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UNITED STATES DEPARTMENT OF AGRICULTURE

IN RE: NATIONAL ORGANIC STANDARDS BOARD MEETING

Meeting held on the 29th day of November, 2007

at 8:00 a.m.

Holiday Inn-National Airport
Shenandoah Ballroom
2650 Jefferson Davis Highway
Arlington, VA

TRANSCRIPT OF PROCEEDINGS

11-29-07 NOSB Meeting Participants

- | | |
|---------------|--|
| Chair: | Andrea Caroe |
| NOSB Members: | Gerald Davis
Rigoberto Delgado
Steve DeMuri
Tina Ellor
Kevin Engelbert
Daniel Giacomini
Jennifer Hall
Katrina Heinze
Bea James
Hubert Karreman
Tracy Miedema
Jeffrey Moyer
Joseph Smillie
Julie Weisman |
| NOP Staff: | Barbara C. Robinson
Mark A. Bradley
Katherine Benham
Valerie Frances
Robert Pooler
Jonathan Melvin |

1		Richard Mathews
2		Valerie Schmale
3		
4	Public Comment:	Joe Dickson
5		Mark Kastel
6		Steve Peirce
7		Caren Wilcox
8		Kristen Knox
9		Gwen Wyard
10		Keith Olcott
11		Consuelo Allen
12		Zareb Herman
13		Marian J. Marshall
14		Margaret Wittenberg
15		Cheryl A. Van Dyne
16		Rick Green
17		Barbara Chinn
18		Rob Everts
19		Sam Welsh
20		Steve Fournier

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P R O C E E D I N G S

November 29, 2007

[Background conversation].

CHAIR ANDREA CAROE: We're going to go ahead and start our session.

[Background conversation].

CHAIR ANDREA CAROE: Our first order of business today with the Policy Development Committee, Rigoberto Delgado, chair. And three items that should be presented. So I will go ahead and turn it over to you Rigo.

MR. RIGOBERTO I. DELGADO: Thank you very much madam chair. As you said we do have three items for the PDC team, from the PDC team. The first one includes updates to the policy and procedures manual. We essentially have seven changes that are highlighted there on the first page of your handout. And those include the following. I must clarify that the purpose of these changes is to keep this document a live and helping us be better members and function better in duties.

So on that note I also would like to point out that I did forget to list the first change which is found on page five of the document. And that's just the note that we added

1 to recommend new members to become familiar with
2 the Organic—with OFFBA and also the rule.

3 The next change that is presented there
4 on the list is the introductory paragraph found on
5 page six, this first section. On that same page
6 we have also a description of the [unintelligible]
7 mission of our board. We also have two edits to
8 the mission statement. And then an updated, an
9 update to the OFFba section, section number for
10 the following, the content on the sections called
11 duties of the board and officers.

12 I also needed to include there that on
13 page 33 of the, of the document we made a
14 correction on a typo. It, we, it had OFPS and now
15 OFFBA, minor change there. Going on with changes
16 listed. Those are found on page 45 and includes
17 changes the place of the committee recommendation
18 form to the front of the decision matrix that we
19 use. And [unintelligible] materials.

20 The second change was to the actual form
21 itself. We included a section—the top is just an
22 area to specify the use of the, of the material.
23 And we did make some changes on the layout of the
24 form. We think that this is a better looking form
25 and [unintelligible] and straightforward.

26 On page 54 we added a section that

1 highlights the, the process or the requirements
2 for deferral. Clarification for deferral's called
3 and we, we said four points that one should serve
4 as guided to committee members as to when, when we
5 should be deferring decisions. and also on the
6 second paragraph you'll find several points that
7 highlight the reasoning that you have two percent
8 when you explain to the rest of the board why you
9 went with a deferral decision.

10 The final change to that PPM is found on
11 page 62 and it includes an addition to the list of
12 parliamentary procedures. We added the definition
13 for [unintelligible] motion and [unintelligible].
14 The specific clarifications on who and when motion
15 can be done.

16 That includes our changes for the PPN.
17 We did receive public comment supporting the
18 changes. We appreciate the public comment. And
19 I'm open to questions from the board members. No.
20 hear none.

21 We move onto the next update which
22 includes the new member guide. Again, this is a
23 living document. And the changes, updates that we
24 are presenting are meant to help us be better
25 members, more effective. And essentially we have
26 two. These changes were suggested by board member

1 in our last meeting.

2 And the first one includes—you'll find
3 there that it's a section, additional section,
4 2.E. You'll find it in two places. Right after
5 the first page describing the summary of update.
6 And you can also find it on the actual document.
7 So you'll see what decision that change will take
8 within the document. And that section essentially
9 highlights or describes the process for regulation
10 making. Okay.

11 The second change is in addition of fifth
12 chapter. And it's addition in, I'm sorry, it's
13 additions to the fifth chapter and it's a section
14 called tracking changes in board documents. It's
15 part of the best practices. And it's essentially
16 a way of handing tracking changes in Word. We
17 were not intending on promoting this software
18 feature but we do find it very useful when we're
19 exchanging our emails as we conduct our business
20 over the phone. So it is important for new member
21 and old members, young and old, to be familiar
22 with this tracking mechanism.

23 We did receive a public comment. Again,
24 we are very grateful for it. A very supportive
25 comment as well. And, and one the specific
26 recommendation from the public was to add a link

1 to the final NOSB recommendations table. And that
2 was it.

3 The final item we have is a, it's an
4 update on proof of, proof of concept. It's a, a
5 table or database of recommendations history or
6 icon. And the update is as follows. We have had
7 some proof of concepts going back and forth
8 between Valerie and Bea and myself. And we do
9 have a pre-beta, XL base, database of
10 recommendations. We've been working on making
11 something that is useful, practical, that
12 everybody can have access to. It has a number of
13 pull down and drop downs that allow you to locate
14 and track recommendations quite, quite easily.

15 And, but the benefits are, we think, as
16 follows. First, it's going to be an archive that
17 you can use as reference when you review your
18 materials. And refer back to prior decisions if
19 it applies, or similar decisions and so forth.
20 But also we think that it can become a, a tracking
21 mechanism so you, every member will be able to
22 understand at one stage of the process is from the
23 initial point of review at the committee level all
24 the way up to the regulatory review process.

25 So that's the update. I did omit to give
26 enough time to the members to prove questions on

1 both the changes to the new member guide. And you
2 get to do so now. So you have any questions?

3 Yes.

4 MS. TRACY MIEDEMA: We got—this is out
5 there on the margins, a minor detail. I sent to
6 you about nine copy edits just cleaning up some
7 language. And I just—this is the first time I
8 looked to see and I don't, I don't think they were
9 incorporated in this draft. And—I'm sorry for the
10 new member guide.

11 MR. DELGADO: New member guide, okay.

12 MS. MIEDEMA: And I'm absolutely fine,
13 you know, waiting till the next meeting to
14 incorporate those. They were copy edits not
15 material.

16 MR. DEGADO: I apologize Tracy, I must
17 have misplaced those. But you're right, it is a
18 living document and we'll have a chance to update
19 those and incorporate those.

20 Any other comments, suggestions,
21 questions? Okay. Hear none. Yes, Bea.

22 MS. BEA E. JAMES: Yes, I was wondering
23 if we could talk about—maybe with Valerie's help
24 too—how long it will take to actually get that
25 database that we're working on for all the
26 recommendations to the point where we can actually

1 look at it.

2 MS. VALERIE FRANCES: It was an over
3 December last year project that I spent a lot of
4 time on and then had to sit aside to, you know, do
5 the ongoing stuff during the year. And I
6 [unintelligible] get really back into it again
7 hopefully during December when it's a lot quieter
8 and start working on refining the language and
9 figuring out what additional fields we need and
10 how to make it useful internally as well as
11 externally. And move it along. So it's really a
12 time thing. and I'm happy to work with both of
13 you on it, so.

14 MR. DELGADO: Thank you, Valerie. I do
15 have to clarify that this is a joint effort with
16 NOP and members of the BDC group. So appreciate
17 your time and your help and your effort.

18 FEMALE VOICE: Just as a follow-up I want
19 to acknowledge Valerie for all the work that she
20 put into that preliminary database document. And
21 because I know that there were technical changes
22 that are taking place we weren't able to share it.
23 But I know that it was a lot of time so thank you.

24 MR. DELGADO: Andrea.

25 CHAIR ANDREA CAROE: Just a clarification
26 on the format of what this is going to look like.

1 You're talking about just an Excel document, you
2 know, two-dimensional? Or are you talking about
3 something like our materials which have actual
4 links to the tabs and, and, you know the database
5 on materials has a little bit more depth. Can we
6 have that also included in this and actually have
7 the recommendation?

8 FEMALE VOICE: Right now it has all the
9 links built in. The challenge is that they keep
10 talking about migrating the entire website. And
11 I'm talking to my webmaster folks to about how to
12 migrate, migrate those links within this document.
13 And they've taken a look at it and they said
14 they're going to help me. So whatever point this
15 web migration occurs, which I know they tried to
16 do already. It, it, but that has been definitely
17 a factor in how to manage this project.

18 MS. FRANCES: But right now all the links
19 to the recommendations are all built in. They go
20 back to the very original board meetings. Back to
21 '92 even. So it goes by meeting all the way up in
22 reverse chronology. So you know.

23 MR. DELGADO: It sounds easy. It's been
24 a lot of work. Those links are there. We were
25 very happily surprised when Valerie produced that
26 Excel. But at the same time I must say it's

1 Excel. It's very simple to use. And again, I'm
2 not championing any Microsoft product [laughter].
3 But, yes, Tina.

4 MS. KATRINA HEINZE: What, what level of
5 information will this include. So, it will have
6 just the former recommendation or will it include
7 some discussion as to how those recommendations
8 came to be? you know what level of information's
9 going to be included here?

10 MS. FRANCES: Right now it's more, it's
11 kind of by topic. As things come up in our
12 discussions it helps me see what sort of topics we
13 need to bring forward. And some things are really
14 deeply imbedded in ancient archive minutes that
15 are not as pulled out and user friendly as our
16 recommendations are now. I think, you know, over
17 the years they've gotten better at having
18 particular documents at our recommendations verses
19 everything imbedded in our minutes. So the older
20 ones are more difficult to really pull up.

21 And I know there's some missing links to
22 addendums and all kind of stuff that I would love
23 to sort of fill in the gaps in and work with
24 people who may have some of those documents. Even
25 historically if we don't have them I do find
26 broken links in some places. So I, I, it's going

1 to vary over time. but as we get better and
2 better at it I think we can continue to refine it.

3 MR. DELGADO: And also we will—once it's
4 done and we're happy with the beta version we'll
5 send it out to all the members to to get their
6 feedback and see how it works. Yes, Bea.

7 MS. JAMES: I think the goal is to have a
8 chronological order of recommendations that are
9 still out there. And that they would be sorted by
10 date as well as by all committee. So we'd have a
11 chance to look at them that way.

12 MR. DELGADO: Any other questions? That
13 concludes our PAC presentation Madam Chair. Thank
14 you.

15 CHAIR ANDREA CAROE: Thank you, Rigo. So
16 you will have two vote items tomorrow. For the
17 new member—for the changes made to the board
18 policy manual and the new member guide and the
19 collaborative effort with NOP for this
20 recommendation database is an ongoing process.

21 MR. DELGADO: That's correct. It's just
22 an update.

23 CHAIR ANDREA CAROE: Okay. All right
24 moving on. thank you very much, Rigo for your
25 work on that continued maintenance on those
26 important documents. Next is the joint policy

1 development crops and livestock committee. I
2 don't know who's taking the lead on this. We have
3 Rigo from policy, Jerry from Crops, and Hue from
4 livestock. Who wants to take the lead on this
5 discussion?

6 MR. DELGADO: If it's--

7 CHAIR ANDREA CAROE: [Interposing] Rigo.

8 MR. DELGADO: --all right with my
9 colleagues I'd be happy to take the lead or the
10 blame, however you want to see it. But
11 essentially we do have two, two items. The
12 involve agricul--research in particular. And the
13 first item is called the guidance for
14 certification of operations participating in crop
15 production and research. The intent was to
16 provide a, a clarification of how and, and who can
17 do research and, and especially when it comes to
18 the use of prohibited materials.

19 We believe this is applicable to research
20 operations involved in crop research because of
21 the nature of the prohibited materials. If you
22 recall the section 290 allows for variances with
23 the purpose of, of research. This, because it
24 involves prohibited materials, doesn't fall in
25 that concept. So we more or less created a
26 parenthesis to that.

1 The, the guidance, as it says in the
2 summary there, is, is targeted to [unintelligible]
3 optimal production practices and input on the
4 certified organic conditions. And just as a
5 matter of background, if, if you were to apply
6 prohibited materials to any part of a certified
7 field, you would lose your certification status
8 and that will create a great deal of expense and
9 problems for organizations, research
10 organizations. Elevating the cost of research.

11 So that was the intent of, or the goal of
12 this document. You'll find that in the
13 recommendations section we have three areas. The
14 first one provides—and that's on page two—provides
15 the limits or the application of the, of the
16 actual, the variance, if you will. And also
17 provides for the allowance of isolated plants
18 within the field. That can be used for research.

19 We also, in the following section,
20 provided the proper buffer zones created around
21 the, around that research lot. we provide the
22 necessary justification or materials that need to
23 accompany a request for, for, for a research
24 variance in this case. On section C on page two,
25 we provide a description of the, the process to
26 assess that request.

1 We did get public comment, favorable
2 public comment. Specifically there was a
3 suggestion to modify the following wording on
4 point A2. It suggests that we replace the second
5 sentence 'per regulation all land treated with
6 prohibited materials will be considered to be.'
7 And the suggestion is to 'must undergo
8 transition.' Adding the work 'prior' to certify
9 organic status, subject to the procedures found in
10 2052 too. Otherwise we did not receive any other
11 changes. At that point I open it to comments from
12 my colleagues from the livestock and crops
13 committee if they want to. Or questions from the
14 board members. Yes, Jerry.

15 MR. GERALD A. DAVIS: Also there is the,
16 that one word addition in question, answer four of
17 that document also.

18 MR. DELGADO: That's, that's correct.

19 MR. DAVIS: The word prohibited.

20 MR. DELGADO: That is. You're absolutely
21 right. It's found on page three. It's the answer
22 to question four. And it's the last sentence.
23 'Land exposed to materials' as we have right now.
24 And the recommendation is to add the word
25 prohibited. 'Materials [unintelligible] land
26 exposed to prohibited materials, practices, or, or

1 excluded materials.' Good, good [unintelligible].

2 Thanks for that. Yes.

3 MALE VOICE: I, I think we should include
4 that, both those suggestions. I think they're
5 both good suggestions.

6 MR. DELGADO: [unintelligible] so none?
7 Very well. Any other?

8 CHAIR ANDREA CAROE: Just we may want to
9 do that tomorrow when we have a motion on the
10 floor. Amend the motion to put those two things
11 in and then vote on them. Since it's already gone
12 through a committee. At this point it now needs
13 to be a board action to make those changes.

14 MR. DELGADO: Right. Yes, I agree.
15 That's the proper procedure and we'll follow that.
16 any other questions, suggestions? Leave that--
17 Kevin, questions? No. Okay. So [unintelligible]
18 we'll move onto the next item. That is called
19 guidance on temporary variance for research. And
20 again, this is clarification for research
21 operations. And, we, we spend a great deal of
22 time with this, but we essentially provide enough
23 framework to assess research variance requests.
24 And we're presenting a set of general principles
25 that first of all provide the, the, the
26 justification. Or if you will the, the, the logic

1 behind approving a request for variance. And
2 having said that I'm moving on straight to the
3 deliverable in this document which is found on
4 page four.

5 That is the actual recommendation.
6 Follows pretty much the, the logic that we had in
7 the previous document. We start with the scope on
8 point A where we specify where it's applicable and
9 to what. Second followed by the, the set of
10 requirements that a requester needs to fulfill in
11 order to request a, a, a variance. And then the
12 last point highlight the criteria that must be
13 considered in determining the validity of a
14 variance request.

15 And final requirements on points D
16 through F involve general publication and sharing
17 of results of the research. This, this item is
18 also going to be presented for voting as a
19 recommendation. And I open the floor for
20 additional comments from my colleagues in
21 livestock and crops if they want to add anything
22 else, or questions from the board members. Yes,
23 Andrea.

24 CHAIR ANDREA CAROE: Well I just want to
25 clarify to those that are, are here today, this
26 board has no authority to grant a variance. The

1 variance is, can only be granted. Research
2 variance can only be granted by the administrator.
3 This is simply a information to provide a format
4 for that, that request. Also the regulation's
5 quite specific over which pieces of the regulation
6 could possibly be varianced, or more specifically,
7 which ones cannot.

8 So there—although this is a helpful piece
9 of information, this is format information , this
10 is the intent of what that request should look
11 like. And there's a limit to how far we are able
12 to go. This is clearly through the regulation,
13 not within our authority. But in doing so it was,
14 it was a, kind of a, I guess a black hole that we,
15 we added some clarity to how the process works.

16 MR. DELGADO: That's correct. I agree
17 with that. an emphasis on the word framework for
18 decision-making. Yes, good point. Any other
19 comments from Hue? Jerry? Okay. Questions from
20 [unintelligible]? Yes, sir.

21 MALE VOICE: I'd just like to say that we
22 did put a lot of time in this. And we depended a
23 lot of Jeff given that this was his life's work.
24 and he was invaluable in what we came up with.

25 MR. DELGADO: Absolutely, yes. I
26 [unintelligible] to that, yes. His participation

1 contribution was invaluable. And also from the
2 public we did have some very good comments. No
3 changes so that means that they liked our work.
4 they're proud. So, well, on that note Madam
5 Chair, we conclude our presentation.

6 CHAIR ANDREA CAROE: Thank you again,
7 Rigo. All right. Next up is our materials
8 presentation as is become our tradition we, the
9 materials chair will give a presentation on the
10 process that a, a petition material goes through
11 on it's way to the national list. So, Dan
12 Giacomini is chair of the materials committee and
13 therefore he has the, has the stage for the
14 presentation.

15 MR. DANIAL G. GIACOMINI: Thank you,
16 Andrea. I'll try to stay far enough away from the
17 microphone so that we don't have problems with it
18 today. Hopefully with the bigger tables. And
19 thank you to the program for giving us a little
20 more space [applause]. The national organic
21 materials update, the outline for our talk today
22 is to look at the national list of allowed and
23 prohibited substances. To review the petitioned
24 and sunset review of items. And really all of the
25 items that, that have come to, gone through the
26 process where they are at least ready to come onto

1 our doorstep. They do not include all of the
2 items that are still being processed by the NOP
3 that have not been completed, but ones that are
4 very, at least very close.

5 We will look at the material review
6 process. We will look at the national list
7 criteria, the sunset review criteria. As an
8 overview of the materials committee, a very brief
9 mention. There's, they'll be a more extension
10 discussion on definition materials, but just a
11 brief mention of it here. And then any final
12 notes that we have.

13 The national list—next slide—
14 [unintelligible] percent of materials under crops.
15 Section 601 is synthetic substances. And I will—
16 you know most of these but I'll, I'll just
17 summarize them as we go along. So 601 is the
18 synthetic substances that are allowed in crop
19 production. 602 is the non-synthetic,
20 quote/unquote "natural" substances that are
21 prohibited in organic crop production. Section
22 603 is, and 604 are livestock with 603 being
23 synthetic substances allowed, 604 being non-
24 synthetic substances prohibited

25 Handling is slightly different in that
26 everything needs to be on the list. 605 is non-

1 agricultural, non-organic substances allowed with
2 section a being non-synthetic substances allowed
3 and section B being synthetics allowed. Section
4 606 for handling is non-organically produced
5 agricultural products that are allowed as
6 ingredients in or on processed products labeled as
7 organic.

8 Petition and sunset review items.
9 Current recommendations for section 601, potassium
10 silicate, sodium carbonate peroxyhydrate, and
11 sodium pharic [phonetic] hydroxate EDTA. Under
12 606 is grape seed extract.

13 Sunset items at this meeting for
14 recommendation, consideration are listed there.
15 For 601 two of which have two listings on the
16 national list. 602 for calcium chloride. 606a
17 there is some debate on three of those items and—
18 I'm sorry 605a—and handling will deal with those
19 issues when they get to, when they have their
20 discussions. And 605b cellulose.

21 Petition items that I'm listing here as
22 consideration. Those are the ones that are
23 somewhere in that process of being very done or
24 have been sent to us or, or, or have been—well
25 we'll just leave it there. Listed there for 601,
26 603, 605b, and 606.

1 Additional items that are still somewhere
2 on the table. Items that have been, substances
3 that have been returned to the NOP and waiting for
4 additional information. Some of which may be
5 clarification on their status relative to the
6 definition of materials issues, ag/non-ag,
7 synthetic, non-synthetic. Or also they've been
8 sent back to the program requesting tap reviews.

9 There are also the four items listed
10 there that have been fairly recently, at some
11 meeting, where the most recent petition was
12 deferred by the petitioner. There's no additional
13 action or consideration at this time on those
14 items.

15 Livestock there are no petition or
16 substance sunset items on the docket for the
17 livestock committee for this fall. But do want to
18 mention again, the finding that the nature of the
19 invitation at the end of the—with an end date with
20 the finding makes this item not eligible for
21 sunset. In order for this item to stay on the
22 national or be, to be replaced on the national
23 list this substance must be petitioned for that
24 process to occur. Okay.

25 FEMALE VOICE: I just want to add a
26 little bit of clarification to that. it, it, just

1 add some depth to what Dan is talking about.
2 Meaning that a sunset is a continuation of a
3 regulation.

4 MR. GIACOMINI: I get that.

5 FEMALE VOICE: We could sunset
6 methionine, but methionine has an annotation that
7 says it's no longer used, you can no longer use
8 it. So in essence sunset is not applying. It's
9 irrelevant. So just a little bit of—I know
10 there's been a lot of questions about that and
11 there's been a lot of confusion. But there is a
12 specific date in there that even if the regulation
13 continues, the way it's written it's saying that
14 it's not, you can't use it.

15 MS. ROBINSON: I just want to say I, I
16 appreciate that presentation. That's the best
17 presentation materials that I have ever seen a
18 board put up in all the years that I've been
19 sitting at one of these. Thank you [applause].

20 MR. GIACOMINI: Well thank you, Barbara.
21 But I'm not done yet so hopefully I don't
22 disappoint you and change your mind by the end
23 [laughter]. The material review process. This,
24 this portion of the program, I was told a number
25 of years ago that if you take something from
26 someone else you should reference it about the

1 first three times that you use it before you claim
2 it for your own. So I think this is the second
3 time I used this so I will still give Kim Dietz
4 credit for this portion of the program. I stole
5 it from one of her old presentations on the issue.

6 The minimum time from for the national
7 review, list review, material review is 145 days.
8 The first portion of this process is with once the
9 petition comes to the NOSB, the petition is first
10 reviewed by the NOP and reviewed for completeness.
11 Received by the NOP and reviewed for completeness.
12 And on determination of the completeness by the
13 NOP, the petition is forwarded to the NOSB
14 materials chairperson.

15 Materials chairperson forwards that
16 petition to the chairperson of the designated NOSB
17 committee, whether that be crops, livestock, or
18 handling. The petition is reevaluated for
19 completeness and to determine if it will be
20 forwarded back to the NOP for a tap review.
21 Currently there are no taps for 606 items.

22 Tap reviews are completed and returned
23 back to the NOSB. The reviews are posted on the
24 NOP website for review and public comment. And
25 committee recommendation are posted for public
26 comment. Then the 30 days—yes.

1 FEMALE VOICE: Really it's six weeks at
2 this point with the change-

3 MR. GIACOMINI: [Interposing] yes, yes.

4 FEMALE VOICE: In [unintelligible]. I
5 just want to make sure you understand that.

6 MR. GIACOMINI: Yeah, we get there.

7 FEMALE VOICE: Okay.

8 MR. GIACOMINI: Within the 30 days prior
9 to the meeting-and that, that should be 60 days
10 now with the new processing of posting-public
11 comment is accepted by the NOP and posted on the
12 website.

13 At the NOSB meeting committee
14 recommendations are submitted. Further comments
15 are accepted from the public. And all public
16 comments are taken into consideration. And
17 actions taken by the full NOSB regarding committee
18 recommendations.

19 During the entire process all
20 communication between petitioners and the NOSB
21 should go through the NOP office. National list
22 criteria in general. Number one potential for
23 such a substance for detrimental chemical action
24 with other materials used in organic farm systems.
25 Number two toxicity and mode of action of the
26 substance and of it's breakdown products of any

1 contaminants and their persistence and areas of
2 concentration in the environment.

3 Number three the probability of the
4 environmental contamination during manufacture
5 use, misuse, or disposal of such substances. Four
6 the effect of the substance on human health.
7 Number five the effect of the substance on
8 biological and chemical reactions in the agro-
9 ecosystem including the physiological effects of
10 the substance on soil, microorganism including the
11 salt index and solubility of the soil, crops and
12 livestock.

13 Number six the alternative for use, the
14 alternative to using the substances in terms of
15 practices and other available materials and it's
16 compatibility with a system of sustainable
17 agriculture. And that's coming from the federal
18 registered docket listed there.

19 Regarding processing age and adjuvant,
20 the substances can't be produced from a natural
21 source and there is not organic substitute. The
22 subjects manufacturer's use and disposal do not
23 have adverse effects on the environment and are
24 done in a manner compatible with organic handling.
25 Hue.

26 MR. HUBERT J KARRAMAN: You use the term

1 adjuvant is that specific to processing right here
2 because adjuvant are used in livestock medications
3 which have now been addressed by that docket.

4 FEMALE VOICE: [Off mic].

5 MR. KARRAMAN: This is specific to
6 processing. Thank you.

7 MR. GIACOMINI: Yes. Number three the
8 nutritional quality of the food is maintained when
9 the substance is used or and the substance itself
10 or it's break down products do not have an adverse
11 effect on human health ads defined by applicable
12 federal regulations. The substances primary use
13 is as a preservative or to recreate or improve
14 flavors, colors, textures, or nutritive value lost
15 during processing except where the replacement of
16 nutrients is required by law.

17 Number five the substance is listed as
18 generally recognized safe grass by the FDA when
19 used in accordance with the FDA's good
20 manufacturing practices and contains no residues
21 of heavy metals or other contaminants in excess of
22 tolerance set by FDA.

23 And number six substance is essential for
24 the handling of organically produced agricultural
25 products. And that comes from federal, the rule
26 section 606b. I mean 600b, excuse me. Regarding

1 606 items, agricultural and potential commercial
2 unavailability NOSB will consider a: why the
3 substance should be promoted in the production or
4 handling of an organic product. B: the current
5 product industry regarding availability of and the
6 history of unavailability of the organic form in
7 the appropriate form, quality, and quantity of the
8 substance.

9 Industry information includes by is not
10 limited to regions of production including factors
11 such as climate and the number of regions. The
12 number of suppliers and the amount produced.
13 Current and historical supplies related to weather
14 events such as hurricanes, floods, and droughts
15 that may temporarily halt production and destroy
16 crops or supplies.

17 Four trade related issues such as
18 evidence of hoarding, war, trade barriers, or civil
19 unrest that may temporarily restrict supplies, and
20 other issues which may present a challenge to a
21 consistent supply. And those items come from the
22 federal register docket listed.

23 Sunset review criteria. Sunset review
24 criteria from, directly taken from OFBA is that no
25 exception, I'm sorry, no exemption or prohibition
26 contained in the national list shall be valid

1 unless the national organic standards board has
2 reviewed such exemption or prohibition, as
3 provided in this section, within five years of
4 such exemption or prohibition being adopted or
5 reviewed. And the secretary had renewed such
6 exemption or prohibition.

7 Sunset review criteria. Sunset includes
8 the opportunity to revisit the continued need for
9 the regulation of the substance and the review
10 finds, if the review finds that the initial
11 condition still exists the regulation is renewed
12 for an additional period of time. this comes from
13 a 2004 NOSB guidance document, sunset and the
14 national list of allowed and prohibited
15 substances.

16 Sunset process is not used to petition,
17 to add a new substance to the national list, nor
18 is it used to change an existing annotation.
19 That's from that same document.

20 Exemptions which are national list
21 listing are accepted because the evidence
22 available showed substances were found not harmful
23 to human health or the environment, substances
24 were necessary because of the availability of
25 wholly non-synthetic alternatives, and the
26 substances were consistent and compatible with

1 organic practices. That's similar to what I
2 mentioned earlier. But just summarizing it down
3 into three points.

4 Sunset is a repeat of the national
5 process. NOSB will solicit information and
6 comment to reevaluate the substance against the
7 same criteria that substances were found not
8 harmful to humans or the environment, substances
9 were necessary and non-synthetic alternatives were
10 available, and the substances were consistent and
11 compatible with organic processes.

12 Regarding the definition of materials I
13 just wanted to leave one thing here. It's a quote
14 from a songwriter, from a song that I know; "The
15 art of simplicity simply means making peace with
16 your complexity." This is a very complex issue
17 and we are trying, the committee was trying to
18 look at it from not a radical approach, but maybe
19 a new approach.

20 Final notes, public comment. All public
21 comment is now handled through www.regulations.gov
22 according to federal registered docket and the
23 governmental agency. It's an effort, an effort to
24 bring processing of public comments to an equal
25 level of efficiency across departments and
26 agencies. And the new process sets deadlines for

1 having comments posted. All public comments
2 received by the NOP will be made available to the
3 NOSB members for review in advance of the
4 respective vote whenever possible.

5 The, I was, one of the things that I was
6 charged with in making this presentation was a
7 review of the posting process of making a public
8 comment. With all due respect of everyone
9 involved in that program, it's, I think it's
10 generally accepted that that is a very difficult
11 website to manage and, and-

12 FEMALE VOICE: [Interposing] navigate.

13 MR. GIACOMINI: --navigate. And in
14 trying to, as briefly as possible, come up with an
15 explanation of how to do that I will be very
16 honest with you, we have a very simple four or
17 five step procedure for just getting to look at
18 your public comments, that Valerie has put
19 together for us. And half the time I can't get
20 there. So it, it's a very complicated thing. and
21 I could simply not come up with a summary of that
22 in this brief amount of time.

23 Finally, for the relevant website
24 listings were listed there and now they're gone.
25 AMS, the NOP website, the NOSB website, and public
26 comments regulations.gov thank you.

1 CHAIR ANDREA CAROE: Thank you, Dan. Is
2 there any, any questions for Dan on the process?
3 Hue

4 MR. KARREMAN: Just one, one thing Dan.
5 On, you quoted one of the regulations for like the
6 seven criteria that we review materials. That is
7 directly, actually from OFFBA isn't it. Isn't
8 that right in OFFBA, those seven items for review.
9 Just, I saw it was in regulation two, but I do
10 believe it's right out of OFFBA. Barbara has it.

11 FEMALE VOICE: Not for processing, Hue.
12 The, the general criteria are, are from OFFBA.
13 But the, the criteria from processing aids and
14 adjuvant those are from the NOP regulations
15 because there weren't any—when OFFBA was written
16 there wasn't any contemplation that there would be
17 a national list for processing.

18 CHAIR ANDREA CAROE: Any other questions?
19 It, it is important though to recognize the
20 difference between those general criteria and the
21 processing criteria. Especially as you're looking
22 at materials. The confusion may be trying to
23 apply those processing criteria to materials in
24 which they don't apply. Which we can't do. and
25 so remember that those are processing criteria
26 for, for processing aids and adjuvant. Barbara.

1 MS. BARBARA C. ROBINSON: That's why we
2 came up with that. I think we gave you those
3 forms and you're using those.

4 CHAIR ANDREA CAROE: That's correct.

5 MS. ROBINSON: But we identify which
6 criteria applies whether you're evaluating a
7 material for crops, livestock, or handling and
8 which criteria you should evaluate it against.
9 Right?

10 CHAIR ANDREA CAROE: I absolutely agree.
11 And when the committees are filling out those they
12 are right on track. But when the committee—the
13 board starts discussing it we're not necessarily
14 staying on track with the forms.

15 MS. ROBINSON: Right.

16 CHAIR ANDREA CAROE: And so as the
17 discussion is, is evolving I just want to make
18 sure that it's not evolving around criteria that
19 is not applicable to the material.

20 MS. ROBINSON: Right, right.

21 CHAIR ANDREA CAROE: Because there is a
22 little overlap but—

23 MS. ROBINSON: [Interposing] Yeah you do
24 have to sort of be careful there.

25 CHAIR ANDREA CAROE: That's what I was
26 pointing out. Gerald.

1 MR. GERALD DAVIS: Regarding the
2 regulations.gov website, Valerie or someone from
3 the program, do we have a breakthrough in sight as
4 far as more easier manipulation of that website as
5 far as some sort of instructions or something that
6 will put an end to the difficulty people are
7 discovering.

8 FEMALE VOICE: Barbara just, you want to
9 [unintelligible]?

10 MS. ROBINSON: I talked with Kris Sarcoat
11 [phonetic]. Lock Key Martin [phonetic] runs that
12 sight and I guess we- you know I've gone back and
13 forth with, with Kris because I didn't realize how
14 much, how much trouble you all were having. And
15 we're-I'm going to work with her some. She, she
16 didn't realize. In fact the last time you all
17 were having trouble with it apparently the-
18 everyone was having trouble. You weren't the only
19 ones. Then we got a message that, I guess, the
20 thing was down or something. They were having
21 technical difficulties. So you weren't the only
22 ones who were having problems with it. But then
23 they failed to send out the right kind of message
24 to tell people that no one could get on.

25 So Lock Key Martin [phonetic] anyway, has
26 the contract for one more year. And hopefully

1 enough people will complain that they'll either
2 get the message that they need to make this thing
3 more user friendly or they'll loose the contract.
4 So in the meantime, I think, between Valerie and
5 I, I think we'll continue to work with Kris and
6 see if we can't, you know, get our voices heard a
7 little bit more. But apparently, you know, Kris
8 says that she has trouble with it too, I guess.
9 And, and it is just not, it's just not user
10 friendly, you know. And, and I apologize for
11 that, you know.

12 She has trouble finding, finding our
13 comments. We're the base, we're like the second
14 largest agency for regulations in USDA. So it,
15 it's really important that we do be able to use
16 this thing easily. I'll keep working on it is all
17 I can tell you. and see if I can't come up with a
18 more user-friendly set of instructions, at least,
19 so you can get into it. But I don't know, I don't
20 know what else to tell you right at the moment.

21 FEMALE VOICE: And I'm truly concerned
22 about the future of those comments as an archive.

23 MS. ROBINSON: Yeah. I know. I know.
24 I'm sorry is all I can tell you. it's out of our-
25 that is really out of our control too.

26 CHAIR ANDREA CAROE: Bea, you had a

1 question.

2 MS. JAMES: If I could make a simple
3 suggestion, I've had to coach people that I know
4 that are trying to get in and look at public
5 comment, how to do it. There's no simple
6 instructions or like a header posted anywhere:
7 here's how you actually find your public comment
8 or public comment. If that could be posted
9 somewhere that would really help.

10 FEMALE VOICE: You'd never find it
11 [laughter].

12 MS. JAMES: Well even if it was on that
13 NOSB website under public comment and then
14 directions for accessing public comment. that
15 would be great [laughter]. And I'm not a techy.
16 So if I can figure that out.

17 CHAIR ANDREA CAROE: Okay. well we
18 appreciate, we appreciate the effort you're making
19 to help us out with this. And we appreciate the
20 frustration that you also must have with this.
21 But again, we've expressed the urgency. And these
22 public comments are fundamental to the work we do.
23 So I think, I think this just highlighted that for
24 us, how important it is for us to be able to see
25 these comments. And how nice it was to see them
26 in actual paper [laughter] when we got to the

1 meeting. With that, any further questions for Dan
2 and the material process? Joe.

3 MR. JOSEPH SMILLIE: Yeah, I'm not sure
4 if it's the right time or not, but Dan, you, you
5 said that there is no tap reviews required for
6 606. could you elaborate? Is that just a-

7 [Interposing] [off mic].

8 MR. SMILLIE: That's a board decision.
9 Dan.

10 MR. GIACOMINI: My understanding on that
11 was that that was a program decision that no tap
12 reviews were required on agricultural products.

13 MR. SMILLIE: Required, but suppose we
14 would come across material that we think merits a
15 tap. Is that, I mean, financial considerations
16 aside. Is that, is that a hard and fast?

17 MR. GIACOMINI: We can submit a request
18 and see what happens.

19 MR. SMILLIE: Okay.

20 CHAIR ANDREA CAROE: I'd like to go ahead
21 and recognize Kim Dietz on these. She worked on
22 the sunset process better, you know, more
23 intimately than any of us. so, Kim, if you're
24 willing will you give us a little bit of the
25 background on that?

26 MALE VOICE: Not sunset, 606.

1 CHAIR ANDREA CAROE: 606, I'm sorry, 606.

2 MS. KIM DIETZ: Good morning, Kim Dietz.
3 Thanks Andrea. The decision to, to not do tap
4 reviews on 606 is really up to you. the rule
5 office says the board may convene a tap review for
6 anything that you want. It's really up to your
7 discretion.

8 However, based on the complexity or non,
9 non-complex material that's really something you
10 have to evaluate. In the past 606 material is,
11 should be an agricultural product with minimal
12 processing. It's something—if it isn't then
13 that's certainly up to you. but really the
14 funding is what, why we decided not to do that.
15 so it's really at your discretion.

16 CHAIR ANDREA CAROE: Thanks, Kim. But
17 could you explain to us what an agricultural
18 product is [laughter].

19 MS. KIM DIETZ: I was going to do that in
20 my comments [laughter].

21 MALE VOICE: And what was your definition
22 of minimal again [laughter].

23 MS. DIETZ: So, anyways, what a tangled
24 web we weave. This is all, all quite tied
25 together. And I didn't understand what you were
26 saying, Joe. And there are these, these materials

1 that we're—it's, it's questionable whether they're
2 agricultural or not because of the amount of
3 processing that goes into—or manipulation that
4 goes into the products. And it certainly would be
5 nice to have the resource of the 606, I mean, of a
6 tap review to look at them.

7 And one of the one, one of the one things
8 that—one of the first things we get out of our tap
9 review is the, is the categorization of the
10 material. The tap reviews tell us if it's
11 synthetic or non-synthetic, agricultural or non-
12 agricultural. Sometimes that in itself is the
13 value of the tap. So there, there will be
14 situations that I think it will be appropriate for
15 us to request tap.

16 CHAIR ANDREA CAROE: Any other materials,
17 questions, or questions for Dan? Hue.

18 MR. KARREMAN: Not really for Dan, I'm
19 just curious. What—since we're talking about
20 taps—how much is in the coffers for doing taps? A
21 big fat zero. Till when? Like—

22 FEMALE VOICE: [Interposing] we're on a—

23 MR. KARREMAN: --can't be forever.
24 That's what we're here for.

25 FEMALE VOICE: Well you know we're on a
26 continuing resolution. Right now through the

1 middle of December. I don't expect to get out
2 from under the continuing resolution until March
3 really, really. To be realistic. And the chances
4 are pretty good that we could, you know, I don't
5 know when we're going to see a budget.

6 If we got our new budget we could get
7 another million dollars in this program. Which
8 would practically double the NOP budget. Frankly,
9 we don't have any discretionary spending let in
10 the NOP budget. What we have is about \$60,000.
11 period. That's it [laughter].

12 FEMALE VOICE: Bake sales.

13 FEMALE VOICE: Yeah, car washes and bake
14 sales guys, for taps.

15 FEMALE VOICE: Right [laughter].

16 CHAIR ANDREA CAROE: All right, any other
17 questions?

18 MS. JAMES: I have a question for Dan.

19 CHAIR ANDREA CAROE: Bea.

20 MS. JAMES: Dan, I was wondering if you
21 could have that presentation posted under our
22 agenda? That would be great. It's currently not.
23 so that would be—thank you.

24 MR. KARREMAN: One more question.

25 CHAIR ANDREA CAROE: Hue.

26 MR. KARREMAN: Not to get into whole

1 budgetary things because that's a whole different,
2 you know, world. But is, is there any possible
3 way for tap review money to come in from some
4 other neutral source or must it come in through
5 the USDA?

6 FEMALE VOICE: You mean like a gift?

7 MR. KARREMAN: Yeah, some philanthropist
8 or something. Is that possible or not?

9 CHAIR ANDREA CAROE: You know, you're
10 not, this is not the first time that's been
11 brought up. In past years previous boards have
12 said what if, what if someone was to give you
13 money just for taps. And so that's not such an
14 odd question. But we can't accept, we can't
15 accept money is the short answer.

16 MALE VOICE: We have user fees though.

17 FEMALE VOICE: Dan.

18 FEMALE VOICE: If we have user fee
19 authority that would be great.

20 MALE VOICE: User fees to do—

21 [Off mic]

22 FEMALE VOICE: Yeah, yeah, I did.

23 MALE VOICE: Is that, is that, is it the
24 user fee that makes it different between for
25 instance the FDA where the companies submitting
26 the drug?

1 FEMALE VOICE: Yeah, basically.

2 MALE VOICE: Are we not, are we not able
3 to do that.

4 FEMALE VOICE: The reason we are poor is
5 we're an appropriated program, exactly. If we had
6 user fee authority we would be charging our
7 certifying agents. Of course then they would be
8 charging a lot more to the certified operations.
9 Yeah, but then we would be a lot richer because we
10 would be charging by the hour.

11 MALE VOICE: But what if, what if the
12 company's submitting--what if the petitioner--

13 FEMALE VOICE: [Interposing] we would
14 also charge the petitioners.

15 MALE VOICE: What if they paid for the
16 taps?

17 FEMALE VOICE: Well, we'd be doing a lot
18 fewer taps I can tell you that right now because
19 people would be petitioning a lot fewer materials
20 to go on the national list.

21 MALE VOICE: But if that was an option.
22 Right now we're not doing any taps and, and--

23 FEMALE VOICE: [Interposing] right.

24 MALE VOICE: --substances are starting
25 to--could potentially get backed up. If a
26 petitioner wanted that tap done and was willing to

1 do that is that an option?

2 FEMALE VOICE: No, because we don't have
3 any user fee authority is the problem. Here's the
4 problem.

5 CHAIR ANDREA CAROE: Okay. actually,
6 Kevin I want to get to you but I see either Kim or
7 Rose to get some board historic perspective, I
8 think, is valuable at this point.

9 MS. ROSE KOENIG: I think first of all
10 that maybe the board isn't utilizing.—the fact
11 that a lot of times the petitioner will provide
12 you a lot of technical information. you know a
13 good example is the potassium silicate petition.
14 So if you go back—and I don't know if you still
15 give the folks the petition. I know a lot of
16 times it's on the web, but you're looking at the
17 technical report.

18 So the first thing is you do have a body
19 of information. Now that information may be bias
20 because it's being submitted by the company.
21 Additionally, there's a thing called Google
22 [laughter]. But you can access— you know it does
23 take extra work from the board, but it's not that
24 you can— you know your hands are tied. You
25 yourselves can do some minimal research on those
26 things. A lot of it is just technical research

1 and you can just say alternatives to some.

2 So I don't think that you have to feel
3 like because there's not money to actually pay for
4 a technical report that the committees can't go
5 forward. you know as you do that you might feel
6 that you've gathered at least sufficient amount of
7 information by doing a Google search yourselves.

8 Like for example, on this soy protein
9 isolate, when I started getting through even the
10 tap reports it wasn't sufficient to answer the
11 questions that the board actually came up with in
12 terms of whether this thing was synthetic or non-
13 synthetic. So at that time there was folks that,
14 you know, every time I would do a Google search
15 there were people in the university community that
16 actually had expertise in food science. And you
17 can utilize those folks.

18 But again, it's going to put extra work
19 on you guys. Which, you know, and you're already,
20 you know, with a lot of work. but, you know, if
21 people on the board have that energy and that
22 inclination, you know, it is possible for any
23 individual that has some common sense and can read
24 and do a little bit of research to kind of get
25 those answers. But it's not, certainly, as
26 efficient as a tap report.

1 CHAIR ANDREA CAROE: Rose, just before
2 you leave, I think, specifically I know of a
3 situation where we have a material where it's
4 about the process and technique.

5 MS. KOENIG: Um-hmm.

6 CHAIR ANDREA CAROE: And that, not
7 necessarily can- I mean some of that's
8 confidential business information that we're not
9 really being able to get.

10 MS. KOENIG: But the thing is, when
11 you're putting the material on the list you're not
12 putting that-it, it doesn't matter who produces
13 that generic material. There's usually multiple
14 ways. And it's very rare that there's a
15 proprietary way. And even if there is you still
16 have to look at all the ways that it's being
17 produced because in a way the only way you can
18 exclude a way of something that's producing is by
19 those annotations that we all have learned to
20 love, right.

21 So I'm just saying you have to remember
22 you're not putting that product on for that
23 individual company. Once it's on that list as a
24 generic it doesn't-you're in a way saying, okay,
25 it doesn't matter how it's produced; we consider
26 it synthetic and all of it's all right unless we

1 annotate it. So a lot of times the proprietary—if
2 you can't get that information you still probably
3 could get information on all the other ways it's
4 manufactured and it may help. But remember, we're
5 not doing this...

6 [END MZ005018]

7 [START MZ005019]

8 MS. KOENIG: ...for individual companies
9 though. It's not their product that we're putting
10 on the list.

11 CHAIR ANDREA CAROE: I, I, I agree with
12 everything you said, Rose, I mean whole-heartedly.
13 I just, I think that some of the information is a
14 little bit easier to access online than others. I
15 mean definitely information about the material.
16 But it, it falls short a little bit on some of the
17 processes and technologies.

18 FEMALE VOICE: [Crosstalk] but don't
19 forget there is this thing called confidential
20 business, CBI.

21 CHAIR ANDREA CAROE: Yeah.

22 FEMALE VOICE: And sometimes we, as a
23 board don't even have access to that information.

24 CHAIR ANDREA CAROE: Exactly. That's the
25 point. That's the point. That's where we're
26 [unintelligible].

1 FEMALE VOICE: And they're not
2 [unintelligible] on pass [unintelligible] when
3 that confidential business information came up.
4 As a board you have to put it on knowing that you
5 can never access that information. If you're not
6 comfortable with that then it's really not an
7 [unintelligible] criteria, but you can say there's
8 insufficient information of how it's manufactured.
9 That doesn't make us feel comfortable. We don't
10 know if it meets the criteria on that.

11 CHAIR ANDREA CAROE: Kevin and then Hue.

12 MR. KEVIN ENGELBERT: I'm just curious,
13 Barbara, the money that certification agencies pay
14 to become accredited every year and reviewed,
15 doesn't that come back into the program or is that
16 already figured in as part of your budget?

17 MS. ROBINSON: No, that doesn't, that
18 doesn't come to the NOP first of all. That goes—
19 well first of all they're not paying every year,
20 okay. they pay every five years and it goes to
21 the arch [phonetic] branch. It goes to the
22 auditors. And they're paying a user fee, they're
23 paying travel and per diem. But nevertheless, it
24 doesn't come back to NOP.

25 And it's not like a profit that they're
26 making, okay. it's a cost recovery basis. So the

1 auditors that go out there, say to audit CCOP,
2 let's say-

3 [Background talking].

4 MALE VOICE: Nofum [phonetic] New York.

5 MS. ROBINSON: Or Nofum [phonetic] New
6 York, whatever. For the time that they spend out
7 there reviewing the documents they're being
8 charged on an hourly basis by those auditors for
9 the salary that it takes to recover, you know, to
10 pay for those two guys that spend all that time
11 out there. So there isn't any extra money
12 floating around. And those guys work for Jim
13 [unintelligible] shop. So it doesn't come back to
14 the NOP.

