extent, we're
6 talking about -- the Board has already completed the work
7 on these substances, but now to run them through the
8 choices of A, B, C, or D to determine where they should
9 fall on the National List.

10 Since there will no longer be that list of
11 commercially-unavailable agricultural ingredients under our
12 recommendation, something needs to be done with each of
13 those substances, they either need to be removed totally
14 from the National List and just fall under the ACA
15 authority of determining commercial availability for that
16 material; or we might choose to recommend some kind of
17 restriction or prohibition on any one of those substances,
18 I'm not prejudging where they should go. Kim, then Rose.

19 MS. DIETZ: Yeah. I mean, an example is, you
20 know, on the gums, there's an annotation: using water
21 extraction only, and that might -- that would certainly be
22 one that would -- could stay under .606, because it has a
23 restricted annotation.

24 MR. RIDDLE: Okay. Rose --

25 MR. SIEMON: But you're recommending --

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1 MR. RIDDLE: Rose.

2 MR. SIEMON: Sorry.

3 MS. KOENIG: So the handling committee would then
4 -- I'm just looking at the process. So the handling
5 committee would then make that recommendation based on, you
6 know, some just small process, or -- I mean, how would we
7 get that form of recommendation?

8 MS. DIETZ: Well, we know that -- I mean, this
9 board, this existing board, has reviewed gelatin and
10 shellac, so those -- I think those are ones that we could
11 easily say, "This is how we recommended originally, this is
12 where they should go," and then bring the others back
13 forward and give some type of background and review as to
14 why we feel that they should be moved, in what place, bring
15 it back to the Board as a formal recommendation and have
16 the Board vote on it.

17 MR. RIDDLE: But, yeah, it would be the handling
18 committee --

19 MS. DIETZ: Yes.

20 MR. RIDDLE: This is kind of a work order for the
21 handling committee.

22 UNIDENTIFIED MALE VOICE: (Inaudible.)

23 (Laughter.)

24 MR. RIDDLE: George, did you have --

25 MR. SIEMON: So the basis of this one is to have

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1 three sections under .606 and divide it up into three
2 different categories of what the real recommendation is
3 here?

4 MR. RIDDLE: I'm sorry --

5 UNIDENTIFIED FEMALE VOICE: Just one --

6 MR. SIEMON: You have 3a, b, c, and d --

7 MS. DIETZ: You'll have 205.605(a), .605(b), and
8 .606.

9 MR. SIEMON: All right, I'm looking (inaudible).

10 MR. RIDDLE: Well, yeah, if you're just looking
11 at a through d in this document, that's not where we're
12 recommending changing to the Rule, that's just the way that
13 the task force divided this up as the choices.

14 MR. SIEMON: Okay. I --

15 MR. RIDDLE: Yeah. You see a is actually
16 205.605(a), and then b is to place it on .605(b), c would
17 be the new .606, and d would be removal from the list.

18 MR. SIEMON: I didn't catch the five [phonetic].
19 I see.

20 MR. RIDDLE: Yeah. Okay. Any other questions or
21 comments on that part?

22 (No audible response.)

23 MR. RIDDLE: Okay, so that's really the substance
24 of the recommendation from the Board on how to address some
25 changes to the National List.

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1 The next, Recommendation Number 2, is how to
2 bring consistency and predictability to the commercial
3 availability process, procedures to be followed by
4 producers, handlers, and certifiers, so we just repeat the
5 definition of "commercial availability" from the Rule and
6 then go through determination procedures, and a change in
7 this draft is that those procedures would fall under
8 Subpart (e), Certification section of the Rule. We're not
9 saying what number or creating a new number; we're just
10 saying that it belongs in Certification Subpart (e). So
11 that's a change here based on comments received.

12 Okay, at the top of the next page: A) "The
13 applicant or certified operator must submit a written
14 report to the certifying agent as part of the Organic
15 System Plan or Organic System Plan Update that provides,"
16 and I am going to read through these:

17 Number 1) "A description of the ingredient and
18 the required technical specifications of the ingredient,
19 including form and quality";

20 "Estimate of the quantity of the ingredient
21 needed within the specified time period if this is a factor
22 in the requested allowance of a non-organic ingredient,"
23 and then in parens: "Quantity, quality, form, and function
24 may be considered for individual product requirements and
25 not for total business requirements for all potential

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1 product lines."

2 And, Number 3) "Explanation of how the
3 ingredient is used to fulfill an essential function."

4 So that's the information that the operator must
5 include in the Organic System Plan.

6 And then, 4) "During the inspection, the
7 application or certified operator must provide information
8 concerning known sources of the ingredient and organic
9 status thereof and provide written evidence of efforts to
10 locate sources of organic ingredients, including the dates
11 when potential suppliers of applicable organic ingredient
12 suppliers were contacted."

13 "Written evidence may include letters, faxes,
14 e-mail correspondence, or phone logs of discussions with
15 potential suppliers. A minimum of three potential
16 suppliers shall have been contacted during the previous 12
17 months."

18 Rose.

19 MS. KOENIG: My question is in terms of kind of
20 the way the Rule is presented, I mean --

21 MR. RIDDLE: If you can speak up, please, or
22 closer.

23 MS. KOENIG: I'm sorry. I just don't see any
24 section of the Rule that has this kind of descriptive
25 requirements, so --

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1 MS. CAUGHLAN: Proscriptive is really -- quite
2 proscriptive.

3 MS. KOENIG: -- so I don't know if this is really
4 -- you want them in the Rule or do you want a directive or
5 -- I mean, this seems more like -- I mean, I appreciate the
6 spirit of what you're trying to achieve, I have no qualms
7 with, kind of, what's written; it's just placement in the
8 Rule just seems a little inconsistent, I guess, to me, that
9 there --

10 UNIDENTIFIED MALE VOICE: Well, I don't --

11 MS. KOENIG: It seems like there should be a
12 format where you explain those things, whether it's a
13 definition or a directive or --

14 MR. SIEMON: Should be a guidance (inaudible) --

15 MR. RIDDLE: Yeah, and I -- I didn't read through
16 all of the background and citations from the Rule, to save
17 some time, but some of that's explained there, and the
18 language at the top, "Applicant must submit a written
19 report to the certifying agent as part of the Organic
20 System Plan on commercial availability," that fits with the
21 Rule.

22 And we aren't saying what specific number or how
23 it would fit, we leave that to the NOP, but we just
24 recognize or acknowledge that it is the certification
25 section, it's not the materials list section that needs

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1 changed here, and maybe it can be addressed with a
2 directive or policy guidance, but it's a certification
3 issue and not a materials list issue.

4 Andrea, then Kim.

5 MS. CAROE: Well, I have somewhat the similar
6 concern as Rose on this, is that the Rule doesn't state
7 that you have to call three suppliers, and I think once you
8 say three suppliers, that's all you'll ever get, and a lot
9 of folks out there are doing a lot more to find those
10 organic ingredients, and I think it might be
11 counterproductive.

12 And also, telling the certifiers that the
13 inspector has to look at this, instead of them looking at
14 it through the application process, I think is getting into
15 their business; I think it should be broader and say that
16 "this should be evaluated by the certifier during their
17 certification process," but telling them to do it at the
18 inspection with the inspector I think is -- is: getting
19 into their business.

20 So some of this, I -- I agree that this is
21 founded in the Rule and that the Rule specifically states
22 that you have to -- as a user of a non-organic ingredient,
23 you have to justify the use of that ingredient with a
24 search for the organic ingredient, but this has gone a
25 little bit past that, and although it's great -- guidance

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1 are a great -- a set expectation, perhaps, but I don't
2 think that we can say three suppliers and evaluate at
3 inspection and -- some of that is -- the detail may be too
4 much.

5 MR. RIDDLE: Kim.

6 MS. DIETZ: Just a bit of background on this.
7 These recommendations, really, have been in the industry
8 for probably the last three or four years and -- as a kind
9 of -- not written that you have follow this, but people
10 somewhat have been following it.

11 So the -- let me try to -- there were so many
12 things that you said, that I wanted to comment on.

13 So that I don't necessarily agree that this isn't
14 going to work, because as -- first of all, as a handler,
15 you're required to have in your handling plan a commercial
16 availability process, okay, so right now, if people don't
17 have what they do, they could, really, be in violation of
18 the Act. So that's the first thing. So this, I think, is
19 very fair for the handling/ processing groups out there to
20 follow, and we have been following it, in some sense.

21 The other thing is that you have to understand
22 that when you're out there sourcing ingredients, you don't
23 know you're going to be doing that when you submit your
24 application, this is something that's going to happen in
25 the field, so to speak, so you have to document what you've

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1 got, you've got to have a system, and then you've got to
2 follow the system. And so to me, having the inspector
3 actually validate that you've done it is the right place to
4 do that.

5 So those are my comments.

6 MR. RIDDLE: Mark, then Rose, then Andrea.

7 MR. KING: Yeah, I've been somewhat a part of
8 this task force, and first of all, thanks for all the work,
9 because I know a lot of time has gone into this, but one of
10 the things you mentioned, Jim, that sort of caught my
11 attention is Subpart (e), "We're not sure where this should
12 go but we know it should go in the Certification section,"
13 and it seems to me that what we're attempting to do, in
14 small part at least, is verify information through the
15 inspection process.

16 So I don't know if at some point in the future we
17 would want to consider that section verification of
18 information, integrate commercial availability into that, I
19 don't think that section totally does this document
20 justice, but perhaps, as we talk about the inspection
21 process, it could be inserted in there.

22 MR. RIDDLE: And the inspection process is part
23 of Subpart (e) as --

24 MR. KING: Yes, in Section 403.

25 MR. RIDDLE: Right. So we're -- yeah.

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1 Basically, we're wanting to hand something to the NOP
2 and --

3 UNIDENTIFIED FEMALE VOICE: Let them determine
4 where it fits.

5 MR. RIDDLE: Yeah, from the Board. Let's see,
6 Rose.

7 MS. KOENIG: So I guess just clarify on this
8 Section (a), so is this for all ingredients, would a
9 potential person have to --

10 MR. RIDDLE: All agricultural ingredients.

11 MS. KOENIG: All agricultural -- whether they're
12 using organic or non-organic ingredients or all
13 ingredients?

14 MR. RIDDLE: All ingredients used in a product
15 labeled "organic."

16 MS. CAROE: The non-organic, this is for the non-
17 organic, this is supporting the non-organic --

18 MR. RIDDLE: It's all agricultural ingredients
19 used in a product labeled "organic."

20 MS. KOENIG: So even if it's -- even if you're
21 finding organic sources, you would have to document --

22 MS. CAROE: No. No, not for the organic
23 ingredients, not for ingredients that you find organic --

24 MR. RIDDLE: Oh. Well, no, you've got a

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1 certificate, you've got organic, you've bypassed this, it's
2 not applicable then, because you've already exceeded it.
3 It's only -- yeah, it kicks in when you want to use a
4 non-organic, but applies to all agricultural ingredients
5 used in a product labeled "organic," not in a product
6 labeled "made with," and of course not in one "100%"
7 either, it's irrelevant there, so --

8 Andrea, did you have something else?

9 MS. CAROE: Yes, I do. I just want to point out
10 that ingredients are -- can be very specific. Say you were
11 making a product that included spirulina as an ingredient,
12 right now there's two manufacturers that I know of that do
13 organic spirulina, just two. If you called both those
14 manufacturers and they didn't have it available, would you
15 not be in compliance because you didn't call three?

16 I mean, I think by setting a number, you're not
17 understanding the scope of searching for ingredients.
18 Sometimes the ingredients are quite available, other times
19 they're very narrow, you know, you may be looking for a
20 chocolate that freezes, for an ice cream bar, that's very
21 specific, you know, I mean it's -- it's not necessarily --
22 I just -- I think the three -- I think once you use that on
23 a certification level, that's -- it's just -- it's not
24 always applicable.

25 And the other thing I want to say is that the

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1 Rule specifically states that a certifier must have enough
2 evidence, before they send an inspector in, that says this
3 operation can possibly be certified, and the certification
4 agency has the right to say, "We want to see that document
5 for the sourcing of that ingredient" before they go in.

6 Now, if you -- you know, yes, it is the
7 obligation of the on-site inspection to verify the
8 information that was received in the claims that that
9 operation is making, but you're specifically stating here
10 that this is how the certification operation -- certifica-
11 tion agent is going to operate, and I -- I just don't
12 believe that we have the right to tell them how they're
13 going to operate. You can tell them what needs to be done
14 and what -- through the process, what you need to get out
15 of it, but where it needs to be done, I think it's
16 inappropriate.

17 MR. RIDDLE: Well, yeah, and I'd like to respond
18 to that. The first point, on the minimum of three
19 potential suppliers being contacted: that's not being
20 changed in this draft; that was already something that the
21 task force had agreed to in the prior draft. So we're not
22 looking to change that, you know, right now.

23 And the intent is to bring predictability, so
24 that you know if you have contacted at least three, it
25 doesn't limit it to three, but at least three, then you

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1 have fulfilled a standard, that the certifier can't, you
2 know, change the rules on you at that point. It's to
3 provide consistency and predictability.

4 And yeah, maybe it's not appropriate/adequate in
5 all instances, but as a rule of thumb, that's what we're
6 trying to establish.

7 And on the -- yeah, on the other one, which is a
8 change being proposed in this draft, Number 4 there, that
9 was in response to comments, that the -- that this really
10 happens during the inspection, and I hear what you're
11 saying, that the applicant should submit the information on
12 the known sources of the ingredient and organic status
13 thereof in their organic system plan, and that should be
14 reviewed in advance of the inspection.

15 That's what we originally had recommended. And
16 then the commenter was saying no, that that really should
17 occur during the inspection, and on further thought, you
18 know, I'm thinking that maybe -- that during -- the
19 inspection, you know, part, should only apply to Number 5,
20 that that's when the inspector reviews the written
21 evidence, that -- that's something that happens on a daily
22 basis and can't be submitted as part of the organic system
23 plan, that's, you know, an ongoing process, the attempts to
24 source. It's not something that you do one day out of the
25 year, send in your plan, and you're done.

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1 So I think that is appropriate that that be
2 directed to the inspection process, but Number 4,
3 submitting information on the known sources of the
4 ingredient and organic status, I think is appropriate to
5 keep in the organic system plan.

6 So when the task force meets, I think we can talk
7 about a change there. Mark, then --

8 CHAIRMAN KING: I was just going to say, I think
9 this is really good dialogue and this is a good piece in
10 front of us. It sounds like what we're really talking
11 about here, if I may, is the difference between review of
12 application and verification of information throughout the
13 inspection process, and there are -- there are some ways to
14 accomplish the same end through that.

15 So I appreciate the comments, and in about five
16 minutes I'd like to wrap this up to stay on schedule, so --

17 MR. RIDDLE: Okay. Okay, so I think we'll
18 continue that discussion in the breakout session.

19 B, which is really the steps that the certifier
20 would need to follow in making these determinations, and,
21 once again, to bring predictability and consistency to the
22 process, so:

23 Evaluate the applicant or certified operator's
24 claim that no organic substitutes are commercially
25 available in form/quality/quantity needed by the operation

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1 to fill the required function;

2 2) Verify that the applicant or certified
3 operator has made a good-faith effort to source organic
4 ingredients;

5 3) Verify that the ingredient is not commercially
6 available in organic form by reviewing the best-available
7 information, listing known sources of organic ingredients;

8 4) Notify the certification applicant or
9 certified operator of sources information which lists
10 available organic ingredients if the certifying agent finds
11 that such ingredients exist;

12 And then we're recommending in this draft to
13 delete Number 5;

14 And then, moving on: Maintain and annually
15 submit to the NOP an up-to-date list of ingredients that
16 have been granted allowances in non-organic form, and then
17 in parentheses: The list shall maintain the
18 confidentiality of ingredients, suppliers, and parties
19 granted allowances.

20 "The reporting requirement shall be implemented
21 through the accreditation process by providing ACAs ample
22 notification and time to adopt data-management systems,"
23 and that's a recognition that not all certifiers have the
24 data-management systems currently in place. This is --
25 would be a new reporting requirement that will take some

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1 time to implement.

2 And then the rest of this remains as it came out
3 of the task force: Require certified operators to update
4 commercial availability information in each organic system
5 plan update;

6 Acknowledge all complaints concerning allowances
7 granted and provide rationale for determinations. If the
8 investigation of a complaint provides significant new
9 information, then the certifying agent must revisit the
10 allowance; and

11 Require that products without sufficient
12 documentation not be labeled "organic." Such products may
13 be labeled "made with organic ingredients" if they meet all
14 applicable labeling and product-content requirements for
15 that category.

16 Any comments, questions on that part? -- and this
17 is the last part. Andrea.

18 MS. CAROE: I -- as I voiced previously with this
19 task force, I think Number 3 changes the intent of what the
20 certification agent's role is. The certification agent
21 isn't to take on the liability of the product. They are to
22 verify that the justification provided by the applicant is
23 appropriate. I don't feel that the certification agent's
24 job is to verify that that ingredient is not available.
25 They're verifying that the effort was due diligent but not

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1 that it's not available.

2 So -- I mean, I've said that before, and I really
3 can't see that certification agents should take on that
4 role.

5 MS. DIETZ: I think the same intent, she -- well,
6 I think you're --

7 MR. RIDDLE: Kim?

8 MS. DIETZ: I think you're meaning the same
9 intent that we are. We're not --

10 CHAIRMAN KING: Yeah.

11 MS. DIETZ: We're not saying you need to go out
12 and verify that those are commercially available, saying
13 verify the documentation --

14 MS. CAROE: But that's not --

15 MS. DIETZ: -- that's provided to you.

16 MS. CAROE: I mean, that's -- the one before
17 that, Number 2, says "verify the good-faith effort."
18 I believe that is accurate.

19 MS. DIETZ: Right.

20 MS. CAROE: The next one says "verify that it's
21 not commercially available." I don't agree with that. So
22 I would suggest, once again, to strike Number 3.

23 MR. RIDDLE: Well -- yeah, and you're on the task
24 force, and --

25 MS. CAROE: I know. I've said it before, though.

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1 MR. RIDDLE: -- we have considered striking that,
2 and it's in the draft now, and in -- my sense is that in
3 order to determine if an operation is in compliance, the
4 certifier needs to assess not only the effort but also the
5 facts of whether those substances are at all available in
6 an organic form.

7 MS. CAROE: I disagree. I don't think that's
8 (inaudible).

9 MR. RIDDLE: This is an attempt to bring
10 consistency, and yes, there is a need for more information
11 on commercially-available organic minor ingredients to give
12 certifiers better tools to make those assessments, but they
13 need to actually perform some due diligence to determine if
14 the operation complies or not, besides just: whether they
15 made a good effort. Rose.

16 MS. KOENIG: Yeah, I hear Andrea's point. You
17 know, I look at this -- you know, there -- I guess it's
18 sort of like -- you know, not to go back to the List 3
19 inerts, but I will go back to them.

20 There's probably some ways in the future -- some
21 ways that the industry can develop these databases for
22 either -- you know, in this case it's manufacturers,
23 another case might be pesticides.

24 So I don't know if you want to -- you know, I
25 think maybe our efforts might be better placed: rather

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1 than requiring this, is: working on and trying to
2 establish those kinds of lists and sources for certifiers
3 and acknowledge that people who are accredited certifiers
4 should be doing those kinds of things.

5 You know, I -- I think what Andrea's saying is
6 not that she opposes necessarily that -- you know, the
7 intent, I guess; it's just she thinks -- and I guess I tend
8 to agree -- that the format that it's in -- I think 3
9 probably does cover it.

10 MS. DIETZ: And we acknowledge that there is
11 really no place out there right now that has commercial
12 availability lists, so --

13 MS. KOENIG: Yeah. So, I don't know, I'm just
14 putting forth that it seems like in many cases that we're
15 showing that there has to be some kind of databases, I mean
16 similar to like what OMRI does in brand names, I mean there
17 should be databases used for reference. It's not a
18 requirement, again, but references so that people can get
19 those sources of information via -- I don't know -- NOP
20 website or what have you, so that there is tracking, and I
21 think that the USDA -- I mean, it's not their mandate to do
22 this kind of stuff, but they do have data-collection kinds
23 of things all the time, that maybe there could be some kind
24 of tracking --

25 MR. RIDDLE: Right.

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1 MS. KOENIG: -- of the marketplace and what's
2 available.

3 MR. RIDDLE: Yeah. And I think --

4 MS. KOENIG: Not only, you know -- as a source
5 not only to help, you know, conventional, but also, if
6 there is organic, that really would be a great service.

7 MR. RIDDLE: I'd like to wrap this up, and the
8 task force will be meeting during breakout for just
9 fine-tuning this recommendation.

10 I did just want to point out that the rest of the
11 document explains -- summarizes some of the comments that
12 were submitted and how they have been addressed in this
13 draft.

14 And I also want to just point out: one of the
15 commenters said something in quite detail, that I encourage
16 you to read, and essentially advocating the removal of
17 commercial availability considerations altogether from the
18 Rule for minor ingredients, and if someone cannot find
19 organic ingredients in significant quantity and they can't
20 meet that 95-percent threshold, then the products be
21 labeled "made with organic," but just to take it totally
22 out, but that was contrary to the recommendation of the
23 task force, but I did feel obligated to mention that that
24 is another option and something which should be considered
25 and is addressed in these comments.

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1 MS. DIETZ: And in closing, remember that we --
2 we have to have truth in labeling, so most of this is going
3 to happen in those minor ingredients, where if you have
4 something that's under 5 percent that you just can't source
5 -- take organic vanilla, for example, that's just right now
6 not available, or something like that, you're not -- and
7 you're going to label properly, whether it's a "made with"
8 label or an "organic" label (inaudible).

9 MS. COOPER: It's not like we're trying to cheat
10 the system, but --

11 MR. RIDDLE: Thanks, Ann.

12 CHAIRMAN KING: We thank all of you for helping
13 us stay on schedule, I appreciate that.

14 The next item on the agenda is new for this Board
15 in that it's a breakout session. The intent for the first
16 hour is to have three committees in a breakout, which would
17 be crops, livestock, and handling, those committees dealing
18 with materials.

19 It is at the chairs' -- the committee chairs'
20 discretion in terms of how they want to involve the public.

21 The ongoing goal here is to increase the level of
22 transparency and when we're reviewing it also confirm for
23 you that we do consider public input and that we do take
24 your comments when we deliberate and make decisions on
25 materials.

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1 So I think at this point --

2 MS. DIETZ: I --

3 CHAIRMAN KING: Let me finish, one second. So
4 it's at the chairs' discretion. In other words, the public
5 perhaps may just simply observe and then at the end we
6 could have a quick question-and-answer. We'll do this for
7 one hour, then -- if the chair so desires, and then we'll
8 do a quick break. Kim?

9 MS. DIETZ: A point of clarification with NOP. A
10 number of the committees have to go back and actually make
11 recommendations on materials. Is that something that we
12 can have the public involved in, in deliberating and making
13 recommendations --

14 CHAIRMAN KING: Observing.

15 MS. DIETZ: -- and observing? I mean, you know,
16 we've got some materials that we have to take back, soy
17 protein isolates and TSPP.

18 MR. MATTHEWS: Richard Matthews, National
19 Organics Program. That's really up to the committee.

20 MS. DIETZ: Okay.

21 MR. MATTHEWS: The idea is that the committee
22 would get together, go over the written public comment that
23 was submitted prior to this meeting, plus what you heard
24 yesterday during the public session, and that you would
25 then rework your current position if you believe that there

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1 is a need for reworking, or you may come back and say,
2 "We're not making any changes."

3 Whether or not you take additional feedback from
4 the public is really up to you.

5 MS. DIETZ: I just wanted to make sure we weren't
6 violating anything.

7 MR. RIDDLE: Yeah. No, that's an important
8 thing.

9 MS. KOENIG: I would suggest, though, in terms of
10 process, that -- that the committee would formally
11 recognize or ask somebody if that information is needed,
12 that it's not the arena -- because it's really not fair,
13 this is not -- this is not a section for public comment.
14 If there's clarification, I think that, you know, it has to
15 be a real specific issue, but certainly people can observe
16 and listen.

17 CHAIRMAN KING: No, I think that's a really good
18 point, and actually, I think primarily it is for you to
19 observe. Occasionally if the chair wants to recognize
20 someone or you have a pertinent point that deals
21 specifically with that topic, you can make that point
22 specifically, then that's fine, and it's at the chair's
23 discretion.

24 MS. KOENIG: And then the only thing -- also, if
25 the public is involved and the actual petitioner is there,

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1 I think that it -- well --

2 CHAIRMAN KING: This is at the chair's
3 discretion, Rose, we'll let them decide that.

4 MS. KOENIG: Yeah, but I think there needs to be
5 disclosure of anyone who is presenting -- who is -- if they
6 are called upon, who they represent, because I think it's
7 really important that we have some kind of process so that
8 the committee understands who those individuals are.

9 CHAIRMAN KING: Okay, duly noted. Well, I want
10 to see what Katherine -- then we'll go to Jim. Katherine,
11 is that the sign-up sheet or the --

12 MS. BENHAM: The sign-in book -- that's for
13 public comment, this is the sign-up book, so everybody
14 needs to make sure that they sign in.

15 CHAIRMAN KING: This is sign in for today, as --

16 UNIDENTIFIED MALE VOICE: Attendance.

17 CHAIRMAN KING: -- as in "I've attended."

18 MS. BENHAM: Yes.

19 CHAIRMAN KING: Yeah. And you don't want to be
20 on her bad list, so sign in now.

21 (Laughter.)

22 UNIDENTIFIED MALE VOICE: Is the sign-up sheet
23 for public comments --

24 MS. BENHAM: Public comments out there too.

25 UNIDENTIFIED MALE VOICE: Out there too, okay,

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1 for tomorrow morning.

2 CHAIRMAN KING: Okay, and Jim, you had a comment.

3 MR. RIDDLE: Yeah. As I understand it, we're
4 going to -- the crops, livestock, and handling committees
5 are going to break out now, during this first session,
6 before the break, and then after the break I'd like to meet
7 with the 606 Task Force --

8 MR. CARTER: I'd like to meet with the policy
9 development committee.

10 MS. COOPER: And I would like to meet with
11 materials.

12 CHAIRMAN KING: Okay. So essentially -- it's
13 almost 9 o'clock. This first session will go approximately
14 60 minutes, and then we'll take a break and come back and
15 do the other stuff.

16 MR. MATTHEWS: For the record, Richard Matthews.

17 I just want to clarify one thing. What I meant
18 by: it was up to the committee chair is not that -- this
19 is not a new opportunity for public comment; it would be
20 strictly for maybe a clarification, somebody who had made a
21 public comment, if you're wanting clarification you could
22 ask for clarification, if the petitioner's there you could
23 ask for clarification on something. This is not an
24 opportunity for more public input.

25 MR. CARTER: So when Marty hands a yellow sheet

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1 of paper, is that public comment or clarification?

2 (Laughter.)

3 MR. MATTHEWS: That's probably public comment.

4 (Laughter.)

5 CHAIRMAN KING: Yeah, and I think Rick brings up
6 a really good point. There is work to do during this
7 session, so please keep that in mind and respect the
8 interests of the committee.

9 So at this time let's go ahead and break out.

10 (Off the record and reconvened.)

11 CHAIRMAN KING: Welcome, hope you had a nice
12 break, and thanks for your help during the breakout
13 session.

14 We're going to start this off with Keith Jones,
15 who's going to do a presentation, or an update, if you
16 will, on the ECERT Program. ECERT, not Easter, Katherine.

17 (Laughter.)

18 CHAIRMAN KING: So if you could take your seats
19 and get prepared, we'll get started here.

20 (Long pause.)

21 CHAIRMAN KING: Keith, it's all yours.

22 MR. JONES: Imagine, if you will --

23 UNIDENTIFIED FEMALE VOICE: You need to get near
24 a microphone.

25 (Pause.)

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1 MR. JONES: Folks, I apologize that our system's
2 not going to let me be on the record. There's nothing that
3 I'm going to say that's going to be of any sort of regula-
4 tory consequence, it's totally educational, you can take
5 good notes, you can talk to me afterwards, you know, we'll
6 make sure that you have the information you need, so --

7 UNIDENTIFIED FEMALE VOICE: Can you please get
8 near a microphone? It's pretty hard to hear.

9 CHAIRMAN KING: Yeah, we couldn't --

10 MR. JONES: I can talk louder, how about that?

11 CHAIRMAN KING: Thank you, yes.

12 MR. JONES: All right. From the diaphragm, okay.
13 Okay, let's start over.

14 Imagine, if you will, a product supplier in
15 Belgium wanting to source NOP product, an accredited
16 certifying agent in California entering data real-time on
17 producers and processors, and Item-S compliance, tracking
18 also in real-time, compliance data related to non-compli-
19 ances and trim lines in those non-compliances that are
20 going on around the world. That's the vision of what I'm
21 about to share with you this morning.

22 Multiple users entering data into a common
23 database that would capture both regulatory information and
24 compliance information for use on a real-time basis. Okay.

25 That is the NOP ECERT project, and I'm hoping

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1 that I can run this thing. Katherine? Okay, tell you
2 what, let me go back to the tried and true.

3 Our vision is simply this: to supplement a
4 secure, integrated web-based system for electronic
5 collection, use, and dissemination of information that is
6 required to be submitted under the National Organic Program
7 regulations. Okay.

8 Real-time submission, access worldwide through a
9 web-based interface, and utilizing data that we're required
10 to collect anyway. Okay.

11 Now, we have designed this system with our first-
12 line interface in mind, and our first-line interface,
13 folks, is the accredited certifying agents, so we've
14 designed this system with their needs in mind, and also AMS
15 compliance. So that is the two primary user interfaces
16 that the system's designed for.

17 Now, flowing out of that, because we're capturing
18 this data, will be trade uses as well, which means that
19 that purchaser in Belgium can eventually go online, source
20 through our web-based source, and have access to every NOP
21 product that is certified around the world. No other
22 system will be able to combine both trade, product, and
23 regulatory information.

24 Now, part of this will be proprietary, only USDA
25 and accredited certifying agents will, obviously, have

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1 access to certain information related in the primary
2 interface. Okay.

3 The public side will be the trade side, where
4 you, as an individual, can go in, type in a keyword,
5 "potatoes," "corn," "soybeans," whatever, and outflow from
6 that database will be a list of products that are certified
7 with the NOP standards around the world.

8 One of the features that we are considering
9 building into the system will be a distance measurer,
10 because we know that people are very concerned about
11 sourcing product as close as the location of their
12 processing facilities, so one of the things that we're
13 considering is doing, at least on the US side, a ZIP code
14 search, where I, as a processor, could put in a ZIP code
15 that says -- and my ZIP code in Virginia is 20121, I type
16 that in, I click on "give me 150-mile radius," and then it
17 spits out, based on ZIP code searches, products within
18 150-mile radius of my personal ZIP code. Okay.

19 Now, what I'm about to show you today represents
20 the first build of this system, and let me tell you how
21 we're putting this together. This system is designed to be
22 modular in approach, we have contracted with a software
23 developer, and what we are building is functionality over
24 time. So what I'm about to show you today will not have
25 all the features in it that I have just described, but I

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1 can walk you through what we can do today once we have the
2 system fully operational and then what our future builds
3 will be.

4 Now, one of the things that you need to
5 understand too is that one of the things that's going on in
6 the federal government right now is a complete integration
7 in US Customs departments' international trade data
8 systems, and for some of you I had talked to about this
9 project before, we actually expected to have it fully up
10 and running this summer. That's probably not going to
11 happen, because what has happened at AMS is that we have
12 been tasked with ensuring that everything we do relating to
13 software, data collection, and things like that, can
14 integrate and interface with Customs ITDS project, okay.

15 ITDS, International Trade Data Systems, was
16 kicked off back in 1995. It's designed to integrate all of
17 the trade flow data and make more efficient clearing
18 products through Customs. It has taken on an enormous
19 urgency for Homeland Security, and so I, along with other
20 AMS staff, are involved in looking at our systems to make
21 sure that they integrate with ITDS, and that perhaps will
22 slow down the full implementation of the project, so you
23 just need to be aware of that. But regardless, what I'm
24 about to demonstrate and show to you will be where we will
25 be going, okay.

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1 Now, as I said, the primary user -- the primary
2 interface that we've designed is for ACA. ACAs are our
3 eyes and ears on the ground. And I know you guys don't
4 like to hear this, you are our agents on the ground, okay.
5 You're the first line of defense.

6 So what we've done is designed this system for
7 you, we've designed it to help you submit your data to us
8 in an electronic common format, where you're not going to
9 have to send paper to us anymore. We've also designed it
10 and will design it to assist you in reporting non-
11 compliances to us on a real-time basis so that we can begin
12 to track trim lines related to various sectors of the Rule.

13 Okay. So for the ACAs in the audience: this is really
14 designed for you in mind. Okay.

15 Now, you will come to a site entry screen like
16 this, and unfortunately, as I copied it off the website,
17 we've got a number of marvelously gorgeous graphics that
18 just didn't show up, okay, so there's some graphics up
19 there, it's got AMS's logo, a little bar that says
20 "National Organic Program Online Services," which is kind
21 of what we're calling this.

22 So you're going to have a username and password.
23 Marty, what do you want your username to be?

24 MR. MESH: I forgot my password.

25 (Laughter.)

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1 (Cross-talk.)

2 MR. JONES: I'll tell you what I'm going to do,
3 we're going to use Marty as a guinea pig and I'm going to
4 -- for his username consider this: "I Cause Trouble Every
5 Day," okay? That's his username, all right?

6 (Laughter.)

7 MR. JONES: And Marty, you'll have to pick out
8 your own password.

9 UNIDENTIFIED FEMALE VOICE: (Inaudible.)

10 MR. JONES: Backing away from the facetiousness:
11 An ACA will have a unique username that they'll set up,
12 they actually go into the system and set that up. They
13 also set the password up, and then that password can be
14 shared by any person on staff that they feel like needs to
15 have access to the system. We're not going to be dogmatic
16 about security at that level, we feel like you need to make
17 decisions on your staff as to who needs access to the
18 system, okay? But you'll come to the system, you'll
19 identify a username, and you'll be into the system. Okay.

20 You'll come -- as you come into the system, then,
21 you will enter your data, okay? Now, we're going to have
22 much of this data, address and phone numbers, so you will
23 be able to say if it's a corrected address, a corrected
24 phone number, in other words you'll be able to enter to us
25 the latest information, because one of the things that

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1 we're noticing is that addresses and phone numbers
2 obviously change over time, the address and phone number
3 that you gave us at the time of your accreditation may not
4 be necessarily the address and phone numbers that you're
5 using today. In most cases -- in fact, I can't think of a
6 case where you didn't update it, but you'll be able to
7 provide the latest information to us.

8 Now, I don't know how many of you can see the
9 bottom of the screen, but down in this area, this will be
10 information for USDA, so once -- and this actually,
11 unfortunately, says "certified" instead of "accredited," so
12 instead of "accredited," that's actually an error that the
13 contractor is going to have to go back and correct.

14 But we will verify this data, make sure it is
15 accurate, and then we will go into the system and make sure
16 that -- and in this case, this hypothetical case, this
17 individual's authorized for TM11 issuance [phonetic],
18 shipping to Japan [phonetic], they've been accredited for
19 crops, livestock, wild crops, and processed products.
20 Okay. So that sets the database parameters. Okay.

21 And then also it's got the creation of the file
22 date, any modifications in the date of accreditation.
23 Okay. That way we can keep track and determine
24 (inaudible).

25 Okay, now let's go to the certifying [phonetic]

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1 client screen, and this is probably the most -- I think the
2 most interesting screen, and also it's going to be long-
3 term the most useful. This will be the screen that the
4 ACAs will use to update -- and I say update -- their client
5 list.

6 Marty, let's assume you certified Tom, you signed
7 off yesterday, you come to this system and you enter in
8 X-Y-Z Organic, Tom Hutchison, address, information, and
9 then one of the things too that the system will do is
10 assign a unique identifier number to this client, okay?
11 That way we'll be able to track the client throughout the
12 system.

13 Now, I can't tell you what that unique identifier
14 number is going to be yet, we're still going back and forth
15 the contractor as to what makes sense in terms of using the
16 identifier screen, whether it needs to be an alphanumeric
17 screen, whether it needs to be something related to the
18 certifier's name so that we can immediately identify it,
19 we're still going back and forth as to what it's going to
20 look like, but it will assign a unique identifier number.

21 Then you will click on -- and unfortunately,
22 folks, we don't have web access today, so I can't show you
23 a lot of the functionality, but you'll click on the status
24 of Tom's operations, which at this point will be certified,
25 you'll click on the operation type -- crops, livestock,

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1 whatever, there's a drop-down box there, that you can click
2 on what is being certified for, any -- or, I'm sorry, this
3 is processor and handler here, so this would be certified
4 producer and processor here, and then what the operation is
5 certified for, we just click boxes down in here.

6 UNIDENTIFIED MALE VOICE: I have a question.

7 MR. JONES: I'd like to hold -- the way I talk is
8 I'd like to hold questions till the end. I can go back
9 and --

10 UNIDENTIFIED MALE VOICE: I retract that last
11 question.

12 MR. JONES: I understand.

13 (Laughter.)

14 MR. JONES: I can go back and run through any of
15 these slides, and, you know, I'm here as long as I need to
16 be, I know you guys are on a schedule you need to stay to,
17 I've got this loaded on my system, if we want to gather up
18 afterwards and walk through it in more detail, I'm happy to
19 do that. So I'm here at your disposal, within reason.

20 (Laughter.)

21 MR. JONES: And then there's, of course, a date
22 creation, a modified date, and certification date, and
23 status change date. This status drop-down box here is
24 where you will go in and identify -- let's say you've
25 identified a non-compliance. There will be a drop-down

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1 box, and this will be in the next build, it'll probably be
2 over here somewhere, there'll be a drop-down box that says
3 "non-compliance," and then there'll be a drop-down box on
4 every section of the Rule, 205.404 (inaudible), whatever,
5 okay, and you can click on that, as the non-compliance, and
6 that will, when you click on that, autopopulate a common
7 non-compliance letter, that you will have the choice -- and
8 one of the things I do want some feedback on is whether or
9 not you would like to have this e-mailed automatically to
10 your client, if your client has e-mail access.

11 So essentially what you would do is you would go
12 to this screen, populate this on a real-time basis with
13 whatever data needs to be populated in the case that we're
14 just talking about, it's a non-compliance 205, let's say
15 .406, for whatever reason we want to use that. That will
16 autopopulate and bring you to another screen that will be a
17 common non-compliance letter, it'll have boilerplate
18 language in it that we have passed muster at OGC, and then
19 you will insert any applicable information that you feel
20 necessary, and then that letter can be sent either through
21 e-mail or you can print off and send it through regular
22 mail.

23 But we are considering the e-mail option. We're
24 trying to make this as electronic-focused as possible, as
25 paperless as possible, okay. Now, that doesn't mean you

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1 couldn't get into the system and print off the letter for a
2 hard copy or something like that, but you would have the
3 ability to send a non-compliance letter by e-mail.

4 Another thing that the second build will do is
5 that once this screen is finished and completed, it will
6 autopopulate a common format certificate with standardized
7 language on it, okay. You can print that off at your desk.

8 So you fill this out, it will collect the information out
9 of the various fields, autopopulate into the common
10 certificate format, and you can print that out right at
11 your desk. Okay.

12 And really, as I summarize, what we're trying to
13 do, folks, is develop, as I said, an electronic system that
14 is the window to the NOP world, for regulators, for
15 traders, for ACAs. Okay. And we believe that within
16 relatively a short period of time, with -- hopefully within
17 the next six or eight months, we will have this system live
18 and operational, with the functionality that I just
19 described. Okay.

20 Now, software development within the federal
21 government is always a long and kind of laborious process
22 and it has taken on -- I want to share with you that it's
23 taken on a different kind of flavor now that we have an
24 emphasis on Homeland Security, because we have to integrate
25 with so many systems now, so you just need to be aware of

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1 that.

2 But I hope what you can do, in walking away from
3 this presentation today, is really two things: one,
4 recognizing that we are -- and I know you guys don't
5 believe this -- we are trying to make your life easier,
6 okay, and we're trying to make it more efficient, the
7 process more succinct, and the results more consistent.

8 And think, if you would, what this means for us
9 in terms of enforcement, where we can look in a database
10 that has non-compliances that's being inputted on a real-
11 time basis, think what that does to us for our enforcement
12 capabilities. We can begin to identify trim lines -- I go
13 back to the 205.406 example. Let's say that over time
14 we're seeing an enormous amount of non-compliances on this
15 section. Well, that gives us some tips, either, one,
16 nobody understands the section; two, it's poorly written, I
17 mean there's reasons that nobody understands it; three, we
18 haven't done an effective enough job in training on that
19 particular section; or, four, maybe it's just not working
20 on the ground, I mean maybe it's just -- there's just a
21 disconnect with what's going on on the ground and the
22 regulation, okay.

23 But can you see how having that data will help us
24 make better management decisions and better enforcement
25 compliances, and that's really where we want to be, is that

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1 we want to operate, folks, not on supposition, we want to
2 operate on data.

3 And with that, I conclude my presentation.
4 Katherine, I don't know if I've got another slide in there
5 or not. Yeah, just my contact information.

6 I'm happy to take questions, walk you through
7 anything you don't understand. Thank you very much.

8 UNIDENTIFIED FEMALE VOICE: A question.

9 MR. JONES: Yeah.

10 UNIDENTIFIED FEMALE VOICE: Okay. Before that
11 one where the non-compliance letter goes out --?

12 MR. JONES: Uh-huh.

13 UNIDENTIFIED FEMALE VOICE: -- directly, if it's
14 a non-compliance letter that somebody's supposed to get
15 information in within 30 days, if somebody in real-time,
16 you know, sees this person is noncompliant but the real --
17 or certification process really isn't completed, it kind of
18 almost puts like a black mark on this person. I'm not sure
19 exactly what non-compliances you're talking about, minor
20 ones as well as major --

21 MR. JONES: Well, you have to report non-
22 compliances, okay --

23 UNIDENTIFIED FEMALE VOICE: And this is only
24 major ones that --

25 MR. JONES: Yeah.

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1 UNIDENTIFIED FEMALE VOICE: -- (inaudible)
2 suspension or (inaudible)?

3 MR. JONES: Yeah, ones that haven't been
4 resolved, ones that you've tried resolving, hasn't been
5 resolved. Now, keep in mind, folks, this is ACA data only.
6 The world's not going to see this. That particular --
7 that particular screen -- that's why I said it's password-
8 protected.

9 Now, what I didn't show you is that -- if we go
10 back to -- if we go back to the trade side, what you will
11 do on the trade side -- and this is not at all what it's
12 going to look like, but you will just go in and say, "I'm
13 looking for corn," and that would be a publicly-accessible
14 data site [phonetic], okay (inaudible).

15 The ACA information that I've just described to
16 you in the other screen, the only way that you get to that
17 is through a password, which you will have, so the public's
18 not going to see that. That's going to be ACA data, that's
19 going to be USDA data.

20 I've got a lots of questions (inaudible).

21 UNIDENTIFIED FEMALE VOICE: I've got a question.

22 How would someone know if the client is currently
23 certified, would it be that it creates a modified date? I
24 mean, this is a continuation, they're certified in October
25 2003, then they get recertified again in November 2004. As

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1 an inspector, I have seen numerous times where someone has
2 been waiting six, eight months past when their annual
3 inspection date is supposed to be, and still selling
4 current product, switching certifiers. This also doesn't,
5 you know, have anything to do with that either. There's --
6 the problem now with certificates is not really what's
7 currently certified.

8 MR. JONES: Okay. Folks, certificates are good
9 until suspended or revoked, okay? That's the way the
10 regulation reads. They are good until suspended or
11 revoked.

12 Now, the way you're going to keep track will be
13 with the certification date, okay? This will change over
14 time. The screen will also have a modification date, and
15 every time you go and make a change to this screen, the
16 database records the date that it is modified, okay? So
17 we'll know, we'll know, we'll know every time an ACA makes
18 a change (inaudible).

19 MS. SONNABEND: Is that modified date on the
20 certificate that's automatically printing out?

21 MR. JONES: No. It'd be the certificate date.

22 MS. SONNABEND: Only that. So we wouldn't know
23 if it's current, if they had had their annual inspection --

24 MR. JONES: A certificate is good until suspended
25 or revoked, okay?

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1 MS. SONNABEND: Are you going to be able to
2 accept imported data from (inaudible)?

3 MR. JONES: Yes. Great question, I'm glad
4 somebody asked me. I'm ready for it. Okay.

5 The question is: are we going to be able to
6 accept imported data? -- and the answer is yes. That was
7 one of the first questions I asked the contractor, is: are
8 we going to make certifying agents go back and recreate
9 their lists? No. Okay.

10 And let me tell you what we're doing on that.
11 You submitted to us 2003 data. You were required to do so.
12 We have that. We've got it in lots of different formats.
13 Okay, so what we're doing is we're going back and we are -
14 - the program is taking that information that you sent to
15 us and putting it into a Microsoft Access database.

16 In the not-too-distant future, probably sometime
17 this summer, you will be receiving a letter from the
18 program, that says: you will submit all data to us related
19 to 205.400, .404, in this format, which will be a Microsoft
20 Access database format, it will have the fields laid out,
21 how we want the fields, because what we're going to do then
22 is just take and capture that data when you send it to us
23 and import it into the system.

24 So what you're going to be doing, Zea, is
25 essentially you're going to be using this screen to update

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1 at the margins, okay?

2 MS. SONNABEND: If you're going to already take
3 our list and give us our list back --

4 MR. JONES: Yeah. We're going to take the 2003
5 data that you've sent us, okay, and, like I said, this
6 summer we're going to send you -- it'll be an Access file,
7 we'll actually send you the file, and say -- and say to
8 you: we want the data imported into this system, okay, so
9 you will -- if everything works the way I hope it does, we
10 will already have 2003 data in place, you will then send us
11 the difference at the margins between the 2003 data and the
12 2004 data. Everybody understand what I'm saying? The
13 marginal difference between the baseline database and then
14 the database that exists at the end of calendar year 2004.

15 UNIDENTIFIED FEMALE VOICE: I see a field up here
16 that says "Notes," but I don't see a field that's
17 specifically designated for the crops or the products that
18 are being certified.

19 MR. JONES: Excellent question. Excellent
20 question. The next build that we will do is these will
21 have drop-down boxes, okay? The reason that build number
22 one didn't have drop-down boxes is that we -- I confess to
23 you, folks on the crops and livestock side, it's pretty
24 easy to come up with the nomenclature for certain products,
25 okay, you can use census data nomenclature and things like

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1 that.

2 The difficulty, and the reason -- (inaudible),
3 that's an excellent question. The reason we -- at the time
4 that we made build one, it just didn't have any drop-down
5 boxes, is that that actually forms the basis of the
6 searchable database. So whatever you use as a search
7 screen -- or a word here, okay, impacts how you'll be able
8 to search, and it's particularly -- one of the things that
9 we're still wrestling with, and I will tell you that both
10 our software developers and myself don't have good answers
11 for, is what we do on processed products [phonetic],
12 because we've got accredited certifying agents that are
13 certifying clients that have got 3,000 SKUs for processed
14 products, 3,000 SKUs for processed product, okay, and I
15 don't -- neither the software developer nor I have been
16 able to come up with what would be the appropriate drop-
17 down box there for somebody that might have 3,000
18 (inaudible), okay.

19 So there's a data question there that we're still
20 wrestling with. I think we've got -- we've got the crops,
21 livestock, and wild crops nailed, because I think we
22 (inaudible), okay, but the process -- nobody's -- nobody's
23 ever really tried to track products at this kind of level
24 [phonetic], so (inaudible). (Inaudible)?

25 UNIDENTIFIED MALE VOICE: You said that the USDA
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1 and the federal certifiers [phonetic] will be the only
2 people that have access (inaudible) because of your
3 relationship (inaudible), if the National Security Agency
4 or IRS comes to you and says, "I'm investigating Marty
5 Mesh" (inaudible), you'll have to make that data available?

6 MR. JONES: Sure. I mean, this data -- when I
7 say this is between the USDA and the ACAs, obviously any
8 other federal agency would have access to it too, so that
9 if there was a criminal investigation or something like
10 that, we would share that. My point, then, is that this
11 screen, these screens, are not available to the general
12 public.

13 UNIDENTIFIED MALE VOICE: How much did you pay
14 for the software?

15 MR. JONES: Well, the first bill was 25,000.

16 UNIDENTIFIED FEMALE VOICE: (Inaudible)?

17 MR. JONES: I actually don't know. Folks, now --
18 I mean, keep in mind, folks, software is a (inaudible),
19 it's based on functionality, okay, and -- and one of the
20 things too is that we were able to build it as cheap as we
21 were, as they were, build it, is because we took a lot of
22 the source code -- (inaudible) you can understand this --
23 we took a lot of the source code that existed for a program
24 that AMS Fruit & Vegetable had and modified the existing
25 source codes. So the fact that we only spent 25,000 on

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1 this first bill is solely related to the fact that we're
2 using multiple -- or we're using a common source code for
3 multiple functionality, and so we're trying to build it as
4 cheap as possible.

5 But when you look at software, each additional
6 function has a cost, and some (inaudible) as you go up in
7 functionality, you know, and of course I'd love to have all
8 the bells and whistles you can possibly put on it, with
9 software development, the marginal cost actually increases
10 with functionality. In other words, I can build the first
11 module for 25,000; the next module, because I want to add
12 additional functionality, it may take me \$45,000 to build
13 the next module -- and that's just hypothetical, I mean
14 that's not -- I don't know what we're going to spend, but
15 what I want you to understand is that as you build
16 functionality, costs increase.

17 So we're still figuring out what's the best bang
18 for the buck so that we don't go overboard in functionality
19 but that we deliver the kind of services that you -- that
20 you expect and need.

21 UNIDENTIFIED MALE VOICE: (Inaudible) things
22 we've discussed in other contexts, been discussed here at
23 the Board, is that when a certifier -- when a certifier
24 permits a client to use a non-organic ingredient because an
25 organic ingredient is apparently not commercially

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1 available, or if a certifier lets a grower use a non-
2 organic seed because that equivalent variety is apparently
3 not commercially available, we've been talking about the
4 benefit of having this data come in, and a certifier
5 records this, "on such and such a day I allowed a grower to
6 use X-Y-Z seed because organic was not commercially
7 available," same thing with an ingredient. Is this the
8 kind of thing that you envision coming into this system?
9 It seems to me this would be an excellent conduit to
10 (inaudible).

11 MR. JONES: It actually is, Dick, and I'm glad
12 you brought that point up, because we actually think that
13 over time, if the ACAs are doing their job and are updating
14 this on a real-time basis, then you can go onto the public
15 side, and let's say you want to see if, I don't know, a
16 spice is available, or an ingredient, or something like
17 that; if the ACAs are doing their job on a real-time basis,
18 you ought to be able to find whether or not that particular
19 ingredient is indeed available, you know, NOP (inaudible),
20 okay.

21 So the seed side, Dick, is a little bit more
22 difficult, because I think when we have -- and I'm not
23 saying we wouldn't do this, but I think we might have to
24 build another screen in for commercial availability issue
25 related to seed, but on the ingredient side, maybe not,

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1 because the ACAs would actually -- if it's a seed producer,
2 they could put that information in, and so if I was looking
3 for a variety of a seed -- I'm thinking off the top of my
4 head here -- I'll think about it, but it's a good point.

5 UNIDENTIFIED MALE VOICE: And what you said was
6 that if the ACAs are keeping track of all the things
7 they've certified --

8 MR. JONES: Yeah.

9 UNIDENTIFIED MALE VOICE: -- then there would be
10 a list of what's available --

11 MR. JONES: That's my bottom-line point, is that
12 if the ACAs are doing their part and updating this on a
13 timely basis, then this database that outflows from this
14 data collection should be the most accurate information
15 available about the universe of NOP-certified products
16 anytime, in the world.

17 UNIDENTIFIED MALE VOICE: What about if a
18 supplier thinks that people are using a non-organic version
19 -- an inorganic ingredient, then what's to know who is
20 allowing the non-organic version to be used, or is it being
21 allowed (inaudible)?

22 MR. JONES: That's a level of complexity -- I'd
23 have to think about that. I mean, that gets in -- as you
24 can see, you can sit for the next 20 minutes and think out
25 all kinds of functionality you'd like to see in this thing,

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1 and, okay, I can, you know, do this and I can make this
2 data go this way and things like that, because
3 functionality and -- sometimes the cost of functionality
4 increases, we're going to have to decide how best to handle
5 some of those issues, but your point's well-taken. We've
6 identified the system as a way to get to some of those
7 issues.

8 Let me get to Leslie, she's had her hand up for
9 hours [phonetic].

10 MS. ZUCK: Thank you. You (inaudible)
11 categories, and a lot of us have our (inaudible) PRS
12 [phonetic] categories, is that what you were talking about,
13 PRS, is that organic (inaudible)?

14 MR. JONES: Yeah, Kathy and I have actually --
15 Kathy and I talked about this. To put everybody's mind at
16 rest: I actually do talk to a lot of people within the
17 government.

18 (Laughter.)

19 MR. JONES: And Kathy and I have consulted
20 closely on this --

21 MS. ZUCK: (Inaudible.)

22 MR. JONES: Yeah. And one of the things that --
23 in fact, Kathy and I had a meeting just the other day, and
24 let me tell you what the problem is, Leslie, in terms --

25 MS. ZUCK: Because you're dropping a drop-down

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1 box. A drop-down box, you can only (inaudible) --

2 MR. JONES: That's right. And if those
3 categories are too broad -- I mean, Kathy and I have talked
4 about this: if the categories are too broad, then Kathy
5 doesn't get the stratification that she needs to sort
6 out --

7 MS. ZUCK: (Inaudible.)

8 MR. JONES: -- and I don't think a trader would
9 either.

10 MS. ZUCK: (Inaudible.)

11 MR. JONES: Okay. I mean, a trader needs very
12 precise stratification, okay, and that's -- that's the big
13 dilemma with process side, is: what is this -- what is
14 this dividing line between the right amount of
15 stratification -- you know, giving enough data to traders
16 where they can make a trade decision based on a product
17 (inaudible) see if it's really available -- as opposed to
18 just having, you know, a list of products a mile long and
19 somebody's got to scroll through (inaudible).

20 MS. ZUCK: Well, my most important question is --
21 (Laughter.)

22 MS. ZUCK: Has it come up at all that -- where --
23 I -- the Rule doesn't require us to report individual
24 process (inaudible), it requires us to report whether we
25 certify (inaudible), products, but I guess handling, I'd

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1 like (inaudible) --

2 MR. JONES: Here's what we think's going to
3 happen on that. I mean, if we --

4 MS. ZUCK: I mean, I'll do it, I just --

5 MR. JONES: Well, and here's what we -- here's
6 what we think's going to happen. I personally believe:
7 why (inaudible).

8 MS. ZUCK: Well, some people might not, and
9 that's what I'm saying.

10 MR. JONES: Okay.

11 MS. ZUCK: And you're saying it's a required
12 field, we have to fill it out, but it's an ACA -- and some
13 ACAs are saying, "I don't want to fill this out."

14 MR. JONES: But here's what we're going to do,
15 okay? We want this system to work, and if we need to make
16 a reg -- we don't want to have a heavy-handed approach to
17 this, but if we need to make a reg change to get the
18 quality of data that we believe is needed, we would look at
19 that, okay.

20 MS. ZUCK: (Inaudible) not required.

21 MR. JONES: No, it's a fair -- it's a fair
22 (inaudible).

23 UNIDENTIFIED MALE VOICE: This is less of a
24 question, more of a request or a comment, from a certifying
25 agent's perspective, where I think we can -- as certifying

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1 agents, we all have our own current data systems, and what
2 you're trying to do is standardize the way we, as
3 certifying agents, track document data (inaudible) certify,
4 which I think is a great role [phonetic], but (inaudible)
5 common nomenclature and what fields are being defined.

6 That's really important for us in terms of being
7 able to easily import our data from our existing systems
8 into yours. So I request that as you guys, working with
9 your software developer, pin down, "these are the fields we
10 know we are going to request of you guys, and this is the
11 nomenclature we are going to want you to use," let us know
12 so we can kind of develop our system to --

13 MR. JONES: I have got -- if it would be useful,
14 I have actually got -- it would have to go out as draft,
15 because it's still a discussion document between myself and
16 the software developer, but I could give you a draft of
17 what we believe the database fields will look like at the
18 current time, and that would be useful. If I could get
19 that to you -- it'll be the middle of May by the time I get
20 back to the office, but I can get that to you, if that'd be
21 (inaudible).

22 UNIDENTIFIED MALE VOICE: What would be most
23 useful is once you've made a decision: this is what it's
24 going to be, so that then we've (inaudible).

25 MR. JONES: Well, I can tell -- I mean, when I

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1 send that draft out, I can tell you that that is the result
2 of the best professional judgment of both myself and the
3 software developer on (inaudible). Now, we have not gone
4 back to the software developer and said, "Okay, build this
5 into the system," we haven't made that decision yet.

6 UNIDENTIFIED MALE VOICE: You're selling this
7 program very much to us as a service-oriented approach for
8 traders and not only to identify certified products but
9 also availability, which is another feature in the program,
10 and what I not hear about [phonetic]: will that be
11 mandatory, for ACAs to use that program? -- because what
12 you said, this is a service offered for you to work with
13 and lend the service of (inaudible), but on the other hand,
14 I understand that the Custom authorities will have the
15 possibility to check, you want to get the data out of it,
16 you want to check. So will it be mandatory, then, at the
17 end?

18 MR. JONES: Well, this system is what we will be
19 requiring ACAs to use. This will be (inaudible) --

20 UNIDENTIFIED FEMALE VOICE: (Inaudible.)

21 MR. JONES: Yeah. I mean, if you're a USDA -- if
22 you're a USDA-accredited certifier -- and the reason for
23 that is exactly the issue that was brought up, okay. We
24 are required -- I mean -- and let me -- let me tell you
25 what we went through -- I know you guys have got your hand

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1 up, and I'll get to you in just a second.

2 We went through a very sophisticated process,
3 kind of wrestling with the service side of what we were
4 going to do, and as I sat down with the -- with the
5 software developer, it became very apparent that we could
6 never write software programs to input un-data [phonetic]
7 for uncommon systems [phonetic], that what we had to do is
8 to build a system, essentially build it around a Microsoft
9 Access database -- and assuming everybody's used Microsoft
10 Access -- build it around a Microsoft Access database and
11 then say: this is indeed the system, okay, this is what
12 we're [phonetic] going to have to use.

13 Now, we believe that there's so many benefits
14 around it, in terms of real-time data submission, trade
15 availability, not only for that but also just for our
16 ability to track -- track compliance issues related to it,
17 that at the end of the day, everybody is going to be using
18 the system without a lot of grumbling and complaining and
19 that kind of thing.

20 I mean, I have -- I have not demonstrated --
21 those of you who might have been in the (inaudible) in
22 February, I actually demonstrated the program to folks
23 there. I haven't been in a setting where people didn't
24 walk away saying, you know, "this thing's really slick,"
25 "this is really going to make our life easier," okay, "you

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1 guys are doing good work," you know.

2 So I hope that that's the sentiment that we
3 continue to find, because, like I said, the presentation
4 that I made before, that was (inaudible). Merrill?

5 MS. CLARK: (Inaudible) and certifiers
6 (inaudible). Are producers going to be (inaudible)?

7 MR. JONES: Producers won't even need to get into
8 this system.

9 MS. CLARK: They don't need to get in.

10 MR. JONES: They don't even need to get in it.

11 UNIDENTIFIED MALE VOICE: I don't know why they
12 would even want to get in it.

13 MS. CLARK: (Inaudible) for certifiers'
14 information (inaudible) --

15 MR. JONES: Well, but keep in mind, Merrill, this
16 is going to -- this is going to be used -- this is going to
17 be used for enforcement functions, okay? In other words,
18 we couldn't let certifiers have access to the system
19 because they could go in and click and -- you know, a
20 certifier could write up a non-compliance, a producer could
21 go in and click and say: no, non-compliance doesn't exist,
22 you know.

23 (Laughter.)

24 MR. JONES: Okay? I mean, that's not going to
25 work. Okay. So I cannot envision any scenario where you

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1 would want a producer in the system.

2 UNIDENTIFIED MALE VOICE: (Inaudible.)

3 MR. JONES: Maybe.

4 CHAIRMAN KING: Well, Keith, and what about if a
5 producer is trying to select a certifier?

6 MR. JONES: Can I --

7 UNIDENTIFIED FEMALE VOICE: Keith, I -- and maybe
8 you haven't thought about this, but we have a number of
9 producers who would not want their -- they wouldn't mind
10 their name and address being listed in the (inaudible), but
11 they're growing crops under contract, they're doing all
12 direct marketing, they don't want to have their crop mix
13 and stuff like that go into a trade source --

14 MR. JONES: Public release of that information
15 will be optional. As an ACA, you will need to require,
16 okay, or you will need to ascertain from your clients: do
17 they want their name, address, and phone number showing up
18 (inaudible). If they don't, that's their choice, okay,
19 because they've made it. They may say, "My trade"
20 (inaudible) "are just fine, I'm happy" (inaudible), and so
21 (inaudible). So that would be your interface with the ACA.

22 Marty.

23 MR. MESH: The -- multiple users can log on.
24 Will there be a record -- (inaudible) logged on (inaudible)
25 the data on our system, who that was? I'm concerned

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1 that --

2 MR. JONES: So you would want to track it at the
3 staff level?

4 MR. MESH: Well, I'm asking if that's an option
5 (inaudible) --

6 MR. JONES: Yeah, we can --

7 MR. MESH: (Inaudible) our staff entered in --

8 MR. JONES: Yeah, we could build -- we could
9 build a build -- I mean, if that -- if you thought that was
10 useful, that wouldn't [phonetic] be hard to do, is to build
11 a field for staffing issues as we modify the data set
12 [phonetic], okay, and that might be useful -- I don't know
13 that that's useful for us, because the only thing that we
14 want to know is: you came into the system on April 29th,
15 2004, and you modified it. Okay. Now, at your management
16 level --

17 MR. MESH: We want to know who wrote that
18 (inaudible).

19 MR. JONES: -- you might want to know who
20 (inaudible).

21 MR. MESH: And then my other follow-up question
22 -- boy, is this slick.
23 (Laughter.)

24 MR. MESH: -- is: on the drop-down field for
25 certification, you said you can choose one, but many times

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1 (inaudible) crops, livestock (inaudible), handling all on
2 the same operation?

3 MR. JONES: You can choose multiple [phonetic],
4 the way that's going to work. In other words, if they're
5 both producers and processors, yeah (inaudible). We've
6 actually thought about some of this stuff.

7 MR. MESH: Boy, are you good in making our life
8 easy.

9 (Laughter.)