15 Now I do want to say something about tap
16 reviews too. Another source of this information--
17 previous boards have always resisted it--but for
18 crops is EPA. There's also the FDA as a source.
19 And previous boards have sometimes resisted those
20 federal sources of information. But you know
21 they're, we think they're trustworthy sources of
22 information. It depends on how you feel about
23 them I guess. But you can find scientists at
24 those agencies. And you can find valuable
25 information about a material, probably, there, you
26 know. And as Rose says, there is, you know, quite

1 a vast amount of information out there on the
2 Google search engine.

3 It is true that there probably is a lot
4 of information, particularly for 606 stuff. And
5 the other thing is, is why not move to have—force
6 the petitioners to at least provide the cast
7 [phonetic] numbers. I thought we were going to
8 move to a point where we were not putting anything
9 on a national list that didn't have a CAS number.
10 That that's what we were going to—that's how we
11 were at least annotate things so that you didn't
12 have these problems down the road of people, you
13 know, saying it's, it's not really this material,
14 it's this material. We're going to eliminate that
15 confusion and we were going to get away from these
16 complicated annotations. We were just going to
17 identify material with a specific CAS number. But
18 that would also help in evaluating some of this.

19 CHAIR ANDREA CAROE: Hue.

20 MR. KARREMAN: I, I, I guess I would just
21 caution to, that we move, that we not move away
22 from third party review. I, I just really think,
23 you know, just like the way, I'll just say how
24 Amrey [phonetic] reviews things is very thorough.
25 They have CAS numbers. Just—I think we do it
26 internally in the board, we're all very

1 intelligent here except we all have our areas of
2 expertise. And it's going to get to be like where
3 different certifiers review different materials.
4 And there doesn't seem to be always that much
5 overlap. And there's not going to be—I just think
6 it'd be cleaner with a third party review. And I
7 understand the financial problems with doing that.
8 but I, I, I don't want to rely on Steve to go
9 Google something for I don't know what. And then
10 I get different information and it's not, we're
11 not all on the same level playing field to make
12 our decision.

13 FEMALE VOICE: Well let me ask you this.

14 MR. KARREMAN: I just want to say that.

15 FEMALE VOICE: Let me ask you this, what
16 if, you know, AMS has a—we have scientists, you
17 know, we have laboratories and scientist, you
18 know. And what if in the short run, you know,
19 when we're backed up like this and we don't have
20 any funds is a third party review, what if we went
21 to our scientists? I don't even know if our
22 scientist will do it because, you know—

23 MR. KARREMAN: [Interposing] I guess—

24 FEMALE VOICE: They can say, well,
25 where's your money. because they operate on a
26 user fee basis too. But if we could—if I talked

1 to, like another deputy administrator, my
2 counterpart who runs the science and tech programs
3 in AMS, and say, you know, can your guys evaluate
4 some of these materials for me. Take a look at
5 them and give me some sort of sense, you know are
6 the synthetic, non-synthetic, ag, non-ag. And
7 give me some analysis of them. Would that be a
8 possibility? Would you consider that as a short
9 run placeholder?

10 MALE VOICE: I, you know, I wouldn't be
11 apposed to that except that, you know, it has to
12 be within the OFFBA criteria or the other
13 criteria.

14 FEMALE VOICE: Oh, no, obviously.

15 MALE VOICE: But obviously, no, but just
16 case in point on that is, actually the FDA center
17 for veterinary medicine has asked me to come in
18 and talk to them next June about organics because
19 they want to learn about it. And so I don't know
20 if I would, you know, I don't know if they're up
21 to speed yet except for that docket, you know,
22 just about organics in general, to be a good
23 source of information for us as a board perhaps.
24 Maybe they would be but maybe not. but I would
25 say—I wouldn't be apposed to that. rather than us
26 individually having to go mine out information

1 from wherever we can. That, that would be better.

2 CHAIR ANDREA CAROE: Just, just, I mean
3 just to put in perspective, I mean I have two
4 filing cabinets at home filled with taps. And I
5 look at them and every tap reviewer is
6 inconsistent with every other tap reviewer. So to
7 say that the work we would be doing is
8 inconsistent and that's why we should go to the
9 outside, I don't buy that because I've seen some
10 really wacky taps that we've gotten over the
11 years.

12 So I, I don't know that there's—I
13 understand what you're saying Hue, but I think
14 you're idealizing what the tap reviewers bring in.
15 because in reality they're just as inconsistent as
16 the information that we would be getting.
17 [unintelligible] Hue and then go to—Dan, are you
18 still waiting? Hue and then Dan.

19 MR. KARREMAN: Dan's nodding his hand,
20 okay.

21 MR. GIACOMINI: [Off mic].

22 MR. KARREMAN: Yeah. Well I'd say, gee
23 whiz. Oh, yeah, on the tap reviews, like from—
24 I'll just say Amery [phonetic] again because
25 they're kind of the gold standard out there I
26 believe—that you know yeah, you look at each

1 reviewers, the three reviewers notes and they may
2 be all over the place, but there is one consensus
3 note that is submitted. And that's, that's what
4 we usually look at as the board, I believe.
5 Although we may look at different individual, you
6 know, ideas from reviewers. But we do kind of put
7 some weight on that final analysis.

8 CHAIR ANDREA CAROE: I'm going to go
9 with—Dan do you have something?

10 MR. GIACOMINI: I have a clarification.

11 CHAIR ANDREA CAROE: Yeah.

12 MR. GIACOMINI: Just to clarify, I'd
13 forgotten my—regarding CBI, the, the sub-committee
14 meeting that we had in February, we found out how
15 invaluable the CBI information was. We could not
16 have done the 606 materials at the spring meeting
17 without having access to those. One of the items
18 on the materials work plan is working with NOP,
19 mainly with Bob, to figure out a way—
20 confidentiality statements, whatever it may take
21 to allow someone, possibly on the board, to have,
22 to potentially have access to those as necessary.
23 Bob was, my last information with Bob was that he
24 had, was in contact with, I believe with OGC and
25 finding out what the legal implications and
26 criteria for that would be. We ran out of time

1 for proceeding on that for this meeting. But it,
2 it is still on, it's still definitely on the
3 material work plan.

4 CHAIR ANDREA CAROE: Bea.

5 MS. JAMES: I don't think it's an either
6 or situation with looking at more information on a
7 petition or if you want a tap. I think, I, I'm
8 actually pleased that Barbara offered that there's
9 internal people that would be able to do more
10 additional research for us. and that really helps
11 the collaborative process and it also helps the
12 diversity of the type of information you can look
13 for. And if—I would leave it up to the
14 intelligence of the committee chair that if we
15 really needed a tap review or we needed further
16 information we could get that. But that—it seems
17 like you would want to take advantage of trying to
18 do your own research. And if you needed more
19 diversity of opinion you go to the NOP and you
20 say, you know, what can you do to help us to
21 bring more information to the table. So just
22 throwing that out there.

23 CHAIR ANDREA CAROE: Okay, I've got Rigo
24 and then Dan.

25 MR. DELGATO: I, I too like Barbara's
26 idea. And I think it would be also useful to

1 compliment that with a way of trying to reach out
2 to universities and other research institutions.
3 It's always good to have a wide pool of scientist
4 or people involved in this to provide input. And
5 I, I think it's useful and necessary to have taps.
6 Case in point is potassium silicate. We probably
7 would have done it different—or followed a
8 different route—if we had enough information like
9 the one we saw yesterday.

10 But I think it's also important that,
11 that, that we realize that public comment is also
12 another important tool in our decision-making, so.

13 CHAIR ANDREA CAROE: Dan.

14 MR. GIACOMINI: I, I, I'm very concerned
15 about something that could come up in the future.
16 I've talked to the program people about it and
17 some of the board members about it. And in regard
18 to taps and that the, the, the infamous Applegate
19 letter is, is, is—explains the programs
20 interpretation of things on the national—
21 synthetics on the national list being able to be
22 combined and the new things that they create are
23 all automatically okay. my concern in the taps
24 that I have looked at going—I haven't certainly
25 looked at all of them, but a number of them going
26 back. The potential in what things can be made

1 into was not considered. And I, I'm very
2 concerned with where that road could take us as,
3 as we go head towards the next major, 90% of the
4 materials [unintelligible] sunset period.

5 FEMALE VOICE: That's why if you put
6 things on the national with their own CAS number
7 you would stop that from happening. That was the
8 point of, you know, we, that, that's why we asked
9 if you would do that. because if, if a material
10 is identified strictly by it's CAS then you can't
11 do this, this, you know, Chinese menu thing
12 anymore. you know one from column A and two from
13 column B. and you know, and mix and match and,
14 you know, come up with something else that you
15 like. You wouldn't, you wouldn't wind up with
16 that.

17 But as long as, as, as something is on
18 the national list there is no way to restrict that
19 from happening. But if you would say to the
20 petitioner, what's the CAS. And that is the only
21 way it's going to get on this national lists, with
22 a CAS number, then you would stop that from
23 happening.

24 CHAIR ANDREA CAROE: Hue.

25 MR. KARREMAN: Does everything—well so
26 far historically, would everything that's on the

1 list right now have a CAS number? because I'm not
2 certain that everything would when it comes down
3 to—well some of the natural things wouldn't have
4 to be on the list. Does everything have a CAS is
5 the question.

6 FEMALE VOICE: No, I don't think
7 everything does have a CAS. It's, it's about
8 moving forward. And 606 certainly doesn't. but
9 who—you know I don't think you need to worry about
10 606.

11 CHAIR ANDREA CAROE: Just, we need to
12 wrap up this discussion so we can move on. I
13 think this is all good. And I think Dan, if you
14 were taking notes you got a couple work item for,
15 for your committee. Specifically we should look
16 at what are the resources that we have. And then
17 possibly build some mechanisms in order to reach
18 out to those. Barbara, if those scientist in AMS
19 are accessible to us, how do we access them? We
20 need to figure out how that's going to happen. If
21 we're going to outreach to universities how's that
22 going to happen? So I think, perhaps, that, that,
23 that might be valuable work for the materials
24 committees to have some mechanisms and some, you
25 know, not relying strictly on the taps, but what
26 other resources do we have and how do we get

1 there?

2 MR. GIACOMINI: That's fine. We're not
3 working on anything else at the time, so..

4 CHAIR ANDREA CAROE: [laughter] all
5 right, I'd like to wrap this up. Gerald, do you
6 want to go ahead? One more.

7 Gerald: Rigo, I'd like to recommend that
8 this discussion about sources of information that
9 several, you know, committee chairs, you know,
10 after you've done it a couple of years you learn
11 places you can go to get additional information
12 beyond the tap. If we work towards at least
13 collaborating with you for the board policy manual
14 or new members guide, that type of area of
15 including some of these areas of suggestions.

16 So as old members go off the board what
17 they've learned over five years is not lost. Is
18 it already there already?

19 FEMALE VOICE: [Off mic].

20 Gerald: Oh, no, no, no, no.

21 FEMALE VOICE: She's young.

22 Gerald: I understand.

23 CHAIR ANDREA CAROE: All right, so
24 without any further questions on this matter let's
25 take a 15-minute break. It is—we are exactly on
26 schedule. It is 9:30 right now so we have until

1 9:45 coming back. And joint materials handling
2 committee will be doing their report.

3 [Background noise].

4 CHAIR ANDREA CAROE: Board members, we
5 can reconvene. Okay. moving on with the agenda.
6 Our next item is with the joint materials and
7 handling committee. I believe that Dan, you're
8 going to present this issue which is the national
9 list clarification of definition of materials

10 MALE VOICE: What's number ten [off mic].

11 MALE VOICE: Six I believe.

12 FEMALE VOICE: Six.

13 MR. GIACOMINI: Recent boards have
14 repeatedly attempted to deal with the issues of
15 non verses non-ag and synthetic verses non-
16 synthetic in separate documents. Many of which,
17 for various reasons, failed to reach voting action
18 by the board. The, and, and there are many
19 lingering issues that have been overhanging the
20 board on determining the classification of
21 materials for a number of years.

22 While the work of the past NOSB boards is
23 considered invaluable, the fact of the topic has
24 been worked on by the board for 15 years without a
25 true, full resolution. It lead the giant
26 committee to want to consider the possibility and

1 the need for maybe a slightly new approach. Since
2 the issue has not been resolved by looking at it
3 from a ag verses non-ag and a synthetic verses
4 non-synthetic position the joint committee thought
5 that it could be constructed to simplify the
6 process into two simple questions.

7 Question one is whatever substance we're
8 looking at. Is it agricultural? And if not,
9 question two, is it synthetic? We ask the
10 industry to view this new paradigm with an open
11 mind. We ask you to, if that does not work, show
12 us why it doesn't work and where it doesn't work.
13 and we are open to that discussion.

14 This was intended and prepared for the
15 meeting as a discussion document and no one on the
16 joint committee considers any part of it final.
17 We ask the fellow board members, the industry, and
18 the public to consider the new idea with an open
19 mind and offer, hopefully, constructive comments
20 on it's progress.

21 In examining the paradigm it lead the
22 joint committee to the development of a visual
23 aide with we titled and presented to you as the
24 universe of materials. The concept and the
25 diagram is accompanes, is accompanied with a
26 decision tree that consists of two parts.

1 The first part, is it ag? Which may or
2 may not be based on a development, on further
3 development from the decision tree in the ag/non-
4 ag document of 2006 which never reached full board
5 action. And the second part of the is it
6 synthetic question still needs to be fully
7 developed.

8 The board, the committee members have
9 certainly heard the comments so far and read the
10 public comments. And in informal discussions we
11 support the incorporation of all historical
12 perspective. All prior [unintelligible] board
13 documents and the minds that created those. We
14 were not trying to throw anything out. but when
15 you ask the same question and you continue getting
16 an answer that you can't reach full resolution
17 with, maybe there's just a little tweak that needs
18 to be done in the question. And that's what we're
19 looking at.

20 We're open to those minds, all of those
21 documents to if this paradigm can work to be used
22 to implement those two recommendations that will
23 be used to serve the industry into the future. We
24 ask for your open-minded consideration for looking
25 at this new approach to an old problem.

26 We also acknowledge that there was a very

1 short posting date on this document. It was a
2 discussion item. It was not an action item being
3 a vote that required the same amount of posting
4 date. And it's not—and, and we did not hold back
5 this document in any way to avoid your, to try to
6 get around from the public examining it. It was
7 simply a matter that as we were reaching the point
8 in time of documents being needed we had been
9 working on this process and the potential
10 development of the trees and different items going
11 through the trees—of which we really had only
12 really achieved only a template of the first
13 question.

14 We reached a point in time where do we
15 post anything at all or do we post nothing. We
16 acknowledge the complexity of the issue and we
17 acknowledge the new approach that we are trying to
18 look at in solving these complex problems in what
19 could conceivably be a fairly simple, a more
20 simple fashion. And it is simply a matter of the
21 documents was posted when it was completed.

22 So we—it's an unfortunate we're—for any
23 shock that this caused. But the document was
24 posted when it was done. We did not have—we don't
25 have the requirements of the deadlines because of
26 it not being an action item. Thank you.

1 CHAIR ANDREA CAROE: I would just like to
2 add to that a little bit, Dan and talk about the
3 purpose and why, why this is important; why we're
4 going through this exercise. And you know the
5 obvious, the obvious reason is that we need to,
6 when reviewing materials place them appropriately
7 on the national list. This has always been a
8 case-by-case analysis that's been done through the
9 materials process. This is to add some criteria
10 to that so it's, it's repeatable and consistent.

11 The second implication that is a little
12 bit less obvious is the implication on feed which
13 has the 100% requirement for the agricultural
14 feedstuffs. And what is that, what are those
15 agricultural components and what are not
16 agricultural components. Certainly there's
17 implication there that we need to clarify before
18 our industry grows to the point where it's hard to
19 fix.

20 We just talked about that yesterday with,
21 with other issues that—as a [unintelligible]
22 industry we have the capability to correct things
23 before we're too far down the line. So I just
24 wanted to add that little bit.

25 There's been a tremendous amount of work.
26 and, and sitting in on some of you meetings and

1 watching this evolve has been very interesting.
2 This is not started with this board. This has
3 been started for a long time. but I think this,
4 this board, and Dan your committee, and Julie,
5 have, have pushed it forward to actually get some
6 paper on this going. So that's—I commend you for
7 that. At this time I would open it for questions
8 from the board. This is only a discussion item
9 today. But this is a good opportunity for those
10 of you who may not have been involved in the
11 process to ask your questions and, and again,
12 forward this work. Katrina.

13 MS. HEINZE: I thought for the benefit of
14 board members who haven't had an opportunity to
15 see our pictorial aide it might be worth a couple
16 minutes explanation. The idea with this is that
17 any material exists somewhere on this page. And
18 then what happens, you take the universe of
19 materials and then there's a bucket, shall you
20 say, that you can put agricultural products in.

21 So once you've done that—so that's the
22 green circle here on the, the picture. Once
23 you've done that you have agricultural materials
24 and you have things that are not agricultural
25 materials. From the non-agricultural you can then
26 take a second bucket, the synthetic bucket, and

1 put things that are synthetic within that. and so
2 those are the two, obviously, largest.

3 Everything else then exists in the white
4 of page. So it is then non-agricultural and also
5 non-synthetic. So from this picture the, one of
6 the recommendations that we made in our discussion
7 document was that we would recommend eliminating
8 the definition of not agricultural because we
9 think that's where a lot of the confusion comes
10 from. In general the public comments supported
11 that recommendation.

12 MALE VOICE: Or at the very least
13 amending it.

14 MS. HEINZE: Yeah, or amending it. I
15 would say that where we have had more difficulty
16 and need to spend more time with some of the
17 historical documents is how to convert this
18 pictorial aide into a series of questions that
19 help define those buckets and make sure that
20 things are appropriately placed within the
21 buckets.

22 So that's where we appreciate all of the
23 public comment that we have received and we
24 continue to receive. And then input from the
25 board as well.

26 CHAIR ANDREA CAROE: Any other questions?

1 Bea.

2 MS. JAMES: Katrina, you mentioned that
3 you wanted to put this into a pictorial flowchart
4 of questions. And I'm wondering if you looked at
5 the documents that was submitted by the materials
6 committee, I think it was two years ago, that I
7 believe Rose and Nancy worked on, that actually
8 has a series of questions that actually take you
9 through a graph and a flowchart.

10 MS. JAMES: Actually, I think Dan, you'd
11 like to answer that.

12 MR. GIACOMINI: There, there've been, I
13 believe at least two different flow charts that
14 have been proposed and worked on in the past.
15 There was an ag/non-ag flowchart. And there was a
16 synthetic/non-synthetic flowchart. The committee
17 at this time has worked through portions, a
18 significant portion I would say of the ag/non-ag,
19 the is it agricultural side of the question. We
20 haven't gotten to the synthetic/non-synthetic side
21 of the question hardly at all. The questions and
22 the boxes that we put on the decision tree that is
23 in the document were essentially placed there just
24 to get some—continue with the discussion.

25 CHAIR ANDREA CAROE: Bea and then Julie.
26 Did you? Julie.

1 MS. JULIE WEISMAN: Yeah, and I guess it
2 was, it was, Dan had briefly mentioned it, but I,
3 I wanted to throw out to the board that the, the
4 recommendation that was presented two years ago
5 was very far along. And the fact that it didn't
6 become a recommendation, it was on very discrete
7 issues. And I think that we—probably the very,
8 you know, I think the very early task after this
9 meeting, for the joint committee should be—
10 although, you know, we have—are the other pages on
11 this slide?

12 MALE VOICE: Yeah.

13 MS. WEISMAN: Can you go to the next, can
14 you go to the next page? This, this was a product
15 of our own discussions. I suspect—it's already
16 been pointed out to me that there is a glaring
17 hole on the way to something being called an
18 agricultural product that we, that is not
19 addressed here. But having to do with where do
20 ingredients that are allowed for handling fit into
21 this? So there is certainly—if we use this as a
22 tree for agricultural certainly another box would
23 have to be added before the final oval.

24 But I would also ask my, you all, my
25 colleagues to give serious consideration to just
26 keep the tree that was part of the 2006 proposed

1 recommendation. because that was an excellent
2 documents as well. And then yes, we do have to
3 mind all those historical documents and the minds
4 that created them to have a really good tree for
5 determining synthetic.

6 CHAIR ANDREA CAROE: Dan.

7 MR. GIACOMINI: One of, one of the issues
8 n the 2006 document, which was the ag/non-ag
9 document revolved around, revolved around the
10 issue of changing yeast to an agricultural
11 product. One of—that got sidetracked in public
12 comment on the impact that that would have on the
13 feed issue.

14 The reason that that got sidetracked at
15 that point in time was because of a slightly
16 inconsistent input from some of the program. and
17 not meaning to point fingers at the program. But
18 when the issue—we did discuss the impact this
19 would have on feed. The initial input from, from
20 a member of the program was that if it was on 606
21 you could still use that as a feed. That
22 interpretation was changed, modified, clarified,
23 that no it wouldn't. that's a handling list. If
24 it's an agricultural product and deemed an
25 agricultural product. and on 606 then it would
26 have to organic. It was there was a tremendous

1 amount of public comment on that point. It had
2 been discussed.

3 But it was—the reason, the real reason
4 that it got derailed was, it had a lot to do with
5 the fact that our input, the input that we had
6 from the program—and again, not pointing fingers
7 at the program—but that had changed slightly. So
8 I'm a little hesitant to say, well, we'll take
9 that tree and plug it in when we still have,
10 that's still the—

11 FEMALE VOICE: But that's not an issue,
12 that's not an issue, the tree.

13 MR. GIACOMINI: It's an issue with the
14 agricultural side of the tree. If you're looking,
15 if your recommendation is just to take it, blank
16 it.

17 CHAIR ANDREA CAROE: It would be. but
18 before that I just want to point out to everybody
19 who's watching, this is work in progress. This is
20 not a final product. this is a discussion item.
21 And so as you're looking at that understand that
22 we know that this is not where it needs to be yet.
23 Bea, you want to...

24 MS. JAMES: I just wanted to acknowledge
25 that I thought that Amery [phonetic] submitted
26 some pretty good feedback on your recommendations.

1 And one of the comments that they made was that
2 they were hoping that you might consider a working
3 group to finalize the recommendation and I was
4 wondering if you were considering that?

5 CHAIR ANDREA CAROE: Dan.

6 MR. GIACOMINI: The, the, the members of
7 the committee that I've talked to—and I think
8 everybody involved—will be, is very interested.
9 And I thank you for using the term that you used.
10 If we use the other T word that was used the other
11 day there are implications to it that we really
12 may not want to get into. But yes, that, that is
13 certainly part of the process that we're looking
14 at.

15 Also, regarding the public comment, there
16 was a tremendous amount of extremely valuable
17 public comment. there was some public comment
18 though that address the issue that we, that this
19 can't be looked at in one universal thing. it has
20 to be looked at as—from the livestock perspective
21 and from the crops perspective and then from the
22 handling perspective. And, and we cannot find the
23 support for that. granted there may be historical
24 documents in NOSB that, that reviewed things from
25 that light. We can't find the historical support
26 for that within OFFBA and the rule.

1 There's one definition for agricultural
2 product. there's one definition for synthetic.
3 We're not getting into the details of how
4 something is put on the list; we're simply looking
5 at the determination of what category something
6 goes into. We also need to recognize the fact
7 that while we are talking—could you go back to the
8 university materials please?

9 We also need to recognize—and I'm hoping
10 that, that this is not too radical for some people
11 to consider. But there is the possibility, as
12 this industry has moved forward, that where
13 something falls in any of those buckets or on the
14 white page is a factor of the processing that went
15 into that particular version of that substance.

16 As example, we currently have cellulose
17 up for sunset on 605b. I can not even find the
18 way when you look at this process from the two
19 dichotomy questions which do not touch of ag/non-
20 ag verses non-synthetic, how that made the jump
21 from coming from an agricultural product source
22 and ending up on the synthetic side of 605b. it's
23 with the continuum that I can, that I can
24 understand that.

25 What we do, using that as an example, it
26 is possible that new technology could develop that

1 would derive that substance in a form that would
2 quality—that would not place it in the synthetic
3 category. There is, it is possible the technology
4 could develop that could still keep it in an
5 agricultural product. it is then possible that we
6 could have organic cellulose while at the same
7 time it's currently on 605b, synthetic.

8 So things can be in more than one place
9 at the same. Not there—as one person put it—this
10 beaker will go in a particular place. Well there
11 may be two beakers with the same thing in them but
12 the process which they came from may place them in
13 different buckets.

14 CHAIR ANDREA CAROE: Bea.

15 MS. JAMES: Thank you, Dan. I think that
16 it's going to be difficult to try to come to
17 resolution on finalize a recommendation this
18 complex if you are continually considering the
19 possibilities of the future. because technology
20 and how things are going to evolve and change
21 could make it so this will never get done. So I
22 just want to point that out.

23 CHAIR ANDREA CAROE: Julie.

24 MS. WEISMAN: Yeah, I, I also, I wanted
25 to go back to the issue of, of involvement and
26 tapping the resources outside this board to move

1 this process forward. That has also been very
2 consistent in public comment. that, that
3 suggestion has come from many, many, many
4 commenter. And there have been many offers to
5 participate in that process. And we're going to,
6 we want to be, we do want to be inclusive. We do
7 want all f the stakeholder and all of the people,
8 the people who've worked on this before us, we
9 want to capture. you know, have a way to capture
10 what's been done.

11 And what comes to my mind immediately is
12 that that somewhat was the process that happened
13 in the, the grower group document that was
14 produced. There was a lot f work by industry
15 groups that the representatives of the board were
16 invited to be part and hear what was going on
17 those meetings. And then brought all of that
18 discussion back to, back to CAC meetings on the
19 topic. And I think that model worked very well.
20 And I think that might be a model that we should
21 consider in this arena.

22 CHAIR ANDREA CAROE: Okay. I've got
23 Katrina, she wants to speak. And Rose, you,
24 you've been wanted to be recognized. So as you
25 work your way to the podium we'll get Katrina and
26 then Dan will come next.

1 MS. HEINZE: Hue, has his hand up as
2 well. I just wanted to ask, we have gotten so
3 much valuable public comment, as the board and the
4 public considers this and offers us comments, to
5 recognize that there are three pages in this kind
6 of discussion document that have varying levels of
7 maturity. I would say that I think that the joint
8 committee has much more confidence in this first
9 page, the universe of materials and this pictorial
10 representation. The decision trees, I think we
11 have less confidence in. we know we need to
12 incorporate some of the historical documents.

13 So it would be particularly beneficial to
14 me, as a member of that committee, if there are
15 perspectives on that universe of materials that we
16 have not considered, that we hear those. because
17 that's, that's the, or is it my hope that that can
18 be the foundation for our decision trees. So if
19 there's a glaring error in it that would be
20 important to know. Thank you.

21 MS. KOENIG: Okay. the first thing I
22 want to do is acknowledge—oh, I'm Rose Koenig. I
23 was the materials chair for a while. First of
24 all, it is a very complex, you know, the, the
25 important thing about materials is that it's the
26 only thing you have authority to, okay. so that

1 makes it very important. And the other thing is
2 that it is a really difficult thing to just come
3 into. because a lot of times there's a lot of
4 technical information. people have adversity to
5 chemistry. I know, even though I'm a science,
6 when I see a scientist, I see some of that stuff,
7 it's like, whoa.

8 It is really a difficult thing. so
9 don't, don't, you know, feel like you're
10 deficient. And it's something that--this whole
11 procedure in this industry has evolved over time.
12 and if you look in the minutes there always were
13 arguments. So it's not something that is going
14 to be difficult to achieve.

15 But what, what we had, had kind of worked
16 on is trying to achieve a process by which our
17 recommendations could be consistent. because
18 again, we're doing this in a regulatory fashion.
19 And these guys are responsible in a legal fashion
20 for the decisions that are made. We're, you know,
21 it's a federal program. So our efforts really
22 were inspired by the NOP who said to us, you know,
23 when we have issues from somebody who's petitioned
24 we need to be able to justify what you guys are
25 doing. you know you have authority. But we need
26 legal justification as to why you're putting

1 something somewhere.

2 So I'll talk about that, but I want to
3 answer immediately Dan's question in terms of what
4 happens if something comes that now, you know, we
5 might find in the future. There is a procedure—it
6 has nothing to do with these definitions—just be
7 aware of it. That is why you can petition to
8 remove something, okay. and that is also why the
9 sunset is there.

10 So if there is something that appears on
11 a list that says, you know, this natural thing,
12 you know, this agricultural cellulose is non-, is
13 synthetic. And there's now a new procedure where
14 you're maybe not using the same kind of
15 manufacturing procedures, it can be taken off. So
16 you can get consistency with the changing or the
17 evolution of an industry through a whole different
18 procedure in the materials process. And that's
19 called removing that. you know petitioning to
20 move, or through the sunset procedure. So I hope
21 that's clear. So that, I hope, solves that whole
22 issue of having to plan for the future.

23 CHAIR ANDREA CAROE: And also just to, to
24 tag on that. petitions to remove have priority
25 over petitions to add materials. So they get
26 bumped to the top of the list for consideration.

1 MS. KOENIG: Okay. and there's always,
2 there's always going to be issues in terms of
3 agriculture, non-agriculture, definitions, okay.
4 because the important thing is to get a definition
5 and have clarity on a definition. And that's
6 where the problem has always existed. And that's
7 why for synthetic/non-synthetic the debate wasn't
8 necessarily to make the tree. The debate was, you
9 know, what we were told by the NOP was, we need
10 you to clarify that definition so that when you
11 are making a decision you can justify it, you
12 know, to that petitioner. It is synthetic because
13 you have this X chemical reaction or you have a
14 protein configuration change.

15 So if you actually go through our
16 definition—and I'm not talking about ag/non-ag
17 first. We separated those two for a good reason.
18 because you, you know don't want to take one thing
19 at a time to find those things. Just like they're
20 defining the rule. And it—things don't—
21 definitions are definitions. They don't
22 necessarily have to make sense.

23 you know you have this idea that
24 everything has to be grouped, like in your
25 diagram. But in fact, definitions are
26 definitions. Things have to meet definitions, is

1 the way I look at it. Not that everything has to
2 come into a kumbyah [phonetic] moment and work
3 together, okay.

4 so, but the other thing is, so,
5 synthetic/non-synthetic we clarified as best we
6 could the definitions in our feeble way. And we
7 don't, you know, acknowledging that we're not
8 regulators, nor are we lawyers. And we, in fact,
9 that recommendation was a unanimous board vote
10 that this was the best we could do. in the spirit
11 of what we have written we think it's clear
12 enough. We acknowledge that we're not regulatory
13 folks at your expertise. And we don't run the
14 program. You have to.

15 So we, 13 to 0, took that document and
16 acknowledged that we all knew that we were getting
17 off the board. And we, you know, gave it to those
18 guys. And said, please, you know, if you can, you
19 know. But at that time there was a lot going on.
20 there was a Harvey lawsuit. I mean there's a lot
21 of things on the NOP's plate. And they came back
22 in March 2006.

23 The great thing about that document—I
24 mean we all should like raise our hands and clap—
25 because it was a great accomplishment. They
26 really didn't change much of the content. At

1 first when I looked at there was a lot of nit-
2 picky thing where the grammar was wrong and I was
3 like, oh what. you know we didn't—how could they
4 say that this wasn't written well.

5 But what the document acknowledges is if
6 you really look through it the first one just says
7 this isn't clear. And it's not clear from a legal
8 standpoint. you know because they're stilling
9 having to defend themselves. But what they
10 produced back was really not that different from
11 what we had produced. It was just put in a form
12 that they could utilize as a program management.

13 And in that, again, solves a lot of the
14 questions that you just had. It states that you
15 need to have a CAS number. It states in there
16 that you can't combine two things on the list
17 creating a new CAS number without reviewing that
18 new CAS number.

19 So what I'm saying is that, I really feel
20 that it's almost there, that document. They did
21 point that out—which again, was a great thing. I
22 think it was the legal team that pointed out that
23 there's still areas of non-clarity in this
24 document that needs to be worked on. and that's
25 where I think you should be putting your efforts.

26 Okay. let's go on to the non-ag/non-ag.

1 That was a separate committee. I mean I kind of
2 was involved in some of that discussion. The
3 handling committee kind of took that over. And
4 again, the frustrating thing, it's a public
5 process, was that there wasn't that much--there was
6 a few things that people never really understood
7 why something was on there, you know, yeast and
8 such. But there was a reason. you know you can
9 go into the, the, to the minutes and understand
10 that it was based on that definition that
11 bacterial cultures were set aside. And there is
12 justification. I mean I can, and I, I mean Joe's
13 kind of smiling. I took what was the, you know,
14 the definition was there, and proposed a, you
15 know, an argument as to how you can keep things in
16 a consistent way, you know, it's justifying what's
17 there.

18 Now it is up to the board if, if, and the
19 industry. If they feel that that's not a good
20 enough justification or they want to switch thing,
21 you know, it can be done. But you are changing,
22 you know, rule making and such. There's also, you
23 know, so, so what I'm saying is that's a separate
24 definition. I think what has happened through the
25 process if people have taken those two definitions
26 and tried to work together with them. But they

1 really are separate issues in many ways.

2 And I, I think that, you know, if the
3 ag/non-ag, that, that just never got to the point
4 where the group could decide on. and that was in
5 a less, less better form once most of the folks
6 that were working on that left. But there also is
7 some historical documents on that. But again,
8 it's not, you know, there's a lot of people that
9 want something to change in a program. That
10 doesn't mean it has to change. It doesn't mean it
11 has to change. Sometimes things are just the way
12 they are and industry has to figure out, you know,
13 more creative ways. And I've always said, well if
14 yeast is an issue, if there is something, if yeast
15 is now being produced in a way, say in an organic
16 way, you can—I know the NOP doesn't like to
17 annotate it—you can keep everything the way it is
18 on the list and have an annotation. They can
19 petition yeast, okay, and say we want to petition
20 it with an annotation grown only on organic sub
21 straight [phonetic] with non-synthetic inputs.

22 That could be annotated that way and that
23 would suffice by saying, okay, now only yeast
24 that's grown on organic sub straight [phonetic]
25 can be used without changing the definition of
26 agriculture. You can work within the regulation

1 to do it that way if that is what needs to be
2 achieved, without changing the definition of
3 agriculture or non-ag. And I don't know if that
4 helps.

5 CHAIR ANDREA CAROE: Thank you, Rose.

6 MS. KOENIG: Or further confuses.

7 CHAIR ANDREA CAROE: Hue, and then Dan.

8 MR. KARREMAN: I just want to thank Rose
9 for that because it answers my questions on that
10 cellulose example Dan gave as far as petitioning
11 things to come off when new processes come on.
12 and just briefly I just want to say, I really like
13 this kind of representation for my simple brain.
14 This works very well. Okay.

15 CHAIR ANDREA CAROE: Dan.

16 MR. GIACOMINI: Well it, I just, you
17 know, want to address the point that, you know,
18 first of all, you know, on the one hand
19 acknowledging that things can be in different
20 categories. But one of the problems that we've
21 had in—as we, as petitions have come to us, in
22 deciding whether it's even an appropriate petition
23 for that category goes back to the definitions,
24 and in some cases, you know, the looking at what
25 the national list is, you know.

26 We have, you know, two examples. We have

1 gums specifically listed as a non-agricultural
2 product. that's in the definition. But yet we
3 have organic gums and we have gums listed on 605b
4 as synthetic. Pectin is specifically listed as a
5 non-agricultural product but we have it in 606
6 and-

7 FEMALE VOICE: There's a petition.

8 MR. GIACOMINI: Yeah, there's another
9 petition to list it. So even within the, the, the
10 definitions that we have there has been confusion
11 and there continues to be confusion. And it, it,
12 we're, we're just, we're not trying to change the
13 world, but maybe just a new perspective n the
14 foundation of what we're doing. And maybe just a
15 little twisting of the pieces.

16 We're not expecting a big movement here.
17 We're not expecting a big change in the national
18 list. There may be a couple things that need to
19 be, will need to be altered as we really examine
20 it. But if, if, if that is, if that is where this
21 is going that is certainly not the goal of the
22 committee by any means.

23 MS. ROBINSON: Well Dan-to address those
24 things we could certainly-you know I've heard that
25 many times. And, and I, I, I would just like to
26 say for the program, you know, I, you know, I

1 appreciate Rose's remarks. And i—as far as things
2 like pectin or gums and certainly yeast, from the,
3 from the perspective of the program, let's solve
4 the programs with, without—let's tackle the
5 problems first. And then reevaluate. Still—I'm
6 not saying we can't look at this.

7 But, but it sounds to me as though we've
8 got two issues here. First of all we have some
9 problems. We have, we've always had this problem
10 with yeast. And, and, and it's not going to go
11 away. But the way to fix the yeast problem is
12 through a petition. Someone's got to do something
13 with a petition. We keep saying this over and
14 over and over again. And I think there was a
15 petition at one point and then it was withdrawn.

16 Now, you know, address these problems.
17 We can address the problems. The problems with
18 pectin and gums can also be addressed. Either
19 through, those could even be addressed through
20 technical rule changes. you know we, we can, we
21 could actually change the definition by taking,
22 you know, gums out of the definition. Or, again,
23 through, you know, petition changes to—if they
24 need to be moved.

25 But let's solve those particular,
26 particular, or specific problems. And then you

1 can still look at, you know, the bigger picture
2 of, you know, do we have an issue here with
3 ag/non-ag, synthetic/non-synthetic. Have we got
4 things skewed correctly or defined correctly. Are
5 things out of— is the universe out of alignment
6 here. But I guess my, my concern here is that we
7 don't, you know, we don't look at this, you know,
8 taking a telescope and turning it around and look
9 at things from the wrong end of it. And say,
10 whoops, we've got a major problem. Because we're
11 looking at the world from the wrong end of the
12 telescope. If I'm making any sense here.

13 We've identified some very specific
14 problems. But the way to solve them is by
15 tackling those specific problems. Not by saying,
16 well obviously our definitions are all wrong. Do
17 you see what I'm saying? because we still will
18 have the problems when we get all done.

19 CHAIR ANDREA CAROE: I agree Barbara and
20 I think the committee is, is exploring all of this
21 to come back to solving the problem. What is the
22 problem and solving it. We're going to have to
23 wrap this up. But one of the things that Rosie
24 said I just want to comment on. and that's
25 annotations.

26 Annotations are not a quick fix.

1 Annotations are specifically to identify the
2 allowed material when several are available on the
3 market. So an annotation maybe paprika may be
4 smoked paprika only as apposed to sweet paprika.
5 They're both available. Annotations are not to
6 impose organic principles on non-organic
7 production. So I have to respectfully disagree
8 with, with Rosie's comment that you can have yeast
9 on the list if it's grown on organic sub-straights
10 [phonetic]. That's inappropriate for this
11 regulation to go to the production of those non-
12 organic components.

13 So my very first board meeting, or maybe
14 it was the one before I came, there were materials
15 considering where they were tagging on two and
16 three annotations and trying, building these
17 things. And as a certifier at the time I sat in
18 the, the, the audience thinking, now how the heck
19 am I going to implement this. And how am I going
20 to find this to verify that this is an appropriate
21 use of this material. It's impossible to get
22 those things practically implemented.

23 So I, I, I-well Joe will tell you, the
24 little hairs on the back of my neck go up when I
25 hear the word annotations. And it's jut because
26 once you get on the doing side of it, it falls

1 apart folks. So I'll ask for any more questions
2 although we really do need to move on. is there
3 any further discussion on this?

4 Okay. let's, let's move on to the next
5 item. Which is--thank you, thank you very much for
6 the joint committees work, by the way. It's an
7 arguous [phonetic] task and I know you guys are
8 working hard to get this resolved.

9 Next committee is handling committee.
10 Julie you have--

11 FEMALE VOICE: [Interposing] [Off mic].

12 CHAIR ANDREA CAROE: --three
13 recommendations and one discussion item, correct?

14 MS. WEISMAN: Actually our, there are,
15 there are, there now exists three sunset
16 recommendation, one recommendation on a petition
17 material, and we do have this place holder for
18 reconsideration of a possible petitioned material
19 to deal with.

20 We also have a discussion item, pet food
21 standards. And I, I would like to have
22 permission, if I could, to depart from the order
23 on this agenda ever so slightly to deal with pet
24 food first.

25 CHAIR ANDREA CAROE: Is there any
26 objection from the board? Okay. let's go ahead.

1 MS. WEISMAN: Okay. I just want to—
2 mostly because there's going to be a bit of
3 discussion on the other recommendations and I
4 didn't want people waiting to hear about pet food
5 to have to sit through all that.

6 As everyone knows, in April of 2006 the,
7 an [unintelligible] body from the pet food
8 industry that agreed to be a taskforce made
9 recommendations...

10 [END MZ005019]

11 [START MZ005020]

12 MS. JULIE S. WEISMAN: We accepted those
13 recommendations, uh, and at the time we were in
14 the middle of Sunset and Harvey and, uh, uh, it,
15 uh was really my hope, uh, that we would be
16 addressing it fully and making recommendation at
17 this meeting. And even as late as August, I was,
18 uh, uh, uh, I was insisting that it be put on the
19 agenda for this meeting as a recommendation. Uh,
20 but, uh, uh, and the Handling Committee, uh, uh,
21 address it over the summer but not to the extent
22 that we were ready to, uh, vote. And what I just
23 wanted to do right now is jut briefly highlight
24 what the issues are that were discussed, uh, and
25 that we have to, uh, address, uh, uh, on the pet
26 food standards as they were proposed to us.

1 Uh, one actually, uh, very, uh, timely in
2 light of all the discussion that we had on Tuesday
3 at the Agriculture Symposium, uh, one of the big
4 issues is the question of using slaughter by-
5 products in pet foods. Uh, and, uh, perhaps some
6 of the discussion that took place in relation to
7 agriculture will, uh, help us in our deliberations
8 on that.

9 The, uh, second, uh issue that we need to
10 resolve are, uh, the labeling categories for pet
11 food. Uh, especially in light of the fact that
12 there are well established labeling categories,
13 uh, for pet food, and, uh, we, uh, uh, we need to,
14 uh, uh, decide how organic labeling categories,
15 uh, fit and jive with, uh, already, uh, long
16 established pet food labeling categories. And
17 they're very complex and I'm not going to
18 summarize them here. Uh, uh, and then, uh, one
19 other minor thing was that after the initial pet
20 foods standards were, uh, put forward by the Pet
21 Food Task Force, uh, there was, uh, a request for
22 public comment in the pet food community and as a
23 result of that there was a minor revision offered
24 in September of 2006 simply clarifying, uh, uh,
25 what kind of animals were considered, were and
26 were not considered pets and to make sure that it

1 was clear that things like rabbits and, uh, uh,
2 camelids and horses are livestock. They are not
3 pets. Even though they are sometimes kept as
4 pets. And also that zoo animals, lions and tigers
5 and bears, are not pets.

6 FEMALE VOICE 1: Oh my.

7 MS. WEISMAN: Oh my. And so that is what
8 I hope we will have resolved by the spring
9 meeting. Uh, and, uh, I don't really need to see
10 any more, to say any more about the Pet Food
11 Standards right now, although I probably, if, if
12 anyone has a burning need -

13 MS. ANDREA CAROE: Burning desire.

14 MS. WEISMAN: A burning desire to, uh,
15 ask a question about it, I'll try.

16 MS. CAROE: Any questions? Any burning
17 desires? No burning desire on the board.

18 MALE VOICE 1: He has a burning spot.

19 MS. CAROE: Hugh.

20 MR. HUBERT J. KERREMAN: Uh, regarding
21 the definition of livestock, I do believe the AVMA
22 looks at horses as companion animals these days.
23 Just keep that in mind. And, uh, camelids I do
24 not believe are livestock. Livestock are the
25 traditional farm animals, cows, pigs, uh, that
26 kind of thing. Just keep it in mind with the

1 horses, okay? They are companion animals by
2 definition of AVMA. And now I know Emily has a
3 better technical viewpoint on it. Can Emily come
4 up and -

5 FEMALE VOICE 1: Andrea, what's a
6 camelid?

7 MS. WEISMAN: Llamas, camels. I'm sorry.

8 MS. CAROE: No, that's not in my realm of
9 expertise.

10 MR. KERREMAN: Llamas, alpacas, camels
11 are camelids.

12 FEMALE VOICE 1: Llamas?

13 MR. KERREMAN: Llamas, alpacas and camels
14 are the common, most common camelids you would
15 think of.

16 MS. CAROE: They sound like livestock to
17 me. But, uh, Emily -

18 MR. KERREMAN: No, they're...well okay.
19 You're using two different definitions. And I
20 don't know the definitions that well but livestock
21 is like a vernacular-type term. Camelid is an
22 actual like species or family or order. So keep
23 those things in mind. But horses is really,
24 every, you know, they are companion animals this
25 day and age.

26 MS. CAROE: Emily.

1 MS. EMILY BROWN ROSEN: Very briefly.
2 Emily Brown Rosen. Uh, AVMA may say one thing but
3 the regulatory officials that control animal feed
4 are the American Association of Feed Control
5 Officials and they define pets and livestock that
6 horses are livestock. So that's, this is a
7 basically a food regulation so that's where we
8 have to use that.

9 MS. BARBARA C. ROBINSON: Andrea?

10 MS. CAROE: Barbara.

11 MS. ROBINSON: Did you, did you, uh, did
12 you guys consult with, uh, AFIS?

13 MS. CAROE: I was not part of the Pet
14 Food Task Force so I have to -

15 MS. WEISMAN: We had FDA, we had a whole
16 bunch of FDA people on the task force.

17 MS. ROBINSON: Does AFIS do anything with
18 this?

19 MS. ROSEN: I don't believe so.

20 MR. KERREMAN: They look at exotic
21 species, uh, disease. Animal Plant Health
22 Inspection Service.

23 MS. ROBINSON: Yeah, yeah. Don't they
24 run the Animal Welfare?

25 MR. KERREMAN: Uh, no, that's under USDA
26 actually. Animal welfare standards are under -

1 MS. ROBINSON: That's what I'm talking
2 about. AFIS.

3 MR. KERREMAN: Uh, they may administer it
4 actually.

5 MS. ROBINSON: Yeah.

6 MR. KERREMAN: Yeah.

7 MS. ROBINSON: Yeah. So I'm wondering
8 if, just to toss this out, they may have another
9 definition is all I'm saying. Uh, because I know
10 that, uh, uh, when I was down in OGC begging for
11 your livestock medication docket -

12 MR. KERREMAN: Thank you so much.
13 Seriously.

14 MS. ROBINSON: You're welcome. I just
15 wanted, I wanted another thank you. So when I was
16 down there begging for your livestock medication
17 docket...that's your cue. Say "thank you" again.
18 Uh, I notice they had, the only reason I say that
19 is I noticed they had a bunch of folders on, uh,
20 the attorney's desk dealing with kennels. So
21 that's why I'm bringing that up. I wonder if
22 there's just another source.

23 MS. ROSEN: But we were strictly, this is
24 pretty much a feed issue. For pet foods
25 standards.

26 MS. ROBINSON: Well, I'm just talking

1 about the definition of who's, what's up with
2 that. What's a livestock?

3 MS. VALERIE FRANCES: I can offer some
4 clarity here.

5 MS. CAROE: Valerie...hold one second.
6 Valerie.

7 MS. FRANCES: I did do some research with
8 AFIS and FSIS and everybody refers to FDA's
9 definitions regarding feed. They all refer to
10 them.

11 MS. ROBINSON: Okay.

12 MS. CAROE: Alright. Okay. Any further
13 questions on the pet food? Valerie?

14 MS. FRANCES: I just have one other issue
15 I wasn't sure you really brought it forward with
16 the clarity that is involved in the labeling and
17 this is when you have a "made with" product. If
18 it contains, the pet food industry gets so into
19 the minutiae regarding how they label different
20 meat products, for instance, organic chicken
21 versus organic chicken meal versus organic chicken
22 broth. And I don't think we have the same
23 approach and so this is going to be one of the
24 challenges is when someone says made with organic
25 chicken that could be thought of differently in
26 pet food. So that's one of our challenges.