10 MR. MESH: If we could only [phonetic] read this
11 and some of your directives (inaudible).

12 (Laughter.)

13 MR. MESH: We could even keep it organic.

14 (Laughter.)

15 MR. JONES: Okay, I know we probably need to wrap
16 up, so --

17 UNIDENTIFIED FEMALE VOICE: Thanks, Marty.

18 MR. JONES: -- Mark, you had a question?

19 CHAIRMAN KING: No, I was just going to follow
20 up, I was saying if a producer was going to actually choose
21 a certifier -- I understand why they wouldn't have total
22 access to the system, but could they go in and find out:
23 oh, by the way, there are now 72 accredited certifiers in
24 North America -- I'm just using an arbitrary number -- and
25 then, you know, similar to what you were talking about in

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1 terms of close proximity geographically in terms of
2 sourcing something, could they look at that? I mean --

3 MR. JONES: Yeah, I suppose. I mean, once we --
4 it's a database question, Mark, but we could create a list
5 of accredited certifying agents and do a ZIP code distance
6 comparison, at least with domestic producers. So I could
7 put in my ZIP code, 20121, and come up with a list of
8 certifying agents 150 miles from my location, okay. We --
9 that's doable, you know, and I -- if people have got ideas,
10 I'm -- I want to hear ideas, if you've got ideas that.

11 Again, I also want to make sure people understand
12 that, you know, software development is not inexpensive, we
13 did this very cheaply, very cost-effective, but the reason
14 we did it is because we're sharing source code. When you
15 have to go out and write new source code, it becomes fairly
16 expensive, okay?

17 But I don't want to lose good ideas, that's why
18 I'm making this presentation this morning, is that if you
19 guys have got ideas, I want to be able to record those and
20 then kind of sift through those, as to what might make
21 sense in terms of the next build.

22 Okay, folks, I appreciate it. I'll be around
23 later on, if you've got other questions, I'm happy to sit
24 down and talk to you. Thank you.

25 CHAIRMAN KING: Thank you, Keith. Thank you very

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1 much. In light of the fact we're a little bit behind
2 schedule, I think what we'll do in order to give sufficient
3 time for the compost tea task force report, we'll move that
4 till after lunch, we'll go ahead and recess for lunch,
5 starting promptly at 1:30, so please be back here
6 accordingly.

7 (Off the record at 11:45 a.m. and reconvened at 1:11 p.m.)

8 CHAIRMAN KING: I'd like to officially reconvene
9 the meeting of the National Organic Standards Board.

10 We'll deal with the morning agenda item of
11 presentation of the compost tea task force. Rose Koenig
12 will have it up on the screen, and we'll discuss that.

13 And if you'll note in your agenda, there is not a
14 specific order in terms of the committee recommendations
15 noted, so I'd just like to read into the record:

16 We'll be taking the following committee order
17 this afternoon, for those of you who are interested:

18 We'll begin with the materials committee, which
19 will just include discussions of the reports there.

20 Then Andrea's committee, accreditation and
21 compliance will follow.

22 Then we'll go into crops committee, handling
23 committee, followed by the livestock committee, and then
24 we'll finish up with the policy development committee. So
25 that's sort of --

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1 UNIDENTIFIED MALE VOICE: 606 Task Force, where
2 would that fit? (Inaudible)?

3 CHAIRMAN KING: Yeah. It was policy, handling,
4 compost. So the 606 Task Force report will be presented
5 under the policy development committee.

6 Rose, it's your baby.

7 MS. KOENIG: Okay. This time I don't have to do
8 40 slides in five minutes, so I get to shine. Actually,
9 I'm going to -- why I'm standing up here --

10 The task force went through many changes of
11 authority over time. Eric Sideman, who was a past NOSB
12 member, co-chaired the committee with Dennis Holbrook, and
13 myself and Owusu were the individuals that -- from the
14 Board that were actually on the committee, Owusu taking --
15 Dennis Holbrook being the other co-chair, and then Owusu
16 being the crops chair, both kind of played major roles; and
17 then Dennis resigned from the Board, so I became, at the
18 last moment, able to get some credit, becoming new chair.
19 I guess that's the best chair you want to be, is at the
20 last moment, after all the work is done, you get to gain a
21 new title (chuckles). So now I'm co-chair.

22 And then Owusu was supposed to do this first half
23 of the presentation today, and he could not make the
24 meeting, so I've asked Zea to kind of be my sidekick,
25 because she was a member of the compost tea task force, and

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1 I've indicated to her that, you know, if there -- comes to
2 a point, especially in the sections that Owusu was going to
3 cover, if she can help me, if there's any questions or
4 things that I'm missing, she may come up to the podium and
5 kind of add some additional information, so just to get you
6 understanding kind of the process and why we're doing it in
7 that order.

8 So, Ann, the -- it's actually tea 2, t-e-a 2. I
9 can kind of go into the general information too, as we're
10 getting started. You can go to the next slide. Okay.

11 Now, the Board all has a copy of the
12 documentation, and I'm going to summarize kind of that
13 documentation, but I do encourage everyone to actually go
14 through and read the finer details, because a lot of the
15 literature that's cited -- I mean, I'm going to talk about
16 some of the implications of the literature, but I'm not
17 going to go into them, but the citations are there.

18 And then for those who are even extremely more
19 interested in the subject, you could actually -- there's a
20 bibliography and you could actually get some of the
21 publications.

22 And additionally, to those in the audience: the
23 complete copy of the report came onto the website a little
24 bit late, but it is there, so you can access that.

25 So one of the first questions: why did -- you

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1 know, why do we have a compost tea task force? Well, one
2 of the things that was recognized, that there was --
3 there's a wide usage of compost tea by organic growers but
4 there is a lack of uniformity in the regulation of compost
5 tea by certifying agents and the Board felt there was a
6 need to clarify regulations regarding the use of compost
7 tea, and if we all remember -- next slide, sorry, Ann --
8 when the original compost tea task force looked at a number
9 of issues involved around compost, including making
10 recommendations of alternative methodologies for making
11 compost, almost vermicomposting, and there was a section on
12 compost tea that could not really be resolved, so the
13 compost tea task force was initiated to really do further
14 investigation of compost tea, and that's why the task force
15 was -- was extended: to really look more specifically at
16 the implications of compost tea.

17 So there was a need to investigate scientific
18 data regarding human pathogen issues, and many certifiers
19 and organic farmers expressed concern about the restrictive
20 natures of the NOP's ruling of treating compost tea as a
21 raw manure.

22 So in other words, you know, practitioners out
23 there utilize compost tea for a multiple of uses, including
24 nutrients, plant pathological properties, pest control, and
25 they felt that following the 90-120-day restriction on raw

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1 manure would really not produce -- you know, not enable
2 them to use compost tea for the properties that they're
3 using it for. So next slide.

4 Some of the compost tea task force members --
5 well, Eric Sideman, again, was the chair. He was the next
6 NOSB member. Dennis Holbrook was the co-chair, but he has
7 resigned. Owusu Bandele is an NOSB member. Will Brinton
8 from the Woodin [phonetic] Research Lab; Esper Chandler,
9 Texas Plant & Soil Lab; Steve Diver was a representative at
10 ATRA and he has expertise in compost tea; Clive Edwards was
11 from the Ohio State University. Next slide.

12 Elaine Ingham, Soft Food Web [phonetic],
13 Incorporated. Myself, member of the National Organic
14 Standards Board. Fred Magdoff, University of Vermont. Pat
15 Milner, USDA, the ARS division. Steve Scheuerell is from
16 Oregon State University. Zea Sonnabend represents CCOF,
17 California Certified Organic Farmers. And Larry Zibilisk,
18 I don't know -- I'm not sure what his -- USDA, ARS. Next.

19 And we just want to have special recognition to
20 Eric for chairing, and also Dennis, the compost tea task
21 force, in keeping the committee on target, Eric really did
22 a great job; and Steve Scheuerell for the massive amount of
23 work, he really took the lion's share of work to prepare
24 the document and do all the editings of the drafts and
25 completing the final document. Next.

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1 So the areas of expertise that the task force
2 covered was organic farming practices and certification,
3 some of the members had expertise in compost, some had
4 expertise in compost tea production and analysis, some had
5 plant pathology backgrounds, horticultural and soil
6 science, some of our members had EPA pathogen regulation
7 expertise, food safety, and environmental microbiology.

8 So basically we felt that, you know, one of the
9 great things about the task force was the diversity and the
10 -- really, the high levels of expertise that the task force
11 members had, and one of the challenges, I think, was the
12 fact that we had people with such, you know, expertise and
13 really were committed, because there definitely were
14 different viewpoints, especially when it came to the human
15 pathogen aspects of the studies, and some of our
16 recommendations you'll see at the end reflected kind of a
17 -- I think -- a learning process and a collaborative effort
18 to try to take diverse views and really fuse them into a
19 regulation that we all could agree with.

20 And I think it's noted on a further slide that
21 Owusu (inaudible) but I can let you know that 11 of the 12
22 members supported the compost tea task force report as you
23 see it. There was one member who did not vote in favor of
24 the task force report. That member agreed with the
25 recommendations but did not agree with some of the

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1 scientific data and scientific analysis that was expressed
2 in the report, and that individual has been encouraged to
3 do public comment to the Board on that minority opinion, so
4 you will be likely seeing that.

5 The member requested that I kind of forward that
6 information to the NOP prior to the meeting, but I just did
7 not feel it was my role to do that. So because we're not
8 voting on this report at this meeting, I will encourage
9 that member to put it in a format that they're comfortable
10 with and take more time to kind of detail that information,
11 but we look forward to seeing that minority opinion.

12 MR. RIDDLE: Did that person vote against or
13 abstain or do you have --

14 MS. KOENIG: It was against --

15 MR. RIDDLE: Against, okay.

16 MS. KOENIG: -- the report as it stood.

17 MR. RIDDLE: Okay. Thanks.

18 MS. KOENIG: Okay. So if you go through the
19 report, there are some definitions, to give you a frame of
20 reference in terms of the information that's in the report,
21 and I'm just going to highlight some of those definitions
22 today. Well, actually, Owusu was going to highlight those.

23 These are the ones he picked out, that he thought was
24 important for you to develop a framework for this
25 presentation.

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1 So "composing" is: A managed process in which
2 organic materials, including animal manure and other
3 residues -- I guess -- are decomposed aerobically by
4 microbial action.

5 "Thermophyllic composting" refers to: A time-
6 limited self-heating process in which heat generated by
7 microbial respiration is retained in the mass of a pile or
8 (inaudible) such that vulnerable pathogenic microorganisms
9 are destroyed. Next.

10 And we just wanted to acknowledge that "compost"
11 is defined by the NOSB task force, and this was presented
12 in the 2002 Task Force Report that was submitted to the
13 NOSB from the original compost task force, of which some of
14 the members overlapped to this compost tea task force.

15 They define "compost" -- in addition to that
16 described in Section 205.203(c), so we're not saying it
17 replaced it, but it was a broadening recommendation of the
18 definition of "compost" -- as "Acceptable if it's made only
19 from allowed feedstock materials, except for incidental
20 residues that will not lead to contamination; 2) the
21 compost undergoes an increase in temperature, to at least
22 131 degrees Fahrenheit, and remains there for a minimum of
23 three days; and 3) the compost pile is managed to ensure
24 that all feedstocks heats to the minimum temperature."

25 The reason why I included that definition was

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1 that the report -- in other words, when it speaks of
2 compost, it -- the recommendations are not only based on
3 the "compost" definition that's in the Rule but also on the
4 compost task force recommendation for the broadened
5 definition of "compost."

6 So here in the report, and as I'm doing the
7 presentation, again, we're considering a broad definition
8 of "compost."

9 Okay. "Compost extract" is: Any mixture of
10 compost and water, additives, and adjuvants that is not
11 held for more than one hour before use. Compost extracts
12 lack sufficient holding time for microorganisms to multiply
13 and grow significantly."

14 So in other words, if you, you know, take a
15 handful of compost, throw it in a bucket of water, mix it
16 up, and spray it before -- in that holding time period,
17 less than an hour -- no more than one hour before use, it's
18 defined as "compost extract."

19 "Compost leachate" is: Liquid that has leached
20 through a compost pile and collects on the ground, compost
21 pad, or collective" [phonetic] "dishes, puddles, and
22 ponds." It doesn't sound like a very good thing. Okay,
23 next.

24 "Composting additives" are: "Materials separate
25 from compost and water, that are added in the process of

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1 making compost tea, that are presumed to sustain and enrich
2 microbial growth. These are distinct from spray adjuvants,
3 that are tank-mixed immediately prior to application of
4 compost tea.

5 Examples include, but are not limited to, the
6 following: molasses (inaudible) extract, fish-based
7 products, kelp, and green plant tissue. Next.

8 And then a "manure extract" is: Water suspension
9 containing raw, non-disinfected manure when the suspension
10 is maintained for several hours or more, is sometimes
11 referred to as "manure tea."

12 So in other words, when we talked about the
13 compost extract: the manure is grabbed, thrown in a jug of
14 water, and basically made into a soluble form. Next.

15 A "pathogen" is: A microorganism capable of
16 causing disease or injury, used to refer to plant or human
17 pathogens. Next.

18 And then "spray adjuvants" are: Any material
19 added to compost tea immediately prior to application of
20 compost tea. These may include materials that are designed
21 for wetting and sticking agents, plant nutrients, and those
22 materials that sustain and enrich microbial growth but,
23 because of short time frame between addition and
24 application, there is a very low probability of multiplying
25 undesirable microorganisms in the spray tank. Next.

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1 And then "vermicomposting," as it's defined and
2 used in the document, is: A process of worms digesting
3 organic matter to transform the material into a beneficial
4 soil amendment. And basically, if you look in the compost
5 task force report, again, there are different time
6 intervals, which I'm not going to read off the slide, and
7 temperature and methodologies that must be met to meet the
8 vermicomposting standard. Next.

9 So, you know, the environment that we were
10 working in, in terms of the task force, was that compost
11 tea practitioners have developed a wide array of compost
12 tea production practices for both -- the majority for plant
13 disease and/or fertility management.

14 However, there are relatively few peer-reviewed
15 studies that exist for compost tea production and use, and
16 this is where the compost tea task force had to, you know,
17 deal with looking at what literature there was available
18 and also what experiments that had been conducted but
19 hadn't yet been written up in peer-reviewed publications,
20 to again come together with that information, to present a
21 recommendation that would satisfy the requirements of our
22 task. Next.

23 The original, again, compost tea task force
24 recommended that compost tea be allowed but no sweeteners,
25 which means molasses, and those other additives, were to be

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1 added.

2 The National Organic Program ruled that compost
3 tea should be treated as raw manure regarding the 90- to
4 120-day waiting period, and I explained that earlier.

5 And then a number of organic farmers and
6 certifiers believe that this interpretation was too
7 restrictive in terms of how practitioners were using it and
8 their real reliance and perceived need of this material in
9 their organic farming system. Next.

10 So we approved the establishment of this task
11 force at the November 2002 meeting. Our -- the membership
12 of that task force was determined by the original -- you
13 know, Eric and the chairs at that time and was set on May
14 1st, 2003. The initial conference call was held on May 9th
15 of 2003, and -- actually, Owusu made a mistake in this --
16 the final draft was approved on April 6, 2004, with 11 in
17 favor, 1 opposed, and 1 unavailable, and I explained that
18 issue just prior. Next.

19 In our report, the compost tea task force
20 attempted to distinguish between the practitioner-based
21 knowledge -- in other words the practice and what farmers
22 are seeing, usually anecdotal information -- versus
23 scientific knowledges, that is supported by controlled
24 replicated experiments.

25 And, again, because like many, I guess, inputs

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1 and aspects of organic farming systems, a lot -- there
2 hasn't been a whole lot of funding given to land grant
3 institutions to this type of research, so we want as a
4 group to acknowledge kind of the practitioners, the
5 observations and, you know, kind of hands-on science that
6 farmers are doing, but also we needed to balance that with
7 whatever scientific data that we could obtain.

8 A major concern of the compost tea task force --
9 and if you look at the -- you know, read the whole document
10 -- was the potential for human pathogen contamination of
11 edible plants, as regulated by the Final Rule, Section
12 205.203, and this really was the impetus and the reasoning
13 of why there had to be, you know, concern about this
14 product. You know, if there wasn't a human pathogen issue,
15 I wouldn't be standing here doing this presentation today,
16 it would have been something that the Board could have
17 probably wrestled with more -- a year ago.

18 So, basically, a lot of the discussion and the
19 presentation of the research focused on the human pathogen
20 component or issue involved in compost and compost teas.
21 Next.

22 So I want to go a little bit through the methods
23 of production, just in case people are not familiar with
24 it, but basically, methods do vary, because there's farmers
25 who are making their own setups on their farm, and -- and

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1 then there's -- companies are actually selling units
2 [phonetic], so the technology is very diverse.

3 But water is the primary component, and the
4 compost that's used is the next largest component. Compost
5 tea can differ regarding that water/compost ratio. It also
6 can differ based on whether somebody's putting in
7 supplemental nutrients, or, like I said, molasses or those
8 -- those additives, and also the level of dissolved oxygen,
9 whether -- to what degree it's aerated, if it's aerated at
10 all, those types of issues.

11 And there are -- again, commercial and homemade
12 brewers are used, so, again, there's a great variability of
13 the methodologies, the inputs that are used into the tea,
14 and the recommendation needs to kind of encompass all that
15 variability. Next.

16 Typically the ratio is 1 part compost to 10 to 50
17 parts water. A porous container is used, aeration is
18 achieved via a direct air injection or recirculation of
19 water for 2 to -- 12 to 24 hours, and often compost tea
20 additives are used to enhance the microbial proliferation,
21 and typical additives include molasses, yeast extract, and
22 algael powders. Next.

23 There are also passive aerated systems, which
24 usually are 1 part compost/3 to 10 parts of water, they're
25 done in open containers, from 1 to 3 weeks, and they can be

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1 done with or without stirring, and compost additives are
2 used infrequently in these types of systems. Next.

3 Again, the purpose of these compost tea additives
4 is they encourage microbial growth, which means -- you
5 know, most -- especially if you're using it for pest
6 management or fungal control or microbial control on a
7 plant, you're trying to encourage the beneficials, but it
8 also -- it's non-selective, that kind of growth, so if you
9 do have any kind of human pathogen contamination in your
10 tea, they can also grow, because you have now these compost
11 tea additives.

12 So basically -- there has, however -- and that
13 was an important point that some of the members wanted to
14 bring out: that although, theoretically, you could
15 possibly support human pathogens if present in small
16 numbers -- because these -- again, the additives increase
17 that growth -- we know of no documented cases of foodborne
18 illnesses from the use of compost tea.

19 However, the studies -- you know, theoretical
20 studies done in the laboratory, you can -- we saw mixed
21 results, some of them which did not necessarily show
22 microbial growth, but there were studies that did show
23 microbial growth.

24 So the data -- the data showed -- you know,
25 different researchers, depending on different

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1 methodologies, showed different results, but, again, some
2 members felt that it was really important to bring out that
3 no documented causes [sic.] of foodborne illnesses have
4 been recorded, to our knowledge, from compost tea use.

5 Next.

6 How is it, basically, used on the farm. Well, it
7 can be foliar-sprayed or applied through an irrigation
8 system, you know, it would be an overhead irrigation
9 system, or a sprayer. You can have -- it's used sometime
10 as a stubble digester or a green manure inoculant. In
11 other words, it's applied to crop residue or cover crops,
12 usually after mowing and before incorporation into the
13 soil. Next.

14 It can also be applied through irrigation systems
15 or sprayers on -- directly to the soil. It can be applied
16 through a drip-irrigation system, you know, because it's
17 water -- you know, basically it's a water-soluble product.

18

19 And you can use it with a soil-less media, it's
20 used to moisten media before planting or as a post-plant
21 drench. Next.

22 You can -- some growers use it to pre-soak seed
23 or vegetative planting material before planting. And then
24 some people apply it to suppress -- manure collection
25 points -- to suppress the odor of compost piles,

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1 additionally. Next.

2 Again, the plant growth responses to compost tea
3 is largely anecdotal; in other words, it's: growers have
4 been using it and they've reported yield increases by their
5 sight, but there's been no replicated -- or few replicated
6 studies to prove that it does in fact show plant growth.

7 But the postulated mechanisms is that you're
8 providing nutrients and/or the microbes may be producing
9 phytohormones, to help increase plant growth.

10 There's also postulated indirect mechanisms,
11 including, you know: affecting the soil structure; or
12 creating, you know, a microbial-beneficial population
13 around the rise of sphere -- around that root, that can
14 increase or, you know, provide more nutrients; and in terms
15 of plant pathogens, they may be -- those same micro-
16 organisms may be producing compounds that are deleterious
17 to other microbes in the soil. Next.

18 And basically -- and, again, that's where the
19 disease management reports come in, again, a lot of
20 anecdotal reports citing less severe foliar diseases and
21 root diseases using the products.

22 There have been some scientific studies showing
23 both, again, significant and non-significant results
24 regarding disease suppression, and the variability in
25 compost tea composition has been cited, basically, for

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1 these inconsistencies.

2 In other words, because you have so many
3 different systems operating, you have different quality
4 composts, you have different methodologies and additives
5 going in, it's really hard to produce -- unless you're
6 doing a lot of, lot of, studies -- replicated experiments
7 that are going to give you consistent results. So next.

8 Again, there were microbial hazards that were
9 considered by the task force, primarily centered around
10 human pathogens. The compost tea task force recognized
11 that this was an area where there was significant data
12 gaps. But basically the task force considered the types of
13 variables potentially associated with the deleterious
14 microbial contamination from a human perspective.

15 In other words, we looked at kind of the whole
16 environment of a cropping system and we tried to pinpoint
17 areas of risk, and then we tried to gather data to suggest
18 whether these in fact were -- were true. Next.

19 So the reasoning -- there's things about compost
20 tea production that should be considered if you're
21 considering human pathogen populations or you have concerns
22 about human pathogens.

23 One of them is that in some of the compost teas,
24 you may be using manure, and manure has a high potential
25 of contamination.

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1 So, again, if you're composting it according to
2 the Rule, this should reduce it, but there still is an
3 associated risk.

4 Another aspect, where there's not much data
5 available, is compost stability, but the relationship
6 between compost stability and human pathogen levels is
7 really -- has not been determined, but the task force did
8 want to acknowledge that the area of compost stability was
9 a potential area of research. Next.

10 Other areas of concern was -- was water quality,
11 and basically the task force acknowledged that you want to
12 have clean water to start with.

13 Sanitation, you want to make sure you're clean,
14 your machines, effectively, to reduce pathogen populations,
15 but, you know, the machines and how you handle those in an
16 operation are an avenue where you could have
17 multiplications of microorganisms.

18 Vector access, you know, if these machines are
19 set up on farms or areas where you have any kind of
20 rodents, they could potentially contamination a batch of
21 compost.

22 Brew time and temperature, depending on how long
23 it's being brewed and the temperature levels that is
24 reached could have effects on microbial populations. We
25 acknowledge that compost tea additives -- and within the

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1 report there are a lot of literature citings that I would
2 want to call to your attention.

3 The only peer-reviewed article that the committee
4 could find was that of Duffy, that was just recently
5 published, and in that there were -- again, you know, I'm
6 kind of doing this from the top of my head, but he looked
7 at, I think, salmonella and different levels of molasses,
8 and it indicated that at lower levels of molasses, there
9 were no multiplications of salmonella, but as you increase
10 the concentration of molasses you could get an increased
11 concentration of salmonella.

12 A lot of the researchers, however, had opinions
13 on this type of research, and I think they are -- some of
14 the criticisms are valid, because this type of research is
15 done under a laboratory setting, where you're putting a
16 known amount of inoculant in an environment that is usually
17 conducive to pathogen growth, and their argument was that
18 these -- this may not be analogous to what happens in the
19 field.

20 So just a caution that much of the
21 experimentation that has been done thus far, that is either
22 done, the one study, in a peer-reviewed journal is a
23 laboratory-based analysis.

24 And then some of the research that was presented
25 by, actually, members of the compost tea task force, where

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1 they did similar studies with e-coli and replicated it in
2 two different labs, it was the same phenomenon, where they
3 incorporated a certain amount of pathogens to start with,
4 added a molasses kind of solution, and then quantitatively
5 looked at the growth of microbial populations.

6 The compost tea task force acknowledged that
7 there are crop and environmental factors that could affect
8 microorganisms, and some of that includes plant
9 architecture, things like lettuce and apples, there's some
10 evidence to suggest that those types of crops, because of
11 their architecture and the shapes of leaves and the gaps
12 that exist there, that those plants create an environment
13 that may be conducive to the growth of these pathogens.

14 So we just want to acknowledge that there's
15 certain crops that may have, you know, higher risk factors.

16 Additionally, there was some -- some thought
17 about, you know, distinguishing between crops that are
18 typically edible, or typically cooked, or typically eaten
19 raw, as maybe ways that a regulation could be written, but
20 there really was no consensus on how that could be
21 formulated into a recommendation.

22 And, additionally, environmental factors, because
23 we're -- we're trying to create recommendations that can be
24 used throughout the -- you know, the country, you know, UV
25 radiation from the sun, temperature factors, they can all

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1 affect microbial growth, so there was just an
2 acknowledgment that this is an area of -- of interest and
3 where research needs to be done. Next.

4 Another factor: if there are actual pathogens
5 present, the contaminant levels of compost teas, you know,
6 if there already are some, they can certainly be a problem
7 with human pathogen associations.

8 And I'm not sure, Zea, if you have anything else
9 to -- to say about those areas, because as I'm standing
10 here, I'm not necessarily recalling those subcategories, so
11 if you have anything to --

12 MS. SONNABEND: No (inaudible).

13 MS. KOENIG: Okay. And then pathogen, again,
14 pathogen survival, a lot has to do with, again, crop
15 architecture, environment, and post-harvest intervals, and
16 that was something that -- actually, pre-harvest interval,
17 and what they were -- what we acknowledged in the report,
18 that there -- perhaps as research was developed, there may
19 be regulations that could be developed based on time from
20 application to the time you harvest.

21 And then, additionally, there may be post-harvest
22 treatments, such as disinfectants, that could be used to
23 reduce microbial populations. Next.

24 The data gaps that the committee wanted to
25 acknowledge, and there are lots of them, there really was

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1 no information in the literature on cost benefit analysis,
2 very little literature -- informational literature on the
3 ecology of human pathogens, again, pre-harvest application
4 intervals, compost stability, different feedstocks,
5 phytotoxic reaction to compost teas, and dissolved oxygen
6 content. So these were areas that the compost tea task
7 force felt like they had to acknowledge that they felt that
8 data really was needed in these areas, to develop a good
9 recommendation. Next.

10 Okay, so now what we've all been waiting for,
11 da-da-da-da, "the recommendations."

12 So the recommendations from the task force is
13 that:

14 Potable water must be used to make compost tea
15 and for any dilution before application. So in other
16 words, a clean source of water to start with.

17 Equipment used to prepare compost teas must be
18 sanitized before use with a sanitizing agent as defined by
19 CFR 178.1010. Next.

20 Compost tea should be made with compliant compost
21 or vermicompost, using the NOSB Compost Task Force
22 Guidelines set forth on April 18th, 2002, for thermal
23 compost and vermicompost or compost as defined in Section
24 205.203(c)(2).

25 For compost tea, this applies to -- even -- and

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1 this is the distinction and the important point, I guess on
2 this recommendation: for compost tea, this applies to
3 100-percent plant feedstock materials in addition to manure
4 feedstock, which may harbor high levels of fecal bacteria
5 because of non-manure compost.

6 In other words, if you remember the compost reg,
7 the 90-120 days exists for compost that has manure
8 incorporated into it, whereas plant-based compost, there's
9 no waiting period.

10 But in our recommendation, there is evidence that
11 even plant-based materials, starting materials, can harbor
12 human pathogens. So it's a more restrictive, I guess,
13 guideline for compost tea, compared to compost. Next.

14 Compost tea made without compost tea additives,
15 so compliant, in other words compost tea can be applied
16 without restrictions. Next.

17 Okay, this one's a little mouthful, and I think
18 it's a little tricky, but: compost tea that's made with
19 compost tea additives can be applied without restriction if
20 the compost tea production system -- in other words, the
21 same compost batch, the additives, and the equipment -- has
22 been pre-tested to produce compost tea that meets the EPA-
23 recommended recreational water quality guidelines for a
24 bacterial indicator of fecal contamination, and this is
25 based on the US EPA recommendations of 2000, and these

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1 indicators and the passing criteria are --, and it gives
2 you the two numbers for e-coli and enterococci. Next.

3 And then -- now, after you've done that pre-test,
4 at least two compost tea batches must be tested, using the
5 accepted methodology, with the average population of
6 indicator bacteria, cross-compost tea batch is used as the
7 measure of passing, and then each new batch of compost --
8 that means any -- so you test your compost twice, and you
9 can use that compost in that aerator continually, but if
10 you go to another compost pile, that would require that the
11 system quality-assurance pre-test be conducted again, as
12 indicated, and after it passes again, compost tea from the
13 system can be used, with that restriction.

14 This, again, is a recommendation I think that was
15 a compromise and eventually accepted, 11 of the 12 members
16 of the task force, and the -- I guess the victory here is
17 that there was -- you know, a compromise reached by all
18 parties, saying that -- you know, that we recognize the
19 additives -- the issues with additives but we feel that
20 there can be testing protocols developed and there are
21 standards out there that the group -- you know, the compost
22 task force recommends, that the teas then therefore can be
23 regulated with -- with a reduced, you know, risk factor in
24 terms of human populations. Next.

25 If a compost tea made with compost tea additives

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1 has not pre-tested for indicator bacteria, its use on food
2 crops is restricted to the 90- to 120-day pre-harvest
3 interval restrictions, and that's similar to what, you
4 know, compost -- raw manure is in the Rule.

5 In the view of the task force, educating
6 producers about the potential for contamination and its
7 impact on public health and marketing, as well as how this
8 recommended quality-assurance testing system would avoid
9 potential contamination, will provide compelling incentives
10 for producers to follow the rules. Next.

11 "Compost extracts," oh, "any mixture of compost,
12 water, additives, and adjuvants that is not held for more
13 than one hour before use, may be applied without
14 restriction." So if a grower just makes a compost extract,
15 it's used before one hour, it could be used with that
16 restriction, and this is based on the feeling from the task
17 force that you would not have a proliferation of growth in
18 that -- in that time period, that would be of any concern.

19 And then raw manure extracts or teas may be
20 applied to the soil with a 90- to 120-day pre-harvest
21 restriction, but foliar applications are prohibited. Next.

22 Compost leachate may be applied to the soil with
23 a 90- to 120-day pre-harvest restriction, foliar
24 applications are prohibited, and compost tea is not allowed
25 for the production of edible sprouts. Next.

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1 And then, finally, and I think a very important
2 recommendation follows:

3 "The emerging acceptance of compost teas as a
4 biologically-based crop-production tool by organic as well
5 as conventional growers clearly indicates the need for
6 further scientific investigation to validate the benefits
7 and concerns of compost tea.

8 "The Task Force unanimously urges USDA and its
9 agencies to strongly support additional research on the
10 potential for crop contamination and plant disease, pest
11 control by compost tea.

12 "There is an urgent national need to address
13 critical data gaps, uncertainties, and variability in
14 existing data that limited the evaluation of potential crop
15 contamination by the current Task Force." Next. Next.

16 And then, Zea, I'm just going to let you -- I
17 don't know if there were some --

18 MS. SONNABEND: Yeah.

19 MS. KOENIG: -- just points that you wanted to
20 state.

21 MS. SONNABEND: Yes. I just really have two
22 points to make, in addition to what Rose has said.

23 I think that this task force was very well-
24 appointed on your part, the Department and the NOSB, in
25 that it did start out with people with widely-divergent

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1 opinions as well as expertise, and, like any group of
2 scientists getting together, there is quite a bit of
3 scientific bickering over every single fine point in this
4 recommendation, and so it really is much more of a victory
5 than it looks, for us to have achieved a recommendation and
6 a report with this degree of information in it and this
7 degree of concrete recommendations.

8 And then the other point, in relation to that,
9 is: You know, from the practical certifier/inspector side,
10 is this a recommendation that is really enforceable for
11 organics? -- and I think it is, which is why I supported
12 the recommendation.

13 Although it sounds like a big mouthful, with the
14 testing protocol for pre-testing and batches and all that,
15 that we've explained, the benefits of being able to use the
16 compost tea so far outweigh the relatively small cost of
17 the testing and the relatively small additional burden that
18 it puts on growers, that I think it will be welcomed as a
19 procedure, as opposed to not having the compost tea at all.

20 So I do think that it is verifiable, that
21 certifiers, you know, are able to work with this, that
22 inspectors can see it in the field, and that growers can
23 achieve this, for the most part. You know, having to do
24 pre-testing will be -- would be burdensome on really small
25 growers who stir their compost tea in a bucket, but those

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1 are really the people who need the pre-testing the most
2 (chuckles), because they're not using very sophisticated
3 equipment.

4 So that's all I wanted to say about that.

5 MS. KOENIG: And then if you guys had any
6 questions, I mean, we can answer them, I guess. Becky.

7 MS. GOLDBURG: I was curious about the
8 feasibility of doing the testing for indicator bacteria.
9 Are there some quick tests, Scrip [phonetic] tests or
10 whatever, that -- something farmers can use, or do you have
11 to have a microbiology lab to test?

12 MS. KOENIG: I mean, I gather that it would
13 actually require a laboratory.

14 MS. SONNABEND: You do have to take it to a lab,
15 but it's probably a 24-hour, you know, result, and not
16 really very expensive.

17 MS. KOENIG: And, you know, again, the -- one of
18 the scientists at the USDA, the -- really the food-safety
19 individual who signed off on the report, I think the fact
20 that this testing protocol was there really enabled that
21 individual to have a comfort level with the recommendation.

22 So although it is cumbersome and there would be a
23 cost associated with it, it does allow at least businesses
24 that are involved in compost tea to continue to market to
25 organic producers, and I think what Zea says is true, I

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1 mean the technology is there for rapid testing and other
2 areas, it's just a function of, you know, how much demand
3 there is.

4 So I -- you know, in the future, if compost tea
5 is the next best thing (chuckles), compared to other
6 inputs, then, you know, perhaps that'll occur. Jim.

7 MR. RIDDLE: Yeah. I'm really impressed with
8 this report, I think the Task Force has done excellent
9 work. I had a couple specific questions on the
10 recommendations.

11 On Number 5, the second paragraph, the compost
12 tea, with compost tea additives that's not been pre-tested,
13 and you're recommending that that would be allowed for
14 grain crops intended for human consumption, with no
15 restrictions. Correct?

16 MS. SONNABEND: 90-to 120-day --

17 MR. RIDDLE: Oh, it still would be?

18 MS. SONNABEND: Yeah.

19 MR. RIDDLE: I'm reading it wrong, then.

20 MS. SONNABEND: Right. The second line --

21 CHAIRMAN KING: It's "not intended."

22 MR. RIDDLE: "Crops not intended for human
23 consumption, ornamental plants, and grain crops are exempt
24 from the bacterial testing and 90-/120-day" (inaudible) --

25 MS. KOENIG: Yeah, but the concept on that --

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1 and, again, remember how I had said that there was a lot --
2 considerable discussion on plant, plant species, literature
3 that indicated that there could be certain plant types that
4 harbored bacteria because of their architecture, or the
5 fact that they're eaten raw, you know, such as lettuce and
6 apples.

7 MR. RIDDLE: Yeah.

8 MS. KOENIG: The general consensus of the group
9 was that grain crops are mostly -- you know, are processed
10 and that they felt assured that they would be cooked, you
11 know, in terms of human consumption.

12 UNIDENTIFIED FEMALE VOICE: Right.

13 MS. KOENIG: And ornamentals are not consumed by
14 humans, but there are -- there is an industry out there
15 that, you know, may -- or, in fact, is producing ornamental
16 crops. So it just allowed for the use of two kind of
17 specific plants that we all could agree upon.

18 MR. RIDDLE: Uh-huh. Okay.

19 MS. KOENIG: I mean, there was -- again, there
20 was a proposal during the process of many different reviews
21 that there was a USDA list of most-edible crops that are
22 cooked versus ones that are eaten raw, but we kind of
23 acknowledged as a committee that -- that, you know, we have
24 a natural -- you know, a lot of people are natural food
25 eaters, in the organic community, so what the average

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1 American eats cooked (chuckles), a lot of our consumers eat
2 raw --

3 MR. RIDDLE: Uh-huh.

4 MS. KOENIG: -- and a lot of us didn't feel
5 comfortable about using that list as a guidance. So this,
6 again, was the agreement --

7 MS. SONNABEND: It's prohibited for sprouted
8 grains, below.

9 MR. RIDDLE: Okay, right. And then I also had a
10 question on 7 and 8, on the raw manure extracts. There 90-
11 or 120-day would apply, but it says "foliar applications
12 are prohibited." That's a strong word, "prohibited." So
13 even if there's more than 120 days, foliar application -- I
14 don't -- what's the basis for that?

15 MS. KOENIG: You know, again, a lot of the -- you
16 know, the basis of all the restriction -- the (inaudible)
17 of the task force was human pathogens, and again, because
18 of the composition of that task force, there were
19 individuals on -- you know, you had individuals that had a
20 great comfort level with compost teas, and then there were
21 individuals that had no comfort level --

22 MR. RIDDLE: Yeah.

23 MS. KOENIG: -- and this basically was -- you
24 know, that -- coming together of those two groups. Most
25 people -- you know, it's similar to the 90/120 day, why is

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1 there 120 and why is there 90?

2 MR. RIDDLE: Right.

3 MS. KOENIG: Well, it's an extension of that,
4 they just felt that foliar application -- to be safe, at
5 this point in time, again --

6 MR. RIDDLE: So it's really: an abundance of
7 caution.

8 MS. KOENIG: It's abundance again.

9 MR. RIDDLE: Yeah.

10 MS. KOENIG: And again, it's based on the data
11 available today -- well, actually, April 6th, 2004 --

12 MS. SONNABEND: Or lack of data available to --

13 MR. RIDDLE: And lack of data, okay. I just
14 wondered --

15 MS. KOENIG: So lack of data available.

16 MR. RIDDLE: -- if there was something I was
17 missing on that --

18 MS. SONNABEND: Right. No.

19 MS. KOENIG: It's the precautionary principle
20 (inaudible) --

21 MR. RIDDLE: No, it's "prohibited," "foliar
22 application of manure tea prohibited," period.

23 MS. KOENIG: Goldie.

24 (No audible response.)

25 MS. KOENIG: Goldie. I'm sorry, Mark, do you

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1 want to call on her?

2 MS. CAUGHLAN: No, that's fine, I forgot --

3 CHAIRMAN KING: Well, it's --

4 UNIDENTIFIED MALE VOICE: Goldie's (inaudible).

5 MS. CAUGHLAN: Well, I was just going to point
6 out that wheat and barley are both used for juicing, sprout
7 and then juice.

8 MS. SONNABEND: Prohibited for sprouting.

9 MS. CAUGHLAN: However, it is isn't -- but I
10 think that's another step. In other words, I take that
11 indicator to mean you couldn't use -- the way that read, to
12 me, was: meaning you don't do alfalfa sprouts in a liquid
13 tea, soak, or something like that, I mean -- before they
14 sprout, but where you're taking a mature grain crop and
15 then you're making a wheat sprout and then you're juicing
16 it, that's a direct --

17 MS. KOENIG: I think that that is a good point --

18 MS. SONNABEND: Well --

19 MS. KOENIG: -- and what we can do is -- you
20 know, we're not voting on this during this meeting, we're
21 just presenting.

22 MS. SONNABEND: I also think that, you know,
23 while it might be a concern, the chance of anyone using
24 compost tea on a grain crop, economically, is like -- so
25 minimal that I don't think it realistically is going to

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1 (inaudible).

2 MS. GOLDBURG: Sure, but if you're writing a
3 standard, you don't write it to that.

4 MS. KOENIG: Right.

5 MS. SONNABEND: Right.

6 MS. KOENIG: And I think that that's a valid
7 point, Goldie, so what we can do is, you know, make note of
8 that and then just kind of look over the recommendation and
9 see where -- see --

10 MS. GOLDBURG: I mean, it's also true that
11 commercial --

12 MS. KOENIG: I think --

13 MS. GOLDBURG: -- commercial growers can use --

14 MS. KOENIG: Right.

15 MS. GOLDBURG: -- compost tea to their heart's
16 delight.

17 MS. KOENIG: And I think that the intent of the--

18 MS. GOLDBURG: With no safety standards, so --

19 MS. KOENIG: -- the intent of kind of that
20 sprout, we probably thought that we were covering it
21 underneath that, but it's really not defined, so it's a
22 pretty -- I think it's a valid -- a valid point.

23 MS. GOLDBURG: Conventionally [phonetic].

24 MS. KOENIG: Thank you. Anything else?

25 (No audible response.)

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1 MS. KOENIG: Thanks.

2 CHAIRMAN KING: Thank you very much for all your
3 hard work. That was fantastic. I know it took a lot of
4 time and there were some challenges, so --

5 MR. SIEMON: I'd like to make a motion of no task
6 forces over five people.

7 (Laughter.)

8 CHAIRMAN KING: Rose may accept that.

9 (Laughter.)

10 MR. RIDDLE: I have a question about the process.

11 CHAIRMAN KING: Quick comment.

12 MR. RIDDLE: I know we're not voting on this as a
13 recommendation, but should the Board go on record as
14 accepting this report? I mean --

15 UNIDENTIFIED MALE VOICE: Yes.

16 MR. RIDDLE: Well, I'd move that we accept the
17 Compost Tea Task Force report.

18 CHAIRMAN KING: Is there a second?

19 MS. COOPER: Second.

20 UNIDENTIFIED FEMALE VOICE: Second it.

21 CHAIRMAN KING: I'll take Ann, I saw her first.
22 It's been moved and seconded, moved by Jim Riddle, seconded
23 by Ann Cooper, that we accept the Compost Tea Task Force
24 report.

25 All those in favor say aye.

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1 BOARD MEMBERS: Aye.

2 CHAIRMAN KING: Opposed, same sign.

3 (No audible response.)

4 CHAIRMAN KING: Motion carries.

5 MS. KOENIG: Mark, just --

6 CHAIRMAN KING: Yes.

7 MS. KOENIG: So a point of process too, is that
8 -- so this'll -- it's on the web, we'll accept public
9 comment, it'll be posted, we'll be taking public comment on
10 the recommendations, and then --

11 CHAIRMAN KING: Is that your desire?

12 MS. KOENIG: Yeah.

13 CHAIRMAN KING: Okay.

14 MS. KOENIG: Because we need to vote on it in the
15 next -- at the next meeting.

16 CHAIRMAN KING: Okay.

17 MS. KOENIG: So we will officially be -- so it'll
18 be posted for the public to comment on, and then we'll be
19 voting next meeting on it.

20 CHAIRMAN KING: Okay. Now we're to the point in
21 the agenda where we'll actually be voting on committee
22 recommendations, and we're going to start with materials
23 committee, that of course doesn't have any materials but
24 has a couple recommendations.

25 MS. KOENIG: Okay, the Sunset Proposal,

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1 Provision, that was posted on the web, and that we
2 discussed earlier, again, it wasn't up and submitted in
3 time to make a formal vote, so we're not asking for a
4 formal note.

5 Additionally, the National Organic Program sent
6 us some documentation last week, with what they believe is
7 a better version of our -- you know, they've taken our
8 Sunset Provision, they've reviewed it, they've considered
9 things such as the whole federal rulemaking process, that I
10 think that we considered but, in our naivete of the
11 process, I don't think we really understood the full
12 implications of a 5-year sunset and what that meant in
13 terms of the time frame of how we have to proceed in this
14 process to get it all done by 2007.

15 I've thought long and hard, and, you know, I've
16 been -- people say, "Oh, you look horrible" (chuckles) at
17 the end of the day, there's many reasons why you do, but,
18 you know, I take this -- you know, this role very
19 seriously, and I take the Sunset Provision and materials
20 quite seriously, and I certainly want to do -- you know,
21 represent the growers that I represent and what's in the
22 best interests of the industry.

23 Having said that, and thinking about the process,
24 I've asked Arthur Neal to come and give him an opportunity
25 to really fully explain the proposal that they've worked

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1 with, the modifications that they have made, and we've met
2 as a committee and talked about a few areas that we
3 suggested needed a little more thought, and -- so, you
4 know, I don't know if he had time to digest that
5 information.

6 But the one thing that I think I always come back
7 to, and I think we all have to come back to, in this
8 process -- well, there's two things: one is what our
9 concept of Sunset Provision is, and partly I think it's
10 kind of in a misinterpretation of what a sunset provision
11 is, by the Board. Many times, as we're doing our work,
12 we've always thought about the sunset, you know, and I've
13 heard it many times, "Well, we don't have" -- you know,
14 "we'll put it on, and in 5 years we're going to be
15 reviewing everything anyway."

16 So we've looked at it, and we've kind of -- at
17 least myself personally -- have kind of, you know,
18 identified it as a time for full review. However, you
19 know, again, because I'm naive to what a sunset is in a
20 regulatory sense, I think we need to listen and understand
21 what sunset means, you know, as -- as far as regulatory
22 aspects, and that was explained in the letter that -- and
23 the documents that we received prior to the meeting and
24 hopefully the NOP is going to share with us.

25 So I think we need to be open-minded with the

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1 concept of what sunset means in a regulatory perspective,
2 and then, more importantly, the one thing I always have to
3 remind myself is that the sunset is just mechanism, you
4 know, one kind of safeguard in the system, to review.
5 There always is the opportunity to question things that are
6 on the list, okay, and that -- you know, we always have to
7 go back to that point, that at any time anyone has the
8 opportunity to put in a petition to remove something from
9 that list -- and really, that's for the community to
10 understand.

11 So the sunset we thought was -- you know, again,
12 some of us thought as "the mechanism," but I think we need
13 to really rethink what the sunset mechanism is and, again,
14 just acknowledge that there are -- there is a second
15 mechanism for the public to address materials that -- that
16 may need to be considered to either be -- you know, be
17 considered on the list.

18 So, with that introduction, Arthur -- or I'm not
19 sure who in the NOP was going to --

20 MS. ROBINSON: Mind if I be Arthur [phonetic]?

21 CHAIRMAN KING: You can be whoever you want,
22 Barbara.

23 (Laughter.)

24 MS. ROBINSON: Do I have to identify myself
25 again? Barbara Robinson, Deputy Administrator,

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1 Transportation & Marketing Programs.

2 Thanks for all your remarks, Rose, that you just
3 made, because a lot of those we are certainly in agreement
4 with, and hopefully then it'll just make our presentation a
5 little bit briefer.

6 MS. KOENIG: No, don't make it briefer.

7 (Laughter.)

8 MS. ROBINSON: We do thank the Board for the
9 recommendation on sunset, we appreciate it very much, and
10 we understood the amount of time and thought that went into
11 it. While you were at work on your recommendation, we also
12 were doing research on our end, about what is a sunset,
13 because we had many of the same questions that you had, and
14 so we did that kind of research, we looked at legislation.

15 Sunset is not unique to this program, it does
16 happen with many laws or many regulations, and what we
17 found was the following, and I believe most of this we
18 explained to you, but the public probably doesn't know
19 this.

20 Sunset is not -- is typically an expiration that
21 would occur -- it's a call for a review of the conditions
22 that warranted the law or the regulation in the first
23 place.

24 In the case of this program, sunset is: a call
25 to review the conditions that warranted putting a material

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1 on the National List in the first place.

2 So try and think about this -- and Rose brought
3 up a very good point. If you have trouble getting your
4 arms around that, that we're asking the public and the
5 Board to review the conditions, not the material, if you
6 have trouble getting your arms around that, remember:
7 since this program has been implemented, only two petitions
8 have been submitted to the Department to remove a material
9 from the National List. One was for cornstarch, on the
10 basis that there was apparently an organic supply of
11 cornstarch available, the Board considered that and
12 rejected that and left cornstarch on the list; the second
13 was sodium nitrate, and the Board again took public
14 comments on that and the Board decided to leave sodium
15 nitrate on the list.

16 But that provision is available to any person at
17 any time, so that -- if you want to think of that as the
18 trap door, another mechanism, a failsafe provision, however
19 you want to think of that: that is always there.

20 Now, from our perspective, sunset is a public
21 process. It's facilitated by rulemaking through the
22 National Organic Standards Board's mechanisms. You are the
23 integral part of this process. The reason that we believe
24 that this must be done with rulemaking, aside from the fact
25 that our lawyers will stand there and tell us "that's the

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1 only way you're going to do it," but there's a good reason
2 for that, and I'm going to use these words that you've
3 heard us use, and then I'm going to say something about
4 them:

5 The reason we do this through rulemaking, with
6 the public fully engaged, is that in that way we pretty
7 much ensure -- not altogether, but pretty much -- we ensure
8 that neither the Department -- and it's important that you
9 understand this, neither we nor you would appear to be
10 arbitrary, or capricious.

11 Now, we use the words all the time, and, you
12 know, it strikes me that they have a very negative
13 connotation, it makes it sound like you willy-nilly pick
14 things out of the air and decide what to do and, you know,
15 reward your friends and punish your enemies, and that's not
16 what those words mean.

17 It just means: unintentionally or not, because
18 we all come to the table with biases, doing it in an open
19 rulemaking process is a way to minimize that from
20 occurring.

21 So the important thing to remember about this,
22 and this is important for the people who are sitting in
23 this room today, two points: if the public does not weigh
24 in -- explicitly, everybody, you can't just think it, you
25 must communicate, in writing, however that is -- to the

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1 Board through the Department -- whether you believe there
2 is still a continued need for these materials on the
3 National List, if you do not do that, if we receive no
4 comment on material X, on October 21, 2007, regardless of
5 what the Board thinks, the material goes away. It will not
6 be available for use. If it is a prohibited material, it
7 will be available for use. Okay?

8 So the public must get engaged in this.

9 MR. RIDDLE: I missed that last part.

10 MS. ROBINSON: If there is no public comment, if
11 the public is silent -- let's just pick a material. Sodium
12 nitrate. I don't care. Pick anything.

13 UNIDENTIFIED MALE VOICE: No, that's not a good
14 one.

15 MR. RIDDLE: No, I just meant --

16 MS. ROBINSON: Whatever. Material X.

17 MR. RIDDLE: The part about if it's prohibited --

18 MS. ROBINSON: If it is -- if it's a material for
19 which there is an exemption, it's an allowed synthetic, and
20 there is nothing from the world at large that yes, this
21 need -- a need continues to exist for this material, then
22 we can only conclude the need no longer exists; therefore,
23 it will no longer be allowed.

24 If it is a prohibited material and we hear
25 nothing, then we will conclude that it must be okay, and it

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1 will then become allowed to be used.

2 MR. RIDDLE: You mean a prohibited natural.

3 MS. ROBINSON: Yes.

4 MR. RIDDLE: Okay.

5 MS. ROBINSON: Yes.

6 MR. RIDDLE: Okay, good.

7 MS. ROBINSON: What did I say?

8 MR. RIDDLE: That's what threw me.

9 MS. ROBINSON: Did I say prohibited synthetic?

10 CHAIRMAN KING: No, you just said prohibited.

11 MS. ROBINSON: Oh, okay.

12 UNIDENTIFIED MALE VOICE: You can imagine
13 (inaudible).

14 MS. KOENIG: Barbara, I just wanted -- because I
15 see alarmed faces and I just wanted to -- because I also
16 was -- the state of shock. The -- what Keith had explained
17 to me, you don't -- in the sense of something that's on the
18 list in either category, you don't have to provide
19 additional information, it's simply a letter stating that
20 -- you know --

21 MS. ROBINSON: It can be as simple as --

22 MS. KOENIG: -- Farmer A, "I use" --

23 MS. ROBINSON: Yes.

24 MS. KOENIG: -- "X-Y-Z" --

25 MS. ROBINSON: Yes.

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1 MS. KOENIG: -- "A-B-C-D, E-F-G," I could list

2 156 --

3 MS. ROBINSON: Yeah.

4 MS. KOENIG: -- and say "I need all of these."

5 MS. ROBINSON: That's --

6 MS. KOENIG: That's public comment, it stays on.

7 MS. ROBINSON: All you need to do is put a

8 placemaker down, okay?

9 MS. KOENIG: Okay.

10 MS. ROBINSON: Write us a letter: you need this

11 material, the need still exists for this material --

12 UNIDENTIFIED FEMALE VOICE: So it's not a

13 petition.

14 MS. ROBINSON: No. In fact, that's one thing the

15 sunset review is not: it is not a petition process.

16 MS. KOENIG: Okay. So trade organizations --

17 MS. ROBINSON: Like I said at the beginning --

18 yeah. Anybody --

19 MS. KOENIG: -- organizations, individuals --

20 MS. ROBINSON: Yeah.

21 MS. KOENIG: -- as long as it's submitted --

22 MS. ROBINSON: Yeah.

23 MS. KOENIG: -- then it stays --

24 MS. ROBINSON: Anybody.

25 MS. KOENIG: -- everything is status quo.

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1 MR. RIDDLE: And there doesn't have to be any
2 evidence, just a statement.

3 MS. KOENIG: No.

4 MS. ROBINSON: No, not -- not --

5 MS. KOENIG: Status quo.

6 MS. ROBINSON: No, you're just going to tell us
7 -- all we want to know is: do you believe that there is a
8 continued need for the material? Just write us a letter
9 and say, "We need it." That's good enough, to keep this
10 process going.

11 MR. ARTHUR NEAL: Arthur Neal, National Organic
12 Program. And what Barbara's talking about is at -- the
13 advance notice of public rulemaking level, because there
14 are three -- and she hasn't gotten there yet, but there are
15 three different levels: advance notice of public
16 rulemaking; proposed rule; and final rule.

17 MS. ROBINSON: Right. So we will publish an
18 advance notice of proposed rulemaking, and the guts of that
19 will be the document that you already have, the sunset
20 review process, because we tried to develop -- think of it
21 almost like a preamble, okay, what is this process about;
22 for everyone else, this is -- is this on our website yet?
23 (No audible response.)

24 MS. ROBINSON: It will be? So that everyone else
25 can read what the Board has been sent.

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1 Now, another point I want to make, before we get
2 to the process a little bit, I want everyone to understand:
3 there's sort of a feeling and people sense: okay, sunset,
4 it's an event. Sunset is not an event. From now on,
5 sunset is an annual activity that will take place. You
6 understand that.

7 Every year that you add materials, 5 years later
8 someone is reviewing the need for those materials to
9 continue. This is the first board that will initiate a
10 sunset process, but some of you won't even be on the board
11 by the time sunset -- this sunset occurs. But understand
12 that in 2012 -- if we all are still here --
13 (Laughter.)

14 MS. ROBINSON: -- in 2012, this big clump, okay,
15 the one that became active October 21, '02, this whole big
16 clump of materials has to go through it again, plus any
17 materials added by the Board through rulemaking in 2007.

18 Therefore, what you want to realize is that
19 sunset is a growing activity, it will become a bigger and
20 bigger job every year, assuming boards continue to add
21 materials to the list. Because it never is just a one-time
22 review to see if it's okay; it goes on in perpetuity.

23 And that's one reason, that's a very important
24 reason, why the process that we laid out for you through
25 rulemaking, it must withstand this annual action by the

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1 Board and participation by the public.

2 So we could not write procedures for a sunset as
3 if it was a one-time event, we have to put something in
4 place, because what -- again, what you're doing is -- like
5 we've talked about before, here we go creating the process
6 again, for future boards.

7 So, as Arthur started to say -- do you want me to
8 go through these three stages real quick?

9 MS. KOENIG: I -- one -- because -- I think it's
10 important, and one of the questions that I had, in terms of
11 the advance rulemaking:

12 When it goes to public comment, even on the
13 process -- because what I'm assuming is that we also --
14 there's going to be public comment on this process? You
15 said it would be on the NOP website, but the first
16 rulemaking is rulemaking of the process; correct?

17 MS. ROBINSON: No. No. An advance notice of
18 proposed rulemaking is the Department's way of saying to
19 the public at large: we are about to engage in rulemaking,
20 heads up. Now, the public is certainly -- the public is
21 always free to comment to us, Rose, the public can write to
22 us and, you know, windows don't close, we don't say, "We
23 don't care, we don't want to hear from you," we never say
24 that. Sometimes we take what you give us and we think
25 about it, but, you know, we don't take it, but we will

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1 always take input.

2 So the ANPR -- what?

3 MR. RIDDLE: George had a question.

4 MS. ROBINSON: Oh, I'm sorry, George.

5 MR. SIEMON: I had several questions here. So if
6 those conditions are established, question one is: who
7 establishes that condition, one letter is enough, or is it
8 -- somebody makes a judgment that the condition still is
9 needed?

10 MS. ROBINSON: Well, let me walk through that.

11 MR. SIEMON: All right.

12 MS. ROBINSON: Okay? We put out the ANPR and we
13 tell the public -- and we do, in the ANPR --

14 MS. KOENIG: No acronyms.

15 MS. ROBINSON: Huh?

16 MS. KOENIG: No acronyms.

17 MR. RIDDLE: Advance notice of public rulemaking.

18 MS. ROBINSON: Oh, I'm sorry. I'm sorry. ANPR
19 means advance notice of proposed rulemaking. Forgive me, I
20 shouldn't do that. That's the heads-up I was just talking
21 about.

22 Now, remember back to when this rule itself was
23 being created, there was a Proposed Rule, and then there
24 was a Re-Proposed Rule, but there's -- normally there's a
25 proposed rule, everyone is free to comment, the Department

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1 takes the comments, Department digests the comments, the
2 Department is obliged to answer the comments through
3 rulemaking, it does so when it publishes the final rule,
4 and then there's even usually some -- well, very often
5 there's still a comment period that's allowed after the
6 final rule.

7 But what we will do is we'll publish the advance
8 notice of proposed rulemaking and we will tell the public:
9 here's what you need to do, and all that you need to do is
10 communicate to us in writing, and we'll probably allow
11 electronic, but let us know whether or not you believe a
12 continued need exists for any or all of these materials,
13 and that's all they have to do, at first.

14 That then triggers sort of the universe of
15 materials that the Board is going to look at, and it will
16 also trigger -- hopefully not, but it will trigger a
17 subset, which we haven't heard anything, from anybody
18 about.

19 Now, before -- I don't want to -- Arthur's much
20 better at going through all the particular details of
21 what's going to be involved in the proposed rule, so I'm
22 going to let him walk you through that process, but then
23 we'll take any questions that you have.

24 MR. NEAL: In the proposed rule, what happens is
25 that the Board has now formulated their recommendation in

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1 terms of -- they've assessed all of the public comments
2 generated through the advance notice of proposed rulemaking
3 -- yes, ma'am.

4 MS. KOENIG: Okay, I think there was a step left
5 out.

6 MR. NEAL: Uh-huh.

7 MS. KOENIG: According to your documentation. So
8 Barbara made it sound like it was simply a little letter,
9 that said yea or nay, and what in fact your policy says is
10 that if something affirms something on the list, then you,
11 as an individual, can say: yes, we need this, that's all
12 the documentation that's necessary. Or -- step one.

13 UNIDENTIFIED FEMALE VOICE: An ANPR step
14 (phonetic).

15 MS. KOENIG: Okay. But the other -- isn't this
16 step one at ANPR stage if you say -- you say: hey, there's
17 something on there I don't want --

18 MR. NEAL: Right.

19 MS. KOENIG: -- and you said -- sorry, I don't
20 want to say "you," because I'm assuming --

21 MR. NEAL: Right.

22 MS. KOENIG: Isn't -- based on your document, a
23 set of information and data that you must then provide,
24 that requires more than just a letter at that stage --

25 MR. NEAL: Let me explain --

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1 MS. KOENIG: -- and that's an important point,
2 that I think needs to be explained.

3 MR. NEAL: -- a little more to you. You've got
4 to take into consideration this big picture. There have
5 been years of activity taking place to put materials onto
6 the National List.

7 When you take into consideration how materials
8 have made it onto the List, they've gone through scientific
9 research, they've gone through public comment, and final
10 rulemaking, so the data that supports materials that are
11 currently listed on the list already have a foundation
12 established.

13 Now, through the ANPR, you can't tell a commenter
14 what they cannot say. They can say, "We want the
15 material," they can say, "We don't want the material."
16 However, there is a reverse consequence for saying, "We
17 don't want the material," because the same way that a
18 material was recommended for inclusion onto the National
19 List is the exact same way a material has to be pulled off
20 of the National List, which means that if the
21 recommendation is made that "We do not want the material
22 any longer, there's no longer a need," that has to be
23 justified. That need no longer has to be justified -- I
24 mean that need has to be justified.

25 MR. RIDDLE: I'm confused, then, because I

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1 thought things automatically expire unless someone says
2 they're needed --

3 MR. NEAL: I'm not finished.

4 MR. RIDDLE: Okay.

5 MR. NEAL: Now, the Board has the opportunity,
6 because the Board assesses the comments -- because you're
7 going to get comments that say, "We want it," you're going
8 to get some comments that say, "We don't want it." The
9 Board can either attempt to justify the fact that there's
10 no longer a need for the material or just rest in the fact
11 that this material has already been vetted by prior
12 boards --

13 MS. CAUGHLAN: Has what?

14 MR. NEAL: -- already been vetted by prior boards
15 and recommended for inclusion onto the National List and
16 there is a need that has been established, in formulating
17 their recommendation.

18 Do we understand?

19 MR. RIDDLE: Yeah, so far.

20 CHAIRMAN KING: We're hoping there's more.

21 MR. NEAL: Okay.

22 CHAIRMAN KING: Okay.

23 MR. RIDDLE: -- to follow [phonetic].

24 MR. NEAL: If the Board decides that there is no
25 longer a need for the continued use of a substance, then

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1 that need -- the need has to be justified to no longer
2 exist, and what Rose is talking about is how you document
3 the non-existent need for the use of a material, and that
4 -- that entails that the material has a negative -- what is
5 it --

6 MS. KOENIG: It's the three points in OFPA that
7 we used for -- during the petition process and evaluation.

8 It's the environmental -- there's a -- you know,
9 detrimental environmental impacts, a wholly natural
10 substance is available, and -- give me the third one.

11 MR. NEAL: And that it's not consistent with
12 organic farming and handling.

13 MS. KOENIG: That's not -- okay.

14 MR. NEAL: So the needs to this [phonetic] --
15 you'd have to document the substance is harmful to human
16 health or the environment, the substance is not necessary
17 to the production of agricultural products because there is
18 an available wholly-non-synthetic substitute product, and
19 the substance is not consistent with organic farming and
20 handling. Kim.

21 MS. DIETZ: When we had talked earlier from the
22 materials committee, is it the public that's providing us
23 with this information or is the Board who's having to
24 provide this information?