1 MS. CAROE: I think that's the kind of
2 detail that we're going to challenge, be
3 challenged getting this recommendation to a vote
4 stage. But we're not there yet. This is
5 discussion stage on where we're at. Bea, you have
6 a...

7 MS. BEA E. JAMES: Just a quick comment.
8 Not really a comment, just for clarity in case any
9 board member is looking for more information on
10 the pet food recommendation. It's not in our book
11 but it is on the NOSB website under NOSB
12 recommendations, Handling Committee Final
13 Recommendation October 2006.

14 MS. CAROE: Julie.

15 MS. WEISMAN: Uh, it's also on the USDA
16 website. Uh, there's a section that says task
17 forces. And if you click on that it will say pet
18 food task force and if you keep clicking, it will
19 bring you through to the recommendation.

20 MS. CAROE: Okay. Uh, anything further?
21 Thank you and we, uh, we look forward to seeing
22 the recommendation on that perhaps in the Spring
23 meeting.

24 Uh, next for handling? I guess we'll
25 take it from the top now. So the next item that
26 we're discussing is Handling Committee has a

1 recommendation for the addition of, uh, grape seed
2 extract. Uh, this is an item that was, uh,
3 petitioned originally in the crush of items late
4 in 2006, early 2007. Uh, and did not quite make
5 it under the wire, uh, for us to be able to
6 consider with the group that was dealt with at the
7 spring meeting. Uh, and so we felt, uh, there are
8 certainly other, there are certainly other 606
9 petitions that we have received over the summer
10 but we gave this one priority because it had
11 missed being considered this Spring meeting by
12 such a small, uh, window. Uh, so I, uh, I think
13 that, uh, uh, this is the documents that were
14 posted, uh, uh, let me just move to the
15 recommendation. Oh yeah, it's not...wait. Yeah,
16 the committee recommendation is not in the book.
17 No, not that, that's the...I'm sorry. I don't
18 like to take up the time. No that section is not
19 what I was looking for. I don't even have that.
20 Wait, wait, wait. Uh, I'm sorry. No don't take a
21 break. No, no, no, no.

22 MS. FRANCES: My manual is actually
23 missing, but Kat has it in her binder.

24 FEMALE VOICE 2: Half of them have it;
25 half of them don't?

26 MS. CAROE: No, I was looking; there was

1 a text committee recommendation.

2 FEMALE VOICE 3: On grape seed extract?
3 This is all we have. I mean, we just...I don't
4 recall. You don't have it in your book? It just
5 somehow didn't get in your particular book.

6 MS. CAROE: I have an empty slot for
7 grape seed extract.

8 FEMALE VOICE 3: It didn't get stuck like
9 in the wrong slot?

10 MS. WEISMAN: I looked. These were
11 checked. Alright. You know what, I can...we'll
12 proceed. I mean the [cross talk] that's okay.
13 No, no. That's alright. Okay, I think, alright,
14 I'll go back. Uh, we, the issue with grape seed
15 extract, it was being petitioned onto 606, uh, by
16 a manufacturer because of, uh, it's, uh, uh, uh,
17 high anti-oxidant properties. And like some other
18 non-agricultural, like some other agricultural
19 ingredients that are, uh, that there had been
20 interest in being used in the 5%, uh, added value
21 that, uh, consumers, uh, wanted available in
22 organic products. Uh, and, uh, on quite a, on
23 being consistent with a number of other materials
24 that were petitioned for this reason, and I'm
25 thinking of fish oils was one that was, that we
26 acted on in the Spring, that this was, uh, in

1 terms of, uh, that, uh, for 606 materials that it
2 met, uh, it met the criteria, uh, uh, the
3 evaluation criteria that it me, that we felt that
4 it met the, uh, evaluation criteria for a 606 on
5 impact on humans in the environment. Uh, that it
6 was, uh, information was given as to why it was
7 not available in an organic form. It seemed
8 mostly to do with the, uh, the, the quantity of
9 raw material that was required to produce the
10 ratios. It was like a 100:1 ratio of, uh, grape
11 seed pulp to have one unit of, uh, grape seed
12 extract. Uh, and that, uh, uh, that the, it was
13 compatible and consistent with organic practices.
14 Uh, we did have, uh, uh, some public comment was
15 received on this petition. Uh, and we did have,
16 it was actually one of the few materials where
17 there was a comment opposing. Uh, and so I do
18 think at this point that we should, uh, probably
19 address that. I can either outline what that
20 opposition was or I think that the...okay. One
21 was, uh, there were, uh, questions about, uh,
22 actually I'll go to the comment controls.

23 MR. KERREMAN: Julia, I was just reading
24 it.

25 MS. WEISMAN: Okay.

26 MR. KERREMAN: It's basically from non-

1 conventional grapes they are heavily sprayed and
2 if you're concentrating something, you may be
3 concentrating some of the residues of the
4 herbicides and what not. That was, I think, the
5 essence of the comment.

6 MS. WEISMAN: I think that was probably
7 the, that was one and I think the other, uh,
8 question that was raised was that, uh, uh, at
9 least from the material that was available to the
10 public with the petition, it was not possible, the
11 comment felt that it was not possible to determine
12 whether the, uh, extraction was, uh, uh, done in,
13 uh, uh, what kind of solvents were being used.
14 Uh, uh, I mean, we did have access, it is not my
15 belief based on the, uh, CBI information, uh, that
16 there was, uh, that synthetic solvents were being
17 used. So I'll share that piece. But that doesn't
18 address the pesticide issue, so, uh, I think that
19 maybe, uh, okay.

20 MS. CAROE: Again, you know, one of the
21 things that Rosie did say that I completely agree
22 with is that this petitioner may not be using
23 solvent extraction but if it is typically used,
24 that is something that you need to consider
25 whether that's an issue or not. So regardless of
26 what their processing technique is, we need to

1 look at the broader processing techniques and
2 also, again, this is a conventional item used in
3 less than 5% of the product, is this enough of a
4 risk, or that's, you know, solvent residue in the
5 production of that, is that enough of a risk to,
6 to, to alter your decision on the allowance. Uh,
7 Joe and then Dan and then Julie.

8 MR. JOSEPH SMILLIE: Repeating what you
9 said, Andrea, we're not trying to, earlier, not
10 just recently, but we're not putting organic
11 requirements on non-organic agricultural
12 materials. That's the mantra we have to look at
13 these items through. We're not, and we're not
14 going to put annotations on it either. Are we?
15 No. No annotations. Uh, for solvent producers.
16 So, uh, I learned that one. Uh, so basically we
17 have to look at it the same way we looked at all
18 of the other 606 materials that we went through.
19 And we have to be consistent as a board and we
20 can't, uh, because there's only one material now,
21 we can't dive into that and give it grade, you
22 know, give it a different approach than we took to
23 all of the other agricultural materials that we
24 considered. And hence, uh, the production of non-
25 organic agricultural materials can not be, does
26 not have to be in compliance with organic

1 regulations.

2 The second thing is, uh, something else
3 that was mentioned earlier that I really want to
4 bring to the attention of the board and it's not
5 news to me, but the importance of it is news to
6 me. And that is that there's a priority to
7 petitions given to remove items from the national
8 list. And once some one manufacturer comes up
9 with an organic source for grape seed extract and
10 we know for a fact that in California alone,
11 there's a lot of organic grape seed available, and
12 once that becomes commercially available then that
13 should be petitioned to get it removed, at that
14 point in time. At this point in time, it's not
15 available and hence the committee voted as it did
16 to, uh, to allow it to be put on 606.

17 MS. CAROE: Okay, Dan.

18 MR. DANIEL G. GIACOMINI: Uh, one thing
19 that has changed since the, uh, February sub-
20 committee and the March meeting though is the
21 timing of the, the deadlines set on the court
22 order. Uh, one of the efforts in those items and
23 the reason they were all pushed and grouped
24 together, uh, was to, uh, try and prevent any
25 disruption in commerce that may be occurring. Uh,
26 if there's any disruption on this item, uh, it's

1 already occurred. Uh, there is not a tremendous
2 amount of organic wine on the market. Uh, that's
3 a wine issue. Uh, but there, I drive up and down
4 the Napa Valley weekly and you can talk to Jake
5 over there. There's a tremendous amount of grapes
6 that are grown organically. Uh, I, I, when this
7 petition came up in February and March, I
8 certainly supported the sub-committee. But
9 looking at it now from the fact that if there was
10 a disruption, it's already been made and it's not
11 like there's not an organic source for this
12 material. Uh, it's out there. So.

13 MS. CAROE: Uh, Julie, and then Hugh.

14 MS. WEISMAN: I don't remember what I was
15 going to say.

16 MS. CAROE: Hugh. Uh, gosh, you know, it
17 sounds like a horrible bias to just, because we,
18 because this petition is not lumped together with
19 Harvey that we shouldn't, you know, process this
20 in the same way. I really would reconsider that
21 thought process and, uh, again, all materials on
22 606 doesn't mean that they definitely can be used.
23 They still have to go through commercial
24 availability justification with the certifier. So
25 it's not, uh, you know, I mean there's, there is
26 one extra piece in this. And I just, I just, I

1 think I, I mirror Joe on this one just because
2 this one stands alone, we're going to highlight it
3 and put it through extra scrutiny? To me, uh,
4 that, that's not right. Uh, again, this is less
5 than 5%, this material is used in very small
6 amounts, uh, there's not a whole lot of economic
7 incentive for somebody to produce this
8 organically. Uh, which is one of the limiting
9 factors why a material like this isn't making it
10 to organic market that quickly. Hugh and then
11 Julie.

12 MR. KERREMAN: I forget how I thought
13 about it at the February sub-committee meeting,
14 but organic grapes aren't really available. And,
15 and, and maybe we are looking at this differently
16 because time has moved on, which it does. Uh, the
17 other thing is that I buy herbal products from
18 various herbal suppliers. There is organic grape
19 seed extract available. And if we're going to
20 list it, it always comes back to the question of
21 well, is there such incentive then to make the
22 organic grape seed extract if they can, you know,
23 derive it from conventional sources? And I, you
24 know, grapes are their carrots, same thing as like
25 with carrots, you know? I just, uh, I think I
26 would have felt the same way back in February. I

1 forget how I was thinking or the committee votes
2 then, but anyway.

3 MS. CAROE: Julie.

4 MS. WEISMAN: Uh, yeah, I, I remembered
5 what I wanted to say before, and I also something
6 that I want to say that addresses Hugh's point.
7 Uh, you reminded us that we're talking about
8 weighing the risk for an item that's being used in
9 5% and I wanted to remind people that, uh,
10 something, an ingredient like this in, uh, uh,
11 chips or whatever it's going to be added into, uh,
12 have usage rates of, uh, .001 percent, .005
13 percent typically in the finished product. So
14 we're not even talking about 5% of the finished
15 product. We're talking about, uh, not that it's,
16 I'm not saying that it's nothing, but I just
17 wanted to, people to have a perspective on the
18 quantity of this that will be, that's being used.

19 Uh, the second thing I wanted to say is
20 that the issue of, uh, the fact that organic
21 grapes are being grown and that there is obviously
22 then organic grape seed has only to do with the
23 availability of the agricultural product. A lot
24 of discussion at the spring meeting, uh, uh, uh,
25 uh, ended up highlighting the fact that just
26 because the agricultural product is available does

1 not mean that people who have the equipment to
2 process it in the form that is needed for, uh, a
3 finished product are willing to get their
4 equipment certified or that people who are
5 producing the organic raw material can make the
6 investment in purchasing that equipment
7 themselves. So there's a difference between the
8 availability of the, uh, the agricultural raw
9 material, which we know is quite available, and
10 the, the equipment that is needed to process it
11 into the form that's required.

12 MS. CAROE: Bea and then Joe.

13 MS. JAMES: Just a couple points of
14 clarification. I do believe that there is quite a
15 bit of organic grapes that are grown and there may
16 not be a lot of organic wine out there, but there
17 still is a lot of wine that is made from organic
18 grapes that is just not certified organic.
19 There's a stigma around organic wine, uh, having a
20 certain profile and so a lot of producers have
21 chosen not to certify their wine organic even
22 though they're using, uh, organic grapes.

23 And secondly, uh, I, okay, I understand
24 that at the last meeting we rushed through
25 discussing a lot of the petitions that were up for
26 review. But I'm of the opinion that the process

1 that we're doing right now with grape see is what
2 we should have done with everything at the last
3 meeting, but that we didn't have the time. And
4 just because we didn't have the time doesn't mean
5 that that last meeting sets the precedent of how
6 we should rush through or give, uh, uh,
7 consideration to something that requires
8 discussion less discussion because we didn't do
9 that at the last meeting.

10 MS. CAROE: Joe.

11 MR. SMILLIE: Well, Julie covered the
12 main point. This is not a discussion of, of grape
13 seed. It's a discussion of grape seed extract
14 and, uh, there's a big difference. Uh, I
15 specifically phoned three friends in the wine
16 industry saying what do you do with your grape
17 seed? Can you ever get it processed as an organic
18 product? They said oh we looked into it. We've
19 got lots of grape seed, you know, but basically
20 they confirmed that you just couldn't get it
21 processed because of the continuous run needed by
22 these types of plants.

23 The second thing is what Andrea said,
24 we've all got to remember that putting it in the
25 list does not make it available for use. It makes
26 it available for consideration if there is no, you

1 know, commercial availability issue. So once
2 again, we've got to remember we're not allowing
3 it's use. We're allowing it to be considered if,
4 if organic doesn't become available. And again,
5 that's the role of the certifying agent to
6 determine if there is, uh, uh, commercial
7 availability of that product on the marketplace.
8 And number two, I just want to reiterate as soon
9 as an, uh, organic grape seed extract manufacturer
10 can get up to production, it becomes commercially
11 available and number two, they can petition to
12 have it removed.

13 MS. CAROE: Kevin, and then Tina.

14 MR. KEVIN ENGELBERT: Uh, one point I'd
15 like to make that hasn't been brought out yet is
16 that I'm uncomfortable with the argument of
17 allowing it because there's such a little small
18 amount that it doesn't matter. Yeah, I know, but
19 I'm just saying that.

20 MS. CAROE: Tina.

21 MS. KRISTINA ELLER: Uh, let me clarify
22 something. Hugh said you're buying organic grape
23 seed extract?

24 MR. KERREMAN: It's in the catalog. I
25 don't particularly buy it but it has OPCs in it.
26 You can buy it for human nutraceutical use. Uh,

1 you can buy organic grape seed extract from Herb
2 Vitality in Arizona and various other suppliers.
3 Now it might be industrial size vats and that's a
4 commercial availability thing, but it's, uh, it is
5 out there and there is a process to make it. It's
6 like it's not impossible to make.

7 MS. ELLER: Thank you.

8 MS. CAROE: I just want to comment...go
9 ahead, Tracy.

10 MS. TRACY MIEDEMA: Hugh, you and I sat,
11 uh, on the sub-committee together so I'll remind
12 you what your thinking was at the time. Which was
13 our great hope was that when something was added
14 to 606 that would be this flashing red light to
15 the industry that there would be this opportunity,
16 go forth and make this organic version and they
17 shall come. And we still hope that that's what
18 really happens. I'm not sure if that's getting
19 communicated out there to the industry properly.
20 That 606 is a great opportunity. It's not a blank
21 check for manufacturers to use a non-organic
22 version; they have to leap the commercial
23 availability hurdle every time and let's as an
24 industry put that hurdle and produce the organic
25 version.

26 MS. CAROE: Julie.

1 MR. KERREMAN: I may well have said that,
2 but I think just that my thinking has changed
3 perhaps. And that, you know, you know if it's
4 more difficult to use the non-conventional source,
5 non-organic, if it's more difficult to use a non-
6 organic source, the more incentive there will be
7 to use an organic source.

8 MS. CAROE: Julie.

9 MS. WEISMAN: Following up to Tracy's
10 comment in the absence of a database of allowances
11 that are being granted, this is the best we have
12 to provide the industry with information about
13 what ingredients are needed organically.

14 MS. CAROE: Uh, Dan.

15 MR. GIACOMINI: I, one other thing that
16 is new since the March meeting is, uh, when we
17 talk about will this be viewed as a growth
18 potential or will this be viewed as letting things
19 in the door? Uh, there was a tremendous, uh, I
20 feel comment from sectors of the community that
21 felt that the criteria that we used in March was,
22 let's say, a little liberal.

23 MS. CAROE: I'm just going to address
24 that, and I'm going to address Bea. I have no
25 regrets whatsoever over anything that I did in
26 that spring meeting. Any vote I made and scrutiny

1 that I used in reviewing those materials. And I
2 will not say that, that any material was skated
3 through because we had a large group of them. We
4 just had to work longer. I don't regret it. And
5 I, I guess I'm getting a little bit emotional
6 about this because, you know, that's not the way I
7 work. Uh, we would have just not been able to
8 finish it if we couldn't do it right. I felt we
9 did it right. I stand behind the process. So the
10 thought process that we would be consistent with
11 that process and somehow we should bump it up, I'm
12 in disagreement with. But you know, I'm one vote.
13 Everyone here has a vote on this material. But,
14 uh, I just want to go on the record saying that
15 nothing that happened, there was, I feel that was
16 the right process to go to to this day. I didn't
17 change my mind in the least.

18 Jennifer.

19 MS. HALL: One quick point of
20 clarification, Julie. Is the petitioner, can you
21 remind me, is the petitioner the producer of this
22 item or a user of this item?

23 MS. WEISMAN: It's the producer.

24 MS. HALL: So they have the equipment,
25 then, to make grape seed extract?

26 MS. WEISMAN: I believe that is true,

1 yes. And I believe that there's one other
2 manufacturer that they identified that also has
3 the equipment to do this. So they size
4 themselves.

5 MS. HALL: So they could choose to do
6 this organically?

7 MS. WEISMAN: They could.

8 MS. HALL: Okay.

9 MS. CAROE: Dan.

10 MR. GIACOMINI: Jake, you got CCOF
11 certifies a number of those vineyards. Are the
12 wineries themselves, when they leave the vineyard
13 and they go onto the winery, a number of them
14 technically change hands. Uh, are they, are the
15 vineyards, are the wineries, uh, are any of the
16 wineries being certified there? Or would we, are
17 we looking at something where a lot of what we
18 think could be available would lose its?

19 MR. JAKE LEWIN: Uh -

20 MS. CAROE: State your name and your
21 affiliation, please.

22 MR. LEWIN: My name's Jake Lewin. I'm
23 the certification director for CCOF and let me
24 give you just briefly. We're certifying right now
25 about 18,000 acres of grapes. My guess is that
26 9,000 of those are wines so they've probably got

1 seed in them. About 4,000 are table, largely
2 without seeds would be my guess. Uh, we've only
3 got about 28 wineries certified. 9,000 acres, 28
4 certified wineries. So there's not that many
5 facilities that are certified. We're probably
6 losing those grapes to non-certified product.
7 Ingredient panel claim, that kind of thing. Not
8 from panel labeling claim. But I'm sure that
9 there is a lot of organic seed, you know. It's
10 probably just going to by-product or whatever.

11 MS. CAROE: Any more discussion on grape
12 seed extract? Okay. Julie, why don't you move us
13 along.

14 MS. WEISMAN: Uh, the next item that we
15 have on the agenda, uh, is a, uh, uh, is an
16 opportunity, uh, to, uh, to reconsider an item, a
17 petitioned item that was discussed and voted on at
18 the spring meeting. Uh, we can only do this, uh,
19 and the keepers of the Roberts rules can advise me
20 on this, but I believe that we can only do this if
21 someone who voted no at that meeting, uh, is the
22 only, would be the only, uh, uh, member who could
23 initiate a reconsideration. Is that...that is
24 true. Okay. Right.

25 MS. CAROE: Want me to open it?

26 MS. WEISMAN: Yeah. Uh, there were, so I

1 guess my question is I know that there were four
2 people who were no votes. Uh, I'm going to assume
3 that you know who you are. Uh, I think only three
4 are actually at the table right now and so I would
5 like to ask if any one who voted no, uh, uh, would
6 like to, uh, has an interest in, uh, reconsidering
7 this? Uh, Jennifer?

8 MS. HALL: Uh, due to the fact that the
9 conversation that we had at the Spring meeting was
10 incredibly non-linear, uh, it skipped around, uh,
11 the questions did as well as the testimony and I
12 think that there were some hanging questions as to
13 whether or not, what the status of the ingredient
14 actually was synthetic or non-synthetic, that
15 there was a rush for time at the end, and the
16 confusion that I think still remains a little bit
17 on the board as well as in the public and
18 additional testimony that's been received, I would
19 like to move that we reconsider gellan gum.

20 MS. CAROE: Is there a second?

21 MS. MIEDEMA: Second.

22 MS. CAROE: Okay. We have a motion on
23 the floor. Uh, any discussion on the
24 reconsideration? Okay.

25 MR. KERREMAN: Just wondering. Is that
26 motion for today or for tomorrow? Today's

1 discussion, tomorrow's the vote. I'm just
2 wondering.

3 MS. CAROE: We're going to allow the
4 motion for reconsideration today but the vote will
5 be tomorrow with the materials. So this is just
6 to bring it back onto the table for
7 reconsideration. And I, you know, during this
8 discussion, I just want to remind people, you
9 don't have to necessarily change your votes. You
10 can change your votes. This is just bringing it
11 back onto the table. That's all it is, so the
12 outcome of this is, is, you know, is up to you.
13 So any further discussion on the reconsideration,
14 Dan?

15 MR. GIACOMINI: Uh, yeah. This was an
16 item, uh, as Tracy was saying, I mean, not only,
17 uh, was the day a bit non-linear, if I remember
18 correctly this is one where we had moved from its
19 previous voting location to the end for additional
20 information and then in the process, uh, two
21 additional members had to leave, uh, so that we
22 were down to four absent. Uh, so it was a, as
23 Tracy said, a non-linear day. Uh, I know things
24 like this have happened before. I know they will
25 happen again. Uh, I just feel this is a, while
26 it's not a precedent, the potential of putting out

1 for reconsiderations, uh, is something that I
2 think should be considered very carefully.

3 MS. CAROE: Certainly it is not a
4 precedent. We have, uh, reconsidered materials
5 before. Uh, Bea, you have a question?

6 MS. JAMES: Julia, I'm wondering if you,
7 uh, received any further information that you
8 might be able to share with the board about gellan
9 gum based on the, uh -

10 MS. CAROE: You know, we can actually
11 talk about that later in consideration. This is
12 for the reconsideration.

13 MS. JAMES: Oh, okay.

14 MS. CAROE: Okay. I don't mean to stop
15 you, but we're going to have discussion on the
16 material as well. This is right now; we have a
17 motion on the floor just for the reconsideration.
18 We haven't passed that we're going to reconsider
19 yet.

20 MS. JAMES: Okay so I'll hold my
21 question.

22 MS. CAROE: Okay, thank you. Any other
23 discussion on the motion to reconsider? Hearing
24 none. All those in favor of reconsidering gellan
25 gum for additional to 20560 -

26 MS. WEISMAN: Right now, right now it

1 was, as of the spring meeting, it was to be
2 petitioned to 605.b.

3 MS. CAROE: 205605.b. All those in
4 favor, say "Aye."

5 UNISON: "Aye."

6 MS. CAROE: All those opposed same sign.

7 MR. KERREMAN: No.

8 MS. CAROE: Okay. Uh, any, uh,
9 abstentions? Okay. So we have a vote of, uh, 13-
10 1. 13-1. Oh, 13-1-1. Right. Okay. Very good.
11 So now, uh, Julie if you would like to present
12 gellan gum as an item that we will vote on
13 tomorrow.

14 MS. WEISMAN: Uh, yeah, I mean, I think
15 that this is going to end up being, uh, uh, a
16 joint effort to somewhat perhaps to reconstruct
17 where we got confused during the last discussion
18 that we were having about this material. But if I
19 remember correctly, and I will ask you all to jump
20 in if you, uh, have a different recollection, I
21 believe that, uh, the, one of the, the turning
22 point, one of the turning points on the discussion
23 that we had was, uh, uh, uh, uh, uh, when we
24 asked, uh, Katrina raised a question about, uh,
25 the solvent that was used in the extraction and,
26 uh, had pulled up the tap review and, uh, uh,

1 which noted that, uh, isopropyl alcohol was the
2 solvent. And based on that, uh, uh, based on
3 noting that, uh, uh, it was assumed that because
4 of that, that that makes the gellan gum be a
5 synthetic and, uh, I think that was, uh, an
6 erroneous assumption at the time. And it's
7 relevant because obviously the listing of
8 synthetics on the list have a different, uh, bar
9 to meet than non-synthetics and/or agricultural
10 products. So I, I believe that that is the, I
11 think that we have to go back to that point and
12 clarify, uh, and clarify that and proceed from
13 there.

14 MS. CAROE: Any further discussion on
15 this? Dan.

16 MR. GIANCOMINI: Are you looking then to
17 amend the recommendation to 605.a?

18 MS. CAROE: I think that that's
19 something; I think that's something that we have
20 to resolve. I think that that's something that we
21 have to reconsider and resolve. Yes. Bea.

22 MS. JAMES: So just, I just want to be
23 clear, Julie, there is no solvent extractions used
24 in gellan gum?

25 MS. WEISMAN: Uh, you know, I am
26 actually, I'm aware that the manufacturer is in

1 the room. And, uh, I am wondering, uh, if this is
2 an appropriate time to ask a representative of the
3 manufacturer -

4 MS. CAROE: You certainly can.

5 MS. WEISMAN: Okay, uh -

6 MS. CAROE: Is, can I ask the
7 representative from the, uh, CP Kelco to please
8 identify themselves?

9 MR. RICK GREEN: Here. Do you need me to
10 go to a mic?

11 MS. CAROE: Yes, please. And please give
12 us your name.

13 MS. FRANCES: Can I offer a point of
14 clarification in your document here? You have the
15 transcript embedded in here, of your discussion,
16 so you can refer to that.

17 MR. GREEN: Uh, hi. My name's Richard
18 Green. I'm Director of Regulatory Affairs at CP
19 Kelco. And the, uh, the issue, gellan is
20 recovered with IPA and that is required under the
21 CFR. If you look at 21 CFR 17265, it specifically
22 states that have to process it that way. And it
23 does set a residual limit. So in order for it to
24 be food grade, it has to be manufactured. Does
25 that?

26 MS. CAROE: Does that answer your

1 question?

2 MR. KERREMAN: Just what's IPA? Sorry?
3 What's the long name?

4 MR. GREEN: It's isopropyl alcohol.

5 MR. KERREMAN: Oh.

6 MR. GREEN: that's the solvent that's
7 used for extraction. Because the fermentation
8 broth, when you ferment, it's kind of a pudding-
9 like substance. And in order to extract it from
10 that acquiesce medium, you need to use a solvent.
11 And it's just that when it was approved, you know,
12 the federal regulations required that.

13 MS. CAROE: Any other questions for the
14 petitioner while we have them? Gerald.

15 MR. GERALD DAVIS: And when you mentioned
16 there is a residue limit as part of that CFR, is
17 there a residue of isopropyl alcohol in gellan
18 gum.

19 MR. GREEN: Yes, there will be. The CFR
20 states no more than 750 ppm. Now, you know,
21 production can vary. We sell most of the gellan
22 to, you know, in the market, we generally process
23 at a much lower level. I would say 500, because
24 that's of course European and Japan limits are
25 lower than U.S. limits. So that would be the
26 amount in the gellan gum itself. And then of

1 course at the use level of any average use level
2 is about .01 percent. So you're looking at, you
3 know, an extremely low level.

4 MS. CAROE: Just a translation. 700 ppm
5 is .07 percent?

6 MR. GREEN: .075 percent maximum
7 allowable.

8 MS. CAROE: Just, uh, any further
9 questions for the petitioner while we have him
10 here? Okay, thank you very much. And, uh, if
11 you're going to be around for the next day, we may
12 have questions when we come to vote tomorrow and
13 during our discussion. So it would be helpful.

14 MR. GREEN: Okay, and there is one
15 clarification I would like to make is that the IPA
16 is used as a processing aid. And so, you know,
17 the residual is, you know, is basically required,
18 you know for the processing of the gum under the
19 code of federal regulations. And that the
20 residuals are, you know, what the FDA has
21 determined to be, you know, the suitable amount,
22 you know, for residual processing aids in this
23 kind of polysaccharide gum.

24 MS. CAROE: Thank you.

25 MR. GREEN: Okay, thank you.

26 MS. CAROE: Uh, I will remind the board

1 that if this is considered a non-synthetic that
2 the criteria listed in 205600.b are not
3 applicable. So look at those criteria because we
4 discussed those at the last meeting and I think
5 this is part of the basis that people may have
6 been concerned, or felt like this didn't meet the
7 criteria. But this criterion does not apply to a
8 non-synthetic. Which, you know, okay. Any other
9 further discussion on gellan gum at this time?
10 Katrina.

11 MS. HEINZE: Not a discussion but a, uh,
12 request for assistance from my fellow board
13 members. Where are alcohols on the national list?
14 For a handling? Yes, I'm just not finding them at
15 this particular moment. I found them under
16 livestock but I can't find them on the handling.

17 MS. WEISMAN: No. Can I...it doesn't
18 need. This is not an organic ingredient.

19 MS. HEINZE: Right. I'm just trying to
20 understand it for my own personal edification.

21 MS. CAROE: Alcohol isn't on the 605
22 list.

23 MS. HEINZE: So is it...

24 MS. CAROE: There is organic alcohol.

25 MS. HEINZE: Thank you.

26 MS. CAROE: Certified organic alcohol.

1 That's what's in the tinctures and extracts.

2 MS. HEINZE: Thank you.

3 MS. CAROE: Tracy.

4 MS. MIEDEMA: Just one quick question.

5 So we have moved to reconsider this for what list?

6 Or is that still up in the air? What portion of

7 the regulation?

8 MS. CAROE: Julie.

9 MS. WEISMAN: Well, I, I think I would

10 like for all of us to, uh, to come to some clarity

11 among ourselves and, uh, my understanding is that

12 in a non-organic, in a non-agricultural product

13 and a non-organic product that the fact that a

14 synthetic solvent is being used does not

15 compromise the non-synthetic status of this

16 material. So I believe, I believe that this

17 appropriately petitioned to 605.a.

18 MS. CAROE: Just to clarify a little bit,

19 you know, from what I understand about the way

20 this, this processing aid is used, it's not a

21 reactant. It's used as a solvent which means it's

22 a means of separation. Which would keep it as a

23 non-synthetic. Tracy.

24 MS. MIEDEMA: Yeah, I'm just having a

25 little bit of a déjà vu on the Spring meeting in

26 that we had, we had an open-ended question and

1 when we got to the vote, it confused the vote.
2 And so this is the time for discussion and
3 tomorrow's the time for voting, let's make crystal
4 clear what, what part of the role we are looking
5 at. At this point.

6 MS. CAROE: Joe.

7 MR. SMILLIE: My interpretation is that
8 it is a 605.a item and I think we should treat it
9 as such.

10 MS. CAROE: Bea.

11 MS. JAMES: Uh, uh, I guess I would agree
12 with what Joe just said, 605.a, non-synthetic,
13 non-agricultural because I also see agri-ager
14 listed in the same, uh, classification and, uh, I
15 know that ager is different but it does have
16 similar properties as far as thickening.

17 MS. CAROE: Any other questions?
18 Comments? Discussion? Does everybody feel very
19 clear? I mean this is the reason we're doing
20 this, uh, revisiting of this material is because
21 we weren't clear last time, so -

22 MS. WEISMAN: And we don't want to have
23 to go -

24 MS. CAROE: This is the last time.
25 Katrina.

26 MS. HEINZE: I'm just opening up the

1 petition to clarify for myself what they, the
2 petitioner asked. What section it should go on?
3 So can I have 10 seconds?

4 MS. CAROE: You can, but -

5 MS. HEINZE: The petitioner petitioned
6 for, uh, 605.b. And I believe our recommendation
7 is for 605.b, but I can go check.

8 MS. CAROE: It...okay. Just, uh...I'm
9 losing control again. Kim, come up and in the
10 meantime, Tina, you want to make a comment?

11 MS. KRISTINE ELLOR: I'm just wondering
12 would it be enough to ask the petitioner who's
13 sitting right here if that would be, you know,
14 okay with them?

15 MS. CAROE: Well, in, yes. But you know
16 the board has done this before where a petitioner
17 has asked for a material to be in a certain place
18 and the board has determined it's appropriate in
19 another place. So I wouldn't get too wrapped
20 around the axel about where the petitioner feels
21 that it should go. Kim. Are you done?

22 MS. ELLOR: I'm looking at the
23 recommendation in our book and the handling
24 committee recommended for 605.b. So that's just a
25 point of clarification.

26 MS. CAROE: Yes, I understand that and we

1 can actually amend that petition during the
2 discussion tomorrow.

3 MS. ELLOR: I understand that. I just,
4 to clarify for the folks on the board.

5 MS. CAROE: Okay. Kim.

6 MS. KIM DIETZ: Okay. Uh, when you go
7 through your material criteria review, you have to
8 make recommendation for one of the placements on
9 the national list, but ultimately it's the
10 programs decision on where a material should go
11 based on the criteria. So again, I wouldn't
12 necessarily focus on the petitioner's request
13 because they may not know what category it goes
14 under. And I wouldn't get so hung up on where you
15 think it needs to go rather let the program decide
16 that. Give them some guidance if it's clear, but
17 otherwise, you know, you voting on a material, not
18 a section of the national list.

19 MS. CAROE: Kim, the only relevance to
20 where the categorization is which criteria apply.
21 So -

22 MS. DIETZ: Right. But the criteria are
23 the same for processing materials.

24 MS. CAROE: But not for synthetics and
25 non-synthetics.

26 MS. DIETZ: Correct.

1 MS. CAROE: So that, that's the
2 determination that has to be made. Board? Hugh?

3 MR. KERREMAN: I'm, I'm just a question.
4 Would it make any difference if they used organic
5 isopropyl alcohol, if that's available? No such
6 thing. Okay. Stop.

7 MS. CAROE: They'll use ethyl alcohol,
8 no? Any other questions? Bea?

9 MS. JAMES: I also recall, uh, at our
10 last meeting we talked a lot about what we're,
11 what was the use and the properties of gellan gum,
12 what types of products were it used in and I think
13 that we received sufficient information about
14 that. And I just want to state that from the
15 research that I've done, I've also looked on Kelco
16 website, they have a review from 1990 that it
17 seemed like gellan gum from what I read is a
18 fairly safe ingredient and that, uh, it's used in
19 a lot of products, uh, that I believe the organic
20 industry could benefit from.

21 MS. CAROE: Any other discussion on this
22 material? Katrina, you...oh, Julie?

23 MS. WEISMAN: Uh, along the lines of what
24 Bea just said, I want to point out that of all of
25 the handling materials that were up fro public
26 comment, uh, this, I think if it didn't receive

1 the most, it was the second most comments, uh,
2 requesting it, uh, its listing because a lot of
3 people would like it to be available for use in
4 organic products.

5 MS. CAROE: Any other questions?

6 MR. ENGELBERT: One, Andrea.

7 MS. CAROE: Kevin.

8 MR. ENGELBERT: Would someone clear up
9 again why the change from 605.b to a because the
10 last statement in the testimony in March was from
11 Julie saying, "I also see the extraction solvent
12 as isopropyl alcohol which is a synthetic, which
13 is further weight that this should be 205605.b."
14 So I'd like a little bit more explanation why the
15 change now.

16 MS. CAROE: Julie.

17 MS. WEISMAN: Because I was pie-eyed by
18 the end of that meeting and I could not think
19 clearly about things that I'm normally I'm pretty
20 clear about. That was, uh, that was, uh, that was
21 an example of not clear thinking. And I apologize
22 for the cost that this has had on this process.

23 MR. ENGELBERT: Thank you.

24 MS. CAROE: Okay. Questions, comments?
25 Are we clear? Okay. Then we will move on to the
26 next item.

1 MS. WEISMAN: Okay, the next item on the
2 agenda is Sunset Materials. And before we
3 proceed, I need, it needs one correction, uh, to
4 what's on the agenda. Right now, for whatever
5 reason, on the agenda, calcium sulfate is listed,
6 uh, as 205605.b. That has not ever been in
7 question. That is simply a typo and I would like
8 for people to know that calcium sulfate belongs in
9 the 205605.a column with agar agar and Carrageenan
10 and animal enzymes and Glucono-delta-lactone. Uh,
11 that being said, uh, I feel I need to, uh, update,
12 uh, the board and the program and just address a
13 little bit, uh, uh, we had an unusual situation,
14 uh, in having to make a recommendation in time for
15 this meeting and public comment. Uh, in time to
16 post our recommendations ahead of this meeting,
17 and, uh, the, the notice of the Sunset of these
18 materials did not take place in the same way, uh,
19 that it had, uh, on the materials that were
20 sunsetting in, uh, that just, that would have
21 sunsetted this past October. Uh, so I believe
22 that because of that anomaly, as of the time that
23 we had to vote, there had been no public comment
24 at all, period, on any of the sunset, the handling
25 materials that were up for sunset. Uh, and the
26 way the handling committee felt we had to deal

1 with it was that although we, uh, because we had
2 industry knowledge, we believed that these
3 materials were still in use, that nothing about
4 their safety or toxicity had changed, that there
5 were not new alternatives available that made them
6 not necessary, uh, that we could not vote what we
7 believed on the, in the face, in the absence of
8 any public comment. That that did not seem like,
9 uh, uh, we, we did not feel comfortable, uh, just
10 saying well that we recommend these because we
11 just know they're being used. Uh, so what we did
12 was probably somewhat unorthodox and it was not
13 meant to cause anybody anxiety, although I'm sure
14 that it did. Uh, in, we did draft a
15 recommendation that was phrased in the positive
16 and that's consistent with, uh, some previous
17 decisions that we had made about wanting
18 recommendations to be phrased consistently so that
19 we were always clear about what our "yes" and our
20 "no" votes were for. So we draft a recommendation
21 in favor of the re-listing of these items and then
22 we all voted "no." And, uh, it was our hope that
23 this would elicit the public comment that we felt
24 so sorely in need of. And this is in fact what
25 happened. Uh, in the eight weeks since these
26 recommendations, uh, were posted we did get public

1 comment on every single one of them. Uh, and so,
2 on Tuesday night, uh, at the conclusion of the
3 agriculture symposium, the handling committee
4 reconvened, uh, a motion was made and seconded to
5 reconsider our committee level vote, uh, which was
6 from, that, was made in the beginning of October,
7 uh, and, uh, what came out of that meeting were,
8 there had been two recommendations. There were
9 actually, what came out of that were three
10 recommendations. Uh, we voted unanimously five to
11 nothing for the re-listing of agar agar, animal
12 enzyme, calcium sulfate, and Carrageenan. Uh, and
13 then because, there were some questions about
14 Glucono-delta-lactone, uh, that we did not want
15 to, uh, drag down the items that everyone was
16 crystal clear on, so a separate recommendation was
17 made for the re-listing of Glucono-delta-lactone
18 on 605.a and that passed at committee level four
19 to one. Four in favor, one "no," no absent, no
20 abstentions.

21 Uh, a third recommendation for the re-
22 listing of cellulose on 205605.b. Uh, and that
23 also passed unanimously, five to nothing.

24 Uh, so despite what is in the meeting
25 books and what was posted ahead of the meeting,
26 the recommendation that's coming out of the

1 handling committee right now is for the re-listing
2 of these six, of these materials. Uh, uh, so I
3 want everybody to be clear on that. Are there any
4 questions about that process?

5 MS. FRANCES: Would you clarify the first
6 and seconds for me?

7 MS. CAROE: Who made the motion and who
8 seconded it?

9 MS. WEISMAN: Uh, wait, I have it. I
10 believe, uh, the, you mean the motion to
11 reconsider or the motion on the recommendations?

12 MS. CAROE: On the recommendations.

13 MS. FRANCES: On the sunset materials.

14 MS. WEISMAN: I believe that they were

15 [END MZ005020]

16 [START MZ005021]

17 MS. WEISMAN: Uh, let me, just...I have
18 it here. Let's go to the video. Uh, they were
19 moved by Joe and seconded by Andrea.

20 Uh, I have one more, uh, annoying thorny
21 item to bring up, uh, with regard to this. There
22 is a material that we received public comment on
23 that even as late as Tuesday we, uh, erroneously
24 did not include on this list. Uh, and that is
25 tartaric acid. Uh, tartaric acid was one of two
26 items that were mistakenly included in the fall

1 2007 sunset and voted on two years ago to be re-
2 listed by the board. Uh, and then I believe,
3 however, that when it was realized that they
4 should have been in the 2008 batch, uh, both of
5 those items, uh, had since been deleted from the
6 final rule for the 2007 sunset. That's correct,
7 yes? Right. Now, in addition to that, over the
8 summer, uh, uh, there were, earlier this year,
9 there were two other items that we also on this
10 list that should not have been. Uh, because, uh,
11 and those were potassium hydroxide and ethylene.
12 And that's because, uh, uh, the clock was being
13 mistakenly set from when, uh, changes had been
14 made in the annotation. And that should not have
15 been the basis, uh, for their being included in
16 the 2008 sunset. So those two items were removed
17 over the summer and somehow at that time, tartaric
18 acid dropped off our work plan along with those,
19 even though it should not have. So, uh, the
20 dilemma that we have right now is that tartaric
21 acid belongs in this group. That's the bad news.
22 Uh, and it's not on the current recommendation
23 that we voted yesterday. The good news is that
24 in, in, as recently as two years ago, the board
25 did vote to re-list this and nothing about it has
26 changed since then. So, uh, I am wondering if we

1 can...no? How can we proceed?

2 MS. CAROE: Was it posted in...

3 MS. WEISMAN: It was included in the, uh,
4 in the minutes of the March, this past March
5 meeting.

6 MS. CAROE: The announcement, not the
7 minutes.

8 MS. WEISMAN: It's in the announcements
9 and the minutes. Well, I don't know about the
10 announcements. It was in the minutes, it is in
11 the public record at the March meeting at the
12 conclusion of the meeting when I was asked to read
13 off my work plan, tartaric acid was on my list.
14 It is part of the official record.

15 MS. CAROE: It's not on today's agenda.
16 It's not on this meeting's agenda. Point of
17 clarification, without it being on the agenda, we
18 can't vote on it can we?

19 MS. ROBINSON: You mean it was part of
20 the original 2007 sunset?

21 MS. WEISMAN: But it wasn't supposed to
22 be.

23 MS. ROBINSON: It wasn't supposed to be?

24 MR. KERREMAN: It was reviewed.

25 MS. WEISMAN: But it was reviewed at that
26 time and voted on at that meeting.

1 MS. ROBINSON: Wait, wait a minute. When
2 was it added to the national list? Do we know?

3 MS. FRANCES: 2003.

4 MS. ROBINSON: 2003? So it should be up
5 for renewal at all.

6 MS. WEISMAN: No, it should be in this
7 group.

8 MS. CAROE: Katrina.

9 MS. HEINZE: Uh, I have in Jan's
10 magnificent presentation on the materials process
11 and so Dan, this is a question for you. Doesn't
12 your presentation say that sunset materials must
13 be reviewed within 5 years? So if the board voted
14 in, on it early in 2007, hasn't the matter been
15 taken care of?

16 MS. ROBINSON: No, it's going to come up;
17 it's going to come through on the 2008 ANPR.

18 MS. CAROE: But it sunsets in 2008. It
19 sunsets in fall of 2008.

20 MS. ROBINSON: It sunsets in '08.

21 MS. CAROE: So it's got to be -

22 MS. ROBINSON: It's going to come through
23 in the ANPR.

24 MS. WEISMAN: Well, unless we already
25 voted on it.

26 MS. ROBINSON: Right, but -

1 MS. WEISMAN: Or a previous board voted
2 on it.

3 MS. ROBINSON: You've already voted, but
4 it's not, as Andrea says, it's not on your agenda,
5 so you can't deal, you can't conclude that its
6 business now.

7 MS. CAROE: Thank you. Thank you. But,
8 okay, so let's take it. Just bear with me folks.
9 If we take this out of today's meeting because
10 it's not business we can deal with, we can look at
11 the possibility of being able to forward that vote
12 that was done within the five years and -

13 MS. ROBINSON: Correct.

14 MS. CAROE: - and maybe -

15 MS. ROBINSON: That can carry forward to
16 your March or whatever month your spring meeting
17 is and you can conclude it, you know, it could be
18 concluded perhaps in the spring and that would be
19 one off of the list for sunset '08.

20 MS. CAROE: So the salient point is we're
21 not dealing with it here.

22 MS. ROBINSON: Right.

23 MS. CAROE: Just so that board members
24 have access to outside for lunch today, I'd like
25 to kind of move us along so that we don't have
26 sandwiches brought in again.

1 MS. WEISMAN: Uh, that was the last
2 thorny issue I had to raise.

3 MS. CAROE: Any question on any of the
4 sunset materials? Bea.

5 MS. JAMES: Can you just, uh, restate
6 exactly what we're doing with tartaric acid? I'm
7 sorry.

8 MS. CAROE: We're not doing anything with
9 it today. At this meeting; we can't. We're going
10 to take it out of this meeting and we're going to
11 deal with it with the program, at committee level
12 and at the program. It can't, there's no business
13 we can do with it since it's not an agenda item.

14 Any more questions? Comments?

15 MS. ROBINSON: I have one.

16 MS. CAROE: Okay.

17 MS. ROBINSON: How come in my book for
18 tomorrow, for, uh, what am I looking
19 at...cellulose. Julie, I thought you said you,
20 uh, voted at the committee to...it says in my book
21 that the handling committee recommends renewal but
22 then the vote says "yes, nobody." "No, three."
23 "Abstentions, two."

24 MS. WEISMAN: Right. And we, what I was
25 explaining earlier was that that was the vote that
26 we felt, the way we were, that we had no choice

1 but to vote that way in October before we had
2 received public comment.

3 MS. ROBINSON: Alright.

4 MS. CAROE: Bea.

5 MS. JAMES: Just for clarity tomorrow
6 when we do the vote, Andrea, would you review why
7 we vote on the sunset materials in a cluster
8 instead of individually? That we will be doing
9 that tomorrow?

10 MS. CAROE: It's just for efficiency.

11 MS. JAMES: Alright. Does everybody
12 understand that that's how we'll be voting on the
13 sunset?

14 MR. KERREMAN: I understand the
15 efficiency part, but maybe some people have an
16 issue with one of the four? Sorry. I'm not
17 saying I do, but maybe someone does.

18 MS. CAROE: During the discussion of that
19 motion we can clearly amend it.

20 MR. KERREMAN: Okay, cool.

21 MS. CAROE: And we can have a second
22 motion. We can deal with that, Hugh. We don't
23 want to, to, to tamp that down at all. So, it's
24 just, it they're all, we did this with the first
25 sunset. We had so many materials and they were
26 all kind of in the same boat. So we just went

1 ahead and, uh, put them together and one vote,
2 knocked a bunch of them out. But certainly if you
3 have a concern, or anybody has a concern, we can
4 break them off. Julie.

5 MS. WEISMAN: I, I have no wish to
6 restrict, uh, our access to the outdoors. I did,
7 though, want to address an issue that came up
8 yesterday because this is the appropriate time.
9 It's the discussion of these materials. There was
10 a question about the use of Glucono-delta-lactone.
11 And I, uh, went back to the petition substances
12 database and I looked at the petition and it, I
13 wanted to confirm that it is in fact a coagulant
14 used with soy milk in the production of tofu. Uh,
15 so I just wanted to confirm that. And we had, uh,
16 public comment requesting its continued use and we
17 did not have any comment, uh, opposing that or
18 raising any questions about it.