25 MR. NEAL: Both. It all depends on who's trying

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1 to justify that the need no longer exists. So if the
2 public makes that statement, that the need no longer
3 exists, and you've got competing interests, you've got
4 people out there saying, "There is a need for it" and
5 you've got somebody saying, "There is no need for it,"
6 somebody's got to justify the position. And the position
7 has already been laid for it to be on the list. The
8 position that has not been lain is the one to take it off.

9 That's why there is a process by which we say -- a
10 petition process to remove a substance from the National
11 List.

12 UNIDENTIFIED FEMALE VOICE: (Inaudible.)

13 MR. NEAL: Well, I know, that's why -- that's why
14 we do not invite that type of activity.

15 MS. DIETZ: So this board may receive positive
16 letters and negative letters and then it's the due
17 diligence of the Board to say: okay, if there is not a
18 need, then we need to document it with these factors that
19 you're providing.

20 MR. NEAL: If there is not a need for it, right,
21 correct. Yes, Rose.

22 MS. KOENIG: So -- and again, I had the privilege
23 of looking at it, so I kind of processed it a little bit
24 more, and what our -- again, you know, the points are
25 again: the letter, keeping things on as a simple letter,

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1 again, making a change is the one where the burden -- I
2 don't want to say the burden -- it's really the burden of
3 proof, because that's the only way I can think of it in my
4 feeble mind, is: the burden of proof is on the person who
5 wants to remove something from the List, that exists, and
6 this burden of proof that the NOP has suggested and has
7 offered in their final Sunset Provision is acceptable to me
8 because it's based on the OFPA criteria.

9 We're not pulling things out of the hat, we're
10 not asking people to jump through new hoops, they're
11 basically taking those three OFPA criteria, and
12 additionally, there -- but there is two differences that I
13 could pick out, and I just wanted to pinpoint -- you know,
14 point those out.

15 One is, there is a greater emphasis on the --
16 because you're asking -- there's a request to really prove
17 that there are alternatives, with data more than just what
18 we're getting in some of these TAPs, like -- you know, I'll
19 give an example of hydrochloric acid, that lactic acid and
20 acetic acid is available.

21 The data would have to be provided that the form,
22 the function -- there's a supply of those things, that
23 there's readily-available alternatives and they work. And
24 then -- so that's one difference.

25 And then the second difference is that there is

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1 an econom- --

2 MR. NEAL: An industry impact.

3 MS. KOENIG: -- an industry impact statement, in
4 addition to the OFPA criteria, that is written into the
5 language of this final Sunset Provision, and that is the
6 other, second point that I picked out that is distinct and
7 different from what you're seeing in a regular petition
8 process, and I think it would make sense to justify --
9 Keith did a great job -- understanding why the Office of
10 Management & Budget requires that. So if you can --

11 MS. ROBINSON: Two points I just want to keep
12 making here, for the folks in the audience. You understand
13 now what we're asking, that when we public the advance
14 notice of proposed rulemaking, a simple one-line, two-line
15 communication to the Department is sufficient for, you
16 know, putting your placeholder down. That is all that's
17 required.

18 When we get to the proposed rulemaking stage and
19 someone wants to argue to allow the use of a material to
20 expire, we are asking -- as you just heard Rose: that
21 burden of evidence is on the commenter and it will not be
22 sufficient to simply go back and find whatever the Board
23 did, you know, 5 years earlier, or whatever their debates
24 were, and go get out that argument and restate it, because
25 the Board, in its deliberations in previous years, had

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1 already determined, regardless -- you know, taking the
2 totality of evidence it had at the time, it determined that
3 that material met the criteria of OFPA.

4 So you must be able to show that the material no
5 longer meets the criteria, and the only way to do that,
6 that I can figure in my little brain, is: you must have
7 some new evidence that we don't know about, and that's what
8 the Board will then have to weigh.

9 MS. DIETZ: And you said this was during the
10 proposed rulemaking?

11 MS. ROBINSON: Yes.

12 MS. DIETZ: Okay.

13 MS. ROBINSON: I mean, you're free to submit --

14 UNIDENTIFIED FEMALE VOICE: Right.

15 MS. ROBINSON: -- all of that to us during the
16 advance notice of proposed rulemaking; we're just not
17 requiring that.

18 MS. KOENIG: And that is the note -- you know,
19 and after thinking about the process, something -- this is
20 to the Board and to the public: if there are materials
21 that you -- you know, you now know are going through
22 sunset, this is the time to start gathering data and
23 getting that information in as soon as possible, because
24 there's going to be a very short window of opportunity,
25 unfortunately, unless we can figure out a way to extend it,

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1 that we, as a board, are going to be able to handle
2 anything that would contradict -- and I'm saying what
3 exists, you know, any of those second line --

4 MS. ROBINSON: Right. That's -- yeah.

5 MS. KOENIG: -- of products, things where we're
6 going to have to really evaluate, and it appears to me --
7 you know, and that -- that's the question I have for you.

8 There was this assumption that there could be
9 additional -- you know, there is -- and in your provision,
10 they allow for additional technical information to be
11 obtained, but in reality, the way things are going in terms
12 of our petition process, it's not a speedy, immediate
13 response.

14 MS. ROBINSON: That's one --

15 MS. KOENIG: So one of the challenges --

16 MS. ROBINSON: Right.

17 MS. KOENIG: -- and I'm asking you, I mean,
18 because I see this as kind of the area where we could get
19 caught up, is: how -- and I don't know if you've thought
20 about it: how can we get access to information quickly,
21 technical information, if we need it? Because we have,
22 based on what we were talking about, 90 days --

23 MS. ROBINSON: That's right.

24 MS. KOENIG: -- to come up with --

25 MS. ROBINSON: That's the other thing, is we --

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1 included in the document that we have given to the Board is
2 a very detailed timetable that lays out this whole process
3 from start to finish, and if you go through -- I think if
4 you actually add up all the time in there, I think it
5 actually adds to 41 months. That's why we're starting now.

6 The clock has already begun to tick, from our
7 perspective in the Department. We know what we're up
8 against in terms of OMB, we consider -- we are assuming the
9 Office of Management & Budget will designate this to be a
10 major rule. That has certain significance in the
11 government. Once -- once it is determined that you are
12 engaged in major rulemaking, which means you have a
13 significant economic impact on businesses, of X number of
14 dollars, and once you trip that switch, you trip multiple
15 clearance and review levels throughout government, and you
16 top it all off with Congress getting 60 days to review it
17 themselves.

18 But it is such a laborious process to get
19 through, that we -- we believe that it must be started
20 immediately.

21 MR. RIDDLE: I've got two questions. It sounds
22 like if somebody wants something to expire, or be removed,
23 it's very similar to submitting a petition to remove,
24 they've got to -- the burden of proof, the evidence, with
25 new information, you know, is on that petitioner.

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1 But you mentioned that you received two petitions
2 to remove and cornstarch was one of them, and do you know
3 from the records when that happened? -- because I can't
4 find when the Board voted on that.

5 MS. ROBINSON: I honestly don't know, Jim.

6 UNIDENTIFIED MALE VOICE: That's inside
7 (inaudible).

8 MR. RIDDLE: It hasn't been since I have, and I
9 can't find it in the records. I just wondered -- since you
10 said it, I figured you knew when that happened.

11 UNIDENTIFIED FEMALE VOICE: We're in our fourth
12 year, so --

13 MS. ROBINSON: I just made it up.

14 (Laughter.)

15 MR. RIDDLE: Well, I didn't know.

16 MS. ROBINSON: No, I'm just kidding.

17 MR. RIDDLE: I mean, if you could say what year,
18 I could look back at the minutes --

19 UNIDENTIFIED MALE VOICE: (Inaudible.)

20 MR. NEAL: I can't recall.

21 MS. ROBINSON: The other --

22 MR. RIDDLE: But the other -- the question is
23 about the 90 days for the Board to review. Is --

24 MS. ROBINSON: Right. And before you get to your
25 question, let me just address the last part -- something

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1 that Rose asked, and that is: whether or not there could
2 be some sort of extension here. I know that we -- you
3 know, that's been talked about, "Well, if the Board is
4 working on it, if the Board is recommending it," you know,
5 "isn't that good enough, can't this keep" -- "go on?" The
6 answer is, unfortunately, no, and it's not because you're
7 in a regulation, it's because you are bound by your law.
8 The law is what will cause the lights to go out here. If
9 it was a matter of just, you know, adjusting the
10 regulation, we probably could figure out a way to do it,
11 but since it's a law, you know, that's the brick wall. So
12 we can't do that.

13 MS. KOENIG: Right. But worst-case scenario,
14 okay, let's just play hypothetical, because I think -- this
15 is just an issue for me. Worst-case scenario, say
16 product A, there's no -- there is a letter of support for
17 it, and then there's another letter, against it, with
18 evidence, okay, and we get this, and the points are really
19 valid, we find that there's enough OFPA criteria, but it
20 was one of those early-on petitions that did not have an
21 adequate TAP, in our opinion, we need to seek additional
22 technical information. That -- and I know you like to have
23 a really big docket, but hypothetically (chuckles) --

24 MS. ROBINSON: That's not our preference.

25 MS. KOENIG: Well, but -- I mean, hypothetically,

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1 that product could be held back. I mean, the worst-case
2 scenario is: by doing that, you would trigger it off the
3 list. Correct?

4 MS. ROBINSON: Yes. Are you asking if the rest
5 of the list could move forward without --

6 MS. KOENIG: Yeah. The rest of the list could.

7 MS. ROBINSON: Yes. Yes.

8 MS. KOENIG: Okay.

9 MS. ROBINSON: Of course.

10 MS. KOENIG: So we are -- we're tied -- so there
11 are ways, it's just --

12 MS. ROBINSON: Whoever is affected by that one
13 material --

14 MS. KOENIG: -- will be mad [phonetic], right.

15 MS. ROBINSON: -- are the affected parties, yeah,
16 and you might be hearing from them.

17 MS. KOENIG: Right.

18 MS. ROBINSON: But -- yes, but -- now -- and we
19 will do our best to work with the scientific experts, you
20 know -- we do have in AMS a scientific program area, food
21 scientists, microbiological folks. We can consult with
22 them. They have contacts in EPA and FDA. We will do our
23 best to work to make sure that as much technical
24 information as is necessary for the Board -- that we can
25 make it available.

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1 But remember what you're -- you will have to
2 weigh the evidence that is given to you, and there will
3 have to be a -- I don't really want to stand here and say
4 "compelling," but I would assume, if I was in your shoes,
5 it should be pretty compelling evidence why it no longer
6 meets the criteria that you determined it already met.

7 MR. NEAL: Well, it's really the need.

8 MS. ROBINSON: Yeah.

9 MR. NEAL: (Inaudible) there's no need.

10 MS. ROBINSON: Right. So -- okay.

11 CHAIRMAN KING: I have a quick question. I know
12 we're talking about the process and procedures which we'll
13 go through here, and I wanted to know the timeline that's
14 listed, as --

15 MS. ROBINSON: Yes (inaudible).

16 CHAIRMAN KING: -- I'm guessing, sort of a --
17 somewhat of a draft, if you will, in this document, and I
18 have been numerically challenged in the past, so correct me
19 if I'm wrong, but it appears we have 41 months until the
20 deadline --

21 MS. ROBINSON: That's right.

22 CHAIRMAN KING: -- from -- give or take a few
23 days from today. As I add this up, there are a minimum of
24 32 months in the process.

25 MS. ROBINSON: Right.

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1 CHAIRMAN KING: Now, that's not a big window.

2 MS. ROBINSON: No, it's not.

3 CHAIRMAN KING: But as we look at this as a
4 board, 90 days clearly --

5 MS. ROBINSON: Yeah.

6 CHAIRMAN KING: -- is kind of "a train wreck
7 waiting to happen" --

8 MS. ROBINSON: And that -- that's right.

9 CHAIRMAN KING: -- and so recognizing this
10 difference between 41 and 32, perhaps that's an area we
11 could --

12 MS. ROBINSON: Well, let's -- you know, I mean,
13 we put down what we conservatively estimate --

14 CHAIRMAN KING: I understand.

15 MS. ROBINSON: -- everybody will want to have
16 their hands on this thing and take a look at it.

17 CHAIRMAN KING: I understand.

18 MS. ROBINSON: And yes, one of the reasons we did
19 it like this -- and it does look like it's cutting it
20 close, that there's a little bit of a window.

21 A couple of things you want to keep in mind:
22 This year is an election year. You know, I'm sorry to
23 bring up politics, but it's a fact of life where we live,
24 and when there is going to be a congressional election or a
25 presidential election, people get a little bit more

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1 reticent, they get much more cautious about regulations
2 that any agency -- not just us, but any agency -- is
3 working on, and so there's -- you know, that just tends to
4 slow the process down a little bit more.

5 To the extent that we can, if there are places we
6 can save time, give the Board an extra 30 days, take 30
7 from us, something like that, we'll do it. We're not going
8 to let this train wreck, Mark.

9 CHAIRMAN KING: I understand.

10 MS. ROBINSON: That's what the Board and
11 importantly that's what this industry needs to understand:
12 the Department takes it very seriously that this -- you
13 didn't start this industry just to grind it to a halt
14 5 years later. That's not going to happen. So we'll get
15 there. Andrea.

16 MS. CAROE: I actually have two questions. My
17 first one is kind of basic and remedial, but tell me: when
18 this -- when we go through the sunset, we do this
19 procedure, are we putting something back on the list for
20 5 years or are we keeping it on the list for another
21 5 years?

22 MS. ROBINSON: You are renewing its exemption.
23 If it's an allowed synthetic, you're saying: we've looked
24 at it, we've considered all the evidence, we are renewing
25 the exemption for this allowed synthetic for an additional

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1 5 years, and that 5-year date will be the effective date of
2 publication of the Final Rule, and that will start the
3 clock over again, and it should be October 21, 2012, or
4 earlier, if a miracle occurred and we actually got this
5 done, you know, in the summer of 2007.

6 MS. CAROE: Okay. My next question, and this is
7 -- not to be the big black cloud over this, but: what
8 happens if, somewhere along this process, while somebody's
9 reviewing this, including, and not limited to, Congress,
10 somebody says "No" or "We don't like this" or "We want more
11 information" or "We want you to do something different,"
12 what happens to the --

13 MS. ROBINSON: Somebody -- who, like someone in
14 Congress says they want you to look at more?

15 MS. CAROE: You know, any -- OMB, OGC, anybody
16 along this path kicks [phonetic] this.

17 MS. ROBINSON: Well, the Department has to work
18 with its federal partners. Now, as far as telling you that
19 you need -- no one from Congress is going to come and tell
20 you, "Well, I want that material and you need to rethink
21 this." That is the Board's authority: to weigh the
22 evidence before it and make that determination. That is
23 your statutory authority: to renew this exemption.

24 MS. CAROE: I don't think anybody -- I'm not
25 talking about a technical issue as far as whether the

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1 material's fit for organic or not, but I'm talking more of
2 a procedural issue or if they wanted something else done.

3 MR. NEAL: One of the things -- we've taken that
4 into consideration, but that's captured in the timeline,
5 because something could happen where they say, "No, this
6 won't cut it," because it happened to us when we -- when we
7 were developing the proposal, re-proposal, and final, they
8 send it back, and they can take as much time as they need.

9 So that's why the timeline is such, because those
10 things happen, and if we cut into the timeline, we cut into
11 the opportunity to meet the deadline.

12 MS. CAROE: And then what happens?

13 MR. NEAL: We'll have to find out.

14 MS. CAROE: Okay. I just -- you know, I don't --
15 I don't know how these things work, and I know you guys go
16 through this stuff all the time, but, you know, obviously
17 business doesn't come to a screeching halt, there's got to
18 be something -- you know.

19 MS. KOENIG: I had a question, maybe -- you know,
20 and I think it's a good question to ask at this point.
21 There's a number of annotations, okay, so on the proposal
22 that you showed us, there was just two choices, it either
23 stays on or it comes off. There may be cases where
24 somebody wants it to stay on but they want the annotation
25 removed, maybe they want an annotation that's not there.

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1 Is this the point where those changes can be made in the
2 process, Keith, do you know that?

3 MR. NEAL: It really gets you into --

4 MS. KOENIG: Because there may be cases where
5 people, you know, write a comment, not necessarily that any
6 of the economics have changed but no -- you know, "this
7 annotation is too small," and they can provide data, but is
8 this the point where they would do that, where there could
9 be made to changes --

10 MR. NEAL: I will not say straight up no,
11 somebody cannot do that. However, I will say this. That
12 gets you into a petition-type deal and not the continued
13 need for the substance, because after the review process is
14 over, they still can petition to modify an annotation.

15 See, what happens is that your workload -- you
16 start to conflict your work, you start to conflict sunset
17 review with petition process --

18 MS. KOENIG: So -- but that's the question. So
19 it's not the forum for doing that, or --

20 MR. NEAL: No.

21 MS. KOENIG: Well, that's -- I think it's a valid
22 question, because we need to know, and the public needs to
23 know.

24 CHAIRMAN KING: Let's just -- there's a lot to
25 discuss here, clearly, and Keith, you've got a comment, but

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1 I want to make one point first, and that is that we need to
2 wrap this up, literally, in the next minute. We've got
3 petitioners here, materials to vote on. So if we could
4 just wrap this up. And one more point before, Keith, you
5 make your comment, is that this will be ongoing dialogue,
6 so you need to understand this isn't the end here, it's
7 just sort of opening it up and asking questions. So Keith.
8 Thank you.

9 MR. JONES: Okay, I'll take a minute.

10 Rosie, I think you have to understand, is that
11 once we get into rulemaking -- Arthur made a very good
12 point -- we can't constrain the public to comment, okay,
13 and the public may comment and say, "We want annotation X
14 taken off," "we want Y annotation added." They're free to
15 comment. That's what public comment is about, it's what
16 notice and comment rulemaking is about.

17 I think as we analyze that set of comments, we're
18 going to be reluctant, though, to accept those comments
19 because we believe that that really is outside of the scope
20 of the sunset process, and let me tell you why we believe
21 that.

22 We can conclude sunset and then the Board has in
23 its possession public comments, on a range of issues, that
24 it can then take and look at and say, "You know, this is a
25 pretty compelling comment for the removal of this

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1 annotation on X material," or Y -- or whatever, you know,
2 whatever the comment is, and then take an appropriate
3 action straight up on that issue, and I think because of
4 the workload you're going to be facing, it would be more
5 prudent on your part to stay as narrowly focused as you
6 possibly could in the material review process.

7 CHAIRMAN KING: Okay, I just want to make a quick
8 thank you, Rose, for your questions and thought process on
9 this and thank the Department for your comments.

10 A quick agenda adjustment, I'm going to move the
11 handling committee up and we'll discuss those materials
12 now, and then we'll come back with crops after the break,
13 then livestock following that.

14 MR. O'RELL: So, Mark, are you ready to --

15 UNIDENTIFIED FEMALE VOICE: Same order?

16 MR. O'RELL: Tetra sodium pyrophosphate?

17 UNIDENTIFIED FEMALE VOICE: Well, nitrous oxide
18 was first.

19 MR. O'RELL: Well, we were asked to make an
20 adjustment in the order.

21 UNIDENTIFIED FEMALE VOICE: That's fine.

22 MR. RIDDLE: What's going on?

23 MR. SIEMON: We're trying to get (inaudible)
24 before our break.

25 CHAIRMAN KING: And there's some people who need

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1 to catch flights, and clearly we're a little bit behind, so
2 I want to get to materials, just so you understand.

3 MR. RIDDLE: Yeah, I appreciate it.

4 CHAIRMAN KING: It's not a coup, Jim, we're --

5 MR. RIDDLE: No, I just like to know (inaudible),
6 because I thought we had a process.

7 MR. O'RELL: If everybody's comfortable with the
8 change in the agenda now: tetra sodium pyrophosphate, as
9 we discussed yesterday, was petitioned for the use as a
10 pH adjuster and dough conditioner.

11 Following our report yesterday on tetra sodium
12 pyrophosphate with our handling committee recommendation,
13 we had discussion on the Board. We've incorporated -- when
14 we had our breakout session we incorporated some of the
15 comments from the Board, we also considered public comment
16 that was made yesterday, and let me just go -- because we
17 did this and we don't have copies for everybody --

18 CHAIRMAN KING: Arthur's going to try to pull it
19 up for --

20 UNIDENTIFIED FEMALE VOICE: Just the voting form.

21 MR. RIDDLE: Yeah, that's just a blank.

22 MR. O'RELL: Just the voting form. But let's
23 just go through and note the changes we did make, starting
24 with Category 3.

25 UNIDENTIFIED FEMALE VOICE: Category 2.

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1 MR. O'RELL: Okay, Category 2, yes. We did make
2 an addition on Category 2, Question Number 2, "Is there an
3 organic substitute?", we had marked "Yes," but in our
4 documentation and comments we also noted that this -- that
5 what the petition stated with organic lecithin as an
6 emulsifier was not applicable in this situation, it was
7 confirmed by public comment and some other information that
8 we had received prior to the meeting.

9 So we've marked "yes/no." Okay, Jim.

10 MR. RIDDLE: Yeah, I'm sorry, but I don't see
11 anything to follow, but I'm trying --

12 MR. O'RELL: You don't have the sheet?

13 MR. RIDDLE: No.

14 MR. SIEMON: (Inaudible) your regular sheet.

15 MR. RIDDLE: Yeah, I thought they'd be in the
16 meeting book.

17 MR. O'RELL: Okay, moving on now to Category 3,
18 and when the committee met in its breakout session, we
19 considered the comments that were made regarding the public
20 testimony that we had put in the documentation column,
21 which we agree we do not want as a board or a committee to
22 endorse a product that may be on the marketplace or
23 recognize products on the marketplace that shouldn't be.

24 So we are striking, in Question Number 1, under
25 "Documentation," the -- starting with Public Testimony

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1 91902, Dr. Bossy, "There are products currently labeled
2 'Certified Organic' in the marketplace."

3 We are leaving in Public Testimony 91902, Page
4 84, Tom Harding, "All these organic products have high
5 consumer acceptance," period.

6 We are striking "and are certified by responsible
7 accredited certifiers."

8 Any questions on --
9 (No audible response.)

10 MR. O'RELL: Number 2, "Is the substance
11 consistent with organic farming and handling?" We had
12 marked originally, as a committee, "Not applicable." We
13 are changing that --

14 UNIDENTIFIED FEMALE VOICE: It was an error.

15 MR. O'RELL: It was an error, typo. -- to "Yes."

16 MR. SIEMON: Was it supposed to be "Yes" all
17 along?

18 MR. O'RELL: It was supposed to be "Yes." It was
19 a typo. And then we are striking again the same verbiage,
20 Public Testimony 91902, Dr. Bossy, "There are no" -- "There
21 are products currently labeled 'Certified Organic' in the
22 marketplace."

23 And then the final comment on the Public
24 Testimony by Tom Harding, "and are certified by responsible
25 accredited certifiers," striking that sentence, that half

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1 of the sentence, leaving in "All these organic products
2 have high consumer acceptance."

3 Number 3, "Is the substance compatible with a
4 system of sustainable agriculture?" We had marked "N/A,"
5 so we're striking all documentation in that column.

6 Now, Number 6, "Is the primary use to recreate or
7 improve flavors, colors, or nutritive values lost in
8 processing?" We have added three sections. The first one
9 is a note from the TAP, tetra sodium pyrophosphate, TSPP,
10 on Page 2, "The specific use petitioned is as a pH buffer
11 and dough conditioner for use in organic meat-alternative
12 products."

13 We are also including, from public comments made
14 yesterday, testimony from Dr. Garish Ganjyal and Steve Ham,
15 MGP Ingredients, quote: "Currently no alternatives exist
16 for the functional properties displayed by TSPP when used
17 in small amounts in this proprietary process. Extrusion
18 processing is used in this proprietary process, which
19 involves high-temperature and high-pressure cooking for a
20 short duration. TSPP is unique because it has a high
21 melting temperature and thus withstands the extrusion-
22 processing conditions while maintaining its functionality."

23 We are also adding a quote from an e-mail that
24 was sent on behalf of the petitioner to the handling
25 committee, stating: "Texturization in the finished

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1 ingredient is the primary result of the thermomechanical
2 process during the actual extrusion process; i.e., pressure
3 heat shear at the die plate, forming heads, et cetera."

4 Now we go to the handling committee
5 recommendation to the full board. We had discussion based
6 on new information -- or public comment and information
7 from the Board, and we have -- we took a second vote, there
8 was a motion by Kim, seconded by Andrea, and let me just
9 pull this up and read this from the computer.

10 (Pause.)

11 MR. O'RELL: The motion was to allow TSPP under
12 205.605(b), with annotation, in quotes, "for use in meat-
13 analog products."

14 This is going back to the original annotation
15 that was voted on on the last Board meeting and striking
16 the word "texture." That vote was 6 yes, zero no, zero
17 abstentions, zero absent.

18 CHAIRMAN KING: Discussion?

19 MR. SIEMON: I guess I'd just like to know if
20 that annotation causes any trouble whatsoever for the use
21 of the product, I wouldn't think it would, so --

22 UNIDENTIFIED FEMALE VOICE: We -- no.

23 MR. SIEMON: Okay. Great.

24 CHAIRMAN KING: Andrea.

25 MS. CAROE: I just wanted to comment on that. We

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1 had relooked at the not using an annotation and the concern
2 that this would be used --

3 UNIDENTIFIED MALE VOICE: Andrea? I'm sorry.

4 MS. CAROE: The concern was that if there was no
5 annotation, that it could open it up, actually, to improved
6 texture in other products, specifically meat. So that's
7 the reason we came up with an annotation that broadly
8 covered the petitioned request but didn't expand it to
9 where it would not meet criterias -- the criteria for
10 inclusion on the list.

11 MR. RIDDLE: Yeah, I just want to express
12 appreciation for the work of the committee.

13 MR. SIEMON: You going to do that with a motion?

14 MR. RIDDLE: Yeah, I --

15 MR. O'RELL: Should do that with a motion?

16 MR. RIDDLE: Yeah, sure, I'd move approval -- no,
17 I'm not, I am not going to move the approval.

18 UNIDENTIFIED FEMALE VOICE: It dies because of
19 lack of second.

20 MR. RIDDLE: You guys almost tricked me.

21 (Laughter.)

22 MS. DIETZ: I'll make the same motion: to add
23 tetra sodium pyrophosphate on 205.605(b) as a synthetic,
24 with the annotation as a meat-analog --

25 UNIDENTIFIED FEMALE VOICE: For use in.

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1 MR. O'RELL: For use in meat-analog products.

2 MS. DIETZ: -- for use in meat-analog products.

3 MS. CAROE: I'll second.

4 UNIDENTIFIED MALE VOICE: Jim, you could second
5 it.

6 MR. RIDDLE: It already was.

7 CHAIRMAN KING: It has been? Who seconded?

8 MR. RIDDLE: Andrea.

9 CHAIRMAN KING: Andrea seconded. All right, so
10 it's been moved and seconded that we consider the addition
11 of TSPP to .605(a). Correct?

12 UNIDENTIFIED FEMALE VOICE: .605(b).

13 CHAIRMAN KING: .605(b), sorry, with the
14 following annotation: "for use in meat-analog products."
15 Is there any discussion?

16 MS. GOLDBURG: I'm going to raise one point,
17 because I think I'm going to vote against this material,
18 and that is, I think that when we do vote, we ought to
19 consider whether we need organic meat-analog products.

20 MR. CARTER: Yeah, I have the same concern.

21 UNIDENTIFIED FEMALE VOICE: (Inaudible)
22 discussions (inaudible)?

23 CHAIRMAN KING: Okay. Further discussion?

24 MR. SIEMON: Well, if we're going to go that far,
25 my concern always is, if you do that, then you have a "made

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1 with" product and you'll still have it out there -- instead
2 of being 95-percent organic, you're going to have it 70-
3 percent organic, and we've actually done a disservice,
4 because the market will always go to that lower one if they
5 -- if that's what you're enforcing [phonetic], so to me,
6 that's really important.

7 MS. CAUGHLAN: I think that's a very valid --

8 CHAIRMAN KING: Goldie, go ahead.

9 MS. CAUGHLAN: No, I said I think that's a very
10 valid rationale.

11 MS. KOENIG: Can you elaborate on it a little
12 bit, what you're --

13 MR. SIEMON: Well, if we prohibit this material,
14 then they'll just put a "made with organic" claim and it'll
15 be 70-percent organic, if we allow it, then people are able
16 to make a meat analog, whether we need it or not, at 95.
17 You're not going to stop the product from being on the
18 marketplace and trying to go out to the organic consumer.
19 Now it's a choice of enabling that to be 95 or we limit it
20 to the 70.

21 CHAIRMAN KING: Kim.

22 MS. DIETZ: This same discussion we went into
23 detail about 20 pages of the original time we voted on this
24 material, and remember, if this material is also considered
25 a processing aid, it does not need to be on the label. So

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1 on a "made with" product, you may have one ingredient and
2 it'll be a hundred-percent grain and on a "made with"
3 label. So there is confusion out there to the consumer,
4 and that's why we did not originally recommend a "made
5 with" label.

6 CHAIRMAN KING: And I just -- I actually voted
7 for this recommendation, I had a similar concern with
8 George and I made the point of the "made with" category,
9 and I guess one of the things that helped me to support it
10 is: understanding, as I walk into a grocery store, that
11 there are lots of consumers who -- vegetarians, primarily
12 -- who do consume this product and who are supporting it.

13 And the second was that -- and I could be wrong
14 on the math here, but it was .5 percent of TSP in the
15 actual ingredient that then goes into the final product, so
16 I think we're --

17 MR. O'RELL: 10 percent in the final product.

18 CHAIRMAN KING: So we're talking about a pretty
19 small percent. Dave.

20 MR. CARTER: Well, I just -- one of the things
21 I'd like to ask too is just -- on the Category 1, down
22 there under Number 10, the documentation says "as noted,
23 tetra sodium pyrophosphate has been linked to kidney
24 damage; however, all reviewers shared the consensus that
25 the levels used in food manufacture should not pose a

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1 serious risk for most consumers," that's --

2 (Laughter.)

3 MR. CARTER: That doesn't give me a lot of
4 confidence, that it "should not for most consumers."

5 That --

6 MS. DIETZ: That's what is written in the TAP,
7 that's verbatim.

8 MR. CARTER: Okay.

9 MR. O'RELL: Yeah. I mean, the problem with
10 that, that is exactly -- it's verbatim language from the
11 TAP, but the fact is that if you look at the GRAS standing
12 [phonetic] and everything else associated with the safety,
13 it's not considered at these levels for a food additive,
14 it's really not a concern.

15 CHAIRMAN KING: So if I'm hearing you correctly,
16 Kevin, that science was based on much higher usage.

17 MS. DIETZ: There was another reference in the
18 TAP where it said that most of the health risks were
19 related to the medical industry, not food.

20 MR. SIEMON: Should we add that?

21 MS. DIETZ: It's in there, it's on our notes.

22 MS. CAUGHLAN: I'm just realizing that in our
23 annotation we say "for use in meat-analog products," but
24 this is really for use in meat-analog processing aid or
25 ingredient that goes into the final -- you understand what

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1 I'm saying? There's a step there.

2 MS. DIETZ: (Inaudible) as a processing aid in
3 meat analog --

4 MS. CAUGHLAN: Right. It's actually --

5 MS. DIETZ: (Inaudible.)

6 MS. CAUGHLAN: Pardon?

7 MS. DIETZ: That was the original annotation, and
8 so we just felt that was the best one, but whether it's a
9 process or a product, it ultimately is the final product.

10 MS. CAUGHLAN: And it's in there.

11 MS. DIETZ: And it's in there.

12 MR. O'RELL: Mark.

13 CHAIRMAN KING: Yeah.

14 MR. O'RELL: Can I address the kidney damage? If
15 we're reading from the TAP, "extrapolation from rat models
16 may overestimate kidney damage from sodium pyrophosphate as
17 a food additive," and then it says, "but, overall,
18 phosphate consumption may be more relevant because sodium
19 pyrophosphate readily converts to orthophosphates," and
20 orthophosphates we do have on the National List for
21 approval --

22 UNIDENTIFIED FEMALE VOICE: For use in dairy.

23 MR. O'RELL: -- in dairy foods.

24 MS. KOENIG: And this wasn't -- it's not a
25 comment to this product, it's just a general comment,

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1 because -- I mean, we heard it yesterday, and I guess I --
2 after thinking about it, I was a little uncomfortable with
3 this notion that because something is GRAS or the idea of
4 Good Manufacturing Practices makes something okay, because
5 if that was the -- you know, that is the assumption, I mean
6 that's why you have GRAS, that's why you have FDA, that's
7 why you have testing, but in the -- in the OFPA sense, I
8 mean, if that was the case, then there would never have
9 been a criteria to ask the question.

10 You know, so the question -- somebody begged the
11 question, because even though in that world, you know,
12 there is that assumption, I don't think that we're supposed
13 to put that in every category, that with Good Manufacturing
14 Practices things should be okay.

15 I think that category acknowledges -- should
16 acknowledge the data that is out there, and it can say with
17 -- you know, "with GRAS it is" thing, but I don't think
18 that we should just always just go over that and say, "Oh,
19 of course," because we could answer that for everything,
20 you know, pesticide use is fine as long as you're wearing
21 applicators, but -- but we know in reality, as
22 practitioners, that that's not always the case, and to me,
23 that's why the criteria was -- is there, so that's all I
24 wanted to say.

25 MR. O'RELL: Right. But I think that's only one

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1 factor that we're considering; we're not basing the whole
2 thing on the fact it's GRAS. In addition, the substance,
3 in terms of anything linked in damage to human health, is
4 very sketchy in the TAP.

5 MS. KOENIG: No, (inaudible), I'm not talking
6 about this product, I'm just saying as we go through these
7 forms, there's a reason why those questions are there, and
8 the answer to everything is not "because it's GRAS," you
9 know, you're supposed to think more about it, in terms of a
10 more holistic concept.

11 MR. O'RELL: I agree. I think we did for this
12 review.

13 MS. KOENIG: Okay.

14 MR. SIEMON: Call the question [phonetic].

15 UNIDENTIFIED FEMALE VOICE: Call the question.

16 CHAIRMAN KING: The question's been called.

17 MR. SIEMON: Twice.

18 CHAIRMAN KING: "Twice," George says. Okay, so,
19 again, we're voting on tetra sodium pyrophosphate to be
20 added to 205.605(a), with the following annotation: "for
21 use in meat-analog products." All those in favor say aye.

22 MR. O'RELL: Wait, we've got to take a motion.

23 CHAIRMAN KING: We do, sorry. All right.

24 MR. SIEMON: It seemed so easy.

25 (Laughter.)

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1 CHAIRMAN KING: I know. So we'll start --

2 UNIDENTIFIED MALE VOICE: Rookie mistake.

3 CHAIRMAN KING: It is a rookie mistake.

4 (Laughter.)

5 MR. SIEMON: Dave always did it in a different
6 order each time, so --

7 CHAIRMAN KING: Yeah.

8 UNIDENTIFIED FEMALE VOICE: Katherine, are you
9 going to be calling the vote, were you wanting to record?

10 CHAIRMAN KING: Are you recording the vote?

11 UNIDENTIFIED FEMALE VOICE: Just total.

12 CHAIRMAN KING: Huh?

13 UNIDENTIFIED FEMALE VOICE: Just total.

14 UNIDENTIFIED FEMALE VOICE: Do you want me to
15 record the vote?

16 CHAIRMAN KING: Please.

17 UNIDENTIFIED FEMALE VOICE: (Inaudible) the yeas
18 and nays and abstain --

19 CHAIRMAN KING: Hold on.

20 UNIDENTIFIED FEMALE VOICE: Give me a minute to
21 put everyone's name down.

22 CHAIRMAN KING: All right. All right, we'll
23 start over here, and we won't go the same way every time,
24 okay, but we are going to start with Ann this time.

25 MS. COOPER: Yes.

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1 CHAIRMAN KING: Ann says "Yes." Rose?

2 MS. DIETZ: Yes.

3 MS. COOPER: Yes.

4 MS. KOENIG: Yes.

5 MS. CAROE: Yes.

6 MR. SIEMON: Yes.

7 MR. CARTER: No.

8 CHAIRMAN KING: Andrea's "Yes," George is "Yes,"
9 Dave is "No."

10 MR. RIDDLE: A reluctant yes, hesitant, a slow
11 yes.

12 (Laughter.)

13 CHAIRMAN KING: Mark, yes.

14 MS. DIETZ: Kim, yes.

15 MS. OSTIGUY: No.

16 MR. O'RELL: Yes.

17 MS. CAUGHLAN: Yes.

18 MR. LACY: Mike, yes.

19 MS. GOLDBERG: Becky, no.

20 CHAIRMAN KING: Okay, so we have 3 no's out of
21 13, so we have -- we have 10 yes votes, 10 yes, 3 no's.

22 UNIDENTIFIED FEMALE VOICE: 10 yes, 3 no's.

23 CHAIRMAN KING: 1 absent. Okay.

24 MR. CARTER: You forgot to ask if anybody has a
25 conflict.

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1 CHAIRMAN KING: Oh, yeah. Dave just noted I
2 forgot to ask: Does anyone have a conflict they'd like to
3 disclose? Sorry. That's my second rookie mistake.

4 MR. SIEMON: I'm in the meat business.
5 (Laughter.)

6 CHAIRMAN KING: Just for the record: George is
7 in the meat business.
8 (Laughter.)

9 MR. SIEMON: That's why. I have five heifers
10 (laughs).

11 CHAIRMAN KING: All right, motion carries. Okay,
12 Kevin, it's yours once again.

13 UNIDENTIFIED FEMALE VOICE: Is the next one
14 nitrous oxide?

15 MR. O'RELL: It is, if I can find it.
16 (Pause.)

17 MR. O'RELL: Okay. Second material from the
18 handling committee is nitrous oxide. We presented that
19 yesterday, indicated that it is petitioned for use as a
20 propellant, talked about some of the environmental concerns
21 and the greenhouse effect. I know -- in the interest of
22 time, I'm not going to go through all of that.

23 The committee recommendation: there was no
24 change, there was no public comment given, and there was no
25 discussion from the Board. So the committee, on the vote

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1 to allow nitrous oxide for addition to 205.6 failed, in a
2 vote: yes, zero; no, 5; no abstentions; and 1 absent.

3 That was as synthetic non-agricultural.

4 That was rejected, and that is still the handling
5 committee recommendation to the Board.

6 CHAIRMAN KING: Discussion?

7 (No audible response.)

8 CHAIRMAN KING: Is there a motion to consider the
9 recommendation?

10 MS. CAUGHLAN: I move.

11 CHAIRMAN KING: Goldie moves we consider the
12 recommendation. Second?

13 MS. OSTIGUY: Second.

14 CHAIRMAN KING: Nancy.

15 UNIDENTIFIED FEMALE VOICE: Who did the motion?

16 MR. O'RELL: Goldie did a motion.

17 MR. RIDDLE: What's the exact wording, what's the
18 wording of the motion?

19 MR. O'RELL: It's: to allow nitrous oxide for
20 addition to 205.6, synthetic non-agricultural product.

21 UNIDENTIFIED MALE VOICE: To allow?

22 UNIDENTIFIED FEMALE VOICE: You have to vote to
23 allow.

24 MR. O'RELL: The motion is to allow.

25 (Pause.)

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1 CHAIRMAN KING: Okay, does everyone understand
2 the motion?

3 (No audible response.)

4 CHAIRMAN KING: All right. Here we go. Any
5 refusals, any conflicts?

6 MR. SIEMON: Oh, yeah, I want to start thinking
7 about whip cream.

8 (Laughter.)

9 CHAIRMAN KING: Yeah. You're not in the whip
10 cream business, okay.

11 (Laughter.)

12 CHAIRMAN KING: Okay. We'll start with Becky.

13 MS. GOLDBURG: No.

14 UNIDENTIFIED FEMALE VOICE: The motion is --

15 CHAIRMAN KING: The motion is to allow, so a "No"
16 vote means you will not allow it, we understand.

17 VOICES: Right.

18 CHAIRMAN KING: Okay. Mike.

19 MR. LACY: No.

20 CHAIRMAN KING: No.

21 MS. CAUGHLAN: Goldie, no.

22 MR. O'RELL: No.

23 MS. OSTIGUY: No.

24 MS. DIETZ: No.

25 CHAIRMAN KING: No.

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1 MR. RIDDLE: No.

2 MR. CARTER: No.

3 MR. SIEMON: No.

4 MS. CAROE: No.

5 MS. KOENIG: No.

6 MS. COOPER: No.

7 CHAIRMAN KING: That's 13 no's, zero yeses, 1
8 absent.

9 Do you have anything else?

10 (No audible response.)

11 CHAIRMAN KING: Okay, I think we'll take a quick
12 break, 15-minute break. My watch shows about 3:15, we come
13 back at 3:30, and we will start with crops.

14 (Off the record at 3:15 p.m. and reconvened at 3:30 p.m.)

15 CHAIRMAN KING: Just real quick, as a board,
16 finish up one quick order of business with the processing
17 committee and then we'll move on.

18 MR. O'RELL: Yesterday we -- the handling
19 committee submitted a written report, which was an update
20 on materials used as food contact substances.
21 Unfortunately, this report did not get the 30-day
22 published, so we can't vote officially on the
23 recommendation, but what we'd like to do is to propose that
24 we have a Board vote to accept this document, and then at
25 least it will be posted again on the website and we can

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1 take future action.

2 From the handling committee, we are going to be
3 working more on food contact substances and we'd like to
4 recognize these six ingredients -- or six materials that we
5 have formally approved for addition to the National List.

6 CHAIRMAN KING: Is there a motion to accept the
7 report?

8 MS. DIETZ: I'll make the motion.

9 MS. CAUGHLAN: I'll second.

10 CHAIRMAN KING: Kim Burton moved that we accept
11 the food contact substance report, and Goldie Caughlan
12 seconded.

13 Discussion?

14 (No audible response.)

15 CHAIRMAN KING: I don't think we need an
16 individual vote on this. All those in favor say aye.

17 BOARD MEMBERS: Aye.

18 CHAIRMAN KING: Opposed, same sign.

19 (No audible response.)

20 CHAIRMAN KING: Motion carries. Anything else?

21 MR. O'RELL: That's it from the handling
22 committee.

23 CHAIRMAN KING: Thank you, Kevin. We'll move on
24 to the crops committee now.

25 MS. OSTIGUY: Starting with soy protein isolate,

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1 the committee met this morning and discussed the comments
2 that we received and the public testimony yesterday, and
3 the motion was to reject the TAP and request information
4 that does address the material used as a soil amendment.

5 The vote for rejecting the TAP was 4 yes, zero
6 no, and zero abstentions.

7 CHAIRMAN KING: Discussion? Andrea?

8 MS. CAROE: In the TAP, on the first page, in the
9 first paragraph, the last sentence, it says, "No informa-
10 tion concerning its use in either conventional non-organic
11 or organic plant fertilizer was found," so they looked for
12 it and they didn't find it.

13 I guess I'm asking: if you're sending it back,
14 what are you expecting them to find in the second look that
15 -- because clearly they looked for it, they just -- there's
16 no information there. We're sending it back for more
17 information, but they have acknowledged that there is none.
18 (Pause.)

19 MS. OSTIGUY: I'm not quite sure how to put this
20 nicely. I'm not sure how -- and this is nothing about you,
21 this has to do with the reviewer.

22 (Laughter.)

23 MS. OSTIGUY: I'm sorry. I saw the --

24 MS. CAROE: (Inaudible.)

25 MS. OSTIGUY: I saw the look on your face and was

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1 like "Oh my God." No.

2 MS. CAROE: "Did I ask the wrong thing?"

3 MS. OSTIGUY: No, no, no. This is the -- the TAP
4 contractor again.

5 This particular TAP reminded me of the original
6 ones before they started doing some decent ones. I
7 believe, based upon notes that I've taken and such, that
8 there are some questions that they didn't attempt to
9 answer. One does not need specific details about soy
10 protein isolate specifically to be able to answer the
11 concepts of what happens when you use these kinds of
12 materials, which are some of what we want to know about,
13 use in soil, it's not -- you know, you don't have to know
14 -- the studies don't have to have been done specifically on
15 soy protein isolate only, but anything that is similar to
16 it, and I do not have the impression, based upon this TAP
17 or our prior experience with this TAP contractor, that they
18 would have asked questions in that context. I would at the
19 very least like to know that. But --

20 MS. CAROE: Okay. Well, as I understand soy
21 protein isolates, they are an extracted piece of a plant,
22 not changed or synthesized in any way but just a
23 sophisticated pull-out of that one piece, and I'm pretty
24 familiar with the process from my lab background. That
25 material is already in a plant. How different is using

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1 this material as using a green manure of soybeans? As far
2 as -- as far as the interaction in the soil --

3 MS. OSTIGUY: There can be tremendous differences
4 with the bacterial interactions when you have extracted all
5 the other parts of a green manure from it.

6 MS. KOENIG: It's the C-to-N ratio.

7 MS. OSTIGUY: Excuse me?

8 MS. KOENIG: It's the C-to-N ratio. In a green
9 manure --

10 MS. OSTIGUY: I can't hear you.

11 MS. KOENIG: In a green manure you have carbon in
12 association with nitrogen, and part of that nitrogen is --
13 part of the carbon is broken down by some of that nitrogen.

14 In a product where you just have solely nitrogen, it's a
15 more quick release. And we're not saying that, you know,
16 that's either good or bad, but we're just saying that
17 there's implications in terms of that use of nitrogen
18 versus of other types of nitrogen in the system and we want
19 that to be -- to be comprehensively covered.

20 And additionally -- and I'm sorry, Nancy, I don't
21 want to pull -- the discussion that we had after we
22 relooked over the definition of "synthetic" and -- there
23 was some discussion, you know, whether this in fact was a
24 natural, which was different than what the commenters said,
25 so there was kind of a change in position among the members

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1 in our committee as far as the way we were looking at that.

2 But that said the processing, the hexane
3 extraction process, was not covered in the TAP, and because
4 manufacturing of the soy protein isolate is one of the OFPA
5 criteria, we felt that we needed additional information
6 about the manufacturing process in the sense of using
7 hexane as an extraction material. We wanted to
8 specifically know the environmental consequences and
9 properties of that hexane and, really, whether there are
10 alternatives to that in -- in just the criteria of
11 manufacturing.

12 MS. OSTIGUY: Kim.

13 MS. DIETZ: So my question is, because we have
14 deferred materials in the past and not given really good
15 guidance on -- well, that's not true. We've not got back
16 what we asked for.

17 So when we revised these forms, I was the one
18 that recommended that if we defer, that we be specific in
19 what we believe.

20 So all I ask this committee is to make sure that
21 you are specific, if we're going to defer this material, so
22 that we get what we need, so that this gentleman does not
23 go on six years [phonetic] without voting on this material.

24 So I can support that, because I want this to
25 have a very thorough review with this material and make

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1 sure we're doing the right decision, so that's just what I
2 would request and that -- you know, that we give a detailed
3 guideline to the TAP contractors.

4 MS. OSTIGUY: Jim.

5 MR. RIDDLE: Yeah. Yeah, I think there are a lot
6 of detailed questions here, and I would like to add to it.

7 Rose just mentioned about the environmental effects of
8 hexane, and I don't see that in the list yet, because we
9 didn't know --

10 MS. OSTIGUY: It's in my notes.

11 MR. RIDDLE: Okay. -- because we didn't know
12 that was part of the manufacturing process for sure.

13 MS. DIETZ: That's not true. It was in the
14 original petition, and it was in the flowchart supplied to
15 the contractors, so I don't know what --

16 MR. RIDDLE: Okay. Well, the TAP acted like they
17 didn't know.

18 MS. OSTIGUY: We didn't look at the material.

19 MR. RIDDLE: So I guess I was misled by reading
20 the TAP.

21 UNIDENTIFIED FEMALE VOICE: Yes.

22 MR. RIDDLE: And then also the role of legumes in
23 the crop rotation, the whole systems-type questions. And
24 then I just have a question about what you mean, what the
25 committee means, the -- in your questions there, the fourth

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1 line from the bottom, it starts: Answer, Category 1,
2 Question A, "Is soy protein isolate persistence?", I
3 imagine "persistent," but then, "can in concentrate"?

4 MS. OSTIGUY: Yeah.

5 MR. RIDDLE: What does that -- do you know what
6 that --

7 MS. OSTIGUY: It -- in --

8 MR. RIDDLE: Oh, "can 'it' concentrate," okay.
9 Okay.

10 MS. OSTIGUY: Some of these, I know the answer.
11 They didn't answer the question.

12 MR. RIDDLE: Uh-huh.

13 MS. OSTIGUY: I can provide information.

14 MR. RIDDLE: Yeah. Well, you're not being paid
15 \$4,000.

16 UNIDENTIFIED FEMALE VOICE: We're board members.
17 (Laughter.)

18 MS. OSTIGUY: But I also want to make it clear
19 that we aren't clueless about what the answers are.

20 MR. RIDDLE: Uh-huh.

21 MS. OSTIGUY: I --

22 MR. RIDDLE: Yeah.

23 MS. OSTIGUY: You know, I can do some of this off
24 the top of my head without a problem.

25 MR. RIDDLE: You know, and I can support

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1 deferring it; I just don't have a lot of confidence in this
2 particular -- you know, our contractor to follow through.

3 MS. OSTIGUY: Well, they have been done -- doing
4 a much better job generally and a much better job when we
5 ask for information when it's been incomplete.

6 MR. RIDDLE: Yeah, but I look at the -- yeah.
7 Some of these others, the urea one is not very helpful
8 either.

9 MS. OSTIGUY: Yeah. They have -- they have,
10 though, improved. And it may be that this is actually a
11 non-synthetic, you know, that -- it may be that
12 fundamentally inaccurate of a TAP.

13 MR. SIEMON: That was my question.

14 MS. OSTIGUY: Yeah.

15 MR. SIEMON: You were not able to determine that
16 this is a synthetic?

17 MS. OSTIGUY: Well, that was where we went around
18 and around in the conversation this morning, was: is it a
19 synthetic? is it a non-synthetic?

20 MR. SIEMON: Okay. Then we're stuck.

21 MS. CAROE: Well -- I mean, logically, it's -- to
22 me, it's a non-synthetic, because it's --

23 MS. OSTIGUY: After hexane extraction?

24 MS. CAROE: It's not molecularly changed. The
25 extraction is simply a method in order to take out a piece

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1 of the original plant. It's not changed.

2 MS. OSTIGUY: Andrea, there was disagreement,
3 that's all I can tell you.

4 MS. CAROE: Well, I can tell you I believe it's
5 non-agricultural. I mean, it's been manipulated in a way
6 that it is -- no longer has its agricultural identity, but
7 it's not synthetic.

8 MS. OSTIGUY: Andrea -- yes, I hear what you're
9 saying. We had -- there were people that were -- stated
10 your opinion, there were people that stated others. There
11 was no conclusion that we were able to reach, as a
12 committee. Richard?

13 MR. MATTHEWS: Yeah. I need a bit of a
14 clarification on something. This is Richard Matthews,
15 Program Manager, National Organics Program.

16 I'm not sure I heard correctly a few moments ago
17 when there was discussion about the fact that there was a
18 question written onto the sheet and Nancy says she knows
19 the answer?

20 MS. OSTIGUY: I know the answer, but I -- I could
21 not -- this is not a test for them, but I'm not the one
22 that's supposed to be supplying everybody with the answer.
23 Now, I could write those out.

24 MR. MATTHEWS: Then I think you should, because
25 this Board has the responsibility for reviewing the

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1 material, this Board is appointed --

2 MS. OSTIGUY: This --

3 MR. MATTHEWS: Wait a minute.

4 MS. OSTIGUY: This is not --

5 MR. MATTHEWS: Let me finish.

6 MS. OSTIGUY: -- going to finish the questions,
7 though.

8 MR. MATTHEWS: That's okay. Let me speak my
9 piece.

10 This Board is appointed because of expertise that
11 they have, and I have serious problems with a board that
12 would take the attitude that they know the answer to the
13 question that wasn't answered by the scientists but they're
14 not going to answer the question because they're not paid
15 \$4,000 to do TAP, and that is exactly what was said.

16 MS. OSTIGUY: That is not what I said.

17 MR. MATTHEWS: So, folks, if you know the answer
18 to something fill in the blank, if there's something you
19 don't know the answer to you can't fill in the blank, then
20 send it back, but don't send it back, because you don't
21 want to fill in the blank.

22 MS. OSTIGUY: That is not what was said, Richard.
23 The reason for sending it back was lack of information.
24 There are some things in here that they did not answer,
25 that yes, I can't answer, and I would be willing to write

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1 those down.

2 CHAIRMAN KING: I would entertain a motion to
3 consider.

4 UNIDENTIFIED FEMALE VOICE: Specifically what's
5 the information that's --

6 UNIDENTIFIED FEMALE VOICE: There is a motion on
7 the table.

8 VOICES: No.

9 UNIDENTIFIED FEMALE VOICE: Oh. No, okay.

10 MS. KOENIG: May I just say one thing, you know,
11 as a comment to Richard and Nancy. I think -- you know,
12 and I understand Nancy's point, and I don't -- I think -- I
13 guess what we want to say is that we can supply
14 information, but part of a technical review is actually to
15 review the literature. I mean, it may be my opinion, and
16 it may be Nancy's opinion. I mean, I have had basic bio-
17 -- you know, we both have Ph.D. shift in sciences, but I'm
18 not going to write down "Rose says" -- you know.

19 In order for me to document that and do it as a
20 scientist, I would have to do a literature review and do a
21 comprehensive analysis of those things, and I think what
22 Nancy is saying is that she knows, you know, based on her
23 scientific background -- just like I said, carbon-to-
24 nitrogen ratio -- but, you know, to be -- to do a
25 scientific evaluation, as a scientist, it's our job to go

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1 into the literature and referee publications and document
2 that fact. That's part of the scientific process.

3 So Richard, we will do our job and we will
4 supplement information, but in order for us to do a
5 literature review on things, it's a considerable amount of
6 time, and what we're saying is that we can look at data --
7 I mean, to me, our role -- and correct me if I'm wrong --
8 is to use our expertise to analyze documentation, to see if
9 we can support it or not support it.

10 If there's areas that we don't support, then we
11 need to confirm that. But I think what's Nancy's saying is
12 it's -- you know, if we have time, we can do some litera-
13 ture review, but the idea of contracting out that
14 information is for a contractor to actually gather that
15 information and do literature review.

16 So -- that's just my comment.

17 CHAIRMAN KING: Is there a motion to consider?

18 UNIDENTIFIED FEMALE VOICE: Let George have his
19 (inaudible).

20 MR. SIEMON: I just had a basic question, that
21 maybe is too basic, but: If it was synthetic, is it
22 possible for you to consider this as a fertilizer? Because
23 one of the TAP reviewers says no, you can't, if it's -- so
24 I just need that clarification.

25 MR. RIDDLE: Well, that's --

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1 MR. SIEMON: If it was declared synthetic, is it
2 possible to consider it as a fertilizer? I just need an --
3 I don't -- that's the basic -- I've read the law here,
4 under what they refer to as -- 6508(b); I just need to know
5 what ya'll -- I need some help.

6 MS. KOENIG: Can I -- just from the basics of the
7 committee, if it was a synthetic, if it stays within that
8 category -- and again, this is my opinion after sitting on
9 conference calls and getting kind of a general feeling of
10 the group -- it would end up being synthetic, not allowed,
11 because there's plenty of natural sources of nitrogen out
12 there. Okay?

13 All the reviewers said it was synthetic. You
14 know. So if we use the documentation provided to us by the
15 contractor, then we would go the route of: synthetic, not
16 allowed.

17 What we're saying, as a committee, is: hey, this
18 may actually in fact be a natural, and we may not even have
19 to go there, but from the information that was provided, we
20 see there is an extraction method involved in that, and we
21 place -- there is some concern that there perhaps are other
22 materials that could be used in an extraction process that
23 may warrant us to look at it as a non-synthetic but,
24 however, may stick it in a "prohibited" category, with an
25 annotation only allowing certain extraction methodologies.

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1 So that is really, you know, kind of where the
2 committee stands in terms of thinking at this point, but
3 none of us were comfortable based on the lack of
4 information and not having the ability to go into
5 textbooks, at this point, to make a decision at that point,
6 we did not think that that was, you know, in the best
7 interests of the industry or the petitioner.

8 MR. RIDDLE: I move we defer.

9 MR. SIEMON: Second.

10 CHAIRMAN KING: It's been moved and seconded that
11 we defer, moved to Jim Riddle, seconded by George Siemon.

12 Further discussion?

13 (No audible response.)

14 CHAIRMAN KING: Hearing none, for a vote, we'll
15 start with you, Ann, this time.

16 MS. COOPER: Yes.

17 MS. KOENIG: Yes.

18 CHAIRMAN KING: Andrea?

19 MS. CAROE: I'm going to abstain.

20 MR. SIEMON: Yes.

21 MR. CARTER: Dave, yes.

22 MR. RIDDLE: Yes.

23 CHAIRMAN KING: Mark, yes.

24 MS. DIETZ: Yes.

25 MS. OSTIGUY: Nancy, yes.

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1 MR. O'RELL: Kevin, yes.

2 MS. CAUGHLAN: Goldie, yes.

3 MR. LACY: Mike, yes.

4 MS. GOLDBURG: Becky, yes.

5 UNIDENTIFIED FEMALE VOICE: That's 12 yeses, 1
6 abstention, and 1 absence.

7 UNIDENTIFIED FEMALE VOICE: 12 yes and 1 --

8 UNIDENTIFIED FEMALE VOICE: -- 1 abstention, 1
9 absence.

10 UNIDENTIFIED FEMALE VOICE: Why was it deferred?

11 UNIDENTIFIED FEMALE VOICE: Inadequate TAP.

12 MS. OSTIGUY: Additional material.

13 MR. RIDDLE: It's in the committee's report.

14 CHAIRMAN KING: "Additional information needed."

15 MR. RIDDLE: "Details to be provided by
16 committee."

17 MS. OSTIGUY: Okay, 6-benzyladenine. Is
18 everybody ready? Okay. The committee discussed the public
19 testimony that was presented yesterday. After the
20 discussion the committee voted that the material was
21 synthetic and rejected its addition to -- its addition to
22 the National List because hand pruning is an alternative
23 practice that is currently available and currently used.

24 The vote to reject -- or the vote to add was:
25 zero to add, 4 no's, and zero abstentions. Discussion?

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1 MR. SIEMON: I just -- is there anyone that can
2 confirm that people already hand-thinning? I heard
3 yesterday that was the only way. Is that -- it is? Rose.

4 MS. KOENIG: One of the -- you know, again, in
5 committee discussion, the -- the alternative hand thinning
6 came up as a discussion item, that we thoroughly discussed,
7 and one of the benefits of placing this on the web was we
8 were hoping we were going to get public comment from
9 farmers who felt that this was errone- -- you know, not
10 erroneous, but it over- -- you know, a tax [phonetic] that
11 was just too much, that they really needed these things.

12 The only public comment that we received was that
13 of the petitioner, which really was a repeat of the same
14 reasonings for including it.

15 So based on the fact that there was no public
16 comment from farmers and producers stating they needed
17 this, we assumed our -- that that alternative was not
18 needed.

19 MS. OSTIGUY: Jim?

20 MR. RIDDLE: Yeah. In order to have a vote, I
21 move that it be added to the List.

22 CHAIRMAN KING: Is there a second?

23 MS. CAUGHLAN: In order to have a vote I'll
24 second it.

25 (Laughter.)

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1 CHAIRMAN KING: It's been moved by Jim Riddle
2 that we add 6-benzyladenine to the List, and seconded by
3 Goldie Caughlan. Discussion, further discussion?

4 (No audible response.)

5 CHAIRMAN KING: Hearing none, we'll proceed to
6 vote, beginning with Becky.

7 UNIDENTIFIED FEMALE VOICE: That doesn't work.
8 Start with Rose. Just alternate.

9 CHAIRMAN KING: All right, we'll start with her.

10 MS. KOENIG: No.

11 CHAIRMAN KING: Rose says "No."

12 MS. GOLDBURG: No.

13 MR. LACY: No.

14 MR. RIDDLE: No.

15 CHAIRMAN KING: No.

16 MS. CAUGHLAN: Goldie, no.

17 MR. O'RELL: No.

18 MS. OSTIGUY: No.

19 MS. DIETZ: No.

20 MR. CARTER: No.

21 MR. SIEMON: No.

22 MS. CAROE: No.

23 UNIDENTIFIED FEMALE VOICE: 13 no's, 1
24 abstention.

25 CHAIRMAN KING: 1 absence.

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1 UNIDENTIFIED FEMALE VOICE: Absence, I'm sorry.

2 MS. OSTIGUY: The next one was urea. Urea, the
3 committee discussed, there was no additional information
4 that was presented. Urea was petitioned for a use that
5 doesn't exist with EPA, so we really can't even consider
6 it.

7 MR. SIEMON: And this, used in a trap, is
8 required for EPA clearance?

9 MS. OSTIGUY: Yes, it is. As an attractant, it
10 does have to be listed. Now, it's probably not a difficult
11 listing to do, but somebody would have to go through that
12 process; and if somebody did, we have all the materials,
13 then, to add it to the List at that time.

14 MS. DIETZ: Yeah. And this -- historically,
15 we've done this before, we just archive the petition and
16 archive all the information, that if it does come back up,
17 then we can re-review the material, but it's just
18 considered archived.

19 MS. KOENIG: I make a motion to archive it.

20 MS. DIETZ: I'll second.

21 MS. OSTIGUY: Okay.

22 MR. SIEMON: Do we need to vote on it?

23 MS. DIETZ: Yeah, I guess we do have to vote.

24 MR. RIDDLE: Well, it's clear, it's in the
25 record --

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1 CHAIRMAN KING: And I would entertain a motion to
2 add to that that we're accepting the committee's findings,
3 so if we could --

4 MR. RIDDLE: You accept that as a friendly
5 amendment?

6 UNIDENTIFIED FEMALE VOICE: Yes.

7 CHAIRMAN KING: So it's been moved that we
8 archive the information on urea and accept the committee's
9 findings. I'm not sure who made the motion. Rose made the
10 motion.

11 UNIDENTIFIED FEMALE VOICE: Archive what?

12 UNIDENTIFIED FEMALE VOICE: Archive the petition
13 and the TAP report.

14 CHAIRMAN KING: And accept the committee
15 findings. Do we need an individual vote on this?

16 UNIDENTIFIED FEMALE VOICE: And who made the
17 motion?

18 CHAIRMAN KING: Rose.

19 MS. OSTIGUY: Rose, seconded by Kim. Question,
20 when you say you're accepting the committee findings,
21 you're referring to the committee findings that it is not
22 EPA-approved?

23 CHAIRMAN KING: Yes.

24 UNIDENTIFIED FEMALE VOICE: The whole review and
25 everything.

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1 UNIDENTIFIED FEMALE VOICE: We haven't really
2 detailed it.