19 MS. CAROE: Okay. Anything further?
20 Alright. We are exactly on time. It is 11:45 and
21 we will recess for lunch till 12:45. But please
22 don't be late because I don't want to be long
23 tonight. We've got public comment this afternoon,
24 guys. Thank you.

25 If I could ask the board members to
26 please take your seats so we can reconvene.

1 Alright. We're back in session. We're
2 going to now go to the crops committee. Uh, you
3 have, uh, three petitioned materials and sunset,
4 and, uh, five sunset materials to consider,
5 correct?

6 MR. DAVIS: Correct. The, uh, I'll wait
7 till she gets that loaded up. The first material,
8 new petition, well sort of new, sort of old, uh,
9 that we'll cover is potassium silicate. We've had
10 a lot of, uh, public comment concerning that this
11 meeting. And this is the first item on the
12 agenda. Uh, the crops committee considered this
13 in, uh, well it was one of the first, it's been
14 several months ago. And we had a bare quorum that
15 day; there were two absent members. So I don't, I
16 don't believe we really had a full look at it
17 partly because of, uh, the small amount of members
18 we had to go over it. Uh, we split it, this
19 material is petitioned as an insecticide and as a
20 plant disease control and as plant or soil
21 amendments for hydroponic use. Uh, public comment
22 from the petitioner's representative yesterday
23 requested that we table the plant and soil
24 amendment for hydroponic use, part of it; they're
25 withdrawing that. So we, that will not be a vote
26 item today. Or tomorrow, excuse me.

1 The, this is broken into three sections.
2 As insecticide, they'll be a vote, as plant
3 disease control there will be another vote and the
4 crops committee voted it this way in separate
5 sections. But we will not, uh, we are tabling by,
6 per request of the petitioner the plant and soil
7 amendments for hydroponic section of this
8 recommendation.

9 Uh, pertinent things that I wanted to
10 point out. There was a split vote within the
11 committee. Uh, overall, it was voted to, uh, not
12 be added to the national list. And, uh, uh, there
13 was a, I wanted to read the minority opinion on
14 that because I believe it reflects a lot of the
15 public comment that we got yesterday on it.

16 Uh, as insecticide and plant disease
17 control the material favorably satisfies criteria
18 1, 2 and 3, and should be added to the national
19 list. Information provided in the tap report
20 aptly supports prohibition of the material as a
21 plant or soil amendment but does not or did not
22 provide ample support for failing any of the
23 evaluation criteria for the material as used for
24 an insecticide or plant disease control agent.
25 And some of the history I pointed out here,
26 because I was the minority opinion, previous NOSB

1 crops committee in 2003 voted four to zero to
2 approve, uh, the insecticide...well, no, the plant
3 disease control aspect of this material. It voted
4 four to zero to approve it. At the May 2003 NOSB
5 meeting, the material was deferred for later vote
6 pending eventual EPA registration, which they
7 didn't have at that time. So they didn't vote
8 until they could get that EPA question resolved.
9 And, uh, there is a proposed annotation on it that
10 no industrial by-products could be allowed in the
11 manufacture. The material is as petitioned, uh,
12 the manufacturer makes it from, uh, natural sand
13 and reacts it at very high temperature with, uh,
14 potassium carbonate, so it's, uh, because the sand
15 is providing the silica and there are numerous
16 industrial by-products containing silica that
17 could potentially be used so we thought it would
18 be wise to annotate this to not allow any
19 industrial by-products in the manufacture of
20 potassium silicate.

21 At this point, I'd like to open it up to
22 questions or discussion from the board.

23 MR. KERREMAN: So you're going to have it
24 so it only can be made from sand and potassium
25 carbonate.

26 MR. DAVIS: Well, I guess technically

1 we're not stating anything about the potassium
2 carbonate part of it but we are saying the sand
3 portion must be natural sand, not industrial by-
4 product sand or silica, you know, slag.

5 MR. KERREMAN: Got 'cha. Okay.

6 MR. DAVIS: Andrea.

7 MS. CAROE: Is that going to be apparent
8 in the market? Is that, again, the annotations
9 distinguishing how a product is produced unless it
10 creates a distinctly different product that is
11 marketed differently is inappropriate for this.

12 MR. DAVIS: Right. It does. Uh, the
13 petitioner emphatically, in fact they changed
14 their, their original petition in 2002, I believe,
15 just called it potassium silicate, that the actual
16 name of the substance being petitioned and voted
17 on is acquiesce potassium silicate. And according
18 to the manufacturer, acquiesce [phonetic]
19 potassium silicate that can be stabilized in that
20 way essentially can not be made from slags. But
21 that's part of what their petition states. And I
22 wouldn't mind getting a comment on that from the
23 petitioner, if we could.

24 MR. KERREMAN: Well, is the petitioner
25 here?

26 MR. DAVIS: Yes.

1 MR. KERREMAN: Here she comes.

2 MS. CAROE: Gerry, while we're waiting
3 for the petitioner to reach the mic, the only
4 other question I would have is this, is this a
5 branded product? Or is it, are there other
6 manufacturers that are making this? Is this, uh,
7 you know, in annotations and narrowing down, are
8 we narrowing it down to a, you know -?

9 MR. DAVIS: I don't believe so. I, I did
10 a web search and there is at least one other
11 domestic manufacturer that makes acquiesce
12 potassium silicate.

13 MS. JUDY THOMPSON: Right. That is
14 correct. That manufacturer -

15 MR. KERREMAN: Identify yourself, please.

16 MS. THOMPSON: Oh, excuses me. Judy
17 Thompson with PQ Corporation. Uh, that
18 manufacturer does not have a pesticide
19 registration and we do. We do have a branded
20 product but acquiesce potassium silicate is pretty
21 generic. There's lots of different acquiesce
22 potassium silicates. And the reason I added
23 acquiesce was when I've done literature searches,
24 I've found a few articles that refer to potassium
25 silicate. And then when I read that article I
26 find, well, it's not potassium silicate solution,

1 it's been a slag material. So that's why I added
2 acquiesce in hopes that that would clarify the
3 product.

4 MS. ELLOR: Would they have different CAS
5 numbers? Acquiesce and -

6 MS. THOMPSON: Uh, probably. Right?
7 Yeah.

8 MS. ELLOR: Okay.

9 MS. FRANCES: Does anybody know what it
10 is?

11 MR. DAVIS: The CAS number?

12 MS. ELLOR: It should be in the petition.

13 MR. KERREMAN: It is in the petition.

14 MR. DAVIS: Okay. Thank you.

15 MR. KERREMAN: Regarding -

16 MR. DAVIS: Uh, Mr. Datnoff, you have
17 something to add to that?

18 MR. LAWRENCE DATNOFF: I just want to add
19 something about slags.

20 MR. KERREMAN: Identify yourself, please.

21 MR. DATNOFF: Oh, sorry. Lawrence
22 Datnoff, University of Florida. Uh, as far as
23 slags go, as far as being silicone sources, uh,
24 there's, if you read the literature and then what
25 we've used historically have been slags have
26 either come from the still industry, when they're

1 making pig iron, and that's a calcium silicate
2 material. And then there's also, uh, slags that
3 comes from the phosphate industry when you're
4 producing phosphorus that they by-product is also
5 a calcium silicate slag. So those are the slag
6 sources. These are calcium products. So, uh, I
7 think those are completely different from, you
8 know, potassium silicate and how that's formed.
9 So when you're talking about slags, it's really
10 not, you know, what they have and what they're
11 marketing. Okay? So just to set that record
12 straight.

13 MR. DAVIS: Right.

14 MR. DATNOFF: D, live in David. A-T, N
15 like in Nancy, O, then double F, like Fred Frank.
16 I spell it all the time, can you tell?

17 MR. DAVIS: And part of the...I'm losing
18 my train of thought. In trying to understand the
19 petitioner's reasoning for changing the name of it
20 to acquiesce potassium silicate is it's a very
21 purified form of the material that would just by
22 the nature of that type of formulation of it
23 eliminate some of our concerns about, uh, heavy
24 metals, other things that are in there that other
25 generic potassium silicate products that are not
26 liquids could potentially contain with that

1 material.

2 Uh, Hugh.

3 MR. KERREMAN: I just wanted to address
4 something that Andrea had mentioned about. You
5 know the annotations and how it can't be so
6 narrowed down so it's only become one company, but
7 that has happened here. On, uh, I think it was,
8 what...go ahead. I mean it has happened.

9 MS. CAROE: I mean, there's a difference
10 between one supplier and a, uh, patented or unique
11 process that only one supplier could ever fulfill.
12 If it's one innovator, absolutely, we want to
13 recognize those things. But if it is a, uh,
14 proprietary product that only one, then it's a
15 little bit limited and it's a little bit
16 different. But even in that situation if a
17 product is good, it should be allowed for organic.
18 I was just exploring it more than anything.

19 MR. DAVIS: Yeah, I believe if the other
20 major manufacturer that I know of in this country
21 wanted to get a pesticide registration for a
22 formulation of potassium, acquiesce potassium
23 silicate, they could. Uh, if they so chose.

24 Dan? Oh, sorry.

25 MR. GIACOMINI: Just want to point out
26 that, uh, Valerie did find CAS numbers and the two

1 listed, one's for water and one's for potassium
2 silicate. Not a specific acquiesce potassium
3 silicate.

4 MR. DAVIS: Okay. So I'm not sure what
5 that would mean, as far as if we put on the, the
6 official name of acquiesce potassium silicate, it
7 would not have its own CAS number I'm assuming.
8 Can you comment on that?

9 MS. CAROE: Gerald? I wouldn't get, I
10 mean ultimately we would like the CAS numbers and
11 I think it will solve a lot of problems. But I
12 don't know that you want to get hung up about this
13 to, you know, keep this material from being used
14 if it's consistent.

15 MR. DAVIS: Yes.

16 MS. THOMPSON: Do you need me to address
17 that then, or no?

18 MR. DAVIS: If you have something to add.

19 MS. THOMPSON: Judy Thompson, PQ. Yeah,
20 your statement is correct. There's two CAS
21 numbers for the material. One is water and one is
22 potassium silicate. Excuse me? It does, yeah.

23 MR. DAVIS: Do we have any other comments
24 or questions on this material?

25 MR. KERREMAN: Yeah, we're not going to
26 get hung up on the CAS numbers, but I would think

1 that the potassium silicate number in the future
2 might be the one associated with this product.
3 Even though water has the CAS number, if you had
4 to pick one, I'd say the potassium silicate CAS
5 number would be appropriate.

6 MR. DAVIS: Okay.

7 MR. KERREMAN: Anyway, that's in the
8 future.

9 MR. GIACOMINI: How different are we from
10 putting water on the national list? I'm, I'm not
11 sure, I mean, is that what we're doing with this?
12 I mean, how much, I mean is this, how different is
13 this product that we're looking at from potassium
14 silicate to try and put it in solution?

15 MR. DAVIS: Rose, do you have a comment
16 on this? Or Judy?

17 MS. THOMPSON: Uh, Judy Thompson, PQ
18 Corporation. The product that we have registered
19 is a 29% potassium silicate. Uh, the technical,
20 so our end use product is a 29% potassium silicate
21 solution. Our technical is potassium silicate
22 flake product. It's a flake glass; it's a glass
23 that can be dissolved in water.

24 MS. ELLOR: Can I ask her a question?

25 MR. DAVIS: Sure.

26 MS. ELLOR: Uh, you know what I'd really

1 like to know is, is the chemistry any different?
2 Is the chemical formula different for acquiesce
3 potassium silicate than potassium silicate? Or is
4 it a solution?

5 MS. DAVIS: The acquiesce is a solution.
6 Potassium silicate, like this CAS number for
7 potassium silicate, and you'll correct me if I'm
8 wrong, is just for the flake glass. It's for, uh,
9 a glass, I don't know the exact composition, but
10 the ratio of silica to K2O is 2.5.

11 MS. ELLOR: So you're not actually -

12 MS. DAVIS: This glass can be dissolved
13 in hot water and you get the solution of potassium
14 silicate.

15 MS. ELLOR: Okay, but you can also take
16 it back out of solution? So you haven't changed
17 the molecular structure of the potassium silicate
18 to make it an acquiesce form?

19 MS. THOMPSON: I'm not sure if you want
20 to go down this road. There's, once you put
21 potassium into solution, you have species of
22 silica along with potassium ions.

23 MS. ELLOR: Okay. I see. Say no more.

24 MS. THOMPSON: Okay.

25 MR. DAVIS: Rose, do you have anything to
26 build on that at all? Or?

1 MS. ROSE KOENIG: In my opinion, I
2 wouldn't, I mean acquiesce...oh, Rose Koenig,
3 Eagle, Florida. Uh, acquiesce, if there's two CAS
4 numbers, I'm assuming, you know, one is obviously
5 from water. It's more of a, this is a, even
6 though it's not highly formulated, the acquiesce
7 makes it a formulation where the potassium
8 chloride silicate is the generic that you want to
9 put on the list. If there are, it appears from
10 what we've heard from the expert that there are no
11 slag sources, uh, of potassium silicate. You
12 know, I don't know, I forget what the actual tap
13 says. That's the information you have before you.
14 If you don't, I mean, the only way to really feel
15 comfortable, and I don't recommend doing the
16 annotation, is you could annotate saying not from
17 slag sources. So it would be clear that potassium
18 silicate could come from sources other than slag.
19 Uh, or you can assume what has been said is
20 correct and not put that annotation and potassium
21 silicate, you know, would be allowed. The
22 acquiesce, to me is more of a, is a formulation,
23 uh. You know, again, once you put it on there,
24 pesticides are going to be formulated. There may
25 be products on the market other than, down the
26 road, other than this product where it can be a

1 combination of inert ingredients as long as their
2 4Bs, you know, in a pesticide product. The
3 difference here when you're putting it down for
4 disease control is, again, you can't supersede the
5 EPA. There's going to be labeled products as long
6 as they have potassium silicate in it and only
7 list 4B inert, which water would be, uh, it would
8 be an allowed product all the way. There may be
9 potassium silicate products that end up getting
10 formulated with different inerts that would be
11 allowed, uh, as they're active, but the inerts
12 would know them out of the marketplace. I hope
13 that's clear. You know in terms of the final
14 product. But the generic is the potassium
15 silicate.

16 MR. DAVIS: Andrea.

17 MS. CAROE: It, it seems to me that, uh,
18 you should be able to move forward with a bit of
19 confidence on this if slag sources aren't
20 available on this potassium silicate. Uh, if that
21 changes at some point in the future, that would be
22 new information that could be considered during
23 sunset, at the least. Or removal from the list
24 for a more, uh, quick response. But if slag
25 sources aren't available and that's your concern,
26 then potassium silicate just listed that way, uh,

1 is not going to be from slag sources.

2 MR. DAVIS: But there could be, uh,
3 smaller, you know, less high volume, uh,
4 industrial manufacturing processes that could
5 yield a potassium silicate that may be are not
6 commonly known about but could exists that might
7 have impurities and stuff that we don't want to
8 just generically say it's okay to use it.

9 MS. CAROE: I can say that about anything
10 on the list of, you know, you know, cellulose
11 that's on the market that has, you know, different
12 process that is by a small manufacturer and is
13 full of impurities. I don't know that you could,
14 uh, extrapolate down to that possibility and
15 prevent a material that if it is consistent with
16 organic, uh, agriculture should be allowed. I
17 mean, weigh your risk, uh, you know. If, again,
18 I'm not a crop expert and I'm definitely not a
19 crops input expert, but from the presentations and
20 the information that we've received on this
21 material, it's quite valuable to organic
22 agriculture. Uh, is the risk of some unknown
23 processor out there making this in a, you know, in
24 a different way, is that possibility or risk
25 outweigh the benefits?

26 MR. DAVIS: Go ahead.

1 agree with that. Judy with PQ Corporation. Don't
2 confuse what is a silica source for let's say plan
3 amendment versus what is silica source for
4 manufacturing of potassium silicate.

5 MR. DAVIS: Rose? You guys better stay
6 up there, I think.

7 MS. KOENIG: Again, the tap was not
8 clear. A lot of times they were using, uh,
9 interchanging calcium silicate which is what's
10 used in the by-product of the slag manufacturing.
11 They were using it interchangeably in that tap
12 report. Because it also, calcium silicate also
13 has properties that are, uh, you know, disease
14 prevention and such. Similar to potassium
15 silicate but it's an entirely different CAS
16 number. It's a totally different material; that
17 is not the material that is being asked to be
18 added onto the list. And I think that's what the
19 confusion is. Potassium silicate is different,
20 like I said; Lawrence was talking about the slag
21 industry. That is the calcium silicate, uh,
22 product. Not the potassium and because a lot of
23 times in that tap it was being compared to that
24 product, because there's quite a bit of
25 information, there's a lot of historical data on
26 that particular product, that is why it is placed

1 in that tap. But you're confusing some of the
2 benefits and adverse effects of that product with
3 potassium silicate.

4 MR. DAVIS: Understand.

5 MS. KOENIG: Which is a separate CAS
6 number, a separate generic. And calcium silicate
7 is not being petitioned.

8 MR. DAVIS: Andrea. You're suggesting
9 leaving the annotation off, just to make this
10 cleaner and simpler?

11 MS. CAROE: I just don't know why you
12 would even need the annotation. I mean, it
13 doesn't even seem to make any sense to have it.
14 And any time you put an annotation on, you're
15 adding an extra layer of verification at the
16 certification and that is a potential risk of
17 inconsistency. I, simplifying it does make it
18 cleaner.

19 MR. DAVIS: And I guess if we are
20 eliminating talking about plant and soil amendment
21 part of this and all that's left is for
22 insecticide and plant disease control, then EPA
23 labeled products would only apply. Which would
24 also clean up the situation quite a bit as far
25 as...correct?

26 MS. CAROE: Well, rule number one is this

1 regulation does not pre-empt other regulations.
2 So it has to be labeled and registered for the
3 use. So, that first. I mean, you're not going to
4 grab something off the shelf for medicinal purpose
5 and use it on your crop to kill bugs. It's not
6 possible.

7 MR. DAVIS: Okay.

8 MS. CAROE: You know, that is, that is
9 the first and only premise. First premise. I
10 think you're petitioner wants to be -

11 MR. DAVIS: Lawrence.

12 MR. DATNOFF: Lawrence Datnoff,
13 University of Florida. I just, you guys have been
14 going back over this. Let me just throw this
15 slide up here one more time, okay? So when we're
16 talking about silicon, that's the element, right?
17 And then we talk about silica, like, uh, Dr.
18 Thomas has been telling you how they manufacture
19 potassium silicate, they use sand. Okay? Now let
20 me mention one thing about sand. It's definitely
21 got silica in it, but if you know there's a lot of
22 beaches around, doesn't weather, so if you just
23 have sand by itself, it does not supply plant
24 available silica to that plant. Okay? So just
25 want you to recognize that. And then silicate,
26 okay, potassium silicate, calcium silicate is a

1 compound. It has potassium or calcium or sodium
2 along with silica. Okay? And then those, all
3 those through hydrolysis will form silicic
4 [phonetic] acid and that's the form the plant
5 takes up. Okay? It's not different from if you
6 take rock phosphate, P₂O₅ and you add that to the
7 ground and then you get phosphoric acid and that's
8 the form the plant takes up. And it converts it
9 and you have, you know, phosphate ion that forms
10 to form ATPADP, right? Same kind of things going
11 on here. But you have a source that you're using
12 to supply that element. And we always measure it
13 in some type of elemental content. Okay? So
14 hopefully that maybe helps clear that up a little
15 bit better.

16 MR. DAVIS: Sure. Thank you. Point of
17 order then. Is this the point where we would
18 entertain a motion to remove the annotation? Or
19 would that be tomorrow?

20 MS. CAROE: I would, no. It would not be
21 today. Uh, when you have, tomorrow when we go to
22 voting, somebody, assuming somebody makes a motion
23 for this recommendation, we will have discussion
24 and during discussion you can entertain a
25 discussion to amend your recommendation. Or
26 alternatively, you can take this to committee

1 tonight, redo your committee recommendation and
2 bring it, a new recommendation tomorrow. Those
3 are your options.

4 MR. DAVIS: Okay. Are there any other
5 questions or comments? Okay. We'll move on to
6 the next material. Uh, which is sodium carbonate
7 peroxyhydrate. Uh, the petition is to add sodium
8 carbonate peroxyhydrate to the national list in
9 205601.a as an algaecide. The crops committee
10 considered it and, uh, did not feel that it
11 satisfied the evaluation criteria 1, 2 or 3. So
12 we voted "no" that it did not satisfy any of those
13 criteria. Uh, and, uh, so it was a unanimous vote
14 to, uh, reject and not add it to the national
15 list. Uh, material is a combination of sodium
16 carbonate, which is a natural material or
17 potentially natural material. It can be
18 synthesized also but, and uh, hydrogen peroxide,
19 uh, is pointed out by Army and Brian Baker that
20 both sodium carbonate and hydrogen peroxide are on
21 the list. Well, at least the hydrogen peroxide
22 is, as it is right now. And he was questioning, I
23 believe, that, uh, why did we reject this material
24 when it's really just a vehicle to supply hydrogen
25 peroxide to the aquatic environment to use it as
26 an algaecide, a safer vehicle than handling, you

1 know, caustic liquid hydrogen peroxide. Uh, I
2 would entertain any comments or questions about
3 that area, but I wanted to open it up to anyone
4 that had anything to say.

5 Okay.

6 MS. CAROE: Hugh, that's fine. I just
7 want to make sure that we have a little bit of
8 discussion on these materials. Uh, I guess I'm
9 not quite sure why you'd want this material. Can
10 somebody who would, you know, explain to me why
11 you would want this? If you have the, the,
12 uh...Tina.

13 MS. ELLOR: It's my understanding and
14 Emily, you probably could help me out with this,
15 that it's a safer, more stable way to get hydrogen
16 peroxide and to ship it around.

17 MR. DAVIS: And it's used, farm use is to
18 control algae in reservoirs and ponds.

19 MS. CAROE: Okay. So it's a safer form
20 of handling these materials and it breaks down to
21 the active, uh, parameters afterwards. Correct?

22 MR. DAVIS: Correct.

23 MS. CAROE: So, uh, you know, as I read
24 through the recommendation, there's concern over
25 environmental risk when it seems to me that
26 handling the materials that are on the list that

1 would be the alternative may be an environmental
2 risk. I mean, if, just explain to me, can you
3 weigh out the risk on these as a user of these
4 materials which would present more of a risk?
5 Bringing in those, those two already listed
6 materials, which as Tina, you just explained, you
7 know, or maybe it was you, Gerald, that there is a
8 potential risk with handling those materials. Or
9 taking this more stable material and letting it
10 break down and, and also having the manufacturing
11 process for that material...I mean, just weighing
12 it out.

13 MR. DAVIS: Well, let me say it in a
14 different way. And it may answer your question.
15 I think with the committee makeup that considered
16 this material, uh, it probably would have rejected
17 hydrogen peroxide use as an algaecide also. So
18 it, times change and things are a little different
19 right now and, but, I think the petitioner is
20 here, uh, if we could bring them forward to state
21 their case a little bit at this time.

22 MS. KRISTEN KNOX: Hi. I'm Kristen Knox.
23 We are the petitioner from BioSafe Systems. Uh,
24 the petitioner actually went in prior to my
25 starting to work for the company, I have since
26 taken over all the regulatory and am here to

1 represent the company. In regards to the
2 committee's recommendations, we recently submitted
3 a rather full response to your findings. Uh, we
4 thought we addressed most of your concerns rather
5 well. Uh, I'm not sure what you want me to defend
6 right now.

7 MR. DAVIS: Uh...

8 MS. KNOX: Is there a specific question?

9 MR. DAVIS: This, most of our discussions
10 in the crop committee focused on, uh, yes,
11 hydrogen peroxide is on the list for use as an
12 algaecide. Yes, this material would probably be
13 safer handling than that. But we really, uh,
14 focused on are there natural alternatives other
15 than throwing peroxide into a pond to control
16 algae?

17 MS. KNOX: But we honestly don't look at
18 it as just throwing peroxide onto a pond. It's
19 very widely used as an algaecide for reservoirs,
20 it's just not considered at this point organic.

21 MR. DAVIS: Right.

22 MS. KNOX: It is NSF listed; it's two
23 ingredients that are already on the national list.
24 And as soon as it hits the water, it breaks down
25 into hydrogen peroxide. We have very controlled
26 doses and even at twice the limits, uh, the

1 recommended limits, we've shown that there was no
2 environmental hazard.

3 MR. DAVIS: Go ahead.

4 MS. ELLOR: So maybe the question is if
5 these things are already available on the list,
6 what's the advantage to this material over the
7 ones already on the list?

8 MS. KNOX: You mean as opposed to just
9 using hydrogen peroxide?

10 MS. ELLOR: Right.

11 MS. KNOX: Well, for one, for the
12 shipping. Also for, uh, it's actually stabilized
13 as it's in the water. It takes a slower, uh,
14 release. Slower breakdown so the stabilizers that
15 are there help it to stay in form to actually do
16 its work longer. And as soon as the hydrogen
17 peroxide hits the algae or the organic material,
18 it then oxidizes it and then it turns into oxygen
19 and water.

20 MR. DAVIS: Right so the committee
21 acknowledged that. This is far safer for a farmer
22 to use in their reservoir as far as applying it
23 and you can simply broadcast this in pellet form
24 over a reservoir and it will disperse itself
25 versus trying to figure out how to pour or apply
26 liquid hydrogen peroxide somehow in their aquatic

1 situation there. Andrea.

2 MS. CAROE: Okay. I don't want this to
3 sound blunt, but I mean, it just, so what I'm
4 hearing is that this is a safer product than two
5 listed products, but you're not recommending it
6 because you don't agree with the original listing
7 of the first materials? So you're going to, in
8 essence, the end product is you're going to force
9 people to use the listed materials, which you have
10 just stated are, are actually not as good an
11 alternative as this material. I don't understand
12 the logic here. I mean, I'm...

13 MR. DAVIS: Hugh.

14 MR. KERREMAN: I agree with Andrea, first
15 of all. But also, uh, you cite tap line 233
16 through 241 that during its use there would be
17 environmental contamination, talks about the Ph
18 being changed in the soil or the water. Is this,
19 I'm just curious, is this product being used like
20 one time? Or is like every day?

21 MR. DAVIS: I would ask the petitioner
22 that.

23 MR. KERREMAN: Well, not just one time
24 but maybe, you know, once in a month or whatever,
25 versus every day additions. That would make a
26 difference to me on that tap review for what -

1 MR. DAVIS: That was part of the
2 environmental consideration is what does that
3 sodium carbonate portion of that do over time. To
4 continually add it to, to that reservoir?

5 MR. KERREMAN: Well, peroxide would do
6 the same thing, right? Or the other initial
7 ingredient that makes these two that are already
8 listed. But I'm curious, how is it used? Like in
9 reality.

10 MS. KNOX: Either way. It can be used
11 preventatively in smaller doses or it can be used
12 as a curative. It has immediate knock-down. It
13 doesn't have any residual in the water as hydrogen
14 peroxide breaks down into water and oxygen and the
15 sodium carbonate breaks down into sodium and
16 carbon.

17 MR. KEMMERER: And what kind of areas
18 are, what, how strong are you using this and what
19 kind of area? Like a little mud puddle or are you
20 looking at a lake or what? I mean -

21 MS. KNOX: It's usually irrigation ponds,
22 uh, whatever a farmer would have.

23 MR. KERREMAN: Okay.

24 MR. DAVIS: Andrea, Bea, Dan.

25 MS. CAROE: I, I guess, Hugh, I
26 understand the question you're asking but the

1 alternative, if it doesn't get listed, they can
2 use hydrogen peroxide every day. I mean it's on
3 the list. Every day you can use it. It's already
4 there.

5 MS. KNOX: They can use sodium
6 hypochlorite, too. I mean.

7 MS. CAROE: So, I mean, you know, this is
8 about giving, giving organic growers better
9 choices and I just don't see why you wouldn't give
10 them this choice. I mean, I haven't heard
11 anything convincing to let me know that, that the
12 alternatives that are already on the list are
13 better. It doesn't sound like they are, so, I'm
14 missing something.

15 MR. DAVIS: Bea.

16 MS. JAMES: I guess I'm a little
17 confused, too, because just in context of looking
18 at another area, we've got agar agar, we're
19 looking at gellan gum, we've got cellulose, we
20 have these different, Carrageenan, we have these
21 different materials that we, we want to be able to
22 provide because even though they do kind of, they
23 can do kind of the same thing, the specific use
24 needs to be applied for a particular, uh, product.
25 So why wouldn't we look at having this as being
26 another alternative to something that might work

1 better?

2 MR. DAVIS: Right. Dan.

3 MR. GIACOMINI: Uh, your response on the
4 sodium hypochlorite kind of deflated my question,
5 but I'll ask it anyway. Is there any measurable
6 change in the sodium load over time?

7 MS. KNOX: No there's not. And we have
8 submitted under confidential business information
9 the studies that show there was no change in Ph,
10 there was no change in phytotoxicity or anything
11 toxic to aquatic invertebrates.

12 MR. DAVIS: Go ahead.

13 MS. ELLOR: I'm going to have to say
14 since I've learned more about this material, I
15 think I will definitely support it because of the
16 safety of handling and because the breakdown
17 products are fairly innocuous and fairly safe.
18 So, I've certainly learned more about it, and
19 that's why we have these discussions.

20 MR. DAVIS: Rigo.

21 MR. RIGOBERTO I. DELGADO: I wonder if
22 the petitioner can comment on alternate natural,
23 uh, approaches to controlling this problem of
24 algae and so forth. That your product aims to, to
25 control. For example, we looked at pond aeration
26 devices or practices or the simple use of barley

1 straw inoculation. How well are those working
2 compared to the efficiency of your product?

3 MS. KNOX: Well, it's our understanding
4 that none of those are registered pesticides to
5 begin with. Any of those four other ingredients
6 that are, we actually promote to use our product
7 in conjunction with beneficial bacteria and
8 enzymes as part of the IPM practices. Uh, alum,
9 gypsum, limestone, and what am I missing, barley,
10 the four are either used in concoctions together
11 in different formulations, but you run the risk of
12 the limestone, uh, if it's going to drop the Ph
13 too much, that's there to counteract the, uh,
14 alum. But if it goes too low, then you actually
15 create the phosphates that are going to cause more
16 algaecul [phonetic] bloom, uh, and it's my
17 understanding, or our understanding as a company,
18 that, uh, gypsum is not effective in hard water.
19 So, and barley takes four to six months just to
20 become effective. And we also submitted data on
21 that. Uh, it's got to sit there for four to six
22 months to ferment before it even starts to take
23 effect. It's a good algae stat, but not an
24 algaecide. Aeration practices, top aeration is
25 just decorative. It's not going to get to the
26 algae that's going to settle on the bottom of the

1 pond. Bottom aeration is effective between six to
2 eight feet in depth. If it's anything, if you
3 have a deeper pond than that, it's not going to
4 get down to the bottom. And it's also very
5 expensive.

6 MR. ENGELBERT: Could you clear up one
7 point for me that you made? You stated that the
8 sodium does not accumulate. Where does it go if
9 it doesn't accumulate?

10 MS. KNOX: It's such a low amount, it's,
11 uh, the scientific information that I have in the
12 Harrah, which I hope you folks have access to, is
13 that it just dissipates and breaks down into the
14 soil but it does not have an adverse effect.
15 They've done studies over a year and shown that
16 there was no, it's naturally occurring and it's
17 ubiquitous, is what I think the comment was put in
18 the tap report. And our soda ash is actually
19 mined from Wyoming.

20 MR. DAVIS: So for preventative use in
21 irrigation ponds on farms, what would be the
22 typical growing season, how often would they
23 typically apply it, I guess, and how many times?

24 MS. KNOX: As you probably know, algae
25 can thrive under specific circumstances, but it's
26 not going to be a constant thing.

1 MR. DAVIS: Right. I mentioned growing
2 season.

3 MS. KNOX: Uh, correct. Uh, and one of
4 the biggest applications that we're looking at
5 using this for is for the rice industry where
6 there's a very short timeframe. It's only about a
7 two-week timeframe where they are actually worried
8 about the algae forming before the rice can grow
9 up through the algae mass. If you knock it down
10 then, the rice gets up through the algae mass and
11 it's fine. Uh, you only really need to apply once
12 or twice. Rice people aren't really going to
13 apply preventatively, though the average person
14 would probably apply it preventatively would be
15 our farmers, and I have, somewhere, a copy of our
16 label which gives the rates. And these are the
17 same rates that, uh, our competition has as well.
18 There are some other products out there on the
19 market with the same exact active ingredient. We
20 have, gosh, uh, two to nine pounds of the product
21 per acre foot of water per application.

22 MR. DAVIS: You mentioned the use in
23 rice. Your company is pursuing an EPA
24 registration for algae controlling rice?

25 MS. KNOX: I'm sorry; I didn't hear the
26 first part.

1 MR. DAVIS: You mentioned using this
2 product in rice. Is your company pursuing, uh, an
3 EPA registration for that?

4 MS. KNOX: We have. We have actually
5 received an amendment for that application.

6 MR. DAVIS: Oh, so you, that is an
7 allowed use?

8 MS. KNOX: Yes.

9 MR. DAVIS: According to EPA at this
10 time?

11 MS. KNOX: Yes.

12 MR. DAVIS: Because when we did our work
13 a few months back, we checked with the California
14 Rice Commission and I asked their regulatory
15 person about that, about using this material.
16 Could it be a good substitute for copper sulfate
17 use in rice, organic rice production to replace
18 copper sulfate? And she was like, boy, you're
19 really getting the cart before the horse, aren't
20 you? There's not even any EPA registrations for
21 that.

22 MS. KNOX: Well, it was approved this
23 past May, and I actually have an amendment in
24 before the state of California as well right now.

25 MR. DAVIS: Well, that's some new
26 information that, uh, if that had been part of our

1 committee deliberation would definitely have
2 influenced things because it would, at least in
3 rice production, for algae, uh, a better
4 environmental profile than copper sulfate. Bea.

5 MS. JAMES: I would like to request that
6 the crops committee take this form back and fill
7 it out again. So that it more accurately reflects
8 the true interpretation of the tap. And then
9 bring that back tomorrow.

10 MR. DAVIS: The board is free to over-
11 ride the crops committee, uh, recommendation if
12 they wish. Do you think that's necessary?

13 MS. JAMES: But I'm confused because on
14 your form you're saying that there is
15 environmental contamination during manufacture,
16 but what I'm hearing is that there's not. And
17 because I'm not on the crops committee -

18 MR. DAVIS: No, that whole line is
19 manufacture use or misuse. Not just manufacture.
20 So it is, yeah, it is a problem in discussing it,
21 it's probably a small environmental effect, but
22 that was the, we were splitting hairs as a
23 committee trying to figure out how small is this
24 and, you know. Andrea.

25 MS. CAROE: Well, you can take it to
26 extreme. Walking across the lawn is an adverse

1 environmental effect, you know. I mean, uh, I
2 think you have to, you have to be realistic when
3 we're talking about, I mean, and didn't the
4 petitioner just say that there's no change in the
5 Ph? So I'm concerned. I just don't feel, I think
6 this like the worst case scenario extrapolating
7 down to all possible, you know, situations that
8 aren't reasonable, aren't what's...Barbara is
9 behind you.

10 MS. ROBINSON: Here's my concern from the
11 program. If what I'm hearing is that you're going
12 to change your vote on this, but this, uh, the
13 form is going to be left alone; these are the
14 kinds of documents that, uh, become kind of our
15 historical reference. Uh, I don't care if all you
16 do is go through here, at least for us, I don't
17 care what happens to your forms, just to tell you
18 the truth, I don't, you know. But, you know, I
19 can't tell you how many times I go back through
20 historical and look at what previous boards have
21 done. It's kind of like my bible and I get them
22 out, I regurgitate them to the public, I give them
23 back to you and say, previous boards said this.
24 And it becomes the institutional knowledge, so if
25 you're going to change your vote, one of these
26 things has to be corrected for the record. To

1 reflect whatever it is you are determining now to
2 be, you know, the most accurate information about
3 this material. Uh, so that we've got something so
4 that a year from now, five years from now,
5 whenever it is, particularly when we get to sunset
6 on this material, if in fact it winds up on the
7 national list, but when we get to sunset, we don't
8 want to go back and say, how in good gosh did it
9 ever get on the national list?

10 MR. DAVIS: Bea.

11 MS. JAMES: I guess I just want to second
12 that because, uh -

13 MR. DAVIS: I agree with you.

14 MS. JAMES: Not only for the NOP, but
15 there's people on the board, myself, that I'm not
16 on the crops committee, it's not an area of my
17 expertise and I rely on your expertise giving me
18 accurate information.

19 MR. DAVIS: Right. Rigo.

20 MR. DELGADO: Well, don't forget that
21 this is discussion and we're here to hear the
22 comments from the petitioner, your comments and so
23 forth. And, uh, as a committee we have the option
24 of going back, reviewing those materials, those
25 comments and changing our vote. And I think, or
26 we may remain with the same one. We might be even

1 reinforcing our position. I think it's a part of
2 the process.

3 MR. DAVIS: As the crops committee chair,
4 we can definitely, we will convene on this and go
5 back over it and consider all this information.

6 [END MZ005021]

7 [START MZ005022]

8 MR. DELGADO: We do have new information
9 that the petitioner has provided, so I think it's,
10 the process is working. That's what I'm saying.

11 MR. DAVIS: And with the difficulties we
12 had with retrieving public comments and things
13 like that, I apologize. I did not see your
14 comments until I got them in this book here at
15 this meeting.

16 MR. KERREMAN: Just as a technical point,
17 okay, so let's say you have a sub-committee
18 meeting and you feel reinforced and you're going
19 to stick with your vote, just theoretically. And
20 then tomorrow, we as a board vote different than
21 what you guys, let's say with the sub-committee
22 vote tonight would do. What happens, Barbara,
23 because we are allowed to vote against their
24 recommendation and you want all the right stuff in
25 the -

26 MS. ROBINSON: We'll meet them in the

1 back hall and beat them up.

2 MR. KERREMAN: I mean, you know, we can
3 vote them down. And then, but they will have
4 already recorded what they...do we change things
5 before it goes to you, then? If the vote would go
6 opposite of what a committee vote is recommending?
7 Just wondering, really.

8 MS. ROBINSON: I don't know.

9 MS. CAROE: Can I, we are getting a
10 little off-track. This is kind of, kind of, yeah,
11 we're getting...we will make sure that there is
12 appropriate documentation if nothing else but
13 these wonderful transcripts to read about this
14 discussion about how we got to where we got to.
15 I'd kind of like to figure that out myself. But
16 anyway...Valerie.

17 MS. FRANCES: You do also your final
18 board recommendation and you have an additional
19 form on top of your committee recommendation that
20 you fill out and you can add additional stuff.

21 MS. CAROE: Thank you, Valerie.

22 MR. DAVIS: The crops committee will take
23 all these comments and new information under
24 advisement and be back with, uh, hopefully a
25 different, uh, recommendation tomorrow.

26 Uh, moving on to the next material. I

1 don't know; this one's a little easier. Sodium
2 Ferric Hydroxy EDTA. This has been petitioned,
3 uh, to be added to the national list as a snail
4 and slug bait. Section 205601.h. Uh, the crops
5 committee, uh, voted six to nothing; we had
6 everyone present at this consideration to reject
7 this petition based on its potential impact on
8 humans and the environment. Particularly the EDTA
9 portion of the molecule was the deciding, the key
10 area that bothered us. Uh, is it essential and
11 available? We said, "No," on that also because
12 there is already another material, ferric
13 phosphate that is not on the national list yet but
14 it's in the process. Uh, which, so there is
15 another material with a little less, uh, a little
16 better environmental profile that was approved by
17 a previous board. And we didn't feel it satisfied
18 the criteria on criteria 3 compatibility
19 consistency with, uh, organic rules in farming
20 either. Uh, there was a lot of information on, on
21 EDTA. It's very commonly used industrial chemical
22 in many, many things. And, uh, we really didn't
23 like that material. I mean, there's nothing that
24 killed this material in our, the committee's mind
25 quicker than, than having an EDTA approved on the
26 national list. Uh, so, do I have any comments or

1 questions on that? Bea.

2 MS. JAMES: What was your, uh, committee
3 vote?

4 MR. DAVIS: Six to nothing to reject it.

5 MS. JAMES: To reject it.

6 MR. DAVIS: Andrea.

7 MS. CAROE: Gerry, uh, without going
8 through all the comments, did you receive public
9 comment on this material, besides the tap and the
10 petition? Did you have any other information that
11 you were considering in your decision?

12 MR. DAVIS: Uh, I don't know. Just to be
13 brutally honest with you. I tried to go on
14 EPA.gov and gave up. So I opted, admit that I'm
15 not prepared to answer that question. Can you?

16 MS. ELLOR: Well, I mean as far as I can
17 recall, and I did read all the comments posted, I
18 didn't see any comments about it at all.

19 MR. DAVIS: Hearing no other comments or
20 questions, let's move on to the sunset items. Oh,
21 Kevin, go ahead.

22 MR. ENGELBERT: Before we move to the
23 sunset, I'd just like to make one quick comment
24 about in defense of the crop committee and they
25 work that we put in on those three petition
26 substances. We tried to attack our work plan a

1 bit at a time. Two items a month and we started
2 right after the last meeting. And there's
3 obviously been information that has come on board
4 since the time that these materials were looked at
5 a long time ago. And we did our best at the time
6 with what we had to work with. It may seem like
7 there was no logic involved, but there was. We
8 had to be convinced completely that these items
9 were in the best interest of the organic
10 community, the organic industry to be put on the
11 list. And at that time, we were not convinced.

12 MR. DAVIS: What's the first material?
13 Calcium chloride? Uh, oh where are you? Let me
14 see that. First material, calcium chloride. Uh,
15 this material is on the national list as a
16 prohibited non-synthetic substance. Uh, with the
17 annotation that, uh, reading the brine process is
18 natural and prohibited for use except as a foliar
19 spray to treat a physiological disorder associated
20 with calcium uptake. Uh, we reviewed this and
21 voted to leave it on the national list as
22 annotated. With, uh, some public comment, I'll
23 call it public comment but it, it comes from a
24 California, uh grower, namely myself. With some
25 concerns that I wanted to read and it's merely,
26 mostly just a call to someone who I think should

1 petition this material to try to fix it. It was
2 petitioned last year to be, uh, have this
3 restriction removed so it could have unlimited use
4 as a soil amendment and it was voted down. Uh,
5 for that purpose, but I wanted to read in my
6 opinion the way it should be used. Uh, the
7 present annotation I think is overly prescriptive
8 in its foliar spray use guideline. Modest
9 application rates applied with the proper methods
10 in irrigation water can supply calcium nutrient
11 without significant soil or water contamination
12 and with less salt burn to the crop foliage than
13 applying it filially. Particularly in sensitive
14 vegetable and greenhouse crops. Number two, the
15 current annotation does not address the fact that
16 chloride is an essential plant nutrient and can be
17 deficient in some situations. Uh, some irrigation
18 waters in California and probably other places
19 that are based on snow melt, which is very pure
20 water with no minerals in it, uh, can really
21 benefit from a small amount of calcium chloride
22 added to it. It's far better than adding sodium
23 chloride or even potassium chloride. Uh, number
24 three, the limitations on calcium chloride, uh,
25 use are much more restrictive than the other mined
26 natural chloride materials allowed in organic

1 farming at this point. The potassium chloride
2 annotation reads, you know, that its prohibited
3 natural unless derived from a mine source and
4 applied in a manner that minimizes chloride
5 accumulation in the soil. Magnesium and sodium
6 chloride, although both high solubility mined
7 substances, are not on the prohibited non-
8 synthetic list at all. Some consistency is needed
9 in how these materials are listed. Uh, one
10 suggestion would be to, uh, to try to bring
11 consistency within all the natural mined chloride
12 materials is to, uh, try to clean up these
13 annotations with, uh, more consistency with
14 something such as, uh, calcium chloride or
15 potassium chloride, whatever. Unless derived from
16 a non-synthetic mine and/or brine source and
17 applied in a manner that minimizes chloride
18 accumulation in soils, sub-soils, surface waters
19 or ground water. Uh, and thank you for letting me
20 provide my public comment on that material. Uh,
21 do you have any questions or comments on our vote
22 on leaving calcium chloride on the list as
23 annotated?

24 MR. KERREMAN: Question for tomorrow, I
25 guess, would be if we vote yes for this, I mean,
26 how does this, you will explain this because it's

1 kind of like, uh, it's like a negative negative,
2 prohibited.

3 MR. GIACOMINI: The motion is to retain.

4 MR. KERREMAN: Retain.

5 MR. GIACOMINI: On the list on 602.

6 MR. DAVIS: What's next on the agenda?
7 Copper sulfate in rice? Uh, copper sulfate in
8 rice production as, uh, as an algaecide and also
9 as insecticide for tadpole shrimp control. Uh, we
10 checked with the California Rice Commission and
11 the biggest California Rice, Organic Rice producer
12 and the situation has not changed with concerning
13 this material as far as its need in their
14 production system. Uh, the Rice Commission even
15 stated the fact that there's no replacement for it
16 even in non-organically grown rice. It's
17 universally used. Uh, the information from the
18 last petitioner that stood up here, if what they
19 say is true and it can be used, there's no, I
20 guess in California they'll have to prove that
21 with their California EPA before this country's
22 rice production, organic rice production would use
23 this type of material, would be able to use it.
24 So that is new information that I was just
25 informed of a few minutes ago obviously. Uh, but
26 until I heard that, it was assumed that there was

1 not a replacement, it's still needed and we voted
2 to, uh, retain it on the national list for the,
3 the uses mentioned. Any questions?

4 MR. GIACOMINI: I just want to make sure
5 this covers both listings?

6 MR. DAVIS: Both listings. We, uh, the
7 recommendation on the screen now has been
8 corrected. It was mentioned yesterday in public
9 comment that we had neglected to put the "as
10 insecticide" category on there. So it is
11 corrected now to include both, uh, categories.
12 The committee discussed both categories but
13 neglected to notice that it is two separate
14 categories and that it needed to be listed that
15 way.

16 Okay. Moving on to the next material,
17 ozone gas. Uh, it's on the national list
18 currently for use as an irrigation system cleaner
19 only. Used in this way, this material would
20 typically be generated on the farm with equipment
21 designed to produce O₃ gas, ozone, from
22 atmospheric oxygen and injected into irrigation
23 water. Uh, it's a strong oxidizer. It kills
24 algae and bacteria and keeps irrigation lines
25 clean. Uh, in checking with a variety of
26 certifiers, some interest was found for keeping

1 the material and no strong feelings were expressed
2 for removing from the list. Uh, did we receive
3 any comments on ozone? Other than those? Okay.
4 And there's no comments that were submitted as
5 part of the record for this meeting. So we voted,
6 uh, six to nothing to retain this material, uh and
7 renew it to the national list for this use only.
8 Uh, as an algaecide and for irrigation system
9 cleaner only. Any questions or comments?

10 MS. MIEDEMA: I want to make one, Gerry,
11 and that's just because our process on the crops
12 committee differed a little bit from Julie's
13 committee in handling. Julie told everyone
14 earlier about the lack of public comments. Uh,
15 their decision because of lack of public comments
16 was to vote no to illicit the comments. Uh, we
17 did the Google route basically and got on the
18 phone and tried to beat the bushes and find out
19 whether these were still useful materials. And,
20 uh, vote to retain, you know. I'm thinking if
21 we'd have said, "No," we'd actually, we would have
22 elicited the comments. So I just wanted to point
23 out in case anyone had noted that incongruence.