3 UNIDENTIFIED FEMALE VOICE: We have not, no,
4 received a report on their actual findings beyond
5 (inaudible).

6 CHAIRMAN KING: My understanding is we're
7 accepting the finding that it's not a legal EPA label
8 claim.

9 UNIDENTIFIED FEMALE VOICE: That's correct.

10 UNIDENTIFIED FEMALE VOICE: That's what I wanted
11 to clarify.

12 UNIDENTIFIED FEMALE VOICE: And it's --
13 basically, the committee recommended for deferred, so
14 deferred and we're archiving it.

15 CHAIRMAN KING: Okay. We're going to start with
16 Andrea this time.

17 MS. CAROE: Yes.

18 MS. GOLDBURG: Yes.

19 MR. LACY: Yes.

20 MR. RIDDLE: Yes.

21 CHAIRMAN KING: Yes.

22 MS. CAUGHLAN: Yes.

23 MR. O'RELL: Yes.

24 MS. OSTIGUY: Yes.

25 MS. DIETZ: Yes.

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1 MR. CARTER: Yes.

2 MR. SIEMON: Yes.

3 MS. KOENIG: Yes.

4 MS. OSTIGUY: Last one, for crops --

5 UNIDENTIFIED FEMALE VOICE: What's the vote,
6 please?

7 MS. OSTIGUY: 13 yes, zero no, no abstentions, 1
8 absence.

9 MS. CAUGHLAN: No, it's 12, 1, and 1. I mean --

10 CHAIRMAN KING: No, 13 --

11 MS. CAUGHLAN: You're right. I'm sorry.

12 MS. OSTIGUY: 13 yeses, zero no's, 1 absence, no
13 abstentions.

14 (Pause.)

15 MS. DIETZ: Come on, girlfriend (inaudible).

16 (Laughter.)

17 UNIDENTIFIED FEMALE VOICE: Oh, but our table's
18 not ergonomically correct.

19 CHAIRMAN KING: Pressure. Pressure.

20 (Laughter.)

21 MS. OSTIGUY: Okay, the committee considered the
22 information that was provided yesterday during public
23 testimony, and also the public comments that were received
24 on hydrogen chloride's use for de-linting cotton seed.

25 A motion was made -- I believe by Rose, I don't

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1 remember who seconded it now -- to add hydrogen chloride to
2 the National List, with the annotation "for de-linting
3 cotton seed for planting."

4 The vote was 4 yes, zero no, zero abstentions.

5 MS. DIETZ: I just want to make sure that you
6 incorporated my changes into the original document, that I
7 asked.

8 MS. OSTIGUY: Yes, it'll be going in. Any other
9 comments?

10 MR. SIEMON: This hydrogen chloride is the same
11 thing that was with the soy product; right?

12 MS. DIETZ: No.

13 MS. OSTIGUY: No.

14 MR. SIEMON: No?

15 MS. OSTIGUY: Are you thinking of hexane?

16 MR. SIEMON: Well, okay --

17 MR. RIDDLE: It's one of the materials, yeah.

18 UNIDENTIFIED FEMALE VOICE: It's one of the two
19 materials in the extraction process, yes.

20 MR. SIEMON: That's what I mean.

21 MR. RIDDLE: After the hexane, then the other
22 steps. Yeah, you're right.

23 CHAIRMAN KING: Okay.

24 (Pause.)

25 MS. OSTIGUY: Is there a motion?

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1 MR. RIDDLE: I move approval, with the annotation
2 as stated by the committee.

3 UNIDENTIFIED FEMALE VOICE: I'll second it.

4 UNIDENTIFIED FEMALE VOICE: Can you read the
5 annotation again, please.

6 MS. OSTIGUY: "For de-linting cotton seed for
7 planting."

8 CHAIRMAN KING: Okay, it's been moved and
9 seconded, and we're voting on hydrogen chloride, with the
10 following annotation: "for de-linting cotton seed for
11 planting." So we'll start with George.

12 MR. SIEMON: Yeah -- yes.

13 UNIDENTIFIED MALE VOICE: Was that two votes or--
14 (Laughter.)

15 MR. SIEMON: Well, I'm trying.

16 UNIDENTIFIED MALE VOICE: You're here in Chicago;
17 you never know.

18 (Laughter.)

19 UNIDENTIFIED MALE VOICE: Yes.

20 UNIDENTIFIED MALE VOICE: Yes.

21 CHAIRMAN KING: Yes.

22 UNIDENTIFIED FEMALE VOICE: Yes.

23 UNIDENTIFIED FEMALE VOICE: Yes.

24 UNIDENTIFIED MALE VOICE: Yes.

25 MS. OSTIGUY: Yes.

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1 UNIDENTIFIED MALE VOICE: Yes.

2 UNIDENTIFIED FEMALE VOICE: Yes.

3 UNIDENTIFIED FEMALE VOICE: Yes.

4 UNIDENTIFIED FEMALE VOICE: Yes.

5 UNIDENTIFIED FEMALE VOICE: And yes.

6 MS. DIETZ: I just want to commend that process
7 on that material, because that was one that -- I think we
8 remember it was originally a "No," we got public comment,
9 and thank the committee for taking that back, that was --

10 MR. RIDDLE: And what about your comments on the
11 language, that's just between -- the rest of us don't need
12 to review that?

13 MS. OSTIGUY: Yeah, we've done that. GRAS.

14 There was just comments --

15 UNIDENTIFIED MALE VOICE: Not now, you voted on
16 it.

17 MR. RIDDLE: I know, we already voted, and
18 (inaudible) --

19 UNIDENTIFIED FEMALE VOICE: I trust that
20 (inaudible).

21 MR. RIDDLE: Okay.

22 CHAIRMAN KING: Okay.

23 MR. RIDDLE: Yeah.

24 CHAIRMAN KING: Is there anything else from you?

25 MS. OSTIGUY: No.

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1 CHAIRMAN KING: Okay. That concludes crop
2 committee materials. And next is livestock.

3 MS. OSTIGUY: I get to do more.

4 CHAIRMAN KING: Yeah. It's just a little
5 marathon, Nancy.

6 MS. OSTIGUY: Yes. Yes. Well, yeah, when you
7 let Kevin go first, I was wondering if I'd lose my voice.

8 The first one on the list is moxidectin. I have
9 a couple of changes on the evaluation criteria, I have no
10 idea how the errors came up, but they -- I made them. All
11 I can say is that they happen on occasion.

12 On Category 1, Number 3, the documentation has
13 that the half-life of moxidectin is up to 6 months; actual-
14 ly the citation in the TAP, on Pages 5 and 6, is 2 months.

15 So that shows up again in Question 8, Category 1, and
16 Question 9, Category 1.

17 In addition -- well, no, it does have "binding
18 tightly to the soil," so it -- it basically doesn't go
19 anywhere.

20 The committee, when evaluating this material,
21 found that it was synthetic and voted to add the -- and in
22 the vote to add the National List, the vote was 5 yes, zero
23 no, zero abstain, with the annotation: "control of
24 internal parasites only." Comments.

25 (No audible response.)

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1 MS. OSTIGUY: Motion. The annotation, again, was
2 "control of internal parasites only."

3 CHAIRMAN KING: Is there a motion to consider?

4 MS. GOLDBURG: I so move.

5 CHAIRMAN KING: It's been moved by Becky.

6 Second?

7 MS. COOPER: Second.

8 CHAIRMAN KING: Seconded by Ann.

9 UNIDENTIFIED FEMALE VOICE: And the annotation
10 again --? I just want to make sure (inaudible).

11 MS. OSTIGUY: "Control of internal parasites
12 only."

13 CHAIRMAN KING: Dave, you're on the hot seat.

14 MR. CARTER: Okay. And starting off let me just
15 say, this one causes me more trouble than any, just --

16 CHAIRMAN KING: Oh, this discussion.

17 MR. CARTER: -- the whole parasiticide -- no,
18 this is about -- this is just explaining my vote, but --

19 The fact that ivermectin is allowed kind of
20 shades everything else, so I will vote Yes.

21 MR. RIDDLE: Yeah, I'm torn on this one too and,
22 yeah, share Dave's concern that ivermectin is on the list.

23 From all that I've read, gathered, this is a more
24 environmentally sound substance than ivermectin, but I do
25 still have some concerns about its environmental impacts

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1 and also just the cultural practices that we really base
2 organic livestock production on, I don't think we've done
3 near enough to prevent parasites, and I don't -- that
4 hasn't been discussed at length in the TAP, I don't think.

5 And, yeah, I've come to the very firm conclusion that I'm
6 going to abstain on this.

7 (Laughter.)

8 MR. RIDDLE: I'm not going to oppose it, but I
9 just can't bring myself to support it.

10 CHAIRMAN KING: Well, I'd like to thank Jim for
11 having the longest recorded in history (inaudible) --

12 MR. RIDDLE: (Laughs) To abstain.

13 CHAIRMAN KING: Yeah.

14 MR. RIDDLE: Non-vote.

15 CHAIRMAN KING: Yeah, non-vote, exactly.

16 UNIDENTIFIED FEMALE VOICE: It's a vote with the
17 majority.

18 UNIDENTIFIED FEMALE VOICE: Yeah.

19 CHAIRMAN KING: Okay, I'll vote no.

20 MR. RIDDLE: We're not voting yet, are we?

21 CHAIRMAN KING: Yes.

22 MR. RIDDLE: Oh, that was the vote. I abstained.
23 I thought we were just still discussing.

24 MR. CARTER: It seemed like it.

25 (Laughter.)

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1 CHAIRMAN KING: If someone wants to move to
2 reconsider, that's fine.

3 MR. RIDDLE: No, no. I abstained.

4 CHAIRMAN KING: All right. So: no.

5 MS. DIETZ: Kim, yes.

6 MS. OSTIGUY: Yes.

7 UNIDENTIFIED MALE VOICE: Yes.

8 UNIDENTIFIED FEMALE VOICE: Yes.

9 UNIDENTIFIED MALE VOICE: Yes.

10 UNIDENTIFIED FEMALE VOICE: Yes.

11 UNIDENTIFIED FEMALE VOICE: Yes.

12 UNIDENTIFIED FEMALE VOICE: Yes.

13 UNIDENTIFIED FEMALE VOICE: Yes.

14 UNIDENTIFIED MALE VOICE: Yes.

15 UNIDENTIFIED FEMALE VOICE: 11 yes, 1 abstention,
16 1 absence, and 1 no.

17 MS. OSTIGUY: Okay. Last one is proteinated
18 chelates, and there was some additional discussion this
19 morning, when I was busy with the crops committee, so I do
20 not know what happened with this one.

21 MR. SIEMON: We added an annotation, but
22 otherwise everything remains the same.

23 MS. OSTIGUY: Well, I don't even know what the
24 annotation is, so somebody's got to do this --

25 MR. SIEMON: I can tell you what the annotation

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1 was: protein source must be of mammalian or poultry --

2 UNIDENTIFIED FEMALE VOICE: I can't hear a word
3 you're saying.

4 MR. SIEMON: Okay, Nancy's going to lead us
5 through this, but we did add an annotation today that said:
6 the protein source must not be of mammalian or poultry
7 origin.

8 MS. OSTIGUY: Okay, I can finish up that. Okay,
9 what the committee recommended was that chelated minerals
10 be added to the list, that it is a synthetic, with the
11 annotation: "Protein sources must not be of mammalian
12 or" --

13 (Pause.)

14 UNIDENTIFIED MALE VOICE: -- "poultry origin."

15 MS. OSTIGUY: -- "poultry origin." The vote --
16 George, do you know what the vote was? -- because I wasn't
17 there.

18 MR. SIEMON: It was 4-0, in favor.

19 MS. OSTIGUY: And the committee vote was 4 yes,
20 zero no, zero abstentions. Discussion? Kim.

21 MR. SIEMON: It was 5-0, excuse me.

22 MS. OSTIGUY: Oh, 5-0?

23 MR. SIEMON: I'm sorry. We didn't -- we had 2,
24 then 3. It was 5-0, committee.

25 MS. DIETZ: My question, as the same as

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1 yesterday: is this material commercially available for all
2 farmers with this restrictive of an annotation? -- and I'm
3 not a livestock expert, but -- I mean, I assume you're
4 having to supply a bunch of farmers or livestock people
5 with this material, and is it commercially available, do we
6 know that for sure, with this restrictive of an annotation?

7 MR. SIEMON: We had the same concern, but we had
8 a document from someone who did research and said it was,
9 so it's not like two -- two sources, but we had one written
10 source that there was, so -- it's a good challenged.

11 MS. OSTIGUY: Jim first, and then Andrea.

12 MR. RIDDLE: And it --

13 MS. DIETZ: Nationwide? I mean, I hate to --

14 MR. RIDDLE: Well, it -- yeah, and from the
15 information that was provided, the animal-origin sources
16 would be very rare, that's not what's typically out there,
17 so what is available is the vegetative sources of protein,
18 but for cautionary purposes we are saying that the animal-
19 origin sources would not be allowed. So it's not like
20 we're taking something away.

21 MS. OSTIGUY: Andrea.

22 MS. CAROE: My question is: Is it easily
23 identifiable, which materials don't contain --, I mean is
24 that information that the vendor of the product will have,
25 or -- I mean, you're saying that the protein generally

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1 doesn't come from them, but is it all -- I mean is it --
2 does anybody know where that is and where that isn't? I
3 mean, if you can't identify -- if you can't justify that
4 you're within the restriction, then you can't use it
5 because you --

6 MS. CAUGHLAN: I don't (inaudible).

7 MS. CAROE: I'm just asking. I could see that
8 that might be a problem, for people to actually get the
9 documentation that verifies that they are working within
10 that restriction.

11 MR. RIDDLE: Well, I'd just respond, you know,
12 that that's always a problem with any material, just --
13 making sure that it is from allowed substrates or allowed
14 ingredients. So I don't see the burden of proof here any
15 different than for other synthetic substances that are on
16 the list currently.

17 UNIDENTIFIED FEMALE VOICE: With annotations.

18 MR. RIDDLE: Yeah, with annotations.

19 MS. CAROE: With annotations. But that doesn't
20 always mean that this is going to be -- I mean, just
21 because we've always done it before, I don't know if
22 it's --

23 MR. RIDDLE: Well, yes --

24 MS. CAROE: Especially --

25 MR. RIDDLE: -- from -- the information from the

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1 petitioner is that yes, that information is available.
2 Whether that is available -- or the information is readily
3 available for everyone in the industry, I really can't
4 answer that, but it is for the petitioner, and therefore,
5 once it becomes an annotation, it is something which can be
6 complied with.

7 MS. CAROE: The reason that I'm asking is because
8 if you're saying it's rare that it would be from those
9 sources and it's difficult to find, how much are we gaining
10 by putting people through that extra rigorous step, to --
11 do you see what I'm saying?

12 MR. RIDDLE: Yeah. Well, it's a precautionary --

13 UNIDENTIFIED MALE VOICE: Yeah.

14 MS. OSTIGUY: Kim.

15 MS. DIETZ: I'm going to wait (inaudible).

16 MS. OSTIGUY: Dave.

17 MR. CARTER: On this particular issue, yeah, I
18 think the precautionary principle is prudent for us to
19 follow. And I think that on the area of animal-source
20 products in any feed or feed supplement is going to be more
21 -- there's more and more pressure on FDA and the like to
22 start getting into that and to go into things that ranchers
23 and farmers have normally assumed were not sourced from
24 animal sources and to begin looking at that, and so I think
25 we need to establish where we're going to -- where we're

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1 going to draw the line on that, because -- I think from the
2 standpoint of the integrity of the system, and particular-
3 ly, the organic consumer out there expects that we are not
4 going to be using anything from animal sources in feed.

5 MR. SIEMON: I hope -- I don't think it's been
6 said already, but I just want to make sure everybody's
7 clear that these -- these materials are actually presently
8 allowed, and we -- we thought we ought to review them to
9 see, because of the FDA, so we went through them, to see,
10 and we're actually continuing to allow them except now
11 we're offering this annotation. It's a little bit
12 different, but it's already allowed.

13 MS. OSTIGUY: Kim.

14 MS. DIETZ: I just sense a lot of restlessness in
15 the audience when we gave that annotation, and I am really
16 uncomfortable voting on an annotation on a material we
17 already allow unless I'm really confident that that's
18 available to everybody. So if it's currently allowed, then
19 -- I'm just not convinced that that -- that's true, and I
20 -- we had people coming up here, we had everybody chit-
21 chatting, and I just am not comfortable knowing that that's
22 really the proper annotation, with that much restlessness,
23 and without hearing the public comment on it, so I don't --
24 I don't understand that. There's not a motion on the table
25 yet, obviously, so if someone wants to make a motion --

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1 MR. RIDDLE: Yeah. Well, I move that proteinated
2 chelates be placed on the list, with the annotation:
3 "Protein sources must not be of mammalian or poultry
4 origin."

5 MR. CARTER: I'll second it.

6 MR. SIEMON: Is that the right motion -- just so
7 we're really clear -- since it's already allowed through
8 the one --

9 UNIDENTIFIED FEMALE VOICE: I think you're just
10 adding an annotation.

11 CHAIRMAN KING: So the specific motion is only to
12 add the annotation?

13 MR. RIDDLE: Well, no, it's to -- it would be to
14 add it to the list under the feed supplements section.

15 CHAIRMAN KING: Okay.

16 MR. SIEMON: Yeah, because it would be added, to
17 be annotated.

18 MS. KOENIG: I guess I'm -- I'm confused. So
19 you're saying that we voted on -- this was one that we
20 voted on prior? No.

21 MR. RIDDLE: No, no.

22 CHAIRMAN KING: No, no. That's what I was
23 clarifying.

24 MS. KOENIG: So why are you saying that it's
25 already on the List, then?

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1 MR. SIEMON: Because it's an FDA vitamin and
2 mineral allowed under the Rule. It's already (inaudible).

3 UNIDENTIFIED FEMALE VOICE: It's implied, you
4 say, by -- because it's under a category that's --

5 MR. SIEMON: Yeah. A broad category. So my
6 interpretation of this vote is really about adding the
7 annotation or not. If it fails, it's still allowed, it's
8 just not allowed -- I mean, we need to clarify it, because
9 we could get in trouble here.

10 CHAIRMAN KING: That's right.

11 UNIDENTIFIED FEMALE VOICE: Well, what --

12 MR. SIEMON: We should vote on the annotation, in
13 my opinion, so we don't get in any confusion here that a
14 "No" vote means it's not allowed at all.

15 MS. DIETZ: Right. If I really had the right
16 intention, I would have made the motion without the
17 annotation, we'd have voted on it. So right now we have a
18 motion on the table, with the annotation.

19 MR. SIEMON: Okay. So -- then if this gets voted
20 down, then we'll have another vote going the other way, no
21 problem.

22 CHAIRMAN KING: So let's review the motion, once
23 again, please. Jim, if you could.

24 MR. RIDDLE: Yeah. Well, the motion would be to
25 place it on the National List, with the annotation:

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1 "Protein sources must not be of mammalian or poultry
2 origin."

3 UNIDENTIFIED FEMALE VOICE: And who was the
4 seconded vote?

5 UNIDENTIFIED MALE VOICE: Dave.

6 MR. CARTER: Second.

7 MR. SIEMON: Maybe before we vote: Is there
8 anybody in the audience that knows anything about the
9 availability? -- because I hear a lot of cautions here
10 about non- -- according to what we're doing here. Dave?

11 MR. ENGEL: Thank you for asking. I don't know
12 anything about availability --

13 MR. RIDDLE: Identify --

14 MR. ENGEL: Oh. I'm David Engel, dairy farmer
15 from Wisconsin.

16 I don't know anything about availability, but I
17 want to repeat the question that I asked the committee
18 earlier, in maybe a little bit different context.

19 Chelated proteins are so prevalent in the
20 industry that I -- and I asked you specifically, when you
21 quoted, Jim, Mr. Walker as a proof that there was
22 availability of non-animal-sourced chelated proteins, that
23 it was -- you could get them. I don't know. You guys
24 don't know. Be really careful with this.

25 UNIDENTIFIED FEMALE VOICE: Right.

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1 CHAIRMAN KING: Okay.

2 MR. SIEMON: Okay.

3 UNIDENTIFIED FEMALE VOICE: Kelli.

4 CHAIRMAN KING: Kelli.

5 MR. SIEMON: I would have called that an opinion
6 versus information, myself, but --

7 MS. SHEA: Kelli Shea. Thanks for asking for
8 input.

9 Because I don't believe we really addressed
10 varying sources of this product, I really think it's a good
11 idea to look at the annotation like you are, but I don't
12 believe you have the information to do it.

13 Because this product is currently allowed for
14 use, did you consider deferring the vote until you could
15 get additional information on whether or not it is
16 available in the preferred source you're discussing? It
17 would not cause harm to farmers because it currently is
18 available, you would be able to do due diligence, get the
19 information you need, to make the wise choice.

20 UNIDENTIFIED FEMALE VOICE: Time to vote?

21 CHAIRMAN KING: Is there a motion to strike?
22 There's a motion on the table, there's a motion on the
23 table that's been seconded.

24 MR. RIDDLE: Well, yeah, I just want to respond
25 to those comments, because, you know, I think there's no

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1 way we want to be allowing animal-origin supplements here
2 anyway. I mean, this -- this petition has been before us
3 for quite a long time, and I think, in an abundance of
4 caution, in today's environment, we do have a reason to
5 move forward.

6 So I call the question and go to a vote.

7 UNIDENTIFIED FEMALE VOICE: It starts with you.

8 MR. RIDDLE: That's right. I vote yes.

9 UNIDENTIFIED FEMALE VOICE: Who did the second on
10 this?

11 MR. CARTER: I did.

12 CHAIRMAN KING: Dave Carter did.

13 UNIDENTIFIED FEMALE VOICE: All right. Okay, go
14 ahead.

15 CHAIRMAN KING: I abstain.

16 UNIDENTIFIED FEMALE VOICE: No.

17 UNIDENTIFIED FEMALE VOICE: No.

18 UNIDENTIFIED MALE VOICE: No.

19 MS. OSTIGUY: Yes.

20 UNIDENTIFIED MALE VOICE: No.

21 UNIDENTIFIED FEMALE VOICE: Yes.

22 UNIDENTIFIED FEMALE VOICE: Yes.

23 UNIDENTIFIED FEMALE VOICE: Okay, wait, wait one
24 second.

25 MS. COOPER: Yes.

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1 UNIDENTIFIED FEMALE VOICE: Wait one second,
2 please. I've got to go up. So Ann, yes. Rose?

3 MS. KOENIG: Yes.

4 UNIDENTIFIED FEMALE VOICE: Yes.

5 UNIDENTIFIED FEMALE VOICE: Andrea?

6 MS. CAROE: No.

7 UNIDENTIFIED FEMALE VOICE: George?

8 MR. SIEMON: Yes.

9 UNIDENTIFIED FEMALE VOICE: Dave?

10 MR. COOPER: Yes.

11 UNIDENTIFIED FEMALE VOICE: 7 yeses, 5 no's, 1
12 abstention.

13 MR. SIEMON: Chair, what's the vote required?

14 CHAIRMAN KING: Two-thirds, I believe, or --

15 UNIDENTIFIED FEMALE VOICE: It doesn't pass,
16 because it's 8 to 5. Abstention goes majority.

17 CHAIRMAN KING: Let me pull out the calculator.
18 We need a two-thirds.

19 UNIDENTIFIED MALE VOICE: Two-thirds of 13.

20 CHAIRMAN KING: Yeah. Motion fails. Seven comes
21 out at 53 percent. We had 7 yeses.

22 MR. RIDDLE: And the abstain goes with the
23 majority.

24 CHAIRMAN KING: Abstain does go with the
25 majority.

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1 MR. SIEMON: Yeah.

2 UNIDENTIFIED FEMALE VOICE: Yes, it does.

3 UNIDENTIFIED MALE VOICE: Did you count that,
4 eight?

5 CHAIRMAN KING: No, I did not.

6 UNIDENTIFIED MALE VOICE: Yeah, it's still 62
7 percent.

8 CHAIRMAN KING: Yeah, still not enough. We
9 needed nine.

10 UNIDENTIFIED FEMALE VOICE: Motion fails.

11 MR. SIEMON: Okay, is there another motion?

12 MR. RIDDLE: Well, I move to --

13 UNIDENTIFIED FEMALE VOICE: (Inaudible).

14 CHAIRMAN KING: Hold on.

15 UNIDENTIFIED FEMALE VOICE: Can you summarize
16 what's going on, please?

17 CHAIRMAN KING: The votes were -- it was 8 to 5--

18 UNIDENTIFIED FEMALE VOICE: It was 7 yeses --

19 CHAIRMAN KING: 1 abstention. Go ahead.

20 UNIDENTIFIED FEMALE VOICE: 7 yeses, 5 no's, 1
21 abstention, 1 absence.

22 UNIDENTIFIED FEMALE VOICE: Okay.

23 CHAIRMAN KING: The motion does not carry.

24 MR. SIEMON: And I'm looking for a new motion.

25 MS. KOENIG: I'll make a motion to defer the

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1 material.

2 MR. CARTER: I will second it.

3 CHAIRMAN KING: Rose has made the motion to defer
4 the material, Dave Carter has seconded. Discussion.

5 UNIDENTIFIED FEMALE VOICE: Are we going to defer
6 based on request for more information?

7 UNIDENTIFIED FEMALE VOICE: Well, that's what
8 we're going to discuss.

9 UNIDENTIFIED FEMALE VOICE: Motion to defer,
10 second by Dave.

11 CHAIRMAN KING: Correct. Is there discussion?
12 Rose.

13 MS. DIETZ: Yeah. I based the deferral on
14 gathering information on the commercial availability of
15 plant -- non-mammalian sources of -- of the protein,
16 proteinated chelates.

17 CHAIRMAN KING: So Rose is specifically saying
18 the deferral is to gather more information concerning the
19 sources indicated.

20 (Pause.)

21 CHAIRMAN KING: Is there discussion?

22 MR. RIDDLE: Yeah. So who's going to do this
23 gathering, and how -- I mean, this is not to send it back
24 to the TAP contractor, correct, this is for the Board to
25 solicit the information?

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1 MR. SIEMON: (Inaudible) two confirmations, I
2 guess.

3 MS. DIETZ: If we -- this is just going off the
4 top of my head, but if we go back through and put this on
5 the recommendation sheet for the next meeting, that the
6 motion was to defer based on information on commercial
7 availability, then we see what kind of public comments that
8 we get, and we could use that information.

9 So I urge the community and the livestock
10 industry to comment and to find out whether or not you have
11 commercial availability sources based on that original
12 annotation, and let's be specific in the document from the
13 livestock committee.

14 CHAIRMAN KING: Rose.

15 MS. KOENIG: But I would also urge the committee
16 to do just minimal research (inaudible), you had one
17 source, you said, try to get, you know, that three sources,
18 just in case public comment doesn't come in, so we can
19 proceed.

20 CHAIRMAN KING: Are you agreeing to do minimal
21 research, Jim?

22 MR. RIDDLE: No, I'm just agreeing with what she
23 was saying.

24 CHAIRMAN KING: I'm just kidding.

25 (Laughter.)

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1 UNIDENTIFIED MALE VOICE: (Inaudible.)

2 UNIDENTIFIED FEMALE VOICE: Okay, I'm ready.

3 File the motion.

4 MR. SIEMON: We'll seek public comment.

5 CHAIRMAN KING: Okay. Question's been called.

6 We begin with me. The motion is to defer. "Yes."

7 UNIDENTIFIED FEMALE VOICE: Yes.

8 MS. OSTIGUY: Yes.

9 UNIDENTIFIED MALE VOICE: Yes.

10 UNIDENTIFIED FEMALE VOICE: Yes.

11 UNIDENTIFIED MALE VOICE: Yes.

12 UNIDENTIFIED FEMALE VOICE: Yes.

13 UNIDENTIFIED FEMALE VOICE: Yes.

14 UNIDENTIFIED FEMALE VOICE: Yes.

15 UNIDENTIFIED FEMALE VOICE: Yes.

16 UNIDENTIFIED MALE VOICE: Yes.

17 MR. CARTER: Yes.

18 UNIDENTIFIED MALE VOICE: Yes.

19 UNIDENTIFIED FEMALE VOICE: 13 yeses, no no's, 1

20 absence.

21 MR. SIEMON: Mark, it was the committee's will to

22 make a statement about the antibiotic directives, so is

23 this the time to bring that up? -- I was told.

24 CHAIRMAN KING: Sure.

25 UNIDENTIFIED FEMALE VOICE: It is?

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1 MR. SIEMON: I don't know.

2 UNIDENTIFIED FEMALE VOICE: (Inaudible) voting?

3 UNIDENTIFIED FEMALE VOICE: On the
4 recommendations.

5 MR. SIEMON: I'm --

6 UNIDENTIFIED FEMALE VOICE: Are we on committee
7 reports, or where are we at?

8 UNIDENTIFIED MALE VOICE: Yeah, it's still
9 committee reports.

10 CHAIRMAN KING: We're on livestock.

11 MR. SIEMON: Okay.

12 UNIDENTIFIED FEMALE VOICE: Is this it for
13 materials?

14 CHAIRMAN KING: No, no, no. We still have more
15 materials; we're just finishing up livestock.

16 MR. SIEMON: This just a resolution the committee
17 put forward --

18 UNIDENTIFIED MALE VOICE: Actually, we're done
19 with materials.

20 UNIDENTIFIED MALE VOICE: We're done with
21 materials.

22 CHAIRMAN KING: Oh, we are, that's right.

23 UNIDENTIFIED MALE VOICE: That's right, we're
24 done with materials.

25 UNIDENTIFIED FEMALE VOICE: Unless there's a

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1 policy material.

2 CHAIRMAN KING: A policy material?

3 (Laughter.)

4 CHAIRMAN KING: Dave, do you --

5 (Laughter.)

6 MR. SIEMON: Okay, the committee put forth a
7 resolution, a simple paragraph, to revisit this, which I'll
8 be glad to read, and then a series of background, why they
9 felt this was proper to send this message forth. So I'll
10 read the paragraph; even though you all have it, I'll read
11 it for the audience.

12 "The National Organic Standards Board
13 respectfully requests that USDA National Organic Program
14 withdraw the 41304 Antibiotic Guidance Statement and work
15 collaboratively with the NOSB to develop policy guidance
16 with is consistent with the Livestock Healthcare Practice
17 standard, statements made by the NOP in their preamble,
18 "NOSB Recommendations, Consumer Expectations, and the
19 Principles of Organic Livestock Production."

20 MS. DIETZ: A question on process. I haven't
21 seen this document --

22 MR. SIEMON: Yeah.

23 MS. DIETZ: -- and you're asking the Board to
24 vote on something that we've never seen and it's just been
25 put forward in front of us, so -- again, I'm a stickler for

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1 giving me time to read (inaudible) --

2 MR. SIEMON: I agree.

3 MS. DIETZ: So I can't support it.

4 MR. SIEMON: That was my concern, about process,
5 too, but --

6 MS. DIETZ: Yeah.

7 MR. SIEMON: -- but it is just a paragraph that
8 we're putting forth, but --

9 MS. DIETZ: It just goes to -- you know, we're
10 asking the NOP to give us time and -- to look at things and
11 to look at policies and to follow process, and we're not
12 doing it; I just disagree. Not that I disagree with the
13 contents, that I'm aware of [phonetic].

14 CHAIRMAN KING: So, point of clarity: George,
15 you're just forwarding the paragraph, the resolution, with
16 the statement you just read; correct?