24 MR. DAVIS: Uh, at the last round of
25 sunset, I forget when that was, two years ago now?
26 Uh, the crops committee tried that with a

1 material, which one was that? Hydrated lime, and
2 we got our ears pinned back. We didn't hear any
3 comments. We didn't think that anyone used it.
4 And boy did we hear about it at that meeting.
5 There were many, many comments. So we tried that
6 tact where we'll, let's just try it and just drop
7 this and see if we get any comments. And it is an
8 interesting way to get comments. Joe.

9 MR. SMILLIE: I don't want to be a stick
10 in the mud, but once again, I think that copper is
11 one of those things that builds up. It can be
12 toxic, we had a good little discussion of it in
13 the marine world, and I think it's one of those
14 issues in organic farming that we've just got to
15 keep pushing to try and find replacements for.
16 For a fact, I mean it's not hard to -

17 MS. CAROE: I just want to remind people
18 that we are not -

19 MR. SMILLIE: [Inaudible]

20 MS. CAROE: No, that's not what I was
21 going to say. Just give me a chance. We are not
22 evaluating this material for listing. This is
23 sunset. This is sunset; this is not about re-
24 reviewing the material. It's are there any
25 changes; is it still needed? That's it. Unless
26 you're telling me, Joe, that they've come up with

1 alternatives, or unless there's more, new
2 information since the tap was originally reviewed
3 by the board that put it on the list, you know, we
4 don't need to go there.

5 MR. KERREMAN: I have a question. Or if
6 there's new information about the material, right?
7 So like in livestock, using copper sulfate foot
8 pads that are put on the land all the time,
9 Cornell's done studies in New York that you get
10 toxic levels of copper buildup on your farmland
11 pretty darn quick. Is that, but that's livestock;
12 that's not crops so I shouldn't enter that, but
13 you know, we're talking copper sulfate on land.

14 MS. CAROE: But exactly. That is the
15 type of information you look at during sunset, is
16 new information like that. But, uh, re-evaluating
17 old information is not the duty of this board
18 during the sunset process.

19 MR. DAVIS: And we might be backtracking
20 a little bit to copper sulfate, uh, the petitioner
21 that was up here for the sodium carbonate
22 proxyhydrate, uh, that might be an example where
23 when they do get California EPA approval of their
24 material for use in rice and when it is looked at
25 by the rice growers to see if it is effective,
26 then the next cycle might be an opportunity for,

1 in rice, we can get rid of that, the old dog. But
2 I think it would be premature to do it this time
3 around because, again, I didn't realize that they
4 were this close to getting at least the federal
5 EPA approval of that usage, which California can
6 come a year or two behind federal easily, as far
7 as giving the approval for growers. So. Okay.
8 Next material.

9 The next material, Peracetic Acid. And
10 that is for, uh, use as an algaecide,
11 disinfectant, sanitizer and including irrigation
12 system cleaners and as plant disease control. Did
13 we get comments on this? Uh, my crops committee
14 secretary to my left tells me that she did not
15 notice any comments provided in the public record
16 for this meeting on this material. Uh, it is, uh,
17 another way of delivering the sanitation power of
18 hydrogen peroxide, uh, in a less caustic, safer to
19 use form than straight hydrogen peroxide. It's a
20 combination of hydrogen peroxide and vinegar,
21 acetic acid. Uh, this is for surface disinfection
22 on equipment and seed, things like that. And as
23 such is a viable and possibly more desirable
24 material than the chlorine materials and also for
25 controlling fire bacteria in apples and pears.
26 I'm not aware of products on the market at this

1 point that include peracetic acid for use in
2 pears, but I am told that there are companies that
3 have, who work with this material that it is only
4 a matter of time before they get an EPA approved
5 product so we wouldn't want to stand in the way of
6 that because it could be a potential replacement
7 material to use in conjunction with biological
8 controls to replace the streptomycin's and
9 tetracycline use that are so, there is so much
10 resistance for using in pears. Uh, so the
11 committee voted to, six to zero, to retain it on
12 the national list. Any questions or comments?
13 Steve.

14 MR. STEVE DEMURI: Is this another one
15 where you had to call people that you knew to be
16 using it to find out if it was still being used?

17 MR. DAVIS: It is being used as a surface
18 sanitizer fairly commonly. Uh, I don't know why
19 no one made any comments. Uh, there's another,
20 uh, listed use, national list use for this
21 material that is, was only published in the
22 national register last year, I believe, for use as
23 a food contact substance also in like wash out for
24 vegetables and so forth in handling. Uh, when
25 you're packing vegetables and so forth and fruit.
26 Why we didn't get any comments, I don't know. But

1 it is common knowledge within the expertise of our
2 committee to know that it is being used. Go
3 ahead, Bea.

4 MS. JAMES: Uh, two years ago we heard
5 from the state of Washington. They came up and
6 they were, uh, petitioning for the renewal of
7 streptomycin and tetracycline. And I think it's
8 pretty exciting to know that there is an
9 alternative for that for fire blight on pears and
10 apples. And I'm wondering if you have any
11 information as to whether or not any of those, uh,
12 farms or crops in the Pacific Northwest are
13 currently using this alternative. And if it was
14 available for them to use two years ago?

15 MR. DAVIS: there was not a, uh, EPA
16 registered paracetic acid material for apples or
17 pears registered at that time. And I'm not sure
18 if there is as yet. Uh, there are some contacts
19 that the committee has with the Pacific
20 Northwest/Washington Pear producers and who, they
21 are testing other alternatives to streptomycin.
22 Even on a conventional basis because they're
23 always, the threat of resistance and problems with
24 the material breaking down not accomplishing their
25 controlled goals. Uh, we'll just try to monitor
26 that, but as yet, it's still, they're testing the

1 biological, uh materials that would antagonize the
2 growth of the fire blight. Those by themselves
3 are not adequate; they get part-way there but the
4 disease is very devastating and it's not nearly
5 good enough control by themselves. So, uh, in
6 discussions I've had with those people they say
7 yeah, wouldn't it be nice if a company would
8 finally step forward and spend the money to get an
9 EPA registered material and that's the hurdle.
10 That's the difficulty is that it's small use,
11 small crop and it costs a lot of money to register
12 peracetic acid.

13 Uh, the next category of materials would
14 be the EPA List Three Inerts. And I hate to put
15 you on the spot, Tracy, but do you want to take a
16 stab at this one since you did so much work on it?

17 MS. MIEDEMA: Sure. Okay, so this is
18 specifically, this refers to EPA List inerts used
19 in passive pheromone dispensers only. And they're
20 referred to in 7 CFR Section 205.601.m.22. Okay.
21 Our decision was as a committee we vote
22 unanimously to retain these List 3 inerts on the
23 national list. And the quandary we were in is that
24 EPA is going through a, a new system of
25 decategorizing lists. And so we've had this
26 situation of lumping anything under one List 3.

1 And we needed to basically draw a line,
2 grandfather things in and make the public very
3 aware that future petitions to add, remove or
4 renew an inert ingredient to the national list
5 will need to reference a specific inert
6 ingredient. And so there's not this sort of
7 blanket categorization of inerts. We won't have
8 that available to us.

9 MR. DAVIS: So to give a little more
10 detail, the, I guess no one else is using these
11 EPA List 3, List 4, those designations are gone.
12 And they don't really, aren't being used other
13 than this reference at this point. And, uh,
14 that's why we wanted to make sure in, with this
15 recommendation and vote that it was clear that
16 this can not be, uh, relisted the next go round
17 again this way because it will be so far from, it
18 will be changed so long ago by then there's no way
19 we can continue this List 3 Inert grouping in
20 passive pheromone dispensers. Each material would
21 have to be re-petitioned individually. Tracy, go
22 ahead.

23 MS. MIEDEMA: And I guess I failed to
24 mention our reasoning for, uh, the importance I
25 guess of the passive pheromone dispensers and,
26 yeah, this is another situation where we didn't

1 have any comments to go on. No one was asking us
2 to keep this around and we really did just get on
3 the phone and we were calling orchardists and
4 talking to fruit farmers and anyone who uses these
5 traps. You know, how important are these? And
6 the general, uh, consensus among organic farmers
7 is that this was an important tool.

8 MR. DAVIS: Kevin.

9 MR. ENGELBERT: I just want to back up
10 what Tracy said. I called three small orchardists
11 that I know and they were all unanimous. They had
12 to have these to be able to continue to grow
13 organic fruit.

14 MR. DAVIS: Hugh.

15 MR. KERREMAN: Uh, is there any way,
16 maybe it's like such a long list, but to actually
17 name the List 3 inerts? And if they get re-
18 classified and different nomenclature, fine. It's
19 this listing of these three, whatever inert List 3
20 that we mean.

21 MR. DAVIS: I checked with, uh, CCOFs
22 materials expert, Sia Sonnebin [phonetic] about
23 this and she did some checking. Asked some of the
24 manufacturers of the pheromone traps what they are
25 using. As near as I can tell there's about three
26 or four of them. And she gave me that information

1 in an email, and I can forward that to you. But
2 it wasn't, it wasn't good enough to publish as a
3 statement from CCOF. It was just an email say,
4 "Yeah, it's this one, this one, and this is what
5 they're doing with it."

6 MR. KERREMAN: Well, I'm just wondering,
7 could you canvas the certifiers that are
8 certifying these kind of products and just, I know
9 it's homework and everything, but if the EPA isn't
10 using this nomenclature anymore and people want
11 these products that are under this List 3, you
12 kind of have to do something different than just
13 say List 3 inerts because it doesn't exist.

14 MR. DAVIS: Most people don't even
15 realize that these materials are in pheromone
16 dispensers. They don't have a clue. All they
17 know is they need pheromone dispensers; they don't
18 realize there's an issue with these inert
19 ingredients that are part of the lure that
20 releases the pheromone. So it's such a disconnect
21 that people don't even know to comment. And I
22 think the more direct way would be to go to the
23 manufacturers and make sure they've seen this
24 information and then they respond. Andrea.

25 MS. CAROE: From what your presentation
26 has, uh, provided for us is that this is an

1 evolving issue. That EPA is working on, there's
2 changes being made, and I, although this is all
3 very interesting where it's going and it's very
4 helpful, but for today, uh, for this material it
5 just seems that at this point re-listing is
6 appropriate and that we understand that at some
7 point in the future change may be needed. But at
8 this meeting we don't have the information to make
9 that change. In order to make a docket to keep
10 this from sunseting, action needs to happen here.
11 So -

12 MR. DAVIS: Right.

13 MS. CAROE: I don't know, I don't know
14 that we need to spend a whole lot of time, uh,
15 theorizing where this is going to go. The action,
16 you know, just to keep us on track for what we're
17 doing here today, is it's still needed. There may
18 be some changes coming but it's still needed.
19 Let's move along.

20 MS. MIEDEMA: And just to point out
21 clarification for you, Hugh, basically the List 3
22 is a lot longer than is needed for the materials
23 that are in these passive pheromone dispensers.
24 But we kind of have to take this big, broad brush
25 at this point, capture everything that was on
26 there, that's why we have this URL listed that

1 captures the moment in time when this changed, uh,
2 rolled over and then in the future, it will just
3 be the things needed.

4 MS. ROBINSON: We don't have a petition
5 for those materials. We have sunset for a present
6 listing.

7 MR. GIACOMINI: I just have a quick
8 question. When will this listing not make any
9 sense to the government?

10 MR. DAVIS: It already does not make
11 sense to the government. It's a done deal. It's
12 over. We are lagging behind.

13 MR. GIACOMINI: I know, but if the list
14 no longer makes any sense to the government, I, I,
15 I don't understand the, I understand we, there's
16 things that will be come unavailable. But I don't
17 understand the value of, I mean -

18 MS. ROBINSON: Yeah. It makes sense
19 right now, okay.

20 MR. GIACOMINI: Okay.

21 MS. ROBINSON: It's good.

22 MS. CAROE: Thank you, Gerald. Uh, okay,
23 we are, of course, way behind already. Uh,
24 certification, accreditation, compliance,
25 compliance accreditation, certification committee.
26 This is going to take a while. What time is it?

1 Alright. I'll turn it over to you, Joe. You can
2 get started.

3 MR. SMILLIE: Yeah. We'd like to get
4 started because this may take a while. Uh,
5 basically the certification, accreditation,
6 compliance committee has a lot of things we looked
7 at, uh, on our work plan. We decided on three
8 specific items that, uh, two currently are
9 recommendations and one's a discussion paper. Uh,
10 basically we're going to look at standardized
11 certificates. We're going to look at, uh,
12 commercial availability and we're going to look at
13 multi-site operation certification.

14 The first two are currently listed as
15 recommendations. The third has been switched as
16 of yesterday, two days ago to a discussion paper.
17 The way we'll handle it is we'll deal with each
18 item separately and the conversation will be led
19 by the principal author of that paper. And I'll
20 provide sort of the background, uh, to the reason
21 why it became a priority for us to deal with it.

22 So I think what we'll try and do, Madam
23 Chair, if it's okay with you, we'll do the
24 standardized certificate one, and then if you feel
25 we'll break as necessary before one of the others,
26 we can do that.

1 MS. CAROE: At your lead.

2 MR. SMILLIE: Uh, so basically with
3 standardized certificates, uh, it became apparent
4 in the industry that, uh, the, the wording and the
5 specifications for a certificate were not adequate
6 to, to provide the needs for not only certifiers
7 but also for people getting these certificates.
8 There was too much wide variety and I remember to
9 my shock a few years ago when the program said no,
10 they don't even have to say the certificate
11 implies the, uh, you know, under compliance of the
12 7 CFR Part 205. And I was in shock. I said well,
13 it's got to say that. Well, there's no place in
14 the regulation where it specified it has to say
15 that. So upon hearing that, things started into
16 motion and the result, basically at this point in
17 time is what we are looking at as a recommendation
18 for a standardized certificate. Uh, that's the
19 motivation for it. Uh, we need to have much more,
20 uh, consistent information that's on a certificate
21 and, uh, at this point in time the committee has
22 come up, uh, with this recommendation and I'll let
23 the, uh, principal author, Jennifer Hall, take it
24 from there and walk the, uh, the committee through
25 it, uh, board through it.

26 MS. HALL: So our committee, uh,

1 presented the recommendation for standardized
2 certificates the first time in fall of '06, and we
3 were fortunate enough to receive ample, uh, public
4 comment that we took back and then re-presented
5 the recommendation as a discussion item last
6 spring. Following the feedback we got from that,
7 we did make some adjustments, uh, and in
8 205404.b.5, we changed, uh, our request for crop
9 names to basically list the common trade name of
10 the item. Uh, 205404.b.6, we added to request the
11 actual category of organic certification. And in
12 205404.c.1 was added, which was a request for it
13 to be written or translated into English. C2 was
14 changed, uh, and was just less prescriptive and
15 just said if we have additional pages are allowed,
16 if they are there, they do though need to have how
17 many pages there are so that there is a tracking
18 of what should be included.

19 Uh, so those were the basic changes. We
20 did receive some public comment, uh, a couple of
21 comments about the fact of just reminding people
22 that 404.b.3 effective date of certification is
23 just that. It is not an expiration date. Uh, and
24 so people were requesting reinforcement of
25 expiration dates which is something we actually
26 already discussed and approved for recommendation

1 to the NOP in a prior recommendation. So, uh, and
2 that was in fall, the fall '06 meeting. So that
3 is already done and we are requesting that. So
4 this, those two issues are separated on purpose,
5 uh, by design of basically thinking there might be
6 some resistance to the expiration date item but
7 not so much to the items that we're recommending
8 today.

9 So our understanding is that when this
10 gets modified, all of those things, the expiration
11 and the standardization things that we are
12 recommending today would come out in one thing
13 from the program.

14 Uh, the other comment related to 205404.d
15 and it was the very end of that sentence which
16 essentially is or should the certification be
17 allowed to expire, uh, and as we looked back, that
18 actually is a hold over. That phrase alone is a
19 hold-over from the expiration recommendation. And
20 so that will be modified in our recommended vote
21 for tomorrow.

22 MR. DAVIS: And further clarification,
23 the real issue, well, what seemed to be the last
24 remaining significant issue was how much
25 specificity about the crop and there was a wide
26 disagreement about how specific, and uh, different

1 sectors had different expectations. Uh, we went
2 back to the ACA and the NASOP, I asked those two
3 groups to get together and see if they could come
4 up with something. We got pretty close. What we
5 agreed is we couldn't be too specific and we
6 couldn't be too general. The example we used was,
7 uh, we didn't want to see a certificate say, you
8 know, and have someone selling blue corn chips and
9 the certificate saying blue corn, and the
10 certificate saying grain. Then we went through
11 the whole genus family order of species and
12 decided that was not going to work either. So we
13 batted around a number of suggestions, talked a
14 number of people and finally came up with, you
15 know, basically a simple, common sense solution,
16 the common trade name. So that when someone sells
17 blue corn, they don't call it corn, they call it
18 blue corn. When they sell turnips, it's not, you
19 know, red and white turnip or purple turnip, it's
20 just a turnip. Uh, so even though it's loose we
21 think it provides enough specificity for the
22 certificate to be read accurately but not too
23 specificity that requires like the specific
24 variety or down to such detail as it's purple
25 broccoli or pack-man broccoli or something like
26 that because that would be putting too much of a

1 burden on both the certifier and the grower. So
2 by going with the common trade name, uh, we think
3 that that should solve, for most cases, the, the
4 degree of specificity, uh, on the certificate.

5 MS. HALL: Is there any discussion? Yes,
6 Dan.

7 MR. GIACOMINI: Uh, I just, I want to
8 thank you for the work. I, I like what you've
9 done with number 5. I remember, uh, a number of
10 years ago the first time I saw, uh, a certificate
11 on a dairy farm that had gone through the 8020
12 conversion so thus their cows were not anything
13 that could be sold organic, but yet the only thing
14 that was ever listed on their certificate was
15 livestock. It wasn't listed as milk, their milk
16 was not listed but yet their livestock were not
17 actually organic animals. They were animals that
18 were able to produce organic through the 8020.
19 So, uh, I think five will help on that. I have a
20 question about the value in what is gained by
21 number 6. Uh, the, the processor or whoever will
22 have to, uh, get approval for any changes they
23 make but, uh, are they going to need to get a new
24 certificate?

25 MS. HALL: Julie.

26 MS. WEISMAN: Uh, that, I think for

1 handling and for process, multi-ingredient process
2 products that has to be on the certificate
3 because, uh, uh, not all, I'm trying to think of
4 an example, but you could have something that
5 could be the same common name, you might be
6 selling just the same common name, but it's, it's
7 becoming increasingly important for, uh, customers
8 to know whether the ingredient that they're buying
9 is 95% or 100% because they have percentage
10 formulation requirements that they have to meet.
11 They have to know that.

12 MR. GIACOMINI: So the listing items in
13 number 6 will be per item in number 5?

14 MS. HALL: Yes. Chair, did you have a
15 comment? I saw Steve; you were first. Oh, sorry.
16 Barbara.

17 MS. ROBINSON: I, I appreciate the spirit
18 of this. I just, I have to raise some issues with
19 you from the program on this. Uh, number one of
20 course and I know that you've gotten this feedback
21 before, uh, the regulations say that, uh, uh,
22 certification does not expire. Okay? So, that
23 doesn't mean you can't change it, of course. That
24 you can recommend to have expiration dates on
25 certificates. However, and you, yes, you can
26 recommend to have all this stuff put on a

1 certificate. Now the consequence of this is, uh,
2 pretty big burden on certifying agents. Uh, wait
3 a sec; I'm not done. Uh, and then you will have a
4 lot of non-compliances being issued. And I do
5 mean a lot. Because anytime, anytime an
6 operation, let's just take your products to be
7 listed, or categories of operations, anytime an
8 operation decides to make a change, uh, any time
9 they make a change, if they don't hurry up and
10 contact their certifying agent and the certifying
11 agent doesn't get right out there and amend the
12 certificate, uh, and somebody complains, and
13 complains to the NOP, they start the ball rolling
14 here. And you can have non-compliances issued.
15 And, if I'm going to truly do what I say and start
16 ENOPing and putting all this up on the web, uh,
17 how's everybody going to feel when they find their
18 companies listed for non-compliances because their
19 certificate were out of date or because this
20 happened or that happened. And what if the
21 certifying agent doesn't get out there and now
22 you're going to give me a grower group
23 recommendation, and how are we going to handle
24 that one? You know? I want you to think about
25 this because you, the more, the more restrictions,
26 the more information you put on this, I'm not

1 telling you we're just going to reject it, I'm
2 just telling you to think down the road here. The
3 more you put on a piece of paper that binds a
4 company or a producer, the more you are putting,
5 you know, out there for potential non-compliance.
6 That may be sort of a no-fault situation here; it
7 may just be a matter of time. Something to think
8 about.

9 MS. HALL: Andrea, and then Joe.

10 MS. CAROE: Alright. I've got to address
11 a couple of things here. Uh, one is if an
12 operation changes, uh, their operation as
13 reflected in their OSP and they don't tell their
14 certifier, they don't update it, they're already
15 in non-compliance. Uh, so they have to update
16 that anyways. That's already in there. Two in
17 regards to expiration date, this board did already
18 pass last, last meeting a recommendation to add
19 expiration dates and to rule change and that work
20 item was put on our work plan because of the
21 urging of the program to do so. So I hear what
22 you're saying and, you know, that's the premise
23 that we were going on before and then things
24 changed and we said, you know what, we were told
25 expiration dates would help. We did the work, we
26 passed the recommendation. Uh, this is to reflect

1 that OSP that is still current, uh, so we kind of
2 went down this road. And, yes, I, I'm fully
3 familiar that there will be non-compliances, but
4 they're out there already. It's just that we
5 don't know about them. Uh -

6 MR. SMILLIE: Well to carry on with that,
7 uh, basically it's, uh, we feel that, uh, that
8 these things...first of all, when you say you have
9 to get out there, the certifier does not have to
10 get out there for most of these changes. These
11 are within an OSP. These can all be done via
12 email. Certificates can be cut, when you're
13 working with a distribution or trading company,
14 it's a continuous operation. This idea of
15 certification being a once a year event is only in
16 a few people's minds who don't know what
17 certification's about. It's a continuous back and
18 forth between the client and the certifier. It
19 never stops. Never, 24/7, and certificates are
20 part of it.

21 The second thing is that for us not to
22 have the phrase "certified as compliant with the
23 USDA's national organic program," is absolutely
24 unacceptable. Uh, we get certificates that have
25 to specify -

26 MS. ROBINSON: I don't disagree with

1 that.

2 MR. SMILLIE: Okay. Well, uh, the common
3 trade name is really important. We're seeing a
4 lot of activity going on with just too broad of a
5 designation. Some certifiers have much more
6 specific than this. Some have very little. And
7 we're trying to get some consistency. Uh, down to
8 the products listing; that's become a huge item
9 because of the programs and continuous re-
10 evaluation of, for example, what creates 100%
11 product? And the program's continual insistence
12 on accurate numbers for formulation, meaning that
13 if you sell a product to, uh, to, uh, a
14 manufacturer, they're not allowed to use that
15 organic product under NOP's instruction basically
16 as 100%. They have to use it as like 95, 96, 97%.
17 Talk about burdens. There's one I'd love to cut
18 right out. So the new things that we added we, we
19 feel are, are pragmatic and practical and that
20 certification organizations can accomplish it. We
21 didn't get a lot of feedback so, uh, I would like,
22 uh, I would like to hear from my fellow
23 certification agents, or from the community, uh,
24 if this is overly burdensome. I think it's
25 necessary for the flow of trade.

26 MS. HALL: Any further comments from the,

1 from the room?

2 MR. DEMURI: I have one.

3 MS. HALL: Okay.

4 MR. DEMURI: Uh, as a large manufacturer
5 that uses hundreds of organic ingredients from
6 probably 50 or 60 different suppliers, I applaud
7 this because it is a huge nightmare to keep up
8 with the certificates on a daily basis. We have a
9 couple people that that's all they do. And the
10 way they're written now, that's really, really
11 tough. So the more information we can get on
12 these certificates, the better off we're going to
13 be.

14 MS. HALL: Bea.

15 MS. JAMES: I would echo that. That if
16 you're, uh, under voluntary certification as a
17 retailer to try to track certificates and
18 interpret their meaning has, can be a real
19 challenge. So even though the burden's going to
20 fall somewhere, and right now, the burden is
21 really in the hands of people who are trying to
22 interpret and understand and make sure that the
23 certificates are actually accurate and still
24 valid. So...

25 MR. KERREMAN: I have one thing also.

26 There was a large organic dairy auction in our

1 area about a year ago. And I had the fortune or
2 misfortune to be very involved with that. And I
3 saw certificates coming through from various
4 certifiers; it was a nightmare. So even when it
5 comes down to livestock stuff, not just handling
6 and all, it would be helpful.

7 MS. HALL: So hearing no further comment,
8 we'll move to commercial availability.

9 MS. CAROE: How does the board feel about
10 a break? Or do you want to move forward? Okay,
11 hearing no objection, we're going to move forward.

12 MR. SMILLIE: Uh, second item on the list
13 is, uh, commercial availability. And, uh, where
14 do we go on this? Basically, uh, this has always
15 been needed. We've always known right back from
16 the very earliest days of the board, Jay or Rich
17 are in the audience, commercial availability we
18 always knew was just one of the most toughest
19 things to deal with. It's basically impossible
20 and we all do our best. However with the advent
21 of the Harvey law suit and the enriching of list
22 606, we realized that commercial availability
23 basically applies to two things in the regulation:
24 606 and organic seeds. So basically with the 606
25 list now being as, uh, small as it is, or as large
26 as it is, depending on your point of view, uh, we

1 really felt that, uh, we needed to get a
2 recommendation out, another recommendation. There
3 have been previous recommendations on commercial
4 availability out because certifiers are now, right
5 now, faced with deciding whether someone can use
6 something off 606 or not based on commercial
7 availability. And it's really important for the
8 certification community to basically achieve some
9 sort of level of consistency on their
10 interpretation of commercial availability. So
11 this recommendation actually, in a certain sense,
12 is motivated by 606 and motivated by the pleas of
13 the organic seed community for help in enforcing
14 that regulation and, uh, the need for, uh, some
15 sort of consistent interpretation there also, as
16 well as, 606. And it's also basically designed to
17 help motivate, uh, even with the financial
18 considerations, the NOP to, you know, to move into
19 action to create some sort of training for
20 certification agencies on applying commercial
21 availability. Uh, that's the reason why we're
22 making this a recommendation. If there wasn't
23 that sense of urgency, I think we would rather
24 have it as a discussion paper because we realize
25 that there is a lot of issues in here, and we did
26 get a lot of push-back. And I'll ask Bea, the

1 principal author of this document, uh, to explain
2 why we did what we did and some of the things that
3 we see in the future for, uh, for how, the future
4 of this document.

5 MS. JAMES: Thank you, Joe. Uh, so
6 although our recommendations have been submitted
7 to the NOP by the handling committee, and actually
8 on January 18th of this year, the NOP did release
9 a notice of guidelines on procedures for
10 submitting, uh, national lists petitions, we're
11 still not quite there as far as clear enough
12 guidelines so that petitions are submitted with
13 sufficient information to the board. And I think
14 that we all saw evidence of that at, uh, the March
15 2007 NOSB meeting in which many petitions
16 submitted for the inclusion onto the national list
17 were received by the NOP but not all of the
18 petitions were eligible for consideration. And in
19 part that was due to the fact that some of the
20 petitions did not contain sufficient information
21 as far as the documentation of commercial
22 availability. And part of the reason for that is
23 that there's really, currently, not strict enough
24 and clear enough criterion guidelines around that.

25 Uh, and yesterday we did hear quite a few
26 comments, uh, as far as having seed in the

1 document. So before I continue, I would just like
2 to address the issue of commercial availability of
3 seed. Uh, one of the difficulties of having seed
4 in this recommendation is due to the fact that
5 petition procedures for 606 are for agricultural
6 ingredients used in handling and not for
7 petitioning for the use of non-organic seed. And
8 currently there are no requirements that farmers
9 petition the NOSB to review and recommend a
10 listing of varieties of seeds as commercially
11 unavailable as, uh, organic. And we did hear
12 from, uh, quite a few people and we also, uh,
13 received several public comments, uh, as far as
14 the idea of a database of, uh, commercial,
15 commercially available or unavailable seed seemed
16 to overwhelm many people in the industry. So,
17 and, uh, so the CAC had many discussions about
18 whether or not seed should be in the document.
19 Uh, I actually take responsibility for pushing it
20 through. Joe kept saying, well, you're going to
21 get it. And I said, yeah, but I think we want to
22 because I, because it's important to bring this up
23 to the surface of the industry and really make
24 sure that we do something about the situation of
25 commercial availability with seed. So, uh, uh, we
26 all understand the complexity of commercial

1 availability of organic seed but in the end
2 decided that the accountability of sourcing and
3 having guidelines for tracking organic seed is
4 just as important as any other agricultural
5 material or ingredient. However, we have also
6 heard from the public and because of that, uh, we
7 are looking at the possibility of reconsidering
8 that in the recommendation. And, uh, yeah, I just
9 have to say, kind of on a side note, is that, uh,
10 I was very impressed at the number of comments
11 that we heard, uh, for strict standards for
12 aquaculture. Yet I'm also amazed at the number of
13 comments that we have heard asking for not so
14 strict standards for the tracking and
15 accountability of organic seed. And I just have
16 to bring that about because the burden of proof is
17 not, in my opinion, this is strictly my opinion,
18 the burden of proof is not a sufficient reason to
19 not have a good regulation that demonstrates
20 accountability. Uh, so with that, as far as the
21 recommendation as it stands now, our committee
22 vote was 5 yes, zero no and one absent. And, uh,
23 the recommendation is in two parts. Part A which
24 talks about as Joe mentioned, the importance of
25 training procedures and process for ACAs and
26 protocol on determining commercial availability

1 that would be spearheaded by the NOP. And then
2 that would become part of the training process for
3 certifiers. Uh, and then Part B is the ACAs role
4 in determining a commercial availability and we do
5 have a lot of things in here that are fairly
6 prescriptive. And I know, uh, you know, we've
7 heard from people, uh, particularly as far as the
8 database and the tracking that there's concerns
9 around that. We're re-evaluating how we can go
10 about that proactively. Uh, so I'm not going to
11 go through each one of these, Joe, unless you want
12 me to.

13 MR. SMILLIE: No.

14 MS. JAMES: Okay, so, uh, the CAC stands
15 by its recommendation for further standardized
16 criteria to be used by ACAs and the organic
17 industry at large when making commercially,
18 commercial availability determinations, uh, for
19 agricultural ingredients. However, uh, we would
20 like to discuss with, uh, the committee the
21 possibility to refer this recommendation back to
22 the committee for further development with the
23 crops committee to establish guidelines for seed.
24 So thus we would be producing a handling committee
25 recommendation for the Spring meeting that would
26 establish guidelines on the establishment of

1 commercial availability criteria that is specific
2 to 606, and then we would also product another
3 document, uh, in conjunction with the crops
4 committee so it would be joint crops and handling
5 committee recommendation. I mean, I'm sorry,
6 not...so joint crops committee and CAC committee
7 recommendation on the criteria for the
8 determination of commercial availability for
9 organic seeds. Uh, and then I would also welcome
10 any comments on the recommendation as it pertains
11 to the ACA's role in determining commercial
12 availability.

13 MS. CAROE: Uh...

14 [END MZ005022]

15 [START MZ005023]

16 MS. ANDREA CAROE: Okay. I just want to
17 reiterate the reason that this is so important and
18 we want to get this out there, and we want to get
19 this voted on so quickly is we now have a robust
20 list of materials on 606, and we have been well
21 criticized for having a robust list on 606, but as
22 we've always said from the very beginning, just
23 because a material is listed on 606 doesn't mean
24 that it's allowed, it means it's allowed for
25 consideration if it is commercially nonavailable
26 in an organic form. So in order to finish off

1 that second piece, to have that second layer which
2 will effectively keep organic growing, we need
3 this document to add consistency across
4 certifiers. So it is truly important that we do
5 this. The 606 list took priority to keep organic
6 commerce undisturbed, but at this point to protect
7 organic, we have to have a guidelines for what --
8 or establish an expectation on what that
9 commercial availability sourcing effort must look
10 like. So I have been -- I'm actually -- I
11 understand the comments that were received on
12 seed, I understand that this document's not going
13 to move forward. I personally am upset that I'm
14 not going to be able to vote on this, because I
15 think it's that important.

16 MALE VOICE: What?

17 FEMALE VOICE: Well, the Board --

18 FEMALE VOICE: No, no.

19 FEMALE VOICE: We were going to decide
20 that now.

21 MALE VOICE: That's not a done deal.

22 MS. ANDREA CAROE: Okay. All right.

23 FEMALE VOICE: Yeah.

24 MS. ANDREA CAROE: Okay.

25 FEMALE VOICE: We're gonna

26 [unintelligible].

1 MS. ANDREA CAROE: I do -- I truly think
2 that we need to move forward with -- on this, and
3 that's not to move forward without a well thought
4 out document, I think there's been a lot of
5 thought put into this, but it's needed,
6 desperately needed, very quickly in order to keep
7 that standard where we need -- where we expect it
8 to be.

9 MS. BEA E. JAMES: I would just like to
10 ask --

11 FEMALE VOICE: [Interposing] Uh huh.

12 MS. BEA E. JAMES: . . . for comment
13 from anybody on the Crops Committee as far as your
14 opinion on the recommendations. So, yeah, Gerry.

15 MR. GERALD A. DAVIS: I would heartily
16 recommend that we split out the seed and work
17 together on it for a later meeting. I under -- I
18 respect the need for the 606, the pressure that
19 puts on it, and I agree. We need to pull the seed
20 out of there. I mean, we could really stumble the
21 seed industry -- the vegetable seed industry is
22 the most complicated one, and we don't want to do
23 that. We want to proceed in a way that won't hurt
24 the industry, and we really could do damage if
25 we're not careful in how we craft what we're
26 doing. Or it would never come out of rule making,

1 for example.

2 FEMALE VOICE: Rigo?

3 MR. RIGOBERTO I. DELGADO: Just want to
4 echo what Gerry was saying. We're dealing with
5 two different animals. Or seeds, or ingredients,
6 whatever you want to call it, but for the purpose
7 of having clarity I think it makes sense to create
8 two documents and involve the Crops Committee in
9 the seeds discussion.

10 FEMALE VOICE: Joe, and then --

11 MR. JOSEPH SMILLIE: No, I
12 [unintelligible].

13 FEMALE VOICE: Oh, Tina.

14 MS. KRISTINE ELLOR: Yeah, I absolutely
15 agree. I think it's a much more complicated --
16 just in terms of sheer numbers, issue with the
17 seeds, and it would be great to get, you know, a
18 lot of input from, you know, certifiers who -- a
19 lot of certifiers have talked and -- talked to us
20 about it that we could separate seeds out and get
21 the Crops to be involved, that would be a
22 wonderful idea.

23 MR. JOSEPH SMILLIE: We agree. In fact,
24 that was our initial thoughts, but because of the
25 urgency we were handled -- or the CAC was handed
26 commercial availability and I was going Gerry,

1 Gerry, where -- couldn't find him. Anyhow --

2 MS. KRISTINE ELLOR: He was out on the
3 farm somewhere.

4 MR. JOSEPH SMILLIE: With a chainsaw. I
5 think he was getting the chainsaw repaired that
6 day, if I recall. But anyway, but we've got some
7 choices here, and neither of them are pretty. The
8 one choice is to move ahead with this as a
9 recommendation. We recognize that it -- there's
10 flaws, and there's problems in it, but there's
11 nothing here that binds anyone, and I do not think
12 that it does any damage. We don't have statutory
13 authority in this area and it puts it out there,
14 and I guess it's more of a question -- and then
15 the other thing is to just, you know, back to
16 committee, divide it up, and having nothing to
17 move forward with. So I guess my question is, to
18 those with more experience, is can we put this
19 document out there, knowing full well there'll be
20 another document coming along later.

21 MS. BARBARA C. ROBINSON: What kind of --
22 setting aside the seed issue, what -- did you get
23 favorable public comment -- did you get favorable
24 comment on the rest of your criteria for the rest
25 of your commercial availability? What sort of
26 reaction did you get? I don't --

1 MS. BEA E. JAMES: I think that there
2 were mixed reviews. We actually had a couple of
3 favorable comments as far as keeping seed in the
4 recommendation.

5 MS. BARBARA C. ROBINSON: Well, I mean,
6 did --

7 MR. JOSEPH SMILLIE: [Interposing] On the
8 other hand --

9 MS. BARBARA C. ROBINSON: [Interposing]
10 Was this going to be helpful to operators and to
11 certifying agents? Was that the general feedback
12 that you get? Aside from the seed.

13 MR. JOSEPH SMILLIE: We got some very,
14 very good comments. The quality of the comments
15 were really excellent, and it's just -- if we
16 would have had two days between getting these
17 comments and putting out a recommendation I think
18 we would have come up with a great document.

19 MS. BARBARA C. ROBINSON: Well --

20 MR. JOSEPH SMILLIE: [Interposing]
21 Unfortunately we don't have that time. It's like
22 we can only meeting until, you know, 2:00 in the
23 morning kind of thing, but the --

24 MS. BARBARA C. ROBINSON: [Interposing]
25 Because the reason --

26 MR. JOSEPH SMILLIE: . . . but the --

1 okay.

2 MS. BARBARA C. ROBINSON: . . . the
3 reason I say this is because I'm wondering if what
4 we shouldn't do -- because it sounds like what I'm
5 hearing is okay, now we've got the list of
6 materials on 606.

7 MR. JOSEPH SMILLIE: Yeah.

8 MS. BARBARA C. ROBINSON: But we don't
9 really have a good way to activate the list, is
10 what you're saying is where we are, right, Andrea?
11 All, you know --

12 MS. ANDREA CAROE: [Interposing] Actually
13 it's not activate the list, it's temper it down.

14 MS. BARBARA C. ROBINSON: Well, we don't
15 have a permission -- we don't have the levers --

16 MS. ANDREA CAROE: [Interposing] We need
17 a filter.

18 MS. BARBARA C. ROBINSON: Right.

19 MS. ANDREA CAROE: We need a filter.

20 MS. BARBARA C. ROBINSON: Right. We need
21 guidance for knowing when to use those materials.
22 What I'm -- I guess what I'm getting to is maybe
23 there's a way we can still work with the
24 Committee, you know, break out of here, get the
25 seeds part out, and publish guidance here until
26 you get back to something a little more formal,

1 but in the interim pull out -- pull the seeds
2 portion out and publish it as guidance for the
3 community, for operators, and for certifying
4 agents to use.

5 MS. BEA E. JAMES: Yes. So we have two
6 choices; one is to send it back to the Committee
7 and reintroduce it as two separate
8 recommendations, one on seed, one a cleaned up
9 version of our recommendation with really taking
10 into account the public comment that we got, or we
11 can actually have a mini-working session tonight,
12 we can remove seed, and come forward with the
13 document as it is, and reintroduce it tomorrow.

14 MS. BARBARA C. ROBINSON: Well, I mean,
15 that's up to you, but it -- if you don't do the
16 working session tonight, we could probably do
17 something to bridge the gap until you get to a new
18 recommendation next spring, is what I'm saying.

19 MS. ANDREA CAROE: Barbara, we're not --
20 I mean, this is not recommendation for rule
21 change, it's only for guidance anyways.

22 MS. BARBARA C. ROBINSON: I understand
23 that. I understand that.

24 MS. ANDREA CAROE: So, I mean, but this
25 is what I -- the option that I would suggest is if
26 we can pull out seed, introduce this, vote on it,

1 it is a guidance, it can be reworked, you know, I
2 mean, it's not a rule change.

3 MS. BARBARA C. ROBINSON: Right.

4 MS. ANDREA CAROE: This is guidance and
5 at least it gets something out there now --

6 MS. BARBARA C. ROBINSON: [Interposing]
7 Right. Right.

8 MS. ANDREA CAROE: . . . to start
9 building certifiers' procedures to get them
10 consistent.

11 MS. BARBARA C. ROBINSON: Right.

12 FEMALE VOICE: Julie.

13 MS. JULIE S. WEISMAN: Yeah, I also --
14 just while we were sitting here talking, went
15 through this document and there are exactly four
16 places where text needs to be deleted. We have
17 done much more complicated things than that
18 sitting in this room with this on the screen, so I
19 don't -- you know, it could be done fairly easily
20 done tonight, it could probably even be done now.

21 MS. BEA E. JAMES: I'm comfortable with
22 that decision if the rest of the Board is
23 comfortable, and our Committee is comfortable with
24 that. And then that way we take it back to the
25 Crops Committee and we do a joint recommendation
26 for next spring on seed, specifically. So we'd be

1 able to put forward guidance at this meeting for a
2 vote.

3 FEMALE VOICE: Do we need to, like, find
4 out -- vote?

5 FEMALE VOICE: No.

6 FEMALE VOICE: No. Okay. Dan.

7 MR. DANIEL G. GIACOMINI: I would just
8 like to request that either there be someone with
9 livestock background on the Crops Committee, or
10 you include someone -- you include the Crops
11 Committee also -- I mean, the Livestock Committee
12 also. You know, when these -- when dairy farmers
13 and beef people are looking to reseed, they're
14 scrambling, you know, if they're rotating with
15 corn silage or some other crop, corn, soybeans,
16 and they're rotating that with pasture, there's a
17 period of time where they're scrambling to, you
18 know, fast growing grass, grow -- growing -- slow
19 growing grass, legumes, a number of different
20 things, it's not an easy thing to just put
21 together when you're going to have to be doing it
22 from a number of different sources, partly
23 organic, partly not. I think it would be a value
24 to have some of that perspective.

25 FEMALE VOICE: Okay. Jennifer.

26 MS. JENNIFER M. HALL: There may be more,

1 but I know Jeff is on both Crops and Livestock.

2 MALE VOICE: Kevin's a dairy farmer. I
3 would highly suggest Kevin to be on that.

4 MS. BEA E. JAMES: We can determine that
5 later, but I definitely will take that into
6 consideration, adding in the Livestock Committee
7 as well for the seed recommendation. So Andrea,
8 at this time I guess I would like to leave it that
9 the way that this recommendation stands is that it
10 will go back for some editing -- deletions,
11 editing, and I also want to just assure the public
12 that we also are going to be looking at some of
13 the excellent public comment that we got from many
14 of you with your suggestions for this
15 recommendation, and we'll try to temper the
16 database fear that seems to be out there with a
17 lot of the certifiers, and with that, that
18 concludes recommendation for commercial
19 availability.

20 MS. ANDREA CAROE: Okay. It's three
21 o'clock now. I think we should take a 15 minute
22 break. We are about 45 minutes behind -- well,
23 about an hour behind and we can come back and do
24 multi site which we should just, like, breeze
25 right through, right? And then livestock and
26 public comments. So 15 minutes.

1 [Audio interruption]

2 MS. ANDREA CAROE: Hello. Board members
3 to the table, please. Okay. Let's reconvene, and
4 the next item on the agenda is multi site
5 certification -- multi site operation
6 certifications with the CAC.

7 MR. JOSEPH SMILLIE: Okay. Now for a
8 nice, quick, easy, noncontroversial item. Multi
9 site certification. Most of you -- I think a lot
10 of people -- I won't say most of you, but I would
11 guess most of you understand the reason behind
12 this, and I'll let Tracy, the [unintelligible] of
13 the principal author of our recommendation -- or
14 discussion paper, I should say, give you more of
15 the specific background, but needless to say, it
16 caused great furor in the community, and I think
17 quite rightfully so, because what we have here is
18 a long established organic practice that people
19 have felt worked well for years, and then we had
20 discovered that it doesn't always work well, so
21 we're between a -- between something that we
22 really, as a community, believe needs to happen,
23 which is multi site or group certification, as
24 it's often termed. Something that we really
25 believe is needed that's appropriate both
26 politically, socially, and economically for a

1 fairly large segment of the organic community, and
2 we've got a situation where that way of doing
3 things has been abused, and that's been improper,
4 and so what we need to do is go back and look at
5 it carefully, and find statutory and regulatory
6 foundation for continuing a practice that's been
7 going on -- group certification I'll call it -- in
8 the organic community for a long time. But we
9 need to find a statutory and a regulatory basis
10 for continuing that activity, whichever way is the
11 most appropriate. We also need to balance that
12 with what was, you know, has been well reported
13 from a number of commentators, we need to make
14 sure that we're not just talking about the good
15 scenario, but also the scenario where that
16 particular style certification has been abused.
17 So we also need enforcement activity to make sure
18 that certification agents hopefully moving forward
19 with group certification -- ability to do group or
20 multi site certification, are in compliance with
21 the regulation and we've got a quality job being
22 done. So we have to balance those two
23 considerations and come up with a way that is not
24 only socially and politically just, but also is,
25 you know, has a statutory and a regulatory basis
26 so we can, you know, move forward on it and not

1 have someone else say well, you can't do that
2 because OFPA says this, and a District Court judge
3 agrees with them.

4 So that's the charge we felt we needed to
5 move forward on, and we have got a number of
6 great, great comments and, you know, working
7 groups from OTA, IFOAM [phonetic], ACA, and others
8 who've really done a lot of work in this area,
9 have contributed a lot of expertise, and I think,
10 you know, with a sufficient amount of time we'll
11 be able to utilize all that expertise and bring it
12 together.

13 But I'll let Tracy walk everybody through
14 the introduction, the background, and our current
15 thinking on the subject.

16 MS. TRACY MIEDEMA: Thank you very much,
17 Joe. I would take exception to one
18 characterization; calling the comments an
19 uproaring or furor. I think it's been very
20 vigorous and I think we've had some excellent
21 comments from all over the world pouring in, and I
22 think the real furor came when the plug was sort
23 of pulled on this construct last year, actually
24 about ten months ago.

25 So I thought I would start out reading
26 just a little news blurb. This is from May 2nd,

1 2007, Sustainable Food News. Try to do my best
2 Dan McGovern voice.

3 Hoping to soothe anxieties of organic
4 certifiers and small scale coffee and food
5 producers in the developing world, the U.S.
6 Department of Ag's National Organic Program said
7 Wednesday that regulations governing the
8 certification of grower groups remain status quo,
9 at least until rule making changes can be
10 discussed publicly this Fall.

11 So when we adjourned from our March
12 meeting, this topic was not on our work plan for
13 CAC. In fact it was May of this year before it
14 was kicked over into our direction and onto our
15 work plan. I'm going to continue here.

16 An OPE deputy administrator, Barbara C.
17 Robinson, wrote to certifying agents Wednesday to
18 clarify a recent appeals ruling by the
19 administrator of the USDA's Agriculture Marketing
20 Service, Lloyd Day.

21 Many in the industry were discouraged by
22 the initial reading of the administrator's ruling,
23 thinking it was the end to group organic
24 certification of small farmer cooperatives. And I
25 think many of the people in this room who have
26 submitted public comments or presented them

1 already were among this group that was really
2 terrified that what they had relied on and seen
3 built as a very robust, viable means of farming
4 around the world go away.

5 I want to point out one other thing, and
6 this goes back to October 2006, and this is sort
7 of the precipitating issue.

8 At issue is an appeal involving a
9 community grower group in Mexico that was seeking
10 organic certification. The grower group was
11 denied certification because among other things,
12 the certifying agency's policies and procedures
13 were inconsistent, quote, within OP regulations.
14 Instead of inspecting each production unit, and
15 this is all going to be important as we talk a
16 little bit deeper about the regulations.

17 The certifying agent selected a
18 percentage of the producers in a community grower
19 group for on-site inspection, the ruling read.
20 The ruling said that was in conflict with the
21 provision 205.403A(1) whereby each production unit
22 must be inspected.

23 In January of this year that ruling was
24 construed by our Associate Deputy Administrator as
25 basically a reason to slam the brakes down on this
26 construct of an internal controls system, serving

1 as a proxy for each individual site being
2 inspected. You go to the first slide.