17 MR. SIEMON: Correct.

18 CHAIRMAN KING: The rest is background
19 information, supporting information.

20 MR. SIEMON: Uh-huh.

21 CHAIRMAN KING: So technically that's what we
22 would be voting on.

23 MR. SIEMON: I believe that was the committee's
24 vote, uh-huh.

25 CHAIRMAN KING: Okay. Rose, then Dave.

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1 UNIDENTIFIED FEMALE VOICE: So you're only
2 sending this, you're not sending the whole thing?

3 MR. SIEMON: Well, we are sending the whole
4 thing, but the -- what we need to vote on is the
5 resolution, again, because of the time to look at it. Now,
6 we could wait to tomorrow, I guess. I don't know how to
7 deal with this, this just --

8 MS. KOENIG: Well, I think that the spirit of the
9 intent is good, you know, and I think that there's more
10 than one directive out there. I think it's the role of the
11 Board to look at all of the directives and compose a letter
12 really fully commenting on them, in a constructive way.

13 So it's not that I'm not -- you know, again, I
14 agree with the spirit of it; I just don't think that this
15 is the process by which we want to communicate and I think
16 it's something that we could handle, you know, perhaps in
17 an executive committee meeting and people could work on the
18 ways to compose a document and then put it forth with more
19 thoughtful ways of addressing the issue.

20 So my -- again, I -- I'm -- I guess I move to --
21 to just -- to keep -- the issues are there, and we're all
22 aware of them, but, really, think about the process by
23 which we want to address it.

24 MR. SIEMON: I don't know if we need a movement
25 -- I mean, a motion, do we need a motion or not, just -- to

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1 not --

2 CHAIRMAN KING: Did you move to consider the
3 resolution?

4 MR. SIEMON: No, I (inaudible).

5 CHAIRMAN KING: Rose, are you moving that we
6 consider this an executive committee call?

7 MS. KOENIG: I'm moving to accept the document as
8 a point of reference for the entire Board, but any action
9 should be taken at a later point, through the executive
10 committee process, to really consider, you know, what --
11 how we want to deal with the policy directive.

12 CHAIRMAN KING: Second?

13 MR. RIDDLE: Could you restate your motion,
14 before I can second it? I'll second it, I think.

15 MS. KOENIG: All right, let me clarify.

16 CHAIRMAN KING: Perhaps in ten words or less.

17 MS. KOENIG: Yeah. I'm asking -- basically, the
18 motion is: to defer the issues to the -- to defer the
19 issues at this meeting and allow the executive committee to
20 process all the policy statements and come up with a format
21 to address the issues.

22 MS. DIETZ: I'll second that.

23 CHAIRMAN KING: Does anybody have this motion
24 down? We're going to ask you a third time, Rose. Is the
25 spirit of the motion -- and Nancy, could you say that, I

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1 think you've succinctly --

2 MS. OSTIGUY: Move to defer the motion and send
3 it to the executive committee for consideration.

4 MS. KOENIG: I'm saying to --

5 MR. SIEMON: Well, there wasn't a motion that you
6 can defer.

7 MS. OSTIGUY: Or move the resolution, whatever,
8 the topic, issue.

9 MR. RIDDLE: As I first understood Rose, what I
10 heard her saying was to -- the Board to vote to accept the
11 committee's resolution and forward it to the executive
12 committee for action.

13 MS. KOENIG: What I'm saying is that: accept the
14 document --

15 MR. RIDDLE: Yeah. Okay.

16 MS. KOENIG: -- we're accepting the submittal of
17 the document, similar to: we accept a task force --

18 MR. RIDDLE: Right.

19 MS. KOENIG: -- as an internal document, or as a
20 document --

21 CHAIRMAN KING: Do you consider this --

22 MS. KOENIG: -- but it's not a policy, it's not
23 our view on policy.

24 CHAIRMAN KING: Do you consider this a friendly
25 amendment to your motion?

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1 MS. DIETZ: I don't, as a seconder, I'm going to
2 take back my second on that motion. It's not what I
3 thought, so --

4 CHAIRMAN KING: The second has been withdrawn.
5 Could we restate the motion. Are you sorry you made the
6 motion?

7 (Laughter.)

8 MS. KOENIG: What I'm saying is -- I mean, I
9 think it's --

10 CHAIRMAN KING: Do you want to withdraw the
11 motion and --

12 MS. KOENIG: Okay, I'll restate the motion.

13 MR. SIEMON: Are we saying we want to defer any
14 response to the --

15 MS. KOENIG: Yeah, it's not --

16 CHAIRMAN KING: Hold on, hold on. I'm asking,
17 are you restating the motion --

18 MS. KOENIG: My motion is to -- I guess the
19 motion is for the executive committee to respond to the
20 directives from the NOP and formulate a process and a
21 response based on available information, based on input.

22 MS. CAUGHLAN: What I heard you say was all of
23 the recent directives.

24 MS. KOENIG: Yeah, that they need to analyze it--

25 MS. CAUGHLAN: This does not relate to that --

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1 MS. KOENIG: Exactly.

2 MS. CAUGHLAN: -- and just now I didn't hear a
3 plural.

4 MS. KOENIG: I'm saying all directives.

5 CHAIRMAN KING: Hold on, hold on.

6 MS. DIETZ: Here was the motion --

7 CHAIRMAN KING: This is the --

8 MS. DIETZ: -- for the executive committee to
9 respond to the directives from the NOP and formulate a
10 process and response based on information.

11 MR. SIEMON: Input, maybe.

12 MS. DIETZ: Inputting information, which includes
13 this kind of stuff.

14 CHAIRMAN KING: Goldie, are you proposing a
15 friendly amendment?

16 MS. CAUGHLAN: I was trying to clarify, and she
17 just clarified.

18 CHAIRMAN KING: Okay. Is there a second? We
19 have a motion on the table, and the motion reads: for the
20 executive committee to respond to the directives from the
21 National Organic Program and formulate a process and
22 response based upon input information. Is there a second?

23 UNIDENTIFIED FEMALE VOICE: Based in input
24 information from whom?

25 CHAIRMAN KING: I'll entertain friendly

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1 amendments, but first we need a second to have the actual
2 motion considered. Is there a second?

3 UNIDENTIFIED MALE VOICE: Rose is the first?

4 MR. CARTER: I will --

5 CHAIRMAN KING: Is it a second?

6 MR. CARTER: No, it's not a second. If that's
7 going to tie, I will make a --

8 CHAIRMAN KING: Motion fails.

9 MR. CARTER: I will make a new motion: that we
10 direct the policy development committee to bring forward to
11 the executive committee a statement expressing the sense of
12 the Board on the directives that have been issued by NOP.

13 MS. KOENIG: I'll second that.

14 (Laughter.)

15 CHAIRMAN KING: Dave. Remember, she's typing
16 this in, so --

17 MS. DIETZ: Yeah, I'm fast, but I ain't that
18 fast.

19 CHAIRMAN KING: Yeah.

20 MS. DIETZ: Say that again, please.

21 MR. CARTER: Okay. That this Board directs the
22 policy development committee to bring forward to the
23 executive committee for consideration a resolution
24 concerning the sense of the NOSB on the policy directives
25 issued by the National Organic Program.

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1 UNIDENTIFIED FEMALE VOICE: Did you get a second?

2 CHAIRMAN KING: Yeah, seconded by Rose. So it's
3 been moved and seconded that --

4 MS. DIETZ: That the policy committee -- direct
5 the policy committee to bring forth to the executive
6 committee for consideration a resolution of policy
7 directive issues by the NOSB.

8 CHAIRMAN KING: Issued by the NOP.

9 MR. CARTER: Let's do -- bring forward to the
10 executive committee a resolution concerning the sense of
11 the NOSB --

12 MR. SIEMON: Sense?

13 MR. CARTER: -- regarding the policy directives
14 issued by the National Organic Program.

15 (Pause.)

16 CHAIRMAN KING: Do you want to read it back.

17 MS. DIETZ: Okay, I'll try it again. Direct the
18 policy committee to bring forth to the executive committee
19 for consideration a resolution concerning the sense of the
20 NOSB regarding the NOP policy directives. I hope that's
21 good enough.

22 MR. SIEMON: Is the word "sense" (inaudible)?

23 CHAIRMAN KING: Are you okay with that?

24 MR. RIDDLE: Yeah, sense of the Board.

25 CHAIRMAN KING: Okay. Discussion. Jim.

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1 MR. RIDDLE: Yeah. Dave, you know, this
2 resolution that the livestock committee has brought forward
3 was passed, I believe unanimously, by the committee, and
4 I'm just wondering if your motion would account for or
5 allow this resolution to be fed into the policy committee's
6 considerations.

7 MR. CARTER: Absolutely. No, I think that we
8 would look at this -- the policy development -- I mean, as
9 a point of information, the policy development committee
10 this morning began to draft up a statement along this line
11 but we didn't have all of our committees there so we were
12 hesitant to bring it forward until we at least got it out,
13 because three of our members were in other meetings.

14 So I think this resolution, as well as the one
15 that we were working on, we would bring together to address
16 the sequence of directives that were issued over the last
17 couple of weeks.

18 MR. RIDDLE: Okay.

19 CHAIRMAN KING: Goldie.

20 MS. CAUGHLAN: Point of information. So the
21 executive is going to put this together and, to use the
22 USDA word, vet it (inaudible) rest of it to the Board?

23 MR. CARTER: My thought is that the policy
24 committee would bring this forward to the executive
25 committee. The executive committee is the only committee

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1 that is authorized to act in the absence of the full board,
2 so the executive committee, you know, can act on it. What
3 I thought is for the executive committee -- the role of the
4 policy committee is to do some of that detail work on the
5 policy issues and bring them forward, then, to the
6 appropriate committees or to the full board for
7 consideration. In this instance it would come to the
8 executive committee.

9 MS. DIETZ: Dave has made the motion. We don't
10 have a second.

11 MR. RIDDLE: Rose did right away.

12 MS. KOENIG: I seconded.

13 MS. DIETZ: I didn't hear that. Okay. That's
14 fine. My only comment, again, is to -- if this board would
15 please give all its members adequate time to review
16 documents and -- so that we make sure we have a very good
17 process and it's consistent.

18 CHAIRMAN KING: Duly noted, but I think in this
19 case it was practically unavoidable, so I do appreciate the
20 work of the committee. Is there further discussion?

21 (No audible response.)

22 CHAIRMAN KING: Hearing none, we'll proceed to
23 vote on the motion, beginning with --

24 MR. CARTER: We don't need a roll call on this,
25 this could be --

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1 CHAIRMAN KING: All those in favor signify by
2 saying aye.

3 BOARD MEMBERS: Aye.

4 CHAIRMAN KING: Aye. Opposed, same sign.
5 (No audible response.)

6 CHAIRMAN KING: Motion carries. Okay, I think
7 that's everything for livestock. Is that correct?

8

9 MR. SIEMON: Yeah.

10 CHAIRMAN KING: Dave, you're still on the hot
11 seat, policy development committee. Is there anything to--

12 MR. CARTER: Oh, gosh. Yes. Policy development
13 committee this morning met and reviewed two issues. The
14 first one are the amendments to the Board policy manual.
15 Two areas of change were made and posted for comment, that
16 being, specifically, the confidentiality requirements in
17 the Board policy manual; and the second one, to address the
18 change in the materials approvals forms that we've been
19 used, to incorporate those and substitute them for the ones
20 that we previously had in the policy manual.

21 So I would move that we amend the policy manual
22 as recommended by the policy committee.

23 MR. RIDDLE: I'll second.

24 MS. OSTIGUY: Second.

25 CHAIRMAN KING: We've got a tie second. We'll

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1 take Goldie.

2 MS. CAUGHLAN: I think it was Nancy.

3 CHAIRMAN KING: Oh, I'm sorry, Nancy. Moved to
4 Dave, seconded. Okay, it's been moved and seconded that we
5 accept the proposed amendments to the Board policy manual.

6 Is there discussion?

7 MR. RIDDLE: Yeah, I do want to just point out
8 that Dave said there's just the two changes, but actually
9 there's a few more than that, there's deleting the whole
10 peer-review section, there's changing the name of the
11 processing committee to "handling," and there's a whole
12 bunch of things that were pending because we didn't deal
13 with any non-material issues in October, so just to be
14 clear, but it's all there in your meeting book, so it's --
15 it's pretty comprehensive changes.

16 CHAIRMAN KING: And just a point of information,
17 it's my understanding this has been on the -- posted on the
18 web for quite some time, so --

19 MR. CARTER: It's not only been posted on the
20 web, it's been color-coordinated on the web.

21 UNIDENTIFIED FEMALE VOICE: Yeah, it has.

22 CHAIRMAN KING: Yes. Yes. The most colorful
23 document.

24 MR. CARTER: Yes, sir.

25 UNIDENTIFIED FEMALE VOICE: Call the question.

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1 CHAIRMAN KING: The question's been called. All
2 those in favor of accepting the proposed amendments signify
3 by saying aye.

4 BOARD MEMBERS: Aye.

5 CHAIRMAN KING: Opposed, same sign.

6 (No audible response.)

7 CHAIRMAN KING: Motion carries.

8 MR. RIDDLE: Yeah, and it just -- I'll follow
9 through with sending a cleaned-up copy to the NOP, that
10 actually deletes those green things and adds the yellow
11 things, as they should be, and moves the colors and saves
12 them for another day.

13 (Laughter.)

14 CHAIRMAN KING: It's a colorful comment.

15 (Laughter.)

16 MR. CARTER: Okay, the second item is the
17 compatibility with organic production and handling, and
18 before we go into the consideration of this formally, I
19 just want to recognize that Jim particularly has done an
20 incredible amount of work on this, he has carried 95
21 percent of the workload on this, including developing 22-
22 and 23-page drafts of material with background, and I want
23 to acknowledge that.

24 This was posted. There were six public comments
25 that were received. All of the public comments recommended

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1 that we drop from there Section M, which read "Does the
2 substance facilitate the development of new organic
3 products?", so the policy development committee has
4 recommended, then, that we move forward the statement of
5 "compatibility with organic production and handling," with
6 the deletion of Section M, and I would so move.

7 MR. SIEMON: I'd second.

8 CHAIRMAN KING: Moved by Dave, seconded by
9 George.

10 MR. RIDDLE: And the revised version was handed
11 out yesterday --

12 UNIDENTIFIED MALE VOICE: Yes, draft 5.

13 MR. RIDDLE: Right, draft 5.

14 CHAIRMAN KING: Okay. So it's been moved and
15 seconded that we accept the report, omitting Section M;
16 right?

17 UNIDENTIFIED MALE VOICE: Well, it's not to
18 accept the report, it's a recommendation.

19 MR. CARTER: Yeah, it's a recommendation.

20 CHAIRMAN KING: Okay. Discussion?

21 MS. KOENIG: I just had kind of a question. This
22 is on the OFPA criterias that we use in the materials
23 process, so I was just wondering if there -- do you have
24 any ideas of how we might be able to incorporate these
25 concepts into that, either as an appendix or -- I mean,

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1 because we're voting on it here today and kind of gone
2 through this process, but how do we translate that to those
3 sheets or get to that information? Kim?

4 MS. DIETZ: I think that when -- at least
5 originally, when we were drafting this document, we said
6 that it would be used as a guidance document in the
7 material review process, under compatibility, and -- so
8 that was my understanding of where this would be used, and
9 I think -- and that's why we all supported it, and we've
10 been using it in handling, specifically annotating what
11 sections, so --

12 MS. KOENIG: So you're saying -- so just keep it
13 in the Board policy manual, with the --

14 MS. DIETZ: Yes, as a guidance document.

15 MS. KOENIG: Okay, that's just --

16 CHAIRMAN KING: Jim and Dave.

17 MR. RIDDLE: Yeah, and that's one thing I was
18 going to suggest, if this passes, that I'll add it to the
19 version of the Board policy manual that I submit, and then
20 it also should be provided to TAP contractor and reviewers
21 so that they have it handy, and then committees should use
22 it when they -- questions come up about compatibility.

23 CHAIRMAN KING: Okay.

24 MS. KOENIG: So I guess -- how would we notify --
25 or do you want the materials chair to notify the -- I mean,

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1 do we have -- you know, we have to somehow move to get that
2 -- not a motion, but how do you see --

3 MR. RIDDLE: Uh-huh, take action.

4 MS. KOENIG: Who do you want to get it to NOP to
5 make sure that --

6 CHAIRMAN KING: Is there --

7 MR. RIDDLE: I think the offer from the materials
8 chair would be --

9 MS. KOENIG: Okay, I'll do it.

10 MR. RIDDLE: I remember when they testified in
11 October it was a question they had --

12 MS. KOENIG: Right.

13 MR. RIDDLE: -- "What do you mean by
14 compatibility?"

15 MS. KOENIG: Okay, I'll --

16 CHAIRMAN KING: Let's limit discussion to the
17 actual motion to accept the recommendation. Is there
18 further discussion?

19 (No audible response.)

20 CHAIRMAN KING: No.

21 MR. SIEMON: Call the question.

22 CHAIRMAN KING: The question's been called.
23 Voting on the recommendation, compatibility with organic
24 production and handling. All those in favor signify by
25 saying aye.

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1 BOARD MEMBERS: Aye.

2 CHAIRMAN KING: Aye. Opposed, same sign.

3 (No audible response.)

4 CHAIRMAN KING: Motion carries.

5 MR. CARTER: That's all for policy.

6 CHAIRMAN KING: Okay. All right.

7 UNIDENTIFIED MALE VOICE: And then the 606 Task
8 Force --

9 CHAIRMAN KING: Yeah, we'll do -- I was going to
10 do Andrea real quick, and then we'll come back.

11 MR. SIEMON: That's fine.

12 CHAIRMAN KING: Andrea, I think you had a quick
13 item that --

14 MS. CAROE: Yes. We have draft 8 of the
15 compliance procedures for minor non-compliance, and it's a
16 vote to accept that guidance, and I put that in that -- in
17 that frame because this is a guidance, this is educational
18 information for certifiers, okay, it's --

19 MR. SIEMON: And that's not in here, is it, not
20 in --

21 MS. CAROE: No. It was handed out yesterday.
22 Right?

23 MR. RIDDLE: Yes.

24 CHAIRMAN KING: Yes.

25 MR. RIDDLE: Yeah, and there have been no changes

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1 to that version that was handed out.

2 MS. CAROE: There's been no changes from that
3 version, and that version had very few changes from
4 draft 7, which has been up on the web. Received one public
5 comment, and there were -- those few changes that were made
6 were based on the public comment.

7 MR. RIDDLE: So I move the approval --

8 MR. SIEMON: I second.

9 MR. RIDDLE: -- of draft 8, I guess it is.

10 MS. CAROE: Draft 8.

11 UNIDENTIFIED MALE VOICE: Hard work.

12 CHAIRMAN KING: Moved by Jim, seconded by George,
13 I believe.

14 MR. SIEMON: Yes.

15 CHAIRMAN KING: Okay. Is there discussion?

16 (No audible response.)

17 CHAIRMAN KING: Hearing none, we'll proceed to
18 vote. All those in favor signify by saying aye.

19 BOARD MEMBERS: Aye.

20 CHAIRMAN KING: Opposed, same sign.

21 (No audible response.)

22 CHAIRMAN KING: Motion carries.

23 MS. CAROE: Just shows you how sexy a
24 certification is [phonetic].

25 CHAIRMAN KING: Actually, you get the ribbon for

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1 most efficient today, Andrea.

2 (Laughter.)

3 CHAIRMAN KING: Jim, I believe you have a
4 document from the 606 Task Force.

5 MR. RIDDLE: Yeah. Well, I made the presentation
6 this morning, there was good robust discussion, and some --

7 UNIDENTIFIED MALE VOICE: (Inaudible.)

8 (Laughter.)

9 MR. RIDDLE: -- and there had -- some public
10 comments as well as Board comments, so there was a need for
11 the task force to meet during the breakout session, and we
12 did some changes, which the members there in attendance all
13 approved, and I redrafted and printed it out and got it
14 copied, and it's less than 22 pages, and it's here for your
15 consideration, and I'll just highlight what changes have
16 been made, very quickly.

17 And it's not page-numbered, I apologize for that,
18 but on the fourth page, there's a change, in the middle of
19 the page, which is the end of the "Background" section, and
20 some information that was previously Recommendation 1a has
21 been moved into "Background Information," where it was a
22 discussion of some previous NOSB recommendations.

23 UNIDENTIFIED FEMALE VOICE: What? I'm lost.

24 MR. RIDDLE: Okay. The fourth page, you see
25 where it says Recommendation 1a?

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1 UNIDENTIFIED FEMALE VOICE: Yeah.

2 MR. RIDDLE: The two paragraphs right above that
3 used to be in 1a, in a former life; now they have been
4 downgraded to "Background Information," because they are,
5 really, historical. So they're not part of our new
6 recommendation.

7 UNIDENTIFIED FEMALE VOICE: And that is fair
8 [phonetic].

9 MR. RIDDLE: Okay. Then in -- 1a is what used to
10 be 1b, but it hasn't changed content-wise.

11 Okay, then on the current 1b, the only change
12 there is on the opening paragraph, second sentence, where
13 it says, "In order to be consistent and transparent with
14 the material review process, each substance currently
15 located in 205.606 shall be reviewed for reclassification
16 by the handling committee to determine if the substance"
17 blah blah blah.

18 So it's just that -- this is not a re-review, not
19 a TAP review, it's just reclassification, and it's a
20 directive or request to the handling committee.

21 Okay. Recommendation 2, no changes to the first
22 two paragraphs, and there's a change to the large A heading
23 paragraph, to read: "For a non-organic agricultural
24 ingredient used in a processed product labeled as 'organic'
25 to be determined as not commercially available, the

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1 applicant or certified operator shall submit," and the rest
2 of that remains the same, but just that lead-in to the
3 sentence was something that had been brought up this
4 morning, so that's been added.

5 And then Item Number 4 was changed from "during
6 the inspection" to "during the certification evaluation,"
7 so that gives the certifier flexibility. Some of this may
8 happen at inspection, some of it may happen in the office.
9 So that was in consideration of comments.

10 MS. DIETZ: Just one question.

11 MR. RIDDLE: Yes.

12 MS. DIETZ: And I'm not sure if this covers it or
13 not, you can tell me if it does, but if -- if -- not during
14 the certification evaluation but in mid-year a material
15 becomes -- it's not available organically -- I mean, we
16 have due diligence to contact the certifier and say, "This
17 is what I'm going to do." Is that acceptable in this, is
18 it covered during --

19 MR. RIDDLE: Yeah. My understanding would be --

20 UNIDENTIFIED FEMALE VOICE: It's part of
21 evaluation at that point, but the --

22 MR. RIDDLE: Yeah.

23 MS. DIETZ: Okay.

24 MR. RIDDLE: Evaluation is ongoing on something
25 like --

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1 MS. DIETZ: Okay. All right. It is considered
2 ongoing from a certifier/handler relationship.

3 MR. RIDDLE: Right.

4 MS. DIETZ: Okay.

5 MR. RIDDLE: Whenever there's a change in the
6 organic system plan --

7 MS. DIETZ: Okay, they have to -- okay.

8 MR. RIDDLE: -- you have to notify --

9 MS. DIETZ: Okay. That's fine.

10 MR. RIDDLE: -- be updating your plan.

11 Number 5, at the very last line there, we added
12 amongst -- "The written evidence may include ingredient
13 evaluation reports," so it says: "Written evidence may
14 include letters, faxes, e-mail, correspondence, ingredient
15 evaluation reports." That could include like certificate
16 of analysis about an ingredient of whatever. So a little
17 more flexibility.

18 And then also, at the top of the next page, the
19 words "as applicable" were added, "a minimum of three
20 potential suppliers shall have been contacted."

21 Okay. Then under B-2, there was 2 -- there was
22 -- previous 2 and 3 have been merged into 1, which now
23 reads -- I mean, you've got to -- in the context: "The
24 certifier shall validate that the applicant or operator has
25 documented that the ingredient is not commercially

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1 available in an organic form by reviewing best available
2 information, listing known source of organic ingredients."

3 So it really puts the focus on the certifier to validate
4 the operator's documentation.

5 And then the last change is to add a post-script
6 -- I couldn't think of a better word --

7 UNIDENTIFIED MALE VOICE: Epilogue.

8 (Laughter.)

9 MR. RIDDLE: That is new language, and that is:

10 "The 606 Task Force acknowledges that this recom-
11 mendation does not apply to organic seed determinations.
12 The Task Force recommendations that the crop committee
13 and/or policy development committee develop a draft organic
14 seed recommendation which is consistent with this
15 recommendation." So we just don't want any confusion.

16 And then a similar sentence is added at the very
17 very end, under "Conclusion": "A comparable and consistent
18 recommendation is needed to address organic seed issues."

19 So those are the changes, trying to incorporate
20 as many of the comments as we could. So I move its
21 adoption.

22 CHAIRMAN KING: Is there a second?

23 MS. CAROE: I'll second.

24 CHAIRMAN KING: Moved by Jim, seconded by Andrea.
25 Discussion? Nancy.

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1 MS. OSTIGUY: I don't understand why Recommenda-
2 tion 2a, Number 5, the top of the next page, where you have
3 added "as applicable," could you explain what this means.

4 MR. RIDDLE: Andrea, could you explain what this
5 means.

6 MS. CAROE: Sure. This is to accommodate
7 situations where the ingredient is very specific and two --
8 three reasonable sources are available, so it is a
9 guideline that three is a reasonable or a typical number
10 but there may be situations that require more or less than
11 that.

12 MS. DIETZ: I have to agree with that -- I just
13 see that as weak, I don't know where -- are the certifiers
14 able to determine if it's applicable for three potential
15 suppliers, and -- and that would be after the fact, so --

16 MS. CAROE: Well, I guess -- I would have to say:
17 in the negotiation between an applicant and certifier,
18 that is a discussion that they would have, as far as the
19 applicant coming to them and explaining the challenge.

20 MS. DIETZ: Yeah, I -- I guess, as a handler, if
21 I have "as applicable" in my handling plan, I can always
22 make justification as to why I only chose one and try to
23 get that through, so I -- but at the same time, I can
24 understand that if there's not three suppliers, at least I
25 tried for three, you know, and the -- and again, I feel

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1 that the industry has somewhat supported a minimum of three
2 sources, and so I -- I just -- I think that's too weak and
3 I'm not sure I support it, but I --

4 CHAIRMAN KING: Is there a motion?

5 MS. DIETZ: We have a motion on the table.

6 MR. RIDDLE: Well, yeah, and that can be amended
7 to delete if someone --

8 MR. CARTER: We could strike that.

9 MR. RIDDLE: Yeah, to strike --

10 MS. DIETZ: I would like to make a motion to
11 strike "as applicable" and just put in "minimum of three,"
12 and at least you can document where you've tried three
13 different sources and you've only gotten one.

14 MR. O'RELL: I would second it.

15 CHAIRMAN KING: So moved to Kim to strike the
16 words "as applicable," and seconded by Kevin. Discussion
17 on that motion?

18 MS. OSTIGUY: Kim and I had, I think, different
19 reasons for questioning that one.

20 (Laughter.)

21 MS. OSTIGUY: I was actually wondering more about
22 what you were saying earlier, Andrea, about how if you only
23 require three, then that's all that folks are going to do.

24 Kim's amendment doesn't address that issue.

25 CHAIRMAN KING: So you don't support --

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1 MS. DIETZ: Well, I can just tell you that we've
2 historically, again -- from the processing group, we have
3 agreed, through our MPPL committees and through lots of
4 different trade -- through the trade organization and
5 through the handling committee, that a minimum of three has
6 been something that our industry could live with, and so
7 that's why we said a minimum of three.

8 CHAIRMAN KING: Is there --

9 MS. DIETZ: You have to have a number, if you
10 want somebody to do something, so that's -- that was the
11 magic number that we all said we could live with.

12 CHAIRMAN KING: Is there additional discussion on
13 the motion on the table to strike the words "as
14 applicable"?

15 MS. DIETZ: There's a motion and a second.

16 MR. RIDDLE: Yeah, there's a motion and a second
17 to strike. Yeah, I'd just like to comment on it.

18 Essentially, it's here as an attempt to
19 compromise, and, you know, that's the role I was playing in
20 chairing this task force. You know, certainly the will of
21 the Board, you know, will be determined here, so -- you
22 know, I think it does -- you know, my personal opinion is
23 that it does weaken it and make it less predictable for
24 both certifiers and operators. That's my personal opinion.
25 Kevin?

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1 MR. O'RELL: My only comment, to support Jim, is
2 that yeah, I think we added it in there as a compromise.
3 I'm not sure I personally was comfortable with it at that
4 time, and reviewing it, I do agree that I think it's weak,
5 and I think a minimum of three is reasonable for processors
6 who are trying to locate organic sources of materials.

7 MS. CAUGHLAN: Good-faith effort, is that a --
8 making a good-faith effort is really what we're saying.
9 What about putting that kind of language in there?

10 MR. RIDDLE: Well, we're trying to quantify what
11 a good-faith effort is. When is it good enough?

12 MS. DIETZ: Okay, call the question.

13 CHAIRMAN KING: The question's been called.
14 We're just voting to strike the words "as applicable." All
15 those in favor signify by saying aye.

16 BOARD MEMBERS: Aye.

17 CHAIRMAN KING: Opposed, same sign.

18 UNIDENTIFIED FEMALE VOICE: Aye.

19 UNIDENTIFIED MALE VOICE: Aye.

20 CHAIRMAN KING: Okay, 12 yeses, and -- you want a
21 head count or --

22 UNIDENTIFIED FEMALE VOICE: Do a hand count.

23 CHAIRMAN KING: Let's do a quick hand count. We
24 had two no's, I think, is that correct? All those in
25 favor, signify by raising your -- one of your hands.

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1 MR. SIEMON: I'm abstaining.

2 CHAIRMAN KING: We have 1 abstention and 2 no's.

3 Okay, so now we're back to the original --

4 MR. RIDDLE: Yeah. As amended.

5 CHAIRMAN KING: -- motion to accept the report,
6 the recommendation, as amended. Is there discussion?

7 (No audible response.)

8 CHAIRMAN KING: Hearing none, we'll proceed to
9 vote. All those in favor signify by saying aye.

10 BOARD MEMBERS: Aye.

11 CHAIRMAN KING: Opposed, same sign.

12 (No audible response.)

13 CHAIRMAN KING: Motion carries.

14 MR. RIDDLE: Wow, and that task force is
15 disbanded.

16 (Laughter.)

17 UNIDENTIFIED MALE VOICE: Which means they buy
18 beer tonight.

19 CHAIRMAN KING: That's right. Does anyone have
20 anything else?

21 I would entertain a motion to recess.

22 MR. CARTER: So moved.

23 MR. O'RELL: Second.

24 CHAIRMAN KING: It's been moved and seconded. We
25 recess. Thank you all very much.

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1 (Whereupon, at 5:05 p.m., the meeting was recessed,
2 reconvening at 8:00 a.m., April 30, 2004 place.)

3 * * * * *

4

5

CERTIFICATE

In Re: NATIONAL ORGANIC STANDARDS BOARD MEETING
Place: CHICAGO, ILLINOIS
Date Held: APRIL 29, 2004
Time Held: 8:00 A.M.

We, the undersigneds, do hereby certify that the foregoing pages, number 360 through 592, inclusive, is the true, accurate and complete transcript prepared from the reporting by LEAH JOHNSON in attendance at the above-identified hearings, in accordance with applicable provisions of the current USDA contract, and the below-signed persons have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing.

5/5/04 TRANSCRIBER: Debbie Barnard
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