3 So I have a really short PowerPoint
4 presentation. In fact, it's just two slides, and
5 for those of you who can't see it, it's a picture
6 of a wagon wheel.

7 The internal control system functions
8 from a central hub, and I guess, you know, what
9 fell out of this I guess scary situation from
10 October 2006 to May 2007 was a dusting off of the
11 2002 NOSB recommendation and Barbara's decision,
12 and please Barbara or Mark, correct me if I
13 mischaracterize any of this. To enstate that as
14 the tacit mans of certifiers being able to
15 continue to certify groups.

16 But they knew there were some issues.
17 The key issues, and the way Mark characterized
18 this as we don't have proper optics. We can't
19 peer into these, so we need to break these things
20 down, we need to understand, we need to be able to
21 break them into pieces, we need to understand
22 percentages, what is a statistically significant
23 percentage of sites, for instance. Looking at
24 that hub, you know, how many spokes of the wheel
25 need to get looked at each year.

26 As the CAC took up this issue, me and my

1 freshman Board member, Vigor, decided this looks
2 very straightforward, looks very important and
3 interesting, and I'm going to dive in and learn
4 everything I can about group certification, and my
5 first call when I first entered into this issue,
6 and I mean we're talking June 2007, not years ago
7 or decades of experience like many of you in this
8 room have, we're talking this summer -- it
9 immediately became apparent that internal control
10 systems were being used throughout the organic
11 supply chain.

12 You know, and I knew of certified organic
13 retailers. IFOAM [phonetic] told me about
14 processors and handlers that were using internal
15 control systems, and I started to get a sense of
16 how complex and how broad this construct is
17 applied throughout the organic supply chain. You
18 know, I founded some very nice, exhaustive surveys
19 of their members, for instance, and we saw
20 everything from 6,000 member Ugandan coffee
21 farmers, to where we were seeing, you know, all
22 the way to the opposite end of the supply chain,
23 you know, retailer groups. And in all situations
24 some basic rules had to be followed, and I, you
25 know, I want to just go to the 2002 recommendation
26 because these really have been the rules of the

1 road for what these need to look like. As far as
2 I can tell.

3 There really needs to be -- these spokes
4 of the wheel and these various units need to be
5 very homogenous, they need to be -- and most
6 situations have be geographically contiguous.
7 They need to have constant training and education,
8 and there's many, many metrics that the 2002
9 recommendation put forth to help guide -- you
10 know, the operating manual for what an internal
11 control system could look like.

12 But that didn't get us over this hurdle
13 that 205.403 says that every site must be
14 inspected annually, and we have a -- you know, we
15 have sort of a language problem, so to me very
16 early on it looked like we had a rule making
17 issue. Really, you know, there was some language
18 that was going to have to be changed, Barbara
19 referred to that in her comments to certifiers,
20 and it also was apparent to me that this construct
21 can, should, and does exist throughout organic.

22 I was very compelled by Michael Sligh's
23 comments yesterday, and he said, you know, I want
24 to tell you about the history of grower groups.
25 This is not made for monied interests and people
26 who can afford to get every site inspected, this

1 is -- this was for people who could not afford
2 those inspections. Let's go back to the
3 traditional reasons why any type of clustering
4 should ever occur. And I respect the history
5 there, you know, and the motivation behind that.

6 However, that alone would never have been
7 enough to justify those operations becoming
8 certified organic. They still had to legitimately
9 be organic, and some very complex grower groups
10 have become certified organic, so the mechanism
11 has become much more sophisticated.

12 Other certification programs around the
13 world have gotten really good at this, and
14 there's, you know, there's some information to be
15 learned. Not that we want to mirror our program
16 on anyone else, but we don't necessarily have to,
17 you know, reinvent this wheel and in looking at
18 205.403, for instance, IFOAM shared their training
19 manuals and there are very rich systems around the
20 country and training programs, et cetera, and so
21 when I approached this recommendation I really
22 thought we need to solve problem A, which is we
23 have a regulatory issue.

24 We have a very vulnerable construct
25 that's important to a lot of people that the plug
26 could get pulled on, you know, out of the socket

1 again based on one bad site visit to a country
2 where, you know, the optics weren't strong enough,
3 et cetera. And the reason for that is the
4 overwhelming -- I mean, this is -- has been nearly
5 unanimous, I would say, that the construct does
6 have value, and that grower groups should carry
7 on.

8 So first and foremost, this
9 recommendation says yes to grower groups, but, you
10 know, we were looking at, you know, from the very
11 beginning at more than just grower groups, hence
12 this very wordy title that I think captures more
13 the complexity of what internal control system
14 really is, and these are multiple production
15 units, sites and facilities mirroring the language
16 that's in 205.403.

17 So Valerie, if you can go two slides this
18 time.

19 Another circular shaped object, a
20 snowflake. The spirit of an organic system plan,
21 and I really tried to bring this forward in the
22 recommendation, is that organic system plans are
23 structures that make sense, but every single one
24 is unique. Like a snowflake, they are adaptive,
25 they are responsive, and this is all very much on
26 purpose so that the industry could grow, so that,

1 you know, we weren't dealing with just a checking
2 off boxes type organic program, we were really
3 responding to nature, and crops, and in an
4 extremely dynamic, growing industry. And, you
5 know, I would absolutely posit that this structure
6 of the organic system plan, this deal between an
7 accredited certifier and a grower, a person as it
8 said in the -- you know, and a person is going to
9 be anyone throughout the organic supply chain,
10 that the organic system plan is strong enough to
11 meet the unique demands of the system that it's
12 looking at. And I guess at this point I'll take
13 the group through a little bit more of the details
14 of the recommendation, as you know, the copy
15 itself. So if you want to pull that up, Valerie.

16 By the way, any of my fellow Committee
17 members who would like to jump in at any point,
18 you know go ahead.

19 MS. VALERIE FRANCIS: Is that the other
20 document that you asked me to pull up --

21 MS. TRACY MIEDEMA: [Interposing] Yeah.

22 MS. VALERIE FRANCIS: . . . off your
23 thing?

24 MS. TRACY MIEDEMA: Yeah, it's just the
25 recommendation exactly as it's -- it was posted to
26 the Federal Register.

1 MS. VALERIE FRANCIS: Oh, okay.

2 MS. TRACY MIEDEMA: I just added some
3 highlights [unintelligible] as I wanted to
4 emphasize.

5 MR. JOSEPH SMILLIE: One other document
6 that did influence me in my contribution to it was
7 the ISO document that I think primarily IFOAM
8 forward to us, and then we got the newer copy,
9 which is more updated, and the ISO approach on
10 multi site, there was a very, very -- there was a
11 lot of congruence between where the organic
12 industry had grown to and the way ISO looks at it.
13 Now, I understand it's an NOP USDA regulation,
14 it's not an ISO program, but nonetheless that
15 document was a really solid document, and we took
16 a good look at that and found a lot of congruence,
17 and again the title, which we looked at rather
18 than grower groups, because we were looking at it
19 more structurally and from a regulatory and
20 statutory viewpoint, seemed to fit better and it
21 also, as Tracy just said, fit with the language,
22 which is in 403.

23 MS. TRACY MIEDEMA: It is. The ISO --
24 and this is ISO Guide 62 from 1996, and I know
25 there's an ISO 17021 that's the more current, but
26 it talks about multi site certification.

1 We know there's a rich body of
2 information out there to help us really build out
3 the operating manual. I guess before I get into
4 this I want to make sure people understand that I
5 didn't take it as our Committee's charge in these
6 last three months to build that operating manual.
7 That is phase two of this process, and it's much
8 longer, and that's -- this is the start of that
9 conversation. It's well underway, and in fact so
10 many of the public comments gave great feedback on
11 what the operating manual should look like. So,
12 you know, we took a giant step forward but, you
13 know, we still have to deal with the most germane
14 question in front of us right now.

15 Okay. So if you could keep scrolling
16 down, Valerie, I want to get to page 3 where we
17 talk about the role of the organic system plan,
18 and this is really just some language lifted right
19 out of OFPA. It's, you know, this is in your
20 books, it might be kind of hard to read on the
21 screen.

22 But the organic plans means -- the
23 organic system plan is a plan of management that
24 has been agreed to by the producer or handler and
25 the certifying agent that includes written plans
26 concerning all aspects of agricultural production

1 or handling.

2 And Congress envisioned the OSP as a
3 collaborative written management plan that
4 reflected the unique characteristics of the
5 operation. You know, those are -- we've got a lot
6 of leeway to make this fit, and the question that
7 I keep coming back to and I don't feel has been
8 answered yet is within that relationship of the
9 organic system plan, what are the limitations of
10 an internal control system? If it works for the
11 6,000 member Ugandan coffee farm, why can't it
12 work in other areas of the organic supply chain?

13 So I just wanted to point out, you know,
14 what I believe was really Congress's intent for
15 the organic system plan, and I think OFPA supports
16 that.

17 The organic system plan is the form
18 through which the producer or handler and
19 certifying agent collaborate to define on a site
20 specific basis how to achieve and document
21 compliance with the requirements of certification.

22 The organic system plan commits the
23 producer or handler to a sequence of practices and
24 procedures resulting in an operation that complies
25 with every applicable provision in the
26 regulations. So while we have something that's

1 very malleable, that's very unique, it's also very
2 rigorous. I mean, this is holding people's feet
3 to the fire. If you can keep scrolling down,
4 Valerie, to the role of inspections.

5 And as you can see from my slide, there -
6 - you know, I really wanted to focus this in on
7 the organic system plan and on inspections.

8 Inspections play an important role in
9 determining whether an OSP is being properly
10 implemented, and Congress mandated that all
11 certified farms and handling operations receive a,
12 quote, annual inspection. And this is from 7
13 U.S.C. 6506A(5) and 6502, Definitions.

14 The statute does not define the word
15 inspection, the statute. And the fact that it
16 occurs but once a year indicates that Congress
17 considered inspection more a part of the OSB
18 collaboration between the farmer and the
19 certifying agent, than as the government's
20 policing of, you know, of the organic label.

21 This is a really important point here.
22 When we get to -- and I know there was a lot of
23 public comment on that, and I'm still digesting it
24 all as it's coming in, but when we look at
25 inspections in detail there really seems to be a
26 difference noted in the regs between initial on-

1 site inspections and annual or renewal
2 inspections.

3 Now, you know, I was just ignorant enough
4 to think that all inspections looked the same,
5 year after year after year. And I talked with
6 some different certifiers who, you know, assured
7 me that, no, initial inspections do not look like
8 renewal inspections. Initial inspections have
9 things like land history reports, and surveying of
10 perimeters, et cetera, et cetera, and I'm sure
11 there are people in this room who can so clearly
12 articulate the way these initial inspection and
13 renewal inspections look different.

14 But it's really important because we need
15 to find a way in 205.403 to make sure that we've
16 got a way forward from a regulatory standpoint.
17 And this distinction that's made in discussing
18 inspections, and the reality that already exists
19 between initial and renewal inspections, means
20 that we're not rewriting history here in carrying
21 forward with group certification or certification
22 of operations with multiple sites production units
23 and facilities.

24 We are already there in the spirit, and
25 its very modest language changes needed. I think
26 we're -- I heard some pushback and I want to hear

1 more comment on this. I hope our Committee gets
2 much more in the public record.

3 I actually felt kind of like we were
4 shining a light on something that was a known, but
5 not discussed fact about inspections; that initial
6 and renewal inspections really do look different.
7 But because of the way 205.403 is written, we
8 haven't really wanted to talk about that.

9 So you know, I am very comfortable
10 pointing out that in my investigation they really,
11 you know, they look different in many ways.

12 So if you can scroll down a little bit
13 more, Valerie, to the recommendation proper, that
14 would be on page 6.

15 What we as a Committee put forth in terms
16 of an actionable item were new definitions added
17 to 7 C.F.R. 205.2 and a clarification of on-site
18 inspections. However, we know that we're at the
19 beginning of this conversation. We're not going
20 to pull back or withdraw this recommendation.

21 What we really want as a Committee is a
22 more robust public record at this point. People
23 didn't have a lot of time to respond to this
24 recommendation, and it's an extremely important
25 topic to many stakeholders all over the world. 45
26 days with a complicated electronic comment

1 collection system is not enough to solve this or
2 really, you know, get the kind of robust public
3 record we need. This might be something that we
4 end up working on during the whole time I sit on
5 this Board, frankly, bracing myself for a long
6 haul here.

7 But we've, you know, the engines are
8 fired up and it was really exciting to see the OTA
9 taskforce was way ahead of the NOSB or the NOP
10 and, you know, galvanizing their members,
11 gathering information, pulling together quite a
12 diverse group of stakeholders. IFOAM jumped in,
13 we had retailer community who -- they know they're
14 going to be affected by the outcome of this, so
15 they're going to absolutely want to throw their
16 opinion into the ring. People have really been
17 generous with their time and expertise, and this
18 is just really the start of the conversation, so
19 the way I see this going forward in Committee is
20 to leave the recommendation posted for more public
21 comment. For the item to remain on the CAC work
22 plan, and to take this issue up again in March
23 2008.

24 MR. JOSEPH SMILLIE: Do you want to --

25 MS. TRACY MIEDEMA: [Interposing] I guess
26 I better finish saying that --

1 MR. JOSEPH SMILLIE: [Interposing] Yeah.

2 MS. TRACY MIEDEMA: . . . amongst our

3 Committee members -- there were six of us, this

4 was not a slam dunk. In fact, we had three yes's,

5 one absent, one abstension, and one no with a very

6 strong minority opinion.

7 FEMALE VOICE: Two nos.

8 MR. JOSEPH SMILLIE: Two nos.

9 MS. TRACY MIEDEMA: Two nos?

10 MR. JOSEPH SMILLIE: Yeah, two nos.

11 FEMALE VOICE: Three.

12 MR. JOSEPH SMILLIE: Three, two --

13 MS. TRACY MIEDEMA: [Interposing] No, we

14 didn't.

15 MR. JOSEPH SMILLIE: One.

16 FEMALE VOICE: Yes.

17 FEMALE VOICE: Yes.

18 FEMALE VOICE: It was revised.

19 MS. TRACY MIEDEMA: When was it revised?

20 FEMALE VOICE: When Jennifer --

21 MS. JENNIFER M. HALL: On the website

22 it's 3-2-0-0.

23 MR. JOSEPH SMILLIE: One.

24 MS. TRACY MIEDEMA: Okay. Okay.

25 MR. JOSEPH SMILLIE: No, one.

26 MS. JENNIFER M. HALL: One. Sorry.

1 MR. JOSEPH SMILLIE: 3-2-1.

2 MS. TRACY MIEDEMA: Okay. At the time --

3 MS. VALERIE FRANCIS: Can I clarify the
4 vote? Can I clarify the vote? Jennifer had
5 voted. It was a day when our server wasn't
6 working properly for e-mails, and I didn't get --

7 MS. TRACY MIEDEMA: [Interposing] No
8 problem.

9 MS. VALERIE FRANCIS: . . . a whole set
10 of e-mails one Thursday afternoon, and that was
11 one of them.

12 MS. TRACY MIEDEMA: Okay. Thanks for the
13 clarification. Absolutely not a slam dunk. And,
14 you know, that maybe should have been the point
15 where we, you know, we knew this was a discussion
16 item but, you know, this is an important enough
17 issue that we want to move it forward, and we
18 wanted to take action, and we wanted to get
19 something out that we could collection, you know,
20 opinion from 360 degrees, and that is happening.

21 MR. JOSEPH SMILLIE: Thanks, Tracy. I
22 think it would be also useful to hear from the
23 person that issued the minority opinion, so Bea.

24 MS. BEA E. JAMES: In the spirit of
25 visuals I threw together a quick one slide to give
26 the visual on the minority opinion, so I'll just

1 let Valerie pull that up real quick.

2 Scroll down. It's a -- there you go.
3 Yeah, the last one word. Don't open one of my
4 kid's folders. Videogames.

5 Okay. So I think one of the big
6 differences here, in case you can't see that,
7 that's the internal control system ICS functions
8 from a central plow, and that -- I think one of
9 the things that we had difficulty coming to a
10 consensus on was the idea that grower groups went
11 beyond farmers, and that that's really where a lot
12 of the minority opinion is coming from, so I'll
13 just go through real quickly.

14 That the minority opinion is really
15 looking for further consideration and clarity in
16 the proposed recommendation for multi site
17 operations, and that's specifically to retain the
18 scope of the 2002 grower group recommendation
19 which focused and was limited to grower groups,
20 farmers only.

21 And to require complete inspections of
22 all sites annually, and facilities and protection
23 units, with certain considerations granted to
24 farms meeting specific criteria for grower farmer
25 groups, as well as specific details to the
26 criteria for grower groups to provide guidance on

1 internal inspections should be included and, as
2 Tracy alluded, that this recommendation is not a
3 manual, and that that is definitely something that
4 I think the Committee all has consensus on, is
5 that that's one of the phase two components of
6 this recommendation that we definitely need.

7 Next is that there are some assumptions
8 made in what I believe is how the recommendation
9 was phrased, and that's not to say that I don't
10 give 100 percent kudos to Tracy, my colleague, for
11 taking on such a huge task and trying to craft
12 this recommendation in her first year. I give her
13 lots of compliments for that, because it's not
14 easy, and that having this diversity of opinion
15 and getting public opinion to help craft and shape
16 a final recommendation is the healthy part. It's
17 not always the easiest, but it's the healthy part
18 of what we try to do as we discuss our
19 recommendations.

20 So with that, I think that by saying,
21 quote, in the recommendation it says it, in
22 reference to an organic system plan, has also
23 encouraged the participation of final retailers
24 and organic certification, thus helping to bring
25 all of the links in the seed to table organic
26 value chain under one organic program. The use of

1 an internal control system as part of an organic
2 system plan that integrates multiple sites and
3 production units is consistent with OFPA and
4 provides additional -- provided additional
5 assurances are met, may reduce or eliminate the
6 need for direct observation by inspection of each
7 unit or site operated under an OSP.

8 And as a retail representative on this
9 Board, I think that that's where I struggle with
10 this recommendation, because I think that it's
11 extremely important to certify the handling and
12 processing units of every site, and that it would,
13 you know, there's different ways that we can look
14 at how to dilute the organic seal and make sure
15 that it really means something, and I think that
16 by not inspecting all production and retail sites,
17 that that would be one way of diluting our organic
18 seal.

19 I also think that the following statement
20 should be struck from the recommendation; that
21 certifying agents have developed an implemented
22 certification models that are tailored to the
23 various types of operations seeking certification.
24 At the NOP the certification models were based on
25 the NOP's 2002 recommendation, and are now
26 extended to each -- to reach all links in the

1 organic value chain, from farm, to handler, to
2 final retailer.

3 I do not believe that the NOP has
4 approved any new certification models, and that
5 some certifiers may be using and developed, and I
6 do agree that there are perhaps different ways
7 that some inspection agencies are looking at
8 recertification, but I think it's very important
9 that we acknowledge that annual inspections should
10 be done consistently, and with the same criteria
11 each year, and that a renewal is not a lessening
12 of an annual inspection, particularly when you're
13 looking at a handling and a processing facility.

14 In the name of time here I'm not going to
15 go through some of the OFPA sites which really I
16 think would help clarify that this recommendation
17 is not consistent with OFPA, but they are noted on
18 the bottom of the multi -- of the minority
19 opinion. And that's all. Thank you.

20 MR. JOSEPH SMILLIE: The Committee would
21 really like to hear from fellow Board members on
22 this. I know a lot of you have heard about this
23 issue, I know that a lot of you have been
24 following the information and the public comments,
25 so we've been talking among ourselves for quite a
26 while, and the Committee all knows each other's

1 opinions fairly well, and we would really like to
2 hear from fellow Board members as to where you
3 think you want to go with this.

4 MS. ANDREA CAROE: I hate to be the
5 taskmaster here again. This is a discussion item,
6 it's not one that we're going to vote on, it's not
7 one that we can take action on in this meeting, so
8 I would suggest that we have some discussion, but
9 more elaborate discussion is going to happen after
10 this meeting.

11 MR. JOSEPH SMILLIE: I concur.

12 MS. ANDREA CAROE: Thank you.

13 MR. JOSEPH SMILLIE: I would like a
14 little discussion though.

15 MS. ANDREA CAROE: Thank you.

16 MR. JOSEPH SMILLIE: Just to get some --

17 MS. ANDREA CAROE: [Interposing] Okay.

18 MR. JOSEPH SMILLIE: . . . you know,
19 like -- I want to hear from my fellow Board
20 members.

21 MR. DANIEL G. GIACOMINI: I really don't
22 see the difference between ICS and essentially
23 what have been called I believe turnkey operating
24 systems. That's what makes Wal-Marts go, that's
25 what makes McDonald's go, that's what makes
26 franchise chains all alike, and I'm very concerned

1 that something like this, as a mechanism to allow
2 for multi grouping of entities, just has people
3 rubbing their hands together.

4 I'm very concerned with that. My first
5 inclination in the overall picture is annual
6 inspections. I can understand situations of
7 grower groups of -- in a banana plantation in
8 Brazil or whatever they're growing. But I think
9 rather than expanding that, I think we need to --
10 would be better off more clearly defining what
11 that exception is. If we're not going to
12 absolutely require every plot, that we do define
13 the percentage of acres that are inspected per
14 year, the percentage of sites inspected per year.
15 That every site must be inspected within a certain
16 number of years.

17 But the possibility of expanding multi
18 sites into massive amounts of organizations of
19 both land and facilities in this country, I don't
20 see that as the right way to be going for organic
21 certification and for the confidence of the
22 consumer.

23 MR. JOSEPH SMILLIE: Gerry.

24 MR. GERALD A. DAVIS: I echo his
25 statements. I think that the grower group -- the
26 beauty of what can be done with that should be

1 kept by itself and not be expanded to other types
2 of operations here in the States.

3 MR. JOSEPH SMILLIE: Katrina, then Tracy.

4 MS. KATRINA HEINZE: As someone with a
5 lot of experience with internal control systems,
6 in theory I agree with your thought process, but
7 it is my experience that they can either be very
8 strong or not so strong. So I strongly concur
9 with Gerry and Dan, that at this time they should
10 be limited to farms, very -- we should have very
11 well defined criteria for what is a grower group.
12 I agree with -- I would like to see more
13 specificity around the percentages that could be
14 inspected on an annual basis -- of the one concern
15 I have is the language on 403(ii). As I read that
16 paragraph, I read it -- it looks to me like you
17 could not inspect any sites in a particular year.
18 So you may want to look at the language in that
19 paragraph a little bit.

20 And then one addition. I have great
21 concerns if a certain number of sites are
22 inspected in an annual year, how that is used to
23 evaluate the internal control system, not those
24 individual sites. And so I would like to see
25 something added on that. Thank you.

26 MR. JOSEPH SMILLIE: Andrea?

1 MS. ANDREA CAROE: Tracy was next.

2 MR. JOSEPH SMILLIE: Oh, Tracy. Yeah,
3 I'm sorry.

4 MS. TRACY MIEDEMA: Well, I guess I want
5 to make what feels like a point of clarification
6 to my colleagues, and I really appreciate the
7 feedback.

8 This recommendation is not proposing
9 expansion of the construct of an ICS or group
10 certification to retailers. It's already
11 happening, and it's happening by accredited
12 certifiers that the NOP has accredited. You know,
13 there seems to have been a tacit endorsement and
14 that it's working out there for some number of
15 years, and the very first thing I thought was the
16 amount of work that some of these organizations
17 outside of the farming situation have gone through
18 to apply the same principles of homogeneity and
19 strong central management, and have gone -- are so
20 rigorous, and what are we saying now, that we're
21 going to, you know, throw them overboard and the
22 work that they've done because we want to keep
23 this to the people who -- I don't know, it seems
24 like there's a little bit of a politicizing of --
25 some people elicit our empathy more than others,
26 and in a way that -- I just would like to make

1 sure that we're looking at this in an impartial
2 manner.

3 MR. JOSEPH SMILLIE: Andrea.

4 MS. ANDREA CAROE: The regulation, as it
5 exists today, has one section for inspection, and
6 one section for certification, and they are not
7 operation specific. It's not an inspection for a
8 grower, inspection for a handler, inspection for a
9 livestock operation, it's inspection. Same with
10 certification.

11 So if this group, and again this is all -
12 - this work is going to happen after I leave, but
13 if this group is going to carve out portions of
14 the industry where this is appropriate and where
15 it's not, I suggest you spend a lot of time with
16 justifying and carving out why it's okay in one
17 and not the other, when the regulation does not
18 specify these things. So, you know, that's one of
19 the reasons why, in looking at multi sites, I was
20 a proponent of looking at all of it instead of
21 just a piece. Although typically this has been
22 used with growers and not so much with the
23 processors and the handlers, I was -- since we
24 were addressing a section of the rule that did not
25 distinguish it, for one, and at this point if you
26 were to write this just for grower groups it would

1 be discriminatory.

2 It needs to be carved out well, and you
3 need to rationalize why that is; what parts of the
4 requirements cannot be satisfied with this type of
5 construct, and why those requirements can indeed
6 come from the crop section, the livestock section,
7 the handling section, and various. But right now
8 there is only one section for inspection.

9 MR. JOSEPH SMILLIE: Bea?

10 MS. BEA E. JAMES: I guess I would just
11 like to reemphasize that if there are current
12 examples in the industry where handling and
13 processing operations are not being inspected
14 annually in their entirety, that that is a
15 violation of the rule and not a model for how it
16 should be done. And that if we take into
17 consideration what people are doing that may not
18 be a part of the rule as a precedent for what
19 should a rule -- what a rule should be, then how
20 can we possibly have any kind of control over what
21 people should be doing? To me that just seems
22 like inconsistent and it -- and I think that in
23 2002, when the Grower Group recommendation came
24 forward, that it did try to circumvent a model for
25 why grower groups would be an example of a good
26 focus for having grower groups inspected in a way

1 that would be conducive to making it reasonable
2 for an environment like that to be able to do it.
3 So I guess what I'm saying is that I disagree that
4 the recommendation does not -- is not trying to
5 push that through. I think the recommendation is
6 trying to push it through with retailers through
7 this whole idea that because it's happening now,
8 that we're just going to document it and say it's
9 okay.

10 MR. JOSEPH SMILLIE: Barbara.

11 MS. BARBARA C. ROBINSON: Let me just
12 reiterate that currently we haven't changed this
13 rule. Annual inspections of every site is
14 required. I don't -- I'm not really too sure
15 about this so called tacit approval from the
16 program that something less than that has been
17 granted, because I didn't grant it, so I don't
18 know where that's coming from.

19 MALE VOICE: [unintelligible] you're busy
20 with FOIA.

21 MS. BARBARA C. ROBINSON: Yeah, maybe
22 we've been too busy with FOIA. But let me just
23 remind you of this; you know, all I -- and then
24 let me just suggest to the Board that you need to
25 really get back on schedule here. Far be it for
26 me to remind you of your own schedule, Madame

1 Chair, but it is 10 after 4:00 and you do have the
2 public waiting here to comment.

3 But, you know, where I sit every day
4 increasingly -- increasingly I am getting phone
5 calls, letters, e-mails about consumer concern
6 about imported product, you know, this program is
7 taking every opportunity it can to weaken the
8 standards. My goodness, you people can't do your
9 jobs. You seize every opportunity there is to
10 weaken the standards, and I'm just, you know, it
11 seems to me -- I just have got to go on record
12 here but to suggest that what we should do not, at
13 a time when the most visible step here is to at
14 least require one inspection per year. One. Just
15 one. And now you want to say well, the heck with
16 the inspection. I mean, what do we do next, self
17 certify? We say -- I think I've met all the
18 requirements of the National Organic Program
19 Regulations, so I'll write to my certifying agent
20 and say I filled out the forms, send me the
21 certificate, here's my money.

22 And I don't -- I shouldn't sound so
23 snippy about this, but you know, I really
24 shouldn't but sit at my desk someday. I mean,
25 these are the kinds of concerns that I get, you
26 know, the integrity of the label, the integrity of

1 the standards, what does the seal mean and where's
2 your compliance and enforcement. It's through the
3 inspection process. It's through -- somebody's go
4 to get out there and look --

5 [END MZ005023]

6 [START MZ005024]

7 MS. BARBARA C. ROBINSON: You know, we
8 were willing to issue the temporary guidance, the
9 2002 Board recommendation as temporary guidance
10 for grower groups, and even that gives us a little
11 bit of heartburn, but you know, that's -- those
12 are for -- at least there we were talking about
13 very, very small producers of contiguous farms and
14 that sort of thing, and even there for some reason
15 it's okay for the coffee grower in Columbia, but
16 the minute he goes over to China everybody has a
17 heart attack.

18 So you know, now you want to bring him
19 back to the United States, but the same producer
20 in the United States, if he was an herb farmer, he
21 would be getting an annual inspection. But not if
22 he was a coffee grower in South America because
23 apparently he gets to be -- he gets to get out
24 from under it. But if he's here in the United
25 States he pays his dues.

26 So I have trouble following this logic.

1 MR. JOSEPH SMILLIE: Stay tuned.

2 MS. BARBARA C. ROBINSON: Anyway, I would
3 suggest since -- I would like to suggest, since
4 it's not being acted on now, you know, maybe you
5 continue to think about it. We'll continue to
6 think about it, but you might want to just keep
7 moving on.

8 MR. JOSEPH SMILLIE: We are, and we're
9 not going to leave this issue in the near future,
10 so Tracy, five years of hard time, no time off for
11 good behavior.

12 MS. ANDREA CAROE: That concludes the
13 CAC's report. So we are moving on to livestock,
14 and you have two items, on discussion item, one
15 recommendation?

16 MR. HUBERT I. KARREMAN: Yes, and I will
17 keep it very short actually. I believe I can.
18 Two items, two minutes, how's that? I get a piece
19 of chocolate if I do good? Okay. I had my ice
20 cream. Ooh.

21 [Background noise]

22 MR. HUBERT I. KARREMAN: They make the
23 best chocolate. Okay. So we -- just a quick
24 discussion item. Yeah, on the symposium, kind of
25 a follow up -- wrap up. I think most everybody in
26 the room would agree that we had a very

1 informative, very good, if not excellent
2 symposium, so I want to thank the USDA for
3 allowing us to have that, and our panelists who
4 came, as well as the Livestock Committee for
5 helping get that all prepared. And we will be
6 working on those two issues of the feed and the
7 net pens, and hopefully come up with a
8 recommendation for the Spring meeting. It'll
9 definitely be on our work plan. Pretty much
10 number one.

11 And the second item -- I'm sorry. If
12 there's discussion on that? I'm sure we'll have
13 some more public comment in a little while anyway.

14 Second item is that the Livestock
15 Committee will be recommending tomorrow that we
16 accept the aquaculture working group's supplement
17 to the interim final report for bivalve mollusks,
18 which will set the stage for yet another
19 symposium. No, it won't. We don't think so,
20 but -- and that is a 13 or 14 page report here
21 from the AWG, basically talking about bivalve
22 mollusks in general. The organic system plan for
23 their production. The origin of them. Forage
24 production, contamination indicators, animal
25 health care practices, living conditions, bivalve
26 growing facilities, harvesting bivalve shellfish,

1 and handling and transport of them.

2 And the one issue that probably -- it
3 seems like a fairly benign topic, but I think the
4 harvesting practices brought up some questions
5 because you are actually raking up, you know, the
6 sediment, but I don't think that's insurmountable.
7 But anyway we're going to recommend to accept that
8 tomorrow. And if there's any discussion on that
9 within the group. And I do know that George
10 Lockwood is back there with a presentation, but
11 honestly George, in the interest of time, if
12 that's okay, I'm sure you have a public comment,
13 or hopefully you do. No? Okay. So if there's
14 any discussion on that bivalve mollusk document
15 that we're going to receive tomorrow, officially?
16 We approved it six to zero. Oh, Bea has a
17 question.

18 MS. BEA E. JAMES: We're just voting to
19 accept --

20 MR. HUBERT I. KARREMAN: [Interposing]
21 Yes.

22 MS. BEA E. JAMES: . . . the -- yeah,
23 we're not --

24 MR. HUBERT I. KARREMAN: [Interposing]
25 That is correct.

26 MS. BEA E. JAMES: Okay.

1 MR. HUBERT I. KARREMAN: That's right.
2 Just like we did at State College for the big one
3 that they gave us, yeah. And that's it for the
4 Livestock Committee.

5 MS. ANDREA CAROE: Thank you. I think
6 you went 2-1/2 minutes, but being particularly
7 benevolent that I am, I will give you the piece of
8 chocolate anyway. Okay.

9 MR. HUBERT I. KARREMAN: Let's move on.

10 MS. ANDREA CAROE: And in the spirit of
11 being benevolent, I have two commentators that have
12 airplanes to catch, and I'm going to let them
13 sneak up to the front of the list. We've all
14 tried to make airplanes so just, you know.

15 MR. HUBERT I. KARREMAN: Be late anyhow.

16 MS. ANDREA CAROE: Bring your goodwill.
17 So I have Peter -- I can't read your handwriting.

18 MR. PETER VAN WYK: Van Wyk.

19 MS. ANDREA CAROE: That's you.

20 MR. PETER VAN WYK: That's me.

21 MS. ANDREA CAROE: You're up, and then on
22 deck is Rob Everts. Yes, I need to actually read
23 the rules of engagement or so -- just hold on one
24 second. I think it's page 17 of the policy
25 manual.

26 Okay. Oh, it's not. See what page on

1 the manual do I find. Here it is. Okay. Quickly
2 I need to read the NOSB Policy For Public Comment
3 at NOSB Meetings.

4 One, all persons wishing to comment at
5 NOSB meetings during public comment period must
6 sign up in advance.

7 Two, persons will be called upon to speak
8 in an order -- in the order they signed up. Well,
9 we know I just kind of fudged that a little bit.

10 Okay. Three, unless otherwise indicated
11 by the Chair, each person will be given five
12 minutes to speak.

13 Four, persons must give their name and
14 affiliation for the record.

15 Five, a person may submit a written proxy
16 to the NOP or NOSB, requesting that another person
17 speak on his or her behalf.

18 Six, no person will be allowed to speak
19 during the public comment period for more than ten
20 minutes.

21 And seven, individuals providing public
22 comment will refrain from any personal attacks and
23 from remarks that otherwise impugn the character
24 of any individual.

25 Okay. With that, Peter.

26 MR. PETER VAN WYK: Okay. Thank you very

1 much. I appreciate your allowing me to go early
2 and catch my plane. My name is Peter Van Wyk, and
3 I'm a biologist working for a small start up
4 coming located in Florida called Scientific
5 Associates. And our company has been working for
6 a couple of years to develop a system for
7 producing marine shrimp in closed, recirculating
8 aquaculture systems. Yesterday David Guggenheim
9 of One Planet, One Ocean spoke of his epiphany
10 that the future of sustainable aquaculture is in
11 closed, recirculating, aquaculture systems. We
12 are in complete agreement with David's analysis.
13 We have chosen this approach because we feel that
14 closed, recirculating aquaculture systems offer
15 the best opportunity to minimize the environmental
16 impacts of shrimp farming and to produce a safe,
17 tasty, and wholesome product utilizing sustainable
18 production techniques.

19 Our goal is to provide consumers with an
20 environmentally friendly alternative to the
21 imported shrimp grown in traditional pond base
22 systems, whose spotty environmental record is well
23 known and well documented.

24 We believe that closed recirculating
25 aquaculture systems allow shrimp to be grown in a
26 manner that is highly consistent with the goals of

1 the National Organic Program, and ultimately hope
2 to be able to market our shrimp as USDA
3 organically certified.

4 We would like to take this opportunity to
5 voice some of our concerns to the NOSB before you
6 adopt a set of rules for organic aquaculture.

7 My comments today have to do with the
8 national list, as it relates to aquaculture
9 production systems. We believe that as the NOSB
10 considers the organic standards to be used for
11 aquaculture, there should be a revision of the
12 national list to include certain substances that
13 are currently barred from use.

14 Substances approved for use [clearing
15 throat] excuse me. We believe that there should
16 be a revision of the national list of substances
17 approved for use take into account that there are
18 fundamental differences between terrestrial and
19 aquatic environments, and also that the
20 environmental requirements of terrestrial crops
21 and marine or freshwater, aquaculture crops, are
22 distinctly different.

23 Let me offer a couple of examples.
24 Currently calcium chloride and potassium chloride
25 may only be used in special situations such as the
26 treatment of plants with a physiological disorder

1 that limits their calcium uptake ability. I
2 believe that the justification for the prohibition
3 of these chemicals is their potential for
4 chloride -- contamination of the soils with
5 chlorides.

6 However, in the case of marine shrimp
7 production in a closed aquaculture system, our
8 crops are grown in a saline environment. Over the
9 course of time, shrimp extract minerals such as
10 calcium, potassium, and magnesium from the water,
11 depleting the concentrations of these ions from
12 the sea water.

13 We believe that we should be allowed to
14 selectively replenish the supply of naturally
15 occurring minerals in the sea water, using calcium
16 chloride, potassium chloride, and other sources of
17 inorganic ions.

18 This kind of use does not represent any
19 threat to the environment, as these are tank based
20 production systems with zero exchange -- discharge
21 to the environment.

22 A second example of a prohibited
23 substance is ozone. Currently ozone is prohibited
24 except for the disinfection of irrigation tubing.
25 In closed aquaculture systems ozone is the most
26 effective water treatment for reducing bacterial

1 loading in the water, and its use makes it
2 possible to maintain the health of animals without
3 resorting to antibiotics.

4 Properly used, ozone is consumed as it
5 oxidizes organic matter in the system. Ozone
6 contact devices can be outfitted with ozone
7 destruct units to ensure that there is no release
8 of ozone into the atmosphere. This application of
9 ozone was not considered when the standards were
10 developed for terrestrial aquaculture products.

11 These are just two of the chemicals on
12 the national list that have uses in aquaculture
13 that are far different from their uses in
14 traditional forms of aquaculture and which we
15 believe merit further consideration. We'd be
16 happy to assist the NOSB in identifying chemicals
17 on the national list that have different uses
18 from -- in aquaculture systems and different risk
19 factors associated with their use.

20 We understand that we will need to file
21 petitions for the addition of certain substances
22 to the national list, specifying how they're to be
23 used in aquaculture applications, but we just want
24 to make the NOSB aware of the fact that when an
25 aquaculture organic standard becomes available, a
26 whole new set of materials may need to be added to

1 the national list.

2 MS. ANDREA CAROE: Well, thank you very
3 much.

4 MR. PETER VAN WYK: Thank you.

5 MS. ANDREA CAROE: And we are prepared.
6 We understand that with the inclusion of
7 aquaculture there becomes all new materials that
8 we will expect to see in petitions, and that
9 luckily we do have the mechanism already in place
10 to evaluate these materials and list them. I'll
11 note, Hue.

12 MR. HUBERT I. KARREMAN: Yeah, I mean,
13 they want there to be a petition, which you're
14 well aware of, and they'll have to meet the seven
15 criteria of OFPA, just like anything else. But
16 also, like potassium chloride and calcium
17 chloride, I've learned through calcium bora
18 gluconate, and things like that, that they're
19 electrolytes so you might be able to use them
20 anyway. Electrolytes are allowed for livestock.
21 Learned that. Paralegal learning here. Anyway,
22 just -- yeah.

23 MR. PETER VAN WYK: We look forward to
24 working with you guys over the next, you know, few
25 months to try to determine which chemicals
26 actually need to be petitioned and which ones can

1 be used under existing regulations, and then try
2 to follow through on the petitioning process.

3 MS. ANDREA CAROE: We appreciate that you
4 are watching the process and are staying with us.
5 It'll be a while before this is implemented, so
6 we'll have some time to start looking at that, and
7 thank you very much. Any other comments?
8 Questions? Thank you very much, and I hope you
9 make your flight.

10 Do we have Rob Evert? Okay, Rob, you're
11 up, and up next then is Joe Dickson with proxy
12 from Margaret Wittenberg. Joe, are you in the
13 room? Do you see Joe?

14 FEMALE VOICE: He was just here.

15 MS. ANDREA CAROE: Joe? He's there?
16 Could somebody grab him? Thank you. Go ahead.

17 MR. ROB EVERTS: Thank you. My name is
18 Rob Everts, I'm President and Co-director of Equal
19 Exchange, here to talk about the grower group
20 certification. Equal Exchange is the largest fair
21 trade company in the United States. We have
22 direct relationships with 33 small scale farmer
23 organizations in 19 countries throughout Latin
24 America, Africa, and Asia. Founded in 1986 we
25 were the first company in the country to offer
26 fair trade coffee. We now import over five

1 million pounds of coffee and several hundred
2 thousand pounds of coca beans, sugar, and tea
3 every year.

4 This year we also began selling organic
5 almonds, pecans, and cranberries grown by family
6 farmers in the United States. Certified organic
7 products comprise nearly 90 percent of our sales,
8 and the vast majority of organic coffee and cacao
9 throughout the world comes from small farmers.

10 As a company, Equal Exchange prides
11 itself on the direct, long term relationships that
12 we've established with our trading partners.
13 We've worked closely with some of these groups for
14 10 to 15 years, and can attest to the farmers'
15 hard work and dedication to protect the natural
16 environment, improve the quality of life for their
17 families, and provide consumers with the highest
18 quality organic food products.

19 Each year we travel to source to visit
20 with the cooperative members. We meet with the
21 farmers, attend co-op meetings, participate in
22 quality control trainings, and visit the farms'
23 processing centers, storage facilities, and dry
24 mills. We stay in the farmers homes. We observe
25 first hand the cultivation and processing methods
26 used.

1 We have found that most farmers have
2 assumed the organic requirements with considerable
3 seriousness and a strong degree of pride in their
4 accomplishments.

5 In some cases the farmers have shown us
6 the methods they have adopted as part of their
7 participation in the organic program. In other
8 instances, however, the methods being practiced
9 stemmed from cultural norms that go beyond the
10 necessity of meeting certification requirements.

11 For example, in many indigenous cultures
12 the farmers have a deep respect for Madre Tierra,
13 Mother Earth, and articulate with tremendous
14 understanding and concern the interrelatedness
15 between farming practices, our health, and the
16 health of the natural world in which we live.

17 Now our view on the proposed NOSB
18 recommendations. We would like to thank the CAC
19 for its thoughtful consideration of the grower
20 group certification issue, and express our support
21 for your attempts to protect the integrity of the
22 organic label.

23 Equal Exchange is a member of the
24 National Organic Coalition and is in agreement
25 with the statement that the NOC is submitting for
26 your consideration. We believe that the grower

1 group certification system has been working well
2 for many years, and that additional guidelines
3 could serve to strengthen it.

4 A fundamental question is how do you
5 certify large swathes of land, whether it's owned
6 by 400 people, 10 people, or 1 person. Most of
7 the farmers in the cooperatives Equal Exchange
8 works with own five to seven acres of land. The
9 farms are in isolated areas where roads,
10 electricity, and other infrastructure is limited
11 or nonexistent. As we're all aware, the organic
12 requirements are strict and labor intensive, and
13 due to the distances between farms, the cost to
14 complete an inspection can be very high.

15 We believe that most of our trading
16 partners have a serious commitment to organic
17 production, but fear that rising costs could be a
18 prohibitive factor in their facility to continue
19 on this path. They have told us that without
20 group certification, the increased costs
21 associated with the need to have every farm
22 individually inspected on an annual basis would in
23 effect cause many of them to abandon their organic
24 programs.

25 As nearly 90 percent of our sales are
26 organic, we fear this could put us out of

1 business. We view the internal control systems as
2 an additional layer of oversight for the grower
3 groups. You are already aware, I believe, of the
4 training, the inspections, and the documentation
5 requirements. In human terms, the peer pressure
6 is real. Knowing the people you inspect actually
7 helps, and it's harder to pull the wool over their
8 eyes. The message is clear; if you cheat we all
9 lose.

10 Further, since individual farmers do not
11 know which farms will be inspected by the external
12 agents, they must behave as if their farm will be
13 selected in this sample, so we view this system as
14 an additional layer of protection for ensuring
15 compliance.

16 Still, if people are found to be out of
17 compliance they must pay the price. This proves
18 that the system works.

19 To conclude, organic agriculture provides
20 some of the highest incomes for people in the
21 rural areas in the developing world. Most of this
22 is small scale. We strongly believe that the
23 current requirements could be tightened, but that
24 the system as a whole should not be eliminated.

25 We respectfully ask the NOSB to consider
26 the extreme diligence that most small scale

1 farmers apply in carrying out the requirements,
2 the expertise of the certifying agencies in
3 determining the correct number of farms to be
4 inspected, and the importance of continuing a
5 certification system which will allow small scale
6 farmers to continue to supply U.S. consumers with
7 high quality, organic products. Thank you for
8 your consideration.

9 MS. ANDREA CAROE: Thank you. Comments?
10 Hue.

11 MR. HUBERT I. KARREMAN: Something I
12 thought of during that whole other discussion we
13 had, but since you're bringing it up here and
14 you're using the term that came through my head at
15 that point is -- and since you can't discriminate
16 between, let's say the developed United States,
17 and where we might not want to have grower groups,
18 but in the developed world I -- in the developing
19 world perhaps somewhere, if it's ever written up
20 as a rule change or whatever, where there's lack
21 of infrastructure, lack of basic things in
22 infrastructure, possibly there could be a grower
23 group type certification, such as what you're ten
24 miles away from a main road, there's, you know, no
25 electricity, blah blah blah. I mean, some kind of
26 definition, but hinge it on infrastructure, or

1 actually lack thereof. And I don't think you're
2 going to find that in the United States anymore,
3 but you will find it in other countries.

4 MS. ANDREA CAROE: I think that's the
5 type of work that needs to be done between now and
6 the next meeting is that type of pulling those
7 thoughts out and trying to sort them out. Is
8 there any other comments? Bea.

9 MS. BEA E. JAMES: Thank you for coming
10 today and your comments. I wanted to ask you
11 about the organic almonds that you're selling, and
12 I'm curious if you're purchasing pasteurized
13 almonds.

14 MR. ROB EVERTS: We are purchasing
15 almonds from Big Tree in California and they are
16 in complete compliance with all the latest rules
17 in that regard. That's what I can say.

18 MS. BEA E. JAMES: Okay.

19 MR. ROB EVERTS: I saw some e-mails go
20 back and forth between our person and their
21 person, and I was copied on a couple of these
22 things, and I know that we had to explain to our
23 people why we're going along with their
24 recommendation, but they're in compliance with
25 whatever latest rules were imposed. I should -- I
26 apologize for not having a first hand

1 understanding of that one.

2 MS. BEA E. JAMES: No, that's okay, I
3 just was wondering if maybe you were focusing on
4 exempt smaller farm almond farms where you were
5 purchasing, but it sounds like you're just --

6 MR. ROB EVERTS: [Interposing] They're --

7 MS. BEA E. JAMES: [Interposing] Yeah.

8 MR. ROB EVERTS: They're pretty small
9 scale out there, but yeah.

10 MS. ANDREA CAROE: Rigo.

11 MR. RIGOBERTO I. DELGADO: Going back to
12 the topic of defining grower groups. In your mind
13 what makes a grower group, and forget about
14 finding that grower group in Chile or Peru or
15 wherever. Even the United States. In your mind
16 what makes a grower group different, and I assume
17 this grower group owns collectively 1,000 acres.
18 What makes that group different from a farmer
19 who -- organic farmer who owns the same amount of
20 land?

21 MR. ROB EVERTS: I think it should be
22 very much in play that farmers who belong to, for
23 example, an organized group in the United States
24 like a cooperative -- dairy cooperatives, for
25 example, who are in the same geographical area,
26 who market through the same system, who process

1 using the same systems, who use the same inputs,
2 we're very fair game for groups like that in the
3 United States made up of individual farmers to
4 seek access to the group certification.

5 Individuals, I'm just calling random
6 individuals, I mean they wouldn't -- I don't know
7 who they'd be seeking group certification from,
8 but I would say for people again, similar inputs
9 market the same way, sell the same product, same
10 contiguous areas, these are all the elements that
11 come into play right in determining what's
12 appropriate for these definitions.

13 In our experience again working with the
14 almonds and pecans just began earlier this year,
15 so this -- our experience really is overseas, and
16 it's third world, and when I say organic
17 agricultures provides one of the highest incomes,
18 it is all relative.

19 MS. ANDREA CAROE: Dan?

20 MR. ROB EVERTS: It's all relative.

21 MR. DANIEL G. GIACOMINI: Regarding
22 grower groups, and in your experience, and the way
23 you see the picture working, let's say you have
24 100. I don't know how many are in -- of
25 individuals in plots are in your grower group.
26 You have the organic certificate, correct?

1 MR. ROB EVERTS: The group has the
2 certificate.

3 MR. DANIEL G. GIACOMINI: The group has
4 the certificate. If one of them in the group is
5 found to be in violation, where is -- who is
6 penalized?

7 MR. ROB EVERTS: The group feels
8 threatened at this point, and other certifiers may
9 speak to exactly what happens if 1 -- if there's
10 50 people in a group, 1 is found out of
11 compliance, is that person singularly thrown out?
12 That's where the risk assessment is negotiated
13 between the certification agencies and the grower
14 groups and what their internal control system
15 looks like.

16 If that's an area that should be
17 tightened up in some way, based on communication
18 between certification agencies or something like
19 that, I think that's all fair game for
20 improvement, but the --

21 MR. DANIEL G. GIACOMINI: [Interposing]
22 How --

23 MR. ROB EVERTS: . . . internal control
24 system itself would be the one --

25 MR. DANIEL G. GIACOMINI: [Interposing]
26 How many violations do you think you would need to

1 have on different members before --

2 FEMALE VOICE: This is not a
3 [unintelligible].

4 MR. DANIEL G. GIACOMINI: Well, but it is
5 a question. I mean, it's part of this whole
6 grower group process. If Kevin has one cow that's
7 a problem for her organic certification, yeah, the
8 cow's thrown out, but so is Kevin. And if they
9 have -- if -- okay.

10 MS. ANDREA CAROE: I understand this is -
11 - but you're asking certification questions. I
12 mean, those are questions that we can ask the
13 certifiers that participate in group certification
14 or have in the past. But I don't know that -- and
15 I'm speaking for you, but I don't believe that
16 this is your expertise and what you're coming here
17 to talk about.

18 MR. ROB EVERTS: Right. That's where --
19 and given a place and a track record and history
20 of an organization where it's recently been around
21 the block many times, large, small, they need to
22 negotiate within their organic plan. They make
23 the call on risk assessment, who's -- maybe even
24 how those penalties, you know, happen.

25 MS. ANDREA CAROE: Is there any further
26 questions? Any further?

1 MALE VOICE: Kevin does.

2 MS. ANDREA CAROE: Kevin?

3 MR. KEVIN ENGELBERT: Just quickly. I've
4 been -- I'm a grower group newbie, so I thought
5 it's better to just be quiet until I learn more
6 about this, but the thought has run through my
7 head, exactly what Dan has said; what prohibits
8 this from happening in the United States, and how
9 can you write a rule that is so biased like that
10 and doesn't open up a can of worms with a co-op
11 being able to certify all its farm under its
12 banner with just certain numbers of them certified
13 every year?

14 MR. JOSEPH SMILLIE: It's got to be an
15 identical OSP. That's what is missing in this
16 conversation. U.S. growers don't have identical
17 OSPs. They're going to be different. They're
18 individuals, they own their land. Even if they're
19 part of a marketing cooperative and are very
20 similar and good friends, cousins, brothers, sons
21 and daughters, it doesn't matter. They'll have
22 different OSPs for the farm. You're looking at a
23 situation that these farmers are identical in
24 their OSPs; their organic systems plan. What they
25 use, what they grow, how they grow it, there's a
26 significant difference.

1 If you took that criteria and applied it
2 to even how to write a colony, which is the
3 closest I've ever seen to it, then you would find
4 different OSPs because U.S. growers have their,
5 you know, some buy this material from that
6 salesman, some buy different material. You're
7 looking at identical OSPs in the grower group
8 situation that he's talking about. There's a
9 distinct difference. It's not a question of, you
10 know, it's okay for Colombians and not okay for
11 Americans, this is different farming systems
12 involved, and I think the key word is identical
13 OSPs. But I know Andrea's losing patience with
14 this conversation, but I just had to say that.

15 MS. ANDREA CAROE: I am. I'm sorry. I
16 know that there's a lot to be discussed here, I
17 wish we had more time for it, and Kevin, I
18 really -- I don't want to put this off but I'm
19 really more focused now on our vote items, this
20 meeting, and making sure that we get all that
21 comment.

22 FEMALE VOICE: We can join the call.

23 MS. ANDREA CAROE: I appreciate you
24 coming here and I would hope that you can make it
25 to the Spring meeting, because this topic will
26 still be there.

1 MR. ROB EVERT: Thank you very much.

2 MS. ANDREA CAROE: Thank you very much.

3 Next up is Joe Dickson. On deck is Mark Kastel.

4 Mark, are you here? You're Will Fantle. Okay.

5 All right. Joe.

6 MR. JOE DICKSON: Hi. My name is Joe
7 Dickson, I'm Organic Programs Coordinator at Whole
8 Foods Market. I'm also holding a proxy from
9 Margaret Wittenberg and I'd like to speak for ten
10 minutes. I've just circulated three documents to
11 the Board. One is a letter from one of our
12 suppliers, one is a letter from Margaret, and one
13 is a longer version of the comments that I'm about
14 to give today.

15 First off I'd like to express our
16 company's support of the recommendation on
17 standardized certificate information. As a
18 certified retailer we verify and update
19 certification files every year for every single
20 organic product that we sell in its unpackaged
21 form.

22 Without standardization these
23 certificates are incredibly challenging to review
24 and interpret. The Committee's recommendation
25 would directly improve efficiency in the flow of
26 organic products and enhance the overall integrity

1 of the organic market.

2 My main comment today, however, is about
3 the Accreditation Committee's recommendation on
4 multi site certifications. Whole Foods Markets
5 strongly supports this recommendation, which
6 proposes to update the existing and fully
7 functioning certification protocol for organic
8 operations that operate multiple sites.

9 I'd like to focus on two key points
10 today. First, we have and we will continue to
11 support small scale farmers which aggregate their
12 products in order to process, distribute, and
13 market these products. This recommendation will
14 allow such operations, largely smaller producers
15 in developing countries, to continue to access the
16 U.S. organic market while maintaining organic
17 integrity in their operations.

18 Second, as the country's first national
19 certified organic retailer we developed an organic
20 compliance plan under which our retail operations
21 are certified, using a strong internal control
22 system as the backbone of the certification.

23 This recommendation properly clarifies
24 the role of an internal control system for
25 handlers, and in particular retailers certified
26 under the group or multi site certification model.

1 The Committee's recommendation strongly
2 defines the roles and responsibilities of a
3 certified client's internal control system as an
4 integral part of the compliance system. The ICS
5 enables the certifier to ensure that the organic
6 system plan is being followed, and organic
7 integrity is being upheld in all units of the
8 system throughout the certification year.

9 I'd like to spend a few minutes
10 describing Whole Foods Markets' organic compliance
11 plan and its internal control system to
12 demonstrate that a well implemented multi site
13 certification protocol provides just as much, if
14 not greater, compliance monitoring and continuous
15 improvement as a traditional single site
16 certification.

17 Although the final rule provided an
18 exemption from certification for retailers, we
19 opted to forego that exemption. We believed at
20 the time and now, that our customers would benefit
21 immensely from knowing that everyone who had
22 handled their food had been certified by a third
23 party, rather than everyone accept the retailer.

24 We designed our organic compliance plan
25 shortly after the implementation of the final rule
26 in 2002, and tailored it to the specific oversight

1 mechanisms favored in the final rule.

2 We became the first national retail chain
3 to be certified organic when QIA accepted our
4 organic system plan, inspected our company, and a
5 set of our stores, and issued our first
6 certificate in 2003.

7 The organic compliance plan we designed
8 ensures that the regulation is followed in all
9 areas of our retail operations, including
10 purchasing, record keeping, storage, preparation,
11 merchandising, and marketing.

12 In general we designed an OCP that
13 ensures that our employees in every department of
14 every store are trained and equipped to preserve
15 the organic integrity of everything we sell. The
16 success of this system hinges on our -- and our
17 certifying agent's ability to monitor and address
18 compliance at each of our over 200 stores. Our
19 internal control system, the compliance monitoring
20 program at the core of our retail certification,
21 provides us with this ability.

22 The internal control system, as
23 implemented at Whole Foods Markets, increases the
24 value of the inspection process, and improves the
25 integrity of the audit trail. It also establishes
26 feedback loops that provide for continuous

1 improvement throughout the inspection year in a
2 way that annual inspections do not.

3 Each month every retail location is
4 visited by an organic compliance auditor. Over
5 the course of the three to four hour audit, every
6 department is evaluated on a number of criteria
7 which measure the store's adherence to the retail
8 OCP and the national organic standards.

9 Criteria include the documentation of
10 sanitation practices, protection of organic
11 products from contamination and commingling,
12 training of employees, marketing and merchandising
13 practices, and the compliance of pest control
14 practices.

15 The auditor then files an electronic
16 inspection report with the leadership of the
17 store, the company's regional leadership in charge
18 of that store, and my office. This report enables
19 the company to identify and address known
20 compliances and other improvement opportunities
21 immediately.

22 The auditors in my team also review
23 subsequent inspection reports to monitor for
24 repeat noncompliances and take appropriate action.

25 The auditors themselves are a group of
26 highly trained quality assurance professionals who

1 have all worked in our stores and have been
2 trained extensively by a team well versed in
3 organic compliance practices and NOP requirements.

4 The auditors maintain ongoing contact
5 with my office to keep my team abreast of
6 compliance at our stores, and they receive ongoing
7 guidance from my team on auditing criteria and
8 requirements.

9 The auditors, our retail operations, and
10 my team all function together as a well integrated
11 group with a shared goal of upholding organic
12 integrity in our stores.

13 Internal estimates for 2008 indicate that
14 these auditors will spend about 10,000 hours
15 auditing our stores for organic compliance, three
16 to four hours per month, in each of our 270
17 stores.

18 The work of this group of auditors
19 results in continuous compliance improvement in
20 our stores and in a strong audit trail which
21 represents conditions in each store throughout the
22 year. Our certifier then reviews a sampling of
23 these audit reports, along with the operation of
24 the overall system, during our annual inspection
25 every year.

26 Our annual inspection by our certifier

1 consists of three principal parts. The inspector
2 randomly selected subset of our stores, they
3 inspect our overall management practices for all
4 facilities, and they inspect our internal control
5 system by random samplings and by evaluation of
6 the integrity and objectivity of the internal
7 control system itself.

8 Twenty percent of our stores are visited
9 directly on an annual basis. This year was about
10 40 stores directly audited by our certifier.

11 The store inspections consist of a
12 thorough review of compliance to our OCP in every
13 department. The inspection of our group
14 management practices takes place every year with
15 my team in our office in Austin. The inspector
16 reviews the overall management and operations of
17 our system, verifies that past noncompliances have
18 been fully addressed, reviews purchasing
19 documentation and certificates, and generally
20 verifies that our systems are in place as set
21 forth in our OCP.

22 The auditor also reviews our internal
23 control system, reviewing a sampling of reports
24 from our auditors, and verifying that individual
25 noncompliances have been addressed. The ICS is
26 then also evaluated as part of the retail store

1 inspections. When visiting a given store, the
2 inspector reviews the recent audits for that
3 location and looks at consistency in quality of
4 the audits and the match between those audit
5 reports and the actual conditions at the store.

6 This is an essential part of the
7 certification process, in that our certifier makes
8 sure that our internal audit program is operating
9 with integrity.

10 To summarize, under our certification
11 program, a noncompliance in an individual store is
12 reported and addressed almost immediately, whereas
13 under a traditional inspection model it may not
14 have been noted for up to a year.

15 This feature; our ability to monitor and
16 improve compliance on a continuous basis, is a key
17 strength of the multi site certification model
18 described in the Committee's recommendation.
19 Between the 10,000 hours of direct observation by
20 our auditors, the 120 hours of direct observation
21 by our certifier, and the additional verification
22 of our ICS by the certifier, our system enables us
23 to uphold organic integrity in our stores and
24 facilitate continuous improvement of our system in
25 direct, powerful ways.

26 Our multi site certification program

1 provides far more value to our company and to our
2 customers than one in which each site is visited
3 directly by the certifier on an annual basis.

4 The Committee's recommendation preserves
5 the best of the existing approaches to multi site
6 certifications, while improving the overall
7 process, and truly supports a model that respects
8 producers and handlers of all sizes and types.
9 Whole Foods Markets supports this recommendation
10 and urges the Board to continue to consider the
11 certification of the many retailers and handlers
12 already certified as groups, in addition to grower
13 groups, in its recommendation. Thank you.

14 MS. ANDREA CAROE: Thank you, Joe. Are
15 there questions for Joe? Bea.

16 MS. BEA E. JAMES: Thank you for your
17 presentation.

18 MR. JOE DICKSON: Thanks, Bea.

19 MS. BEA E. JAMES: How many of your 200
20 stores are inspected annually?

21 MR. JOE DICKSON: This year it was about
22 40 stores. It's generally 20 percent of the
23 stores, based on a formula derived from the IFOAM
24 criteria for multi site certification.

25 MS. BEA E. JAMES: For the stores that
26 are not inspected do you spend extra time auditing

1 those stores?

2 MR. JOE DICKSON: No. Given that, you
3 know, each of those stores is -- undergoes a full
4 audit once a month for three to four hours, we
5 consider that sufficient.

6 MS. BEA E. JAMES: How do you determine
7 what stores are inspected of that 20 percent?

8 MR. JOE DICKSON: That determination is
9 made by our certifier.

10 MS. BEA E. JAMES: Are you given that
11 information ahead of time?

12 MR. JOE DICKSON: Slightly.

13 MS. BEA E. JAMES: Uh huh.

14 MS. ANDREA CAROE: Any other questions
15 for Joe? Dan.

16 MR. DANIEL G. GIACOMINI: First thing;
17 when were you certified?

18 MR. JOE DICKSON: 2003.

19 MR. DANIEL G. GIACOMINI: 2003. So we're
20 in five year -- have you ever -- how many of your
21 stores haven't been ever inspected?

22 MR. JOE DICKSON: You know, I can't say
23 off the top of my head.

24 MR. DANIEL G. GIACOMINI: That were in --
25 that were stores in 2003.

26 MR. JOE DICKSON: As of this

1 certification year, all of our stores that were
2 open in 2003 have been inspected. Stores that
3 have opened since that time may not have been
4 inspected.

5 MS. ANDREA CAROE: Any other questions?
6 Tracy.

7 MS. TRACY MIEDEMA: One of the most
8 compelling things I heard early in this
9 investigation was the idea of consistency and
10 continuity, and so will you speak a little bit
11 more to how you use some sort of central
12 management when, you know, your stores can't
13 possibly all look exactly the same, but we're
14 relying -- you're relying on some sort of
15 management tool in the middle.

16 MR. JOE DICKSON: Yeah, I mean, well, I
17 think the most important feature is that we have
18 one single, very clearly defined organic system
19 plan. That, you know, while our stores are
20 different sizes, some may have a juice bar, some
21 may not have a juice bar, there's all sorts of
22 configurations, we have a very clear set of
23 operating procedures for each of those stores and,
24 you know, a whole suite of training programs, and
25 sort of operating manuals, and audit criteria that
26 really do not vary from store to store.

1 And I think a key part of that too, and
2 sort of keeping that consistency, is the group of
3 auditors who actually do the audits, and you'll
4 hear from one of them and a few commentators, but
5 it's there, I think direct contact with the
6 stores, and their sort of, you know, application
7 of those audit criteria that really keep those
8 stores operating on the same plan.

9 MS. ANDREA CAROE: Bea.

10 MS. BEA E. JAMES: In the letter that you
11 passed out from Margaret, Margaret mentions in the
12 second to last paragraph, she says, third, the
13 recommendation treats every inspected and
14 certified equally, whether a producer, a handler,
15 or retailer, and the smallest and the largest
16 organic operators are treated the same.

17 I guess I would disagree with that
18 because if you're a small operator, as a retailer
19 generally you have less stores, you have less
20 stores, every site has to be inspected, and if
21 you're a large retailer then you're looking at 20
22 percent of your sites being inspected. So I just
23 wanted to point that out.

24 MR. JOE DICKSON: I recognize that that
25 might not -- that might seem unfair to the
26 perspective of a smaller retailer.

1 MS. ANDREA CAROE: Any further --
2 Jennifer and then Hue.

3 MS. JENNIFER M. HALL: Do your internal
4 auditors consistently audit the same stores, or do
5 they move around to different stores?

6 MR. JOE DICKSON: They move around to
7 different stores.

8 MS. ANDREA CAROE: Hue.

9 MR. HUBERT I. KARREMAN: Just there are
10 statistically valid ways to randomly select out of
11 a group who you're going to check, I mean, just as
12 far as that goes.

13 MR. JOE DICKSON: Was that a question,
14 or --

15 MR. HUBERT I. KARREMAN: [Interposing]
16 No, that was a response to Bea.

17 MR. JOE DICKSON: Oh, okay.

18 MS. ANDREA CAROE: Bea.

19 MS. BEA E. JAMES: My point in pointing
20 that out was that if your -- 20 percent of your
21 stores are given advance notice on inspection,
22 then those 20 percent of your stores have a little
23 bit of pretime to prepare for that inspection
24 while your other stores that are not being
25 notified, would be more likely to not have time to
26 prepare, and so it puts a little bit of an

1 advantage onto the stores that are given the
2 notification in advance.

3 MR. HUBERT I. KARREMAN: That's one thing
4 that I've never understood, is that on inspections
5 there's always a lead time given to the farms. My
6 farmers know when the inspector's coming. It's
7 going to be in two weeks Tuesday, and I don't
8 think there's enough surprise inspections or
9 whatever. There's different argument, but that
10 would go along with this group certification, it
11 would fit in.

12 MS. ANDREA CAROE: Not to get off the
13 reservation here too much, but besides annual
14 inspection there are unannounced inspections, and
15 they are just given enough time to make sure that
16 somebody's there, but there is two types of
17 inspections that happen. Joe.

18 MR. JOE DICKSON: To that point real
19 quickly. You know, our internal auditors, their
20 audits are always unannounced. Those are
21 completely surprise inspections at our stores,
22 they don't know they're being inspected until the
23 auditor shows up, and that, from my perspective,
24 is one of the best ways we control for the
25 predictability of the annual certifier
26 inspections.

1 MS. ANDREA CAROE: Any further questions
2 for Joe. Thank you so much for showing up and
3 giving us your input on this.

4 MR. JOE DICKSON: Thanks very much.

5 MS. ANDREA CAROE: The next up, Will
6 Fantle, I guess, and then Steve Peirce. Are you
7 in the room, Steve?

8 MR. STEVE PEIRCE: Yes.

9 MS. ANDREA CAROE: Okay. You're on deck.

10 MR. WILL FANTLE: I'd like to note that I
11 have a proxy as well for a former NOSB member,
12 Goldie Kaufman. And I would like to use her five
13 minutes for that purpose, so I'll be reading a
14 portion of a letter that she provided to you
15 members of the NOSB.

16 My name is Will Fantle. I'm the co-
17 director at the Cornucopia Institute. I think
18 many of you are familiar with our work, and we
19 work primarily with farmers around the country and
20 we attempt to voice some of their concerns on
21 organic issues before this forum and before other
22 forums. First I'd like to say that we welcome the
23 announcement yesterday by the NOP that there's
24 going to be greater transparency. We think this
25 is a step in the right direction to open and put
26 out more of these documents for people to see.

1 I know the frustration that the secrecy
2 and some of the mystery that has surrounded
3 previous decisions and actions by the NOP have led
4 to our organization filing FOIA. Yes, we are one
5 of those groups that have done that. We haven't
6 done it a lot, and we haven't been frivolous with
7 that, and I will say up until June of this year we
8 had not filed a FOIA for over a year. We again
9 began filing FOIAs in June and we filed four, I
10 believe, when the decisions were announced
11 regarding some of the complaints that we had
12 initiated with Vanderak, Aurora, and Horizon, and
13 our puzzlement, if not befuddlement, on how some
14 of those decisions were reached, so if this type
15 of information were made available to us and I
16 think the broader public, this would eliminate
17 some of that confusion, and we welcome this step,
18 and we hope it is a step that is implemented fully
19 by the NOP.

20 I want to turn a little bit to different
21 topic and something that we sent a letter to the
22 Crops Committee on last month, and I hope that all
23 of you have this in your packet. I'm not going to
24 read the letter, but I'm going to talk a little
25 bit about some of the highlights, and it concerns
26 almonds, or as some of our growers in California

1 say, ammonds, and it's a matter that we had to try
2 to sort out. Is it almonds, is it ammonds? I'm
3 still going to call it almonds, being from the
4 Midwest.

5 And in September of this year the USDA
6 implemented a mandate that affects all raw almonds
7 sold in this country. That mandate requires a
8 pasteurization process to be performed on those
9 raw almonds, and it identified two methods for
10 implementing that pasteurization rule.

11 One was the use of propylene oxide, a
12 toxic fumigant that we have grave concerns about.
13 The second is a steam treatment process that is
14 acceptable for organic almonds in the eyes of the
15 ABC -- the Almond Board of California.

16 We're not convinced, and this is one of
17 the points we raised in our letter and we would
18 like some clarity on this; that propylene oxide is
19 prohibited for use in the organic sector, and we
20 would welcome some determination or discussion by
21 the NOP and the NOSB on that, and we think part of
22 that confusion stems from the rider that passed
23 Congress in 2005 which changed the classifications
24 of removed ingredients and substituted substances,
25 as the -- or lowered the threshold so that
26 substances were the process that we're concerned

1 about.

2 Propylene oxide leaves a residue on the
3 nut, and it's a toxic substance, and we are going
4 to be talking about that as it affects all
5 almonds, but not necessarily organic almonds. So
6 I would encourage the NOSB, I would encourage the
7 NOP, to look at whether or not propylene oxide is
8 allowed. We hope not, and we encourage you to
9 take that and make that statement.

10 Secondly, we want to get a further
11 exploration of the steam treatment process;
12 whether or not there are residues from that steam
13 treatment process; boiler additives, those types
14 of things, that may affect that pasteurization.

15 Finally, on the issue of almonds as we
16 encourage the Crops Committee to look at, and that
17 is the gaping loophole in this mandate that allows
18 unpasteurized almonds to still be sold in this
19 country, but only from imports. And that is what
20 I want to turn to next. A report from the field,
21 from the almond growers that we're talking to in
22 California, from retailers that we're talking to
23 around the country, and from our meeting yesterday
24 with USDA officials on this matter. First I want
25 to point to one of the pieces of paper that I
26 passed out from an almond grower in California,

1 and an organic almond grower; Purity Organics.
2 Steve Cortoff [phonetic] is his name. This is not
3 the only report that we have received like this.
4 This is perhaps the most dramatic.

5 And what Mr. Cortoff is reporting is that
6 he has experienced losses this year from the
7 pasteurization mandate of 45 percent of his
8 business. Not in this letter, but what he told us
9 was that that means \$450,000 in losses he has
10 experienced this year from the pasteurization
11 mandate. His customers don't want it. He is
12 seeing on store shelves where his almonds used to
13 be, foreign almonds in its place, and that is a
14 dramatic impact, and as I said, that's not alone
15 amongst the almond growers that we're talking to.
16 This is an important issue for the NOSB to look
17 at, for the NOP to look at. I'm not convinced you
18 were, and I think you will agree, you were not
19 consulted on this by the broader USDA when they
20 were looking at this rule and its impact.

21 Secondly, I want to turn to the letter
22 from Goldie Kaufman, who I'll also note is the
23 newest Board member of the Cornucopia Institute.
24 She served until the end of 2005 on the NOSB and
25 she is the Education Director for PCC Natural
26 Markets in Seattle. For those of you that don't

1 know, that is the largest cooperative grocer in
2 the country. They have sales in excess of \$110
3 million on an annual basis, 40,000 members, they
4 have removed domestic almonds from their shelves
5 because again their customers don't want domestic
6 raw almonds that have been pasteurized, so they
7 have Spanish almonds on their shelves. And she
8 says this is a no win situation, utterly
9 unacceptable to us. Necessitated because of the
10 outrageous collusion between the management of the
11 Almond Board of California and the USDA. The
12 National Organic Program and the National Organic
13 Standards Board must act decisively and
14 immediately to intervene on behalf of the organic
15 stakeholders whom they are charged with serving,
16 including organic growers, and all the way to the
17 organic customer. I expect the NOSB to speak out
18 on this issue and to demand a thorough review and
19 investigation of this entire and unnecessary
20 fiasco.

21 I hope you will listen to those words
22 from Goldie.

23 Lastly I'd like to say there is a
24 compromise on this and something that your voice I
25 think would be helpful in supporting. We think
26 that much like there are juices sold in this

1 country, fruit juices that are unpasteurized that
2 carry a warning label on them for those consumers
3 that may be concerned or susceptible to potential
4 diseases from an unpasteurized juice product.

5 We think something like that could be
6 done with almonds that would allow farmers like
7 Mr. Cortoff and others to continue to sell their
8 product and put that warning label on it so that
9 consumers in the marketplace can still make that
10 choice.

11 The other report I want to note is from
12 our meeting yesterday with Lloyd Day and two other
13 people in the USDA to talk about almonds. They
14 seemed open and receptive potentially to this
15 option. And again, I think this is something that
16 you can help push along. If this Board were to
17 make that recommendation and to work with
18 officials to encourage that there is a compromise
19 that can be reached on this that will help all of
20 us, will help consumers, and will help our farmers
21 around the country, particularly in California who
22 grow almonds -- or almonds, as the case may be,
23 with a resolution to this problem. And that
24 concludes my remarks. Thank you.

25 MS. ANDREA CAROE: Thank you, Will.

26 Questions for Will from the Board. Bea and then

1 Dan.

2 MS. BEA E. JAMES: Thank you, Will, for
3 your discussion on the pasteurized almond
4 situation. I did want to point out that we
5 actually, within the NOSB, have been discussing
6 this briefly, and I believe that the Crops
7 Committee is looking at getting more information
8 on pasteurized almonds and how it potentially
9 might be harmful to organic farmers, if I'm -- am
10 I correct on that, Gerry?

11 MR. GERALD A. DAVIS: Yeah.

12 MS. BEA E. JAMES: Yeah. And I also just
13 wanted to bring up another point; that the raw
14 foods movement on the West Coast is growing
15 between -- according to Spence, which is like the
16 A. C. Nielson for the natural food industry,
17 between 27 and 30 percent annually, and that the
18 raw food consumer is a very educated consumer and
19 so on the cooperative side of the retail industry,
20 the NCGA is hearing a lot of complaints about
21 pasteurized almonds and the discontinuation of
22 almonds that are grown in the United States which
23 unfortunately does affect our local farmers, and
24 so I appreciate the work that you're doing.

25 MR. WILL FANTLE: Lloyd Day told us
26 yesterday that the Secretary's office is hearing

1 about this issue as well. He said that half of
2 all the comments coming in to the Secretary's
3 office today are on almonds, and it's rather
4 startling that the educated and motivated consumer
5 that you're talking about really does care about
6 this.

7 MS. ANDREA CAROE: Dan.

8 MR. DANIEL G. GIACOMINI: Being from
9 California I just have to stand up for the
10 California farmer. It's really very simple;
11 they're almonds when they're on the tree, and when
12 they fall off it knocks the L out of them.

13 MR. WILL FANTLE: Thank you for that
14 explanation. I appreciate it.

15 MS. ANDREA CAROE: Any further questions,
16 comments? Thank you so much. Next up is Steve
17 Peirce with Tom Hutchinson, is it you that has the
18 proxy for Karen, or Karen Wilcox that has the --
19 oh, okay.

20 MR. STEVE PEIRCE: Good afternoon and
21 thank you. This is my first presentation to the
22 NOSB and I appreciate the opportunity. My name is
23 Steve Peirce, I'm with Ribus Incorporated. I
24 serve as President.

25 I come to today's meeting impressed with
26 what I've seen you all do over the last two days.

1 I also want to bring forward an issue that I think
2 actually slipped through the cracks, and I'm
3 coming forward with a cooperative spirit to
4 resolve this issue that I think slipped through.

5 Earlier Andrea said, you know, is there
6 any new information during the Sunset as we were
7 looking at new products trying to get on the list.
8 I'm just on the opposite side. I've got a
9 certified organic ingredient, actually 100 percent
10 certified and EU certified, that earlier this
11 year -- I'll take you to page number 1. I
12 understand that the Sunset review is about a two
13 year process. If you'll draw your eye over to the
14 right hand side where the colors start, in January
15 of this year we introduced a brand new food
16 ingredient, certified organic, made from rice
17 hulls, to replace silicon dioxide, a synthetic
18 that has been and is currently on the national
19 list.

20 About two months later the preliminary
21 ruling came out; the Federal Register asked for
22 comments. During that comment period, which ended
23 May the 7th, we did submit comments, and the rest
24 of my time, the few minutes I've got left, will
25 comment on what occurred between that May the 7th
26 and the 16th of October, when the final ruling

1 came out.

2 My purpose today is to make three points
3 with the NOSB. One, make you aware of several
4 unexpected events that occurred in this process.
5 Number two, bring three perceived violations of
6 the Organic Food Production Act to your attention,
7 and number three, provide an opportunity for you
8 to take either an initiative -- or initiate a
9 corrective action or take it yourself.

10 I've got a little bit of information on
11 my bio, company and personally. Situational facts
12 were number one. We did introduce that new
13 product in January. Number two, we did go ahead
14 and submit written comments to the, I guess, NOP,
15 and I've used NOP and USDA interchangeably, and I
16 will apologize in advance for that, because I'm
17 assuming I've made a couple of mistakes there.

18 We provided written notification,
19 informing the NOP that a new, commercially
20 available ingredient that functions similar to and
21 is a substitute for a synthetic on the national
22 list, silicon dioxide, does exist.

23 In response to that we received comments
24 back, written, that we did comply completely with
25 the request in the Federal Register. Next we
26 received a phone call from the USDA and an

1 attorney from the USDA's Office of General
2 Counsel. They let us know that that -- those
3 comments were never reviewed by the NOSB and were
4 not brought to your attention, that they were
5 reviewed by, quote, a host of USDA employees,
6 something that I never found in the Act as a
7 standard procedure to follow.

8 We were also told in writing that the new
9 Sunset review, five years from now, will begin 24
10 to 30 months prior to the expiration, so be
11 looking for action on silicon dioxide in the year
12 2010.

13 These kind of comments concerned us. We
14 had conversations with the USDA and maybe I failed
15 by not sending that same letter to each of you
16 that are on the NOSB. I did not know I needed to.
17 In hindsight I wish I would have. So we took this
18 to the Missouri Department of Agriculture, U.S.
19 Senate, and U.S. House of Representatives. The
20 last page in your package is a letter that was
21 sent on the 1st of this month to the Secretary of
22 Agriculture, asking him to re-review this issue.

23 Reason being we feel that the actions
24 that were taken, and I do not feel that they were
25 intentional. I want to be the first one to state
26 that. Whether it was an oversight, a

1 misunderstanding, maybe false expectations on our
2 part, but something slipped through the cracks, we
3 want to bring it to your attention, and we are
4 willing to cooperate fully with anything that we
5 need to do.

6 Basically I wanted the NOSB what has
7 occurred, and I was told that it occurred without
8 your knowledge, and I believe that, and that has
9 been confirmed by one of the Board members
10 yesterday.

11 I heard Andrea say that innovation was
12 good, annotations create risk, and inconsistency.
13 One of the things that we looked at was 6517, and
14 it talks about the certification, and the
15 Secretary sets up the national list and so forth.
16 And guidelines for prohibitions or exemptions of
17 prohibited substances for organic farming or
18 handling are permitted under this chapter only
19 if -- and if you read farther it goes on to say
20 only if it is because there is the unavailability
21 of a wholly natural substitute product.

22 Well, this is a situation where there's
23 not --

24 [END MZ005024]

25 [START MZ005025]

26 MR. STEVE PEIRCE: . . . just a natural

1 substitute, there's a certified organic substitute
2 in commercial existence, and what we are
3 proposing -- we did not file a petition because we
4 didn't necessarily want the product removed. If
5 we follow the letter of the law it ought to be
6 removed, period. We asked for an annotation so
7 that we don't disrupt the commercial supply, which
8 I know is critical to the industry, and we would
9 simply like the annotation to read that silicon
10 dioxide for use in agricultural products, if the
11 wholly natural substitute is not commercially
12 available.

13 MS. ANDREA CAROE: I need to stop you --

14 MR. STEVE PEIRCE: [Interposing] I'll
15 stop there.

16 MS. ANDREA CAROE: . . . because your
17 time is up.

18 MR. STEVE PEIRCE: Yes.

19 MS. ANDREA CAROE: Unfortunately. I
20 will -- of course I don't know anything about how
21 this situation occurred, and -- but I do know that
22 we have a new method for receiving comments, and
23 that new method may precipitate -- be precipitated
24 out of the fact that there was difficulty making
25 sure that all the comments were received, so --

26 MR. STEVE PEIRCE: [Interposing] We sent

1 this one in Federal Express so that we would have
2 a receipt so --

3 MS. ANDREA CAROE: [Interposing] I
4 understand, but I mean, regulations.gov is a new
5 database that we use, which we're challenged with
6 the turnover and using this new system, which you
7 may have heard earlier in the meeting.

8 MR. STEVE PEIRCE: Right.

9 MS. ANDREA CAROE: So I suspect that that
10 is a mitigating step for these types of errors,
11 but again --

12 MR. STEVE PEIRCE: [Interposing] Sure.

13 MS. ANDREA CAROE: . . . I'm unaware of
14 the situation. I will let you know that a change
15 to an annotation can be petitioned, or an addition
16 of an annotation can be a petition. The removal
17 of a substance, as we stated before, can be a
18 petition and there is also a petition that takes
19 precedence over other petitions --

20 MR. STEVE PEIRCE: [Interposing] Sure.

21 MS. ANDREA CAROE: . . . so there --
22 even though we're not in the Sunset process with
23 this, it doesn't mean that you have to wait five
24 years before an action to happen, so I would
25 suggest that you utilize one of these mechanisms
26 that are available to you.

1 MR. STEVE PEIRCE: We would be happy to
2 after we, what I would say, fully exploit what we
3 complied with; making comments during the Sunset,
4 and that's the piece that previous fell upon deaf
5 ears, and why I brought it to the attention of the
6 Board today. And I don't know what the ability is
7 to go backwards and change anything.

8 MS. ANDREA CAROE: It's probably -- my
9 suggestion to you, sir, is to move forward and not
10 try to go back to that recommendation, because
11 that ship has sailed. I mean our recommendation
12 has already gone through on that material --

13 MR. STEVE PEIRCE: [Interposing] I
14 understand.

15 MS. ANDREA CAROE: . . . and I think it
16 would be easier to initiate the petition to remove
17 or petition to change the annotation at this
18 point, based on the information you provide. And
19 we certainly would like to see that information as
20 I've said, that advances where we're going, that's
21 what the --

22 MR. STEVE PEIRCE: [Interposing] Sure.

23 MS. ANDREA CAROE: . . . beauty of this
24 regulation.

25 MR. STEVE PEIRCE: And that's the spirit
26 in which we introduced the product to the

1 marketplace.

2 MS. ANDREA CAROE: Thank you so much.

3 Tracy?

4 MS. TRACY MIEDEMA: What is this used
5 for?

6 MR. STEVE PEIRCE: It's used as an anti-
7 caking agent, like silicon dioxide, a flow agent,
8 we've used it with a drying agent in fruits, and
9 powders, and that type of thing, and most recently
10 there was a statement issued in organic egg
11 production where there's egg washing going on and
12 foaming is an issue, we have done some preliminary
13 tests and we've got field trials going on now with
14 producers to use it as an anti-foaming agent in
15 egg washing.

16 MS. TRACY MIEDEMA: So if you have
17 something that you feel is truly more appealing to
18 the organic consumer, you know, I just wanted to
19 give you a chance to market that, and --

20 MR. STEVE PEIRCE: [Interposing] Thank
21 you.

22 MS. TRACY MIEDEMA: Yeah, it seems like
23 the market's going to sort this out for you within
24 a short period of time.

25 MR. STEVE PEIRCE: It's a silicon dioxide
26 or a rice concentrate, and from a label

1 declaration point of view it's a strong impetus,
2 even to the point that we've got conventional
3 spice producers that are buying the organic
4 product because they don't want silicon dioxide
5 even on a conventional label.

6 MS. ANDREA CAROE: Is there any -- Julie.

7 MS. JULIE S. WEISMAN: I'm looking at the
8 timeline here, and I just want to make sure that I
9 understand what I'm seeing --

10 MR. STEVE PEIRCE: [Interposing] Sure.

11 MS. JULIE S. WEISMAN: . . . because I'm
12 pretty sure, I mean, this is an item that was in
13 the big batch, the initial batch of Sunset
14 materials --

15 MR. STEVE PEIRCE: [Interposing] Okay.

16 MS. JULIE S. WEISMAN: . . . from what
17 was o the original rule that was published in
18 2002, and we were reviewing comments on this
19 during 2005 --

20 MR. STEVE PEIRCE: [Interposing] Yes.

21 MS. JULIE S. WEISMAN: . . . and voted
22 about two years ago at the Fall meeting. Okay.
23 So now here I see that the commercial introduction
24 of this ingredient happened in January of this
25 year.

26 MR. STEVE PEIRCE: Of 2007, that is

1 correct.

2 MS. JULIE S. WEISMAN: Okay. So this was
3 not commercially available when we were
4 deliberating --

5 MR. STEVE PEIRCE: [Interposing] No, it
6 was not.

7 MS. JULIE S. WEISMAN: . . . the renewal
8 of this on the list.

9 MR. STEVE PEIRCE: No, it was not.

10 MS. JULIE S. WEISMAN: So I'm trying then
11 to understand --

12 MR. STEVE PEIRCE: [Interposing] And this
13 is where I commented --

14 MS. JULIE S. WEISMAN: [Interposing]
15 Yeah.

16 MR. STEVE PEIRCE: . . . maybe it was an
17 oversight on my part, or a misunderstanding, but
18 when I looked at the Federal Register that was
19 published on March the 6th, it was the proposed
20 rule, and what was on there, and it said,
21 processes are the public, if they've got comments
22 that are substantial, please bring them forward.
23 I felt then, and feel today, that this is
24 substantial because it is new information that if
25 you read the way that the law is written, when a
26 commercially available organic product, blah blah

1 blah. So even though it did not come in, in your
2 timeline, which I wish that it would have been
3 commercially available, it did come in during a
4 comment period, and that is not what anybody seems
5 to want to recognize.

6 MS. ANDREA CAROE: Well, I believe that
7 what you commented on was the proposed rule, which
8 was after our recommendation, when the Federal
9 Register notice goes out, that these materials
10 have been voted on and approved by the Board, and
11 at that point the comments they're looking for I
12 would guess would be more of process at that
13 point. There is a Federal Register notice sent
14 out -- went out well before that, asking for
15 comments for new information. So --

16 MR. STEVE PEIRCE: [Interposing] Which I
17 don't the NOP nor anybody else would want to read
18 concepts that someone has of an ingredient.

19 MS. BARBARA C. ROBINSON: Andrea?

20 MS. ANDREA CAROE: Barbara.

21 MS. BARBARA C. ROBINSON: This is a
22 little -- you know, we apologize, but it's a bit
23 of apples and oranges, because your material,
24 while it may constitute new information, your
25 material itself would have had to go out for a
26 tap. While you may have it certified, there's no

1 assurance to the Board itself that it's -- it's
2 very nice of you to come forward and say I've got
3 something that can replace silicon dioxide, but
4 this Board doesn't just take your word for it.

5 MR. STEVE PEIRCE: Nor would I ask them
6 to.

7 MS. BARBARA C. ROBINSON: No. So it
8 would have to go out for a tap. The proper
9 procedures, I believe, is -- I think -- I hope
10 that it was explained to you, nor is the national
11 list a proprietary list. We don't --

12 MR. STEVE PEIRCE: [Interposing] Sure.

13 MS. BARBARA C. ROBINSON: . . . we don't
14 just put Ribus on the national list.

15 MR. STEVE PEIRCE: Nor was it requested.

16 MS. BARBARA C. ROBINSON: I understand
17 that, but this material would have to be sent out
18 for a tap and thoroughly analyzed and then, you
19 know, and determined whether the components of
20 this product satisfy, you know, what you say.

21 MS. ANDREA CAROE: Barbara, his product
22 is a certified product, not -- it's certified.

23 MS. BARBARA C. ROBINSON: Right.

24 MS. ANDREA CAROE: It's a certified
25 product.

26 MALE VOICE: Certified correctly.

1 MS. BARBARA C. ROBINSON: Yeah, but if
2 he's going to say it's a wholly natural
3 ingredient -- and furthermore, silicon dioxide,
4 which properly have to be petitioned to come off
5 the national list.

6 MS. ANDREA CAROE: That's right. That's
7 what -- that's the key. It has to be petitioned
8 to be removed.

9 MR. STEVE PEIRCE: You -- and thank you
10 for your comments. This is the first I've heard
11 them off of probably five or six conversations
12 with the USDA and NOP.

13 MS. BARBARA C. ROBINSON: And you may
14 petition at any time for silicon dioxide to come
15 off the national list. You do not need to wait
16 for Sunset to come back around. That may happen
17 at any time.

18 MR. STEVE PEIRCE: And that I'm aware of.

19 MS. BARBARA C. ROBINSON: But there's
20 been no -- I'm sorry, but there's really been no
21 violation, I don't believe, that's occurred here.
22 There's probably been some misunderstanding of the
23 process, and for that I apologize, but I don't
24 think there's been a violation. We don't just
25 send stuff to the Board, they wouldn't comment on
26 the proposed rule. They had already done their

1 due diligence up to that point.

2 MR. STEVE PEIRCE: So when the request
3 from the Federal Register was for comments --

4 MS. BARBARA C. ROBINSON: [Interposing]
5 That's for comments from the public.

6 MR. STEVE PEIRCE: I consider myself
7 public.

8 MS. BARBARA C. ROBINSON: Yes, I -- yes,
9 you are. Yes, you are. Yes. But, you know,
10 there wasn't sufficient information and there
11 wouldn't be sufficient information about this
12 product to say okay, this is sufficient
13 information for the Board to change its mind on
14 Silicon Dioxide.

15 MALE VOICE: Actually it wouldn't have
16 been a case of the Board changing their mind, it
17 would have been us.

18 MR. HUBERT I. KARREMAN: Well, the vote
19 had already occurred anyway.

20 MS. BARBARA C. ROBINSON: Yeah, we would
21 have had to overrule the Board, and all they're
22 doing is renewing an exemption that has already
23 been in existence.

24 MS. ANDREA CAROE: Gerry, and then Hue.

25 MR. GERALD A. DAVIS: I just want to
26 repeat in different words what Barbara just said.

1 I believe what happened with you was your
2 introduction of the product did not come at the
3 best time at all for us to accomplish what you're
4 hoping to accomplish, as far as incorporating into
5 the Sunset process, and by all means your most
6 aggressive and best way probably is to petition to
7 remove the synthetic silicon dioxide with your
8 supportive information of your new product, new
9 type of material that can replace it, rather
10 than --

11 MR. STEVE PEIRCE: [Interposing] And I
12 appreciate that.

13 MR. GERALD A. DAVIS: . . . take any
14 other stance that's less aggressive. Be direct.

15 MR. STEVE PEIRCE: Sure.

16 MR. GERALD A. DAVIS: This is the kind of
17 thing we hope would occur, to replace some of
18 these materials.

19 MR. STEVE PEIRCE: Thank you.

20 MS. ANDREA CAROE: Hue, and then Tina.

21 MR. HUBERT I. KARREMAN: Well yeah, I
22 mean, your comment, if it had come earlier, prior
23 to our vote to renew silicon dioxide, would have
24 made a big difference probably.

25 MR. STEVE PEIRCE: Sure.

26 MR. HUBERT I. KARREMAN: So it was just

1 we had already voted, and then the Federal
2 Register notice came out, and that's when extra
3 public comment comes in, but our vote had already
4 gone in, so just petition to get silicon dioxide
5 off the list. Do it tomorrow.

6 MR. STEVE PEIRCE: How long does it take
7 in a situation like this for a --

8 MR. HUBERT I. KARREMAN: [Interposing] I
9 have no idea.

10 MR. STEVE PEIRCE: . . . petition for
11 something to change?

12 MS. ANDREA CAROE: Yeah, we have a whole
13 presentation on that that you I guess weren't here
14 for. Tina?

15 MS. KRISTINE ELLOR: I've heard a couple
16 of times in this meeting that just because it's on
17 the list doesn't mean that you're allowed to us
18 it, if there's, oh, sorry. That doesn't apply
19 here, huh?

20 MS. ANDREA CAROE: 606 is where
21 commercial availability is. There's no commercial
22 availability or wholly --

23 MS. KRISTINE ELLOR: But I also
24 appreciate your sentiment in not wanting to yank
25 it and --

26 MR. STEVE PEIRCE: [Interposing] Sure.

1 MS. KRISTINE ELLOR: . . . and making
2 other potential -- you know.

3 MS. ANDREA CAROE: Okay. Hue.

4 MR. STEVE PEIRCE: It's a six to eight
5 month product. We want to see if it works.

6 MS. ANDREA CAROE: Hue, and then we have
7 to move along.

8 MR. HUBERT I. KARREMAN: Just have there
9 been petitions previously -- historically, to take
10 things off the list when something like this
11 happens, and if so, how long has it taken? Just
12 to get that out.

13 MS. BARBARA C. ROBINSON: Well, you know,
14 remember your into ruling. First of all you'll
15 have to vote to -- and tell us to take it off the
16 list. And then of course we're into the rule
17 making. I'll have to go down to OGC and beg them
18 for your document.

19 MR. STEVE PEIRCE: Thank you, all.

20 MS. ANDREA CAROE: All right. Thank you.

21 MS. BARBARA C. ROBINSON: But we --

22 MR. STEVE PEIRCE: [Interposing] Thank
23 you.

24 MS. ANDREA CAROE: I -- I wish you the
25 best of luck.

26 MR. STEVE PEIRCE: Thank you very much.

1 MS. ANDREA CAROE: Thank you for your
2 comment. Tom Hutcheson, you're up. Next is
3 Kristen Knox. Are you in the room? Kristen?
4 Going once. Okay, no Kristen. Gwen Wier.
5 Gwendolyn, you're here.

6 MR. TOM HUTCHESON: Good afternoon, Tom
7 Hutcheson speaking for Karen Wilcox and my last
8 name is
9 H-U-T-C-H-E-S-O-N, same as one of the aquaculture
10 participants, Scottish spelling.

11 First, regrets from Karen that her plans
12 for the afternoon have taken her away. I'm sure
13 she would have wanted to say what we're going to
14 say now herself, but thanks very much to Andrea
15 Caroe for her dedicated and energetic leadership
16 of the Board, and of course her excellent work
17 over the past five years.

18 First just a reminder that OTA's comments
19 did contain a substantial bit on definitions, and
20 I would urge the Board to look at that. We think
21 it contains a very useful perspective.

22 Secondly, just to go back over issues of
23 listings on 606 and commercial availability.
24 Based on a discussion this morning I thought it
25 might be good to introduce a little bit of the
26 business perspective on how that works.

1 Unless there's a demonstrated demand,
2 manufacturers are unlikely to invest in an organic
3 product. If organic -- and this is for minor
4 ingredients, that is in the five percent of a 95
5 percent product.

6 If organic manufacturers are not allowed
7 to use, say, conventional grape seed extract, then
8 there is no incentive to produce the organic
9 version as the conventional isn't being used and
10 there's no demonstrated demand. If they are
11 allowed to use the conventional, potential
12 suppliers will assess the market and the market
13 potential, and invest accordingly, as was done in
14 the 1990s with the classic example of cinnamon.
15 The organic preference rule drove the development
16 of organic cinnamon and many other organic spices.
17 The incentive to potential organic suppliers is if
18 they make it, it must be used, and of course we
19 loudly applaud your efforts to tighten protocols
20 for determining commercial availability.
21 Remember, no one is required to make organic grape
22 seed extract, but if there is a demonstrated
23 potential demand, if conventional grape seed
24 extract is being used, you will see investment
25 according to the demand. That's all I have to
26 say. Thank you all very much.

1 MS. ANDREA CAROE: Thank you, Tom. I
2 like that. Gwen, I understand Kristen's in the
3 room, so you're going to -- is it -- are you --
4 where's Kristen? Is somewhere in the room?
5 You're Kristen? Come on up. Five minutes.

6 MS. KRISTEN KNOX: I promise to make it
7 brief because when I made the appointment to speak
8 I didn't realize I was going to have the chance to
9 speak earlier during the meeting, so I'll keep my
10 comments very brief. I just would like to urge
11 each and every one of you on the Board, if you
12 have not had a chance to read the letter that I
13 sent on November 9th, and the supporting
14 materials, to please do so before you make your
15 final decision, because I believe that we have
16 addressed concerns, substantially, and I will be
17 available for any further questions of concerns
18 after that.

19 FEMALE VOICE: Give your name, please.

20 MS. KRISTEN KNOX: Kristen Knox. Sorry.
21 K-R-I-S-T-E-N, Knox is K-N-O-X. Okay? Thank you.

22 MS. ANDREA CAROE: Thank you.

23 FEMALE VOICE: Any questions?

24 MS. ANDREA CAROE: Any questions for
25 Kristen?

26 MR. HUBERT I. KARREMAN: I hate to be

1 dumb, but what was the -- which --

2 MS. KRISTEN KNOX: It was the sodium
3 bicarbonate.

4 MR. HUBERT I. KARREMAN: Thank you.

5 MS. KRISTEN KNOX: Okay.

6 MS. ANDREA CAROE: That's okay. We're
7 all a little bit dumb right now. Okay, thank you
8 so much. Gwendolyn.

9 MS. GWENDOLYN WIER: Right. Good
10 afternoon, Madam Chair, NOSB members, NOP staff,
11 and ladies and gentlemen of the gallery. I love
12 to say that.

13 My name is Gwendolyn Wier. I work as a
14 processing program reviewer for Oregon Tilth. We
15 certify 524 processors, I've managed and worked on
16 several certified organic farms, and I hold a
17 degree in food science, an emphasis on
18 fermentation science, and a minor in chemistry.

19 Our comments today are on the definition
20 of materials. First I'd like to thank the Board
21 for taking up the issue of agricultural versus
22 nonagricultural. After Oregon Tilth requested
23 clarification in October 2004 and while many moons
24 have passed, and my headache has turned into a way
25 of life, we are very grateful for your continuing
26 efforts on this very complicated matter, and we

1 appreciate the consideration you have given to our
2 input.

3 We very much understand that the
4 documents presented are works in progress, and in
5 that respect appreciate this issue being listed as
6 a discussion item only.

7 Oregon Tilth supports the Van diagram and
8 the holistic approach it takes. However, we urge
9 you to deal with synthetic, non-synthetic, and
10 egg, non-egg separately, while not letting their
11 connectivity escape final decisions. And we
12 strongly urge you to take up the NOSP documents on
13 synthetic, non-synthetic from the August 15th,
14 2005 meeting and the NOP document of March 2006,
15 and continue where that discussion left off.

16 Okay. So from here out I'm talking egg,
17 non-egg only. First off I've offered up yet
18 another decision tree where I've tried to
19 incorporate and improve all of the decision trees
20 and comments presented today.

21 With respect to first to box number one
22 on the Joint Committee decision tree, the question
23 asked whether the substance is derived from plant
24 or livestock. This box needs to be expanded to
25 include aquatic life. The details of the
26 terminology I'm not sure of. They need to be

1 worked out, but seafood is covered in OFPA and
2 standards for aquaculture are clearly being
3 developed.

4 This is also the box where fungi and
5 other nonplant, nonbacterial lifelike creatures
6 will need to be further addressed. I would also
7 urge you to further address fermentation
8 byproducts because there's a growing world of
9 edible fermentation byproducts that can and are
10 being organically produced; i.e., alcohol, i.e.,
11 arithritol.

12 Oregon Tilth supports deletion of all or
13 at least part of the definition of non-
14 agricultural, but please keep in mind that the
15 term agricultural product in OFPA and the rule is
16 defined as any agricultural product. My grandpa
17 told me you can't define a word by using the word
18 being defined to get the definition, so box number
19 one is crucial; it defines the source, and it's
20 this box that has primarily tied up this
21 discussion for the last three years.

22 Box number four states that if any other
23 ingredients have been added to the substance and
24 remain in the final product, the substance becomes
25 nonagricultural. I think the question here is
26 appropriate, however, the addition of an

1 ingredient doesn't render a substance agricultural
2 or nonagricultural. The addition should simply be
3 evaluated for compliance with either 605 or 606,
4 and I've demonstrated that adjustment in the
5 decision tree that I've passed around.

6 Additional processing questions need to
7 be asked, such as have any volatile synthetic
8 solvents or synthetic processing aids been used.
9 The rule may already answer this, but it's not
10 clear. It depends on how you read it, and
11 certifiers are reading it inconsistently.

12 Oregon Tilth, in conjunction with PCO --
13 Pennsylvania Certified Organic, we've submitted a
14 policy question to the NOSB that addresses this
15 question. I handed them out, there's not enough,
16 the copier broke. The document is titled "What
17 Restrictions Apply To Non-organic Ingredients
18 Allowed in Organic Food" and focuses on the
19 prohibition found at 205270c(2). The document
20 proposes resolution to this question via the Q and
21 A section of the NOP website. The answer to the
22 question would appropriately be worked into the
23 decision tree.

24 And finally Oregon Tilth would like
25 reiterate [unintelligible] comments by saying that
26 Organic is a processed based standard, rather than

1 a performance based standard. The result of a
2 given input or product is not the result of what
3 it is in most cases, but how it's produced. In
4 the history of OFPA and in the current NOP
5 regulations the working thought has been if a
6 substance is organic, can be organic, then it must
7 be agricultural. I have no inspected or reviewed
8 operations for yeast, yeast extracts, glycerin,
9 fatty acid, sucrose esters, enzymes, flavors,
10 colors, and probiotic vitamins. These substances
11 can technically be certified organic based on the
12 95/5 composition and compliance with other
13 applicable sections of the rule. It's entirely
14 possible to produce a synthetic according to the
15 OFPA definition, a synthetic organic product, you
16 just don't call it synthetic, you call it
17 processed, and it's entirely possible to certify
18 yeast. Why? Because their production relies on
19 agriculture. They are agricultural products with
20 an emphasis on product.

21 MS. ANDREA CAROE: Thank you.

22 MS. GWENDOLYN WIER: Thank you very much.

23 MS. ANDREA CAROE: Thank you. Any
24 questions for Gwendolyn?

25 MS. KATRINA HEINZE: I wanted to thank
26 you, Gwendolyn for your comments today, as well as

1 comments that we've received in the past from you.
2 I know you've given us a lot of thought, and your
3 efforts are greatly appreciated.

4 MS. GWENDOLYN WIER: Thank you.

5 MS. ANDREA CAROE: I think, Gwendolyn,
6 you're helping us create a forest of decision
7 trees at this point.

8 MS. GWENDOLYN WIER: It is. I know.
9 There's limbs. Limbs everywhere.

10 MS. ANDREA CAROE: Yeah.

11 MS. GWENDOLYN WIER: Limbs abound.

12 MS. ANDREA CAROE: Thank you.

13 MS. GWENDOLYN WIER: Thank you very much.

14 MS. ANDREA CAROE: Okay. I forgot to
15 call the next person up. Consuela Allen.

16 Consuela? And on deck we have Zareb Herman.
17 Zareb Herman, are you here? Okay. I'll call the
18 next person; Marian Marshall. M. J. Marshall.

19 MR. JEFFREY W. MOYER: Madame
20 Chairperson?

21 MS. ANDREA CAROE: Yes?

22 MALE VOICE: Jeff is here.

23 MS. ANDREA CAROE: Jeff?

24 MR. JEFFREY W. MOYER: Yes, I just wanted
25 to apologize to the Board, to the program, and the
26 gallery for my absence earlier today. I'm happy

1 to be back and I apologize for that.

2 MS. ANDREA CAROE: Thank you. Thank you,
3 Jeff. Thank you. All right. Do -- M. J., you're
4 here. Okay. I got -- all right. Whenever you're
5 ready to start, Consuela.

6 MS. CONSUELA ALLEN: Hi, my name is
7 Consuela Allen and I'm the Assistant Team Leader
8 for the Organic and Quality Standards Audit Team
9 at Whole Foods Market. I'd like to comment on the
10 Accreditation Committee's recommendation on multi
11 site certification systems, a recommendation which
12 my company supports. In particular I'd like to
13 talk about the role of the internal control
14 system, and how the objectivity and consistency of
15 my work as part of that system, gives integrity to
16 the company's organic certification.

17 I would also like to describe how our
18 work facilitates continuous improvement of organic
19 compliance throughout the company in all stores
20 throughout the year. Our company consists of ten
21 auditors -- our team consists of ten auditors who
22 inspect each retail store between 10 and 11 times
23 a year, spending between 3 and 4 hours in each
24 store.

25 Each auditor on my team goes through a
26 basic organic compliance training in the retail

1 store upon hire, and then they go through and
2 initial three day auditor training. The auditor's
3 reports are constantly monitored for consistency
4 and quality. All of the audits are surprise
5 audits. No store knows when they will be audited.

6 Each of our auditors adheres to
7 nationally specified audit criteria and makes sure
8 that all of the members of a retail team
9 understand the issue of organic compliance and
10 their role in keeping our product organic.

11 This includes quizzing team members on
12 their sanitation methods and looking at past
13 organic sanitation logs to ensure the organic
14 compliance protocols are in fact in place and in
15 practice.

16 If there is an issue our auditors speak
17 to leadership in the store to clarify what needs
18 to be done to maintain organic compliance. We
19 often conduct on the spot training. I am
20 bilingual and I often do trainings in Spanish, if
21 necessary.

22 After an audit is conducted, the auditor
23 files a report on an electronic form which is sent
24 to myself, Joe Dickson, the National Organic
25 Programs Coordinator, the store team leader, and
26 the regional leadership. If there are any issues,

1 they are red flagged and a complete description of
2 the area of noncompliance is documented. I look
3 for any continuing issues and we make sure that
4 the auditor who will be conducting the next audit
5 is given a location -- of a given location, has a
6 copy of the current audit to reference and monitor
7 for repeat noncompliances.

8 The criteria on the audits are updated
9 annually after our inspections by our certifier in
10 order to more closely focus on areas of potential
11 noncompliance.

12 As the Assistant Team Leader for the
13 audit team I impressed upon both my team and all
14 Whole Foods team members that are being certified
15 as an organic retailer is an earned privilege and
16 that we -- one that we never take for granted.
17 Our focus is to report without bias and to direct
18 all resources to any organic noncompliance issues
19 that are recorded.

20 The audit team is very much dedicated to
21 being fair and tough, while making sure that the
22 stores and the team members are aware that organic
23 compliance is an asset that needs continuous
24 tending and monitoring. My team of auditors is a
25 highly professional and dedicated group whose work
26 as the eyes and ears of the company makes it

1 possible for our national office and our organic
2 certifier to ensure that our organic compliance
3 plan and the national organic standards are being
4 upheld in all of our stores.

5 Thank you for the opportunity to comment.

6 MS. ANDREA CAROE: Thank you, Consuela.

7 Is there any comments or questions? Bea.

8 MS. BEA E. JAMES: Do you know how much
9 you're currently spending, approximately, on
10 certification --

11 MS. ANDREA CAROE: [Interposing] Oh, I
12 don't think that's an appropriate question.

13 MS. BEA E. JAMES: No, I can't -- okay.

14 MS. ANDREA CAROE: I don't think that's
15 an appropriate question.

16 MS. BEA E. JAMES: Never mind.

17 MS. ANDREA CAROE: Any other questions?
18 Thank you very much.

19 MS. CONSUELA ALLEN: Thank you.

20 MS. ANDREA CAROE: Okay. M. J. Marshall
21 [unintelligible] Sorry. M. J.'s off. Is Zareb
22 Herman here? Zareb? Okay. Then the next one on
23 the list is Cheryl Van Dyne. Are you in the room?

24 MS. CHERYL VAN DYNE: Yes.

25 MS. ANDREA CAROE: You're next.

26 MS. M. J. MARSHALL: Good afternoon. My

1 name is M. J. Marshall. I'm the Director of
2 Government Relations for the Flavor and Extract
3 Manufacturers Association, and I'm here today to
4 talk to you today about criteria for determining
5 agricultural versus nonagricultural substances for
6 use in organic processed foods.

7 FEMA has been taking a long, hard look at
8 the organic movement, following its trends, and
9 we've been giving a lot of thought to how we can
10 help support the organic market. We -- to coin a
11 certain phrase, realize that we live in an
12 imperfect world, but we've been also trying to
13 focus on how we can help improve upon that
14 imperfect world and recognize the organic market's
15 needs, recognizing that it needs to have the
16 flexibility to grow and develop over time.

17 So in order to support this developing
18 industry, as I said, we wanted to come up with
19 what we believe will be a very valuable tool,
20 particularly for certifiers, to determine when a
21 product is agricultural versus nonagricultural.

22 Flavors in general food use. They may be
23 simple or complex, they may be synthetic or
24 nonsynthetic, they may be agricultural or
25 nonagricultural, and they may be derived from
26 animals, plants, herbs, spices, and botanicals.

1 Flavors are also complex mixtures,
2 derived from a variety of sources, both
3 agricultural and nonagricultural. An important
4 point to note here is that while we continue to
5 believe that flavors should be listed on 205.605,
6 we also recognize that there are some instances
7 where some ingredients used in flavors are more
8 appropriately listed on Section 205.606.

9 So again, getting back to this whole
10 discussion of ag versus non-ag, we agree that
11 there needs to be a process to simplify the
12 decision for organic uses to help select suitable
13 flavors in a consistent, cross industry fashion,
14 to distinguish agricultural versus nonagricultural
15 flavors.

16 So FEMA, having reviewed the decision
17 tree that the NOSB put forth, has come up with an
18 alternative approach. So first I'd like to go
19 into a little bit of comparison or NOSB's proposed
20 decision tree, and then I'll get to the FEMA
21 proposed decision tree.

22 In FEMA's view the NOSB proposed decision
23 tree concludes that some materials considered not
24 suitable for organic use under the NOP criteria,
25 must be synthetic. For instance, spice olea
26 resins obtained by solvent extraction. We agree

1 that spice olea resins may not be suitable for use
2 in organic foods, but they are not synthetic, they
3 simply are not organic compliant. And we -- it
4 would, you know, also point out that in putting
5 forth and developing the FEMA decision tree, we
6 made certain that we adhered very closely to the
7 NOP rules and regulations and definitions.

8 So with respect to the NOSB decision
9 tree, we believe that, as I pointed out, there
10 could be some misapplication of the decision tree
11 in other sectors of the trade, because nonorganic
12 foods, for instance -- and this raises a concern
13 to FEMA members and our clients.

14 So I just put up this NOSB decision tree.
15 I don't think I really need to go through it. I
16 hope everybody here is familiar with it, so
17 Valerie, if you want to skip to the next couple of
18 slides. There you go.

19 So a decision tree comparison again.
20 With the FEMA proposed decision tree what we do
21 right up front, and the next slide I believe will
22 show you our decision tree, so I'll get to that in
23 a second. We would propose to eliminate synthetic
24 materials at the beginning of the decision
25 process, which we think is very important. And we
26 also focus on determination of the agricultural,

1 nonagricultural status of any given material. So
2 we conclude for nonsynthetic flavors, that some
3 may qualify as agricultural and meet the
4 requirements for organic certification, and others
5 may be suitable for organic use.

6 MS. ANDREA CAROE: I'm sorry. Your time
7 has expired.

8 MS. M. J. MARSHALL: Oh, okay.

9 MS. ANDREA CAROE: Is there questions?

10 MS. M. J. MARSHALL: Can I just show the
11 next slide.

12 MS. ANDREA CAROE: Is there questions
13 from the Board? Joe.

14 MR. JOSEPH SMILLIE: Could you please
15 show the next slide?

16 MS. M. J. MARSHALL: What's that?

17 MR. JOSEPH SMILLIE: Could you please
18 show the next slide?

19 MS. M. J. MARSHALL: Show the next slide?

20 MR. JOSEPH SMILLIE: Yes.

21 MS. M. J. MARSHALL: After this one?

22 MR. JOSEPH SMILLIE: No. This one.

23 MS. KATRINA HEINZE: This one.

24 MS. ANDREA CAROE: He's giving you an
25 opportunity to explain your slide.

26 MS. M. J. MARSHALL: Oh, okay. Well,

1 yeah, if I -- sorry. If I could maybe just use an
2 example of citric acid. I mean, if you follow
3 this decision tree all the way down to number
4 eight, is a material an agricultural product as
5 defined by USDA. The FAS -- Foreign Agricultural
6 Service, U.S. Trade Ag definition, which I put on
7 this slide, right there, what you would determine
8 is that it's an agricultural product based on this
9 definition, and I think it would be really helpful
10 for the Committee to have a presentation by
11 someone who's very familiar with the harmonized
12 trade -- harmonized tariff schedule, because in
13 the FAS definition, several of the chapters -- or
14 all of the chapters help make the determination as
15 to when a product is agricultural, versus
16 nonagricultural. So essentially there's really
17 already a process in place to help you determine
18 that, because that's what you have to look at when
19 you import a product into the country. And as it
20 says at the bottom here, certain other products
21 under Chapter 33 are considered agricultural
22 products. The most important of this is essential
23 oils. So we would believe that, based on our
24 decision tree, that essential oils are an
25 agricultural product, and they're also an
26 agricultural product based on the FAS definition.

1 So --

2 MS. ANDREA CAROE: [Interposing] So any
3 of the Board members have further questions? Hue?

4 MR. HUBERT I. KARREMAN: Well, I just --
5 we have to take that definition into account, I
6 would think, at least in our deliberations if
7 that's what that USDA is calling agricultural.

8 MS. ANDREA CAROE: All right.

9 MR. HUBERT I. KARREMAN: We can't look
10 the other way and say no, it's not.

11 MS. M. J. MARSHALL: Yeah.

12 MR. HUBERT I. KARREMAN: But anyway.

13 MS. ANDREA CAROE: Julie?

14 MS. JULIE S. WEISMAN: I agree, and I
15 think that I would definitely like to look more at
16 this, but I do also want to caution that
17 definitions of agricultural, for the purposes of
18 trade and tariff, are meant to serve a very
19 different purpose than ours, maybe. I'm not -- I
20 just -- as a -- this may be very helpful, and we
21 should also keep in mind that it was meant for a
22 very different purpose.

23 MS. ANDREA CAROE: Katrina.

24 MS. KATRINA HEINZE: I have two things.
25 The first is have you submitted this either
26 electronically or in a written document so that

1 the Committee --

2 MS. M. J. MARSHALL: [Interposing] No.

3 MS. KATRINA HEINZE: . . . can review
4 it?

5 MS. M. J. MARSHALL: No, but thank you
6 for asking my question. We will be. We intend to
7 submit follow up comments to the Board and NOP
8 staff because we very much want to work with you
9 to come to some sort of agreement, terms, what
10 have you on determining ag versus non-ag, because
11 it's very important to us.

12 MS. KATRINA HEINZE: Okay. Then my
13 second comment was going to be that as has become
14 abundantly clear for many topics this meeting, but
15 certainly our definition materials, these matters
16 are more complex than they always appear. You
17 know, we'll take a look at these comments, we'll
18 take a look at all the definitions, we'll figure
19 how everything wraps together, and we'll be back
20 at the next meeting. Thank you.

21 MS. M. J. MARSHALL: Right. Well,
22 absolutely. Well, we concur wholeheartedly that
23 this is very much a complex issue, and so that's
24 why we hope that the Board would help, you know,
25 rely on FEMA industry expertise on the issue of
26 flavors in particular and how they are -- they can

1 be determined ag versus non-ag.

2 MS. ANDREA CAROE: Tracy and then Hue.

3 MS. TRACY MIEDEMA: Just very quickly,
4 are you considering extracts agricultural?

5 MS. M. J. MARSHALL: Yeah. Yes. The
6 experts in the background say yes.

7 MS. ANDREA CAROE: Hue.

8 MR. HUBERT I. KARREMAN: Just in response
9 to you, Julie, in that this is under agricultural
10 and marketing service, therefore this tariff type
11 thing actually would I think apply, because we're
12 in commerce here.

13 MS. JULIE S. WEISMAN: Uh huh.

14 MS. ANDREA CAROE: Okay. Further
15 questions? Great. Thank you very much, and we
16 would appreciate your presentation, and if we can
17 get it.

18 MS. M. J. MARSHALL: Definitely. Thank
19 you.

20 MS. ANDREA CAROE: Thank you.

21 FEMALE VOICE: All things will be posted.

22 MS. ANDREA CAROE: All things will be
23 posted, as is appropriate. Okay. Cheryl Van
24 Dyne, and then up next is Rick Green. Rick, are
25 you here?

26 MR. RICK GREEN: Actually Barb Chinn

1 should be next, and then I would go after her.

2 MS. ANDREA CAROE: Okay. That's fine.

3 Barbara Chinn is next. Okay.

4 MS. VALERIE FRANCIS: Cheryl Van Dyne,
5 the whole one that you gave me, the Van Dyne --

6 MS. ANDREA CAROE: Uh huh. Oh, sorry,
7 Cheryl.

8 MS. VALERIE FRANCIS: Not the Chinn one
9 first?

10 MS. ANDREA CAROE: Excuse me.

11 MS. VALERIE FRANCIS: You gave me three
12 original PowerPoints, and so you want me to
13 eliminate all the prior three and only use the one
14 that you gave me? Just clarifying.

15 MS. CHERYL VAN DYNE: [unintelligible]
16 that I gave you on [unintelligible].

17 MS. VALERIE FRANCIS: Okay. Just
18 clarifying. Sorry.

19 MS. CHERYL VAN DYNE: Okay. Now I
20 understand. Cheryl Van Dyne, CP Kelco. My name
21 is spelled C-H-E-R-Y-L V-A-N space, capital D-Y-N-
22 E. CP Kelco thanks the NOSB for the opportunity
23 to present information and answer questions for
24 the Board on the petition material Gellan gum. We
25 have three CP Kelco representatives here to answer
26 the Board's questions, and the information

1 presented in the package for the Board can be
2 reviewed at your own pace. We're going to present
3 an overview of the technical functionality Gellan
4 gum brings to the organic industry.

5 I don't think that's it. Okay. And so
6 there will be three speakers. Included in your
7 packet is a compilation of letters that we present
8 to the Board from industry. Included are letters
9 from the industry that were given to CP Kelco to
10 bring to this meeting and those posted on
11 regulatory -- or regulations.gov, and --

12 MS. ANDREA CAROE: [Interposing] Could
13 you speak a little bit closer to the microphone.
14 Sorry.

15 MS. CHERYL VAN DYNE: Oh, I will.

16 MS. ANDREA CAROE: Thank you.

17 MS. CHERYL VAN DYNE: Yes. Thank you.

18 And so you can see that we had quite an outpouring
19 from the industry for support of Gellan gum, and
20 we wanted to bring that to you as a package. If
21 you could go through it. And keep going Valerie.
22 Yeah.

23 CP Kelco would like for the Board to
24 understand that Gellan gum is a polysaccharide, it
25 is a gum, and it is a -- composed of repeating
26 monosaccharide units and two glucose units, and

1 one which is a component of sucrose, which is a
2 common sugar. Food grade Gellan gum is tested to
3 meet the purity requirements identified for Gellan
4 in 21 C.F.R. 172.665, the Food Chemicals Codex,
5 and the EU specifications for purity, as well as
6 JECFA, and Gellan gum is manufactured in
7 accordance with FDA's food GMPs 21 C.F.R., Part
8 110. And Gellan gum does not contain any heavy
9 metals or their contaminants in excess of the FDA
10 tolerances.

11 The manufacturing process of Gellan and
12 the use of Gellan result in no significant impact
13 to the environment. Continue please. And there
14 are no reported adverse affects from Gellan to
15 human health or the environment. Gellan has been
16 used in food since the early 1990s. The next one.

17 So we ask why Gellan gum, and we are
18 going to have Barb Chinn present this -- you know,
19 its functionalities to you, but Gellan presents
20 distinctive qualities to formulators of products
21 across various application segments for products
22 for the organic consumer. Barb Chinn, our food
23 scientist, will present information on Gellan use.
24 And if you could go. Keep going, Valerie.
25 Valerie? Okay.

26 MS. BARBARA CHINN: Hi. I'm Barbara

1 Chinn, C-H-I-N-N, and I'm the Food Applications
2 Manager at CP Kelco, and I'm here because I
3 understand there was some confusion at the last
4 meeting in terms of what Gellan gum did, so I'd
5 like to give you a crash course on the
6 functionality of Gellan gum in foods and
7 beverages. Next slide. Next.

8 So as Cheryl said, Gellan gum is a
9 stabilizer, it's a long chain molecule produced by
10 fermentation, and as such it is animal free and
11 sustainable, and as a long chain molecular, when
12 we use it at very low use levels in beverages it
13 will form a network. The Gellan molecules will
14 associate very weakly with each other, and this
15 network we refer to as a fluid gel, and this fluid
16 gel is capable of suspending particulates in
17 beverages, and by particulates I mean things like
18 minerals and fiber. And when we use it at higher
19 use levels it'll form a true gel that you can
20 actually unmold and cut, and we use that property
21 to do things like enhance heat stability, bake
22 stability, provide texture, and just control water
23 in general.

24 Now, like all stabilizers, Gellan gum has
25 its own unique fingerprint in terms of properties,
26 and these properties drive the best fit

1 application. So every gum has its applications
2 where it works very well, and applications where
3 it doesn't work so well. And what we've seen as a
4 growing area of interest is the suspension of
5 particulates in beverages. Next. Thanks.

6 So when we use a Gellan gum fluid gel, we
7 can suspend all sorts of insoluble particulates,
8 like cocoa, insoluble minerals such as calcium
9 carbonate, and tricalcium phosphate, we can
10 suspend soy protein, fruit pulp, and very -- this
11 picture shows some very novel includes that are
12 seen Asia of basil seeds and some [unintelligible]
13 cocoa particles.

14 But this is very important to create very
15 uniform, appealing appearing products on the
16 shelf, as well as to ensure the consumer consumes
17 the particulates, and that's especially important
18 when we're including nutritional supplements in
19 the beverages. Next slide.

20 So further evidence to the importance of
21 suspension is in this article, where the
22 researchers looked at a number of calcium
23 fortified beverages, and in all of the rice and
24 soy beverages they saw a lot of sedimentation
25 where oftentimes the calcium -- it was calcium
26 carbonate or tricalcium phosphate was settled to

1 the bottom of the container, and it was a thick
2 sludge at the bottom of the container, and even
3 with vigorous shaking they often could not get it
4 resuspended. So as such, the consumer may not
5 ingest that calcium and that's especially
6 important when consumers are drinking soy milks
7 and rice milks as alternative to dairy milks. So
8 it puts the risk -- it puts the consumer at risk
9 of insufficient intake. Next slide.

10 In this table, you can read it at your
11 leisure, but I've compared Gellan gum with
12 carrageenan and pectin, and across the top listed
13 a number of functionalities of these products in
14 beverages. And the reason I chose carrageenan and
15 pectin to compare with Gellan gum is because both
16 of them are used in beverages and both of them
17 will form true gels at higher use levels. And as
18 you look at the functionality of these ingredients
19 in these applications you'll see that none can
20 substitute for another. There are situations
21 where carrageenan works, you know, very well,
22 other situations where Gellan gum works well, and
23 other situations where pectin works well, so you
24 cannot substitute one for the other. Next slide.

25 And this compares those same three gums
26 in food applications, and again it's the same

1 story; one gum does not substitute for another.
2 They each have their own, you know, best fit
3 applications, and sometimes, as in the case of
4 pectin in a standard of identity jam or jelly, it
5 is the only stabilizer you can use. Okay. Next.

6 So in conclusion I'd like to say that
7 Gellan gum has unique properties which lend
8 themselves to specific food applications, and
9 utilization of Gellan gum, build gels in organic
10 soy, rice, and almond beverages would ensure
11 consumption of key nutritional ingredients, such
12 as the soy proteins, the calcium, and maintain
13 excellent sensory characteristics. And the
14 properties of Gellan gum complement those of other
15 stabilizers, such as pectin, xanthan, and
16 carrageenan. And in summary, the availability of
17 Gellan gum for use in organic foods, by itself, as
18 well as in combination with other stabilizers,
19 will bring new functionalities to the product
20 developers of organic foods and allow those
21 developers to better serve this important market.
22 Thank you.

23 MS. ANDREA CAROE: Thank you. And just
24 for clarification, do you have one more speaker --

25 MS. BARBARA CHINN: [Interposing] Yes.

26 MS. ANDREA CAROE: . . . from your

1 organization? Okay. So there will be one more
2 five minute presentation. Do you have questions -
3 - does the Board have any questions? Katrina.

4 MS. KATRINA HEINZE: I have a point of
5 clarification. Are we able to hear all three
6 speakers and then lump all our questions in one
7 group? Is that -- are we able to do that? I just
8 wanted to make sure. Newbie question. Thanks.

9 MS. ANDREA CAROE: Jeff.

10 MR. JEFFREY W. MOYER: I have a question
11 actually with [unintelligible] here with Kevin.
12 If you didn't use Gellan gum in a beverage, could
13 you not simply put on the label, shake before
14 consuming?

15 MS. BARBARA CHINN: Well, as it -- the
16 one article showed, they could -- they shook very
17 vigorously, and often times they could not
18 resuspend that, so the consumer doesn't know until
19 they get to the bottom of the container, if they
20 look, at they have this sludge at the bottom and
21 in fact they didn't consume that. So you do get
22 hard packing with a number of ingredients.

23 MS. ANDREA CAROE: Steve.

24 MR. STEVE DEMURI: I might have missed it
25 in your presentation, but what's the carbohydrate
26 source that you're fermenting?

1 MS. BARBARA CHINN: Corn syrup.

2 MR. STEVE DEMURI: Corn syrup?

3 MS. ANDREA CAROE: Any other questions?
4 Okay. Thank you very much, and Rick -- no. Yes,
5 Rick Green is the next person. I just want to
6 bring the on deck person up. Marc Cool, are you
7 in the room? You will be next.

8 MR. RICK GREEN: Okay. Hello again.
9 I'll be very brief since I think Barb covered
10 everything. But, you know, one of the things I
11 want to touch on, as we talk about a lot of the
12 technical aspects, and in my own household we
13 actually have -- I have people who can't have
14 dairy drinks, and so we're big fans of soy
15 beverages, and we've seen them improve over the
16 last ten years or so. And you know, one of the
17 things I'm looking at for the use of Gellan is,
18 you know, we've made the point about it being a
19 nonanimal gel, which is, you know, very consistent
20 with sustainability practices. It's also good for
21 people with dietary restrictions like Kosher,
22 Halal, vegetarian.

23 I think, you know, one of the main things
24 is that really the organic industry came you know,
25 to us because they saw a need for this, and
26 there's been a really overwhelming support, and

1 that's really the main point that I wanted to
2 make.

3 I did want to address whoever asked about
4 the shaking issue, because as we found and in my
5 own household, is that you don't -- you want to
6 get away from things that you have to shake,
7 especially if they're in cartons. Because while a
8 teenage boy can shake a carton with the intensity
9 of an industrial paint shaker, that it lacked the
10 upper body strength to keep the top completely
11 sealed, and we have ceiling fans in my house, so
12 it's amazing how much a small amount of soy milk
13 can get distributed over a kitchen. So you know,
14 as a consumer I would prefer to get things that I
15 don't need to shake, and Barb tells me that I
16 should get more calcium, so that's really all that
17 I wanted to leave you with. So I wanted to be
18 brief. If there's no questions.

19 MS. ANDREA CAROE: Thank you. All right.
20 Jeff?

21 MR. JEFFREY W. MOYER: Maybe a follow up
22 question to what Barbara just mentioned. She
23 mentioned that you use corn syrup. Could you or
24 do you use organic corn syrup in the production of
25 Gellan gum?

26 MR. RICK GREEN: I don't believe we do.

1 We get corn syrup from such manufacturers as
2 Cargill -- I'm sorry, what's that, Cheryl?

3 MS. ANDREA CAROE: I'm sorry, I'm going
4 to need you to go up to the mic --

5 MR. JEFFREY W. MOYER: [Interposing]
6 Yeah, we can't hear you.

7 MS. ANDREA CAROE: . . . and give your
8 name because this is on transcript. Thanks.

9 MR. RICK GREEN: Again the fermentation
10 nutrients are really processing aids for the
11 bacteria. No matter what you feed the bacteria --
12 you could use wheat syrup, and we have done that
13 in the past. You can use all sorts of different
14 carbohydrate or protein sources because it's an
15 extra cellular polysaccharide. So the bacteria
16 will create the same Gellan gum regardless of the,
17 you know, fermentation inputs. So you use what's,
18 you know, what works best in the process.

19 MS. ANDREA CAROE: Bea.

20 MS. BEA E. JAMES: Are you using high
21 fructose corn syrup or just --

22 MR. RICK GREEN: No, it's -- I guess the
23 technical term for it is, what, 42 DE? Barb could
24 probably explain that better to you as to what the
25 significance of that is.

26 MS. ANDREA CAROE: I'm sorry, you're

1 going to have to come up to the mic and give us
2 your name. Thank you.

3 MS. BARBARA CHINN: Barb Chinn. Uh, 42
4 DE refers to 42 dextrose equivalents. It is a
5 measure of the degree of the starch hydrolysis in
6 the process of making corn syrup from corn starch.
7 100 percent DE means it's been fully hydrolyzed to
8 basically its glucose units, so 42 DE gives you a
9 measure of the degree of hydrolysis. It's along
10 the lines -- Karo corn syrup is about 36 DE, so
11 it's a little more hydrolyzed than Karo syrup.

12 MS. ANDREA CAROE: Katrina. Oh, Jeff?

13 MR. JEFFREY W. MOYER: I still don't
14 understand why, if we're going to be using Gellan
15 gum or petition to use Gellan gum in organic
16 products we could not use organic corn syrup, or
17 wheat syrup, or whatever fermentation base you're
18 using. Why wouldn't we do that?

19 MR. RICK GREEN: I'm sorry. Julie, were
20 you going speak out or did --

21 MS. ANDREA CAROE: [Interposing] I'm --
22 well, I'm -- okay. Katrina had -- you want to
23 wait?

24 MS. KATRINA HEINZE: I can wait.

25 MS. ANDREA CAROE: Julie?

26 MS. JULIE S. WEISMAN: I'm trying to

1 answer Jeff's question. This is a 605, not a 606
2 item. In other words, this is not an item that
3 anyone is suggesting is going to be made certified
4 organic, it's a non organic for the five percent,
5 and so the -- there's no jurisdiction for us to
6 require. I mean, that's, you know, if we want to
7 open that one up that's certainly a can of worms
8 that we can look at, but that's not the way things
9 are right now.

10 MS. ANDREA CAROE: Katrina?

11 MS. KATRINA HEINZE: I'm glad I waited.
12 That was a nice segue. Thank you. I had a chance
13 earlier today to go back and look at the
14 transcripts from our last meeting to refresh
15 myself on the confusion we had around this
16 material, and a lot of the confusion had to do
17 with whether it was a 605a or a 605b, so we talked
18 about that this morning, that it's extracted with
19 isopropyl alcohol. The other discussion we had
20 was -- and I haven't had a chance to look at this,
21 but either the tap or the petition mentions that
22 in the drying process or the extraction process, I
23 don't really remember which, there's a change to
24 the acetyl groups, maybe during hydrolysis, I'm
25 not entirely sure. And that factored into our
26 confusion on whether it was a 605b or a 605a. So

1 I was wondering if you could speak to that. So
2 the basic question is, is there a chemical change
3 from how it exists naturally?

4 MS. ANDREA CAROE: And just to qualify; a
5 change that would happen without a natural
6 process.

7 MS. KATRINA HEINZE: Correct.

8 MR. RICK GREEN: Okay. Do -- can you
9 call that transcript up, because I don't recall
10 that. I need the context of it.

11 MS. ANDREA CAROE: Basically what we're
12 asking you, I mean, it's not -- it's irrelevant
13 what the transcript says. It really just prompted
14 our history here, but the question that the Board
15 and specifically the Committee was considering,
16 was whether this at some point became synthetic,
17 was there a chemical change that was one other
18 than would happen in a natural process such as
19 fermentation or oxidation or some --

20 MR. RICK GREEN: [Interposing] Right. I
21 think I understand. The presence or the
22 percentage presence of acetyl groups in Gellan can
23 be very variable, depending on the organism and
24 even the fermentation. So it's one of those sort
25 of variable parameters you get because it's a
26 biological origin where you don't have a variable

1 amount of, say, you know, the polysaccharide
2 structure. Does that address the question?
3 Because I --

4 MS. KATRINA HEINZE: [Interposing] So how
5 do you -- my follow up question would be how do
6 you adjust the level of acetyl groups? Is that
7 done through a natural process or a chemical
8 process?

9 MR. RICK GREEN: The processing of Gellan
10 gum, there -- it could be chemical, it could just
11 be the processing, you know, through
12 pasteurization because we are required to kill the
13 bacterial. So hold on. Cheryl's passing
14 something to me here. Yeah, from the tap review
15 it did say that the extraction -- the extraction
16 and formulation steps don't alter the identity of
17 the Gellan gum produced by the microbial culture
18 so, you know, as far as it's food grade status.
19 It remains Gellan gum because the, you know,
20 Gellan gum is the polysaccharide and some of these
21 other things can be variable. So basically it
22 will still meet the FDA definitions, regardless of
23 the variability of the acetyl groups.

24 MS. ANDREA CAROE: Questions?

25 MR. RICK GREEN: Yeah, I'm not sure we've
26 gotten there yet.

1 MS. KATRINA HEINZE: Are you going to be
2 here tomorrow, too?

3 MR. RICK GREEN: Yes, I will and --

4 MS. KATRINA HEINZE: [Interposing] Okay.

5 MR. RICK GREEN: . . . if you would like
6 to talk about that offline, because I think we're
7 not quite there, but, you know, we are short on
8 time for the other speakers.

9 MS. ANDREA CAROE: You have a question to
10 Bea?

11 MS. BEA E. JAMES: I just want to thank
12 you for bringing out the troops to try to educate
13 us on this material. It's been very helpful.

14 MR. RICK GREEN: Well, thank you too. I
15 realize it is kind of counter intuitive, it's a
16 very sort of strange, you know, way to make
17 products, but, you know, a large part of it is
18 that, you know, the one thing I wanted to leave
19 you with is that there is a very real, you know,
20 desire and need for this, you know, from, you
21 know, the people that are going to be using it.
22 Their customers are telling them that, so they're
23 coming to us and telling us that, and then of
24 course, you know, so they asked us to come to you.
25 So thanks again. I realize that the Board, you
26 know, has seen the support from the industry, and

1 I appreciate you guys bringing that up.

2 MS. ANDREA CAROE: Any further questions?

3 All right. We may have them tomorrow, so again --

4 MR. RICK GREEN: [Interposing] Okay.

5 We'll --

6 MS. ANDREA CAROE: . . . don't go far.

7 MR. RICK GREEN: . . . we'll be here.

8 MS. ANDREA CAROE: We'll be here until,
9 like, 9:00, 10 o'clock tomorrow night.

10 MR. RICK GREEN: Okay. Thank you.

11 MS. ANDREA CAROE: I hope not. I hope
12 not. I hope not. Geez. It's a joke. Marc Cool
13 and on deck Steve -- I'm not good with names. F-
14 O-U-R-N-I-E-R. Steve, are you in the room?

15 MR. STEVE FOURNIER: Yes, ma'am.

16 MS. ANDREA CAROE: Okay. You're on deck.

17 MR. MARC COOL: Good evening, thank you.

18 My name is Marc Cool. I'm with Seeds of Change.

19 We're a 100 percent certified organic seed and

20 food company based in Santa Fe, New Mexico. I'd

21 like to address the Board regarding the issue of

22 commercial availability; specifically the seed

23 component of that. Of all the very important,

24 very urgent, and very difficult issues you're

25 facing, and there are a lot of those, I fully

26 recognize that -- you have a very full slate.

1 Seed is equally important and urgent, but actually
2 not very difficult. Seed already is in the
3 regulations that growers must use certified
4 organic seed. There has been an NOSB
5 recommendation passed in August '05 supporting --
6 to that effect, supporting that and that's not yet
7 been implemented. I mentioned in March, when I
8 spoke with you last time, that in vegetable
9 production less than one percent of organic
10 vegetable production is grown using organic seed.
11 To me that's quite scary. After using five years
12 and after the implementation of NOP rule, there's
13 still that little certified organic seed
14 available, and we talked last time a little bit
15 about the reasons for this supply and demand, et
16 cetera. We can go into details later if you want.

17 The fact is that there is -- if you want
18 to put it this way, kind of an abuse of the
19 system. There's not a lot of transparency, nor
20 oversights, nor accountability for using organic
21 seed, and there should be.

22 So I think this is not a very difficult
23 issue. I do want to discuss very briefly why --
24 you know, I work for a seed company so obviously I
25 want to sell organic seed, but the reasons that we
26 are in this industry, the reason I support this

1 recommendation are two fold. One is this
2 authenticates the whole organic chain. If you see
3 the organic mark as a brand, then consumers need
4 to have confidence that the chain has integrity
5 and is whole, and starts with organic soil and
6 organic seed. That's the rule, that's the way it
7 should be, that's not the way it is. We have to
8 recognize that. The second reason is very
9 importantly from a seedsman's perspective, our
10 goal long term is to develop varieties of seed
11 that are specifically adapted to low input,
12 agriculture and organic conditions. These types
13 of varieties will perform better for farmers
14 agronomically, they'll have better traits for
15 consumers, they'll be healthier for people, and
16 they will be healthier for the environment. This
17 is a longer term goal for the organic seed
18 industry.

19 We can't get there if there's no organic
20 seed used. We can't, you know, offer organic seed
21 if there's no organic seed industry, so these
22 issues are all very interrelated. I heard this
23 afternoon -- I'm a little bit --

24 [END MZ005025]

25 [START MZ005026]

26 MR. MARC COOL: . . . scared that it

1 seems that you might, this evening, deliberate
2 over including in your commercial availability
3 discussion, seed or not. I'm hoping you haven't
4 made a decision to exclude seed yet, hoping that
5 you're still willing to think about this. I'd
6 like to sway you to include in the recommendation
7 tomorrow the seed provision. We're not asking you
8 for anything new, this is already something that
9 you've recommended, it's part of the rule like I
10 said.

11 I have heard a lot of comments that even
12 though this is all the right thing, we all agree
13 this is the right thing, it would be very
14 difficult to implement. I kind of disagree with
15 that. The burden of proof on showing proof of
16 organic seed being used shouldn't really rely on
17 the certifiers. In my opinion that should be a
18 burden on the growers. Growers should include the
19 use of the variety of seed they use in their OSP.
20 Growers know very well what seed they're using.
21 The biggest grower I know uses about 100 varieties
22 of vegetable seed per year. That's a lot, but
23 it's not a huge burden. The growers know the seed
24 they use very well, they have lists of the seed
25 they use, they know the performance of the seed,
26 they know where it came from, they know if it's

1 organic or not organic. It's quite simple for
2 them to make a list, sit down with the certifier
3 at the kitchen table and in all honesty go over
4 the list and say this is organic, this is not
5 organic, and here's why this is not organic, and
6 here's the criteria I used to want to use a non-
7 organic variety.

8 That should be a very simple discussion
9 that the certifier and the grower have. It should
10 be an open, transparent system with oversight and
11 with accountability.

12 That in my mind is not a hugely difficult
13 endeavor. One thing I'd like the Committee to
14 hear, because I do understand there is some
15 concern with the documentation process, is that
16 myself and my company would be willing to help,
17 either financially or otherwise, as appropriate or
18 relevant, to both certifiers and NOP, if there's a
19 way that we can help develop a system to document
20 this and develop a website, et cetera, and we
21 would like to reach out to certifiers to discuss
22 this with them and find a way to make this system
23 work. I would hope that the basis of this would
24 be your positive recommendation tomorrow to
25 include seed in your final review. So with that,
26 any questions? I'd be happy to answer.

1 MS. ANDREA CAROE: I get -- I just want
2 to clarify that we're not proposing that we ignore
3 seeds, we're talking about separating it out from
4 the 606 and -- I mean, the ingredient portion of
5 it, and retooling it so it makes more sense, as
6 far as the logistics of how it would work. But we
7 agree with you, we want to promote seed, that's
8 why we're going to continue to pursue it.

9 Now, I have Steve, and then I have Hue,
10 and then I have Jeff.

11 MR. STEVE DEMURI: Thanks for your
12 presentation, Marc. Are you folks a seed
13 producer, or are you just distributing?

14 MR. MARC COOL: We are a breeder, a
15 producer, a distributor.

16 MR. STEVE DEMURI: So you are actually
17 breeding?

18 MR. MARC COOL: Yes.

19 MR. STEVE DEMURI: Are you working with
20 companies out there like the Pedoes [phonetic] and
21 the As Grows [phonetic] that produce --

22 MR. MARC COOL: Pedoe not, because
23 they're part of Seminis [phonetic], which
24 develop --

25 [Cross talk]

26 MR. MARC COOL: But generally yes, we co-

1 develop with other parties, as well as ourselves.

2 MR. STEVE DEMURI: Are you finding from
3 those other companies that you work with a desire
4 to develop organic seeds? Or is there a --

5 MR. MARC COOL: [Interposing] The answer
6 is there's a huge interest. People see the \$16
7 billion U.S. food -- organic food market as an
8 interesting market. They also see the extremely
9 small vegetable crop production, seed market, and
10 they are worried about that difference. They know
11 there is going to be -- because of regulatory
12 enforcement, there will be a future organic seed
13 industry, but right now it's not big enough for
14 them to bother about. So for them it's too high
15 of a risk, too high of a cost. They look for a
16 specialist like ourselves and others to develop
17 the organic seed industry.

18 MR. STEVE DEMURI: So how would you
19 recommend we get the ball rolling?

20 MR. MARC COOL: I recommend that -- and I
21 understand Madame Chairman, your point about
22 splitting it up, and I frankly don't care if you
23 split it up or put it together. I would like you
24 to make a recommendation to NOP tomorrow, not in
25 March, that's my point, regarding seed.

26 I would propose that we first put the

1 recommendation on paper, on the table, such as it
2 has been done already in August '05, such as it
3 already exists in the rule, and then I would
4 propose that we work together with certifiers and
5 the NOP to find the system to actually enact this.
6 The fact that it's difficult to track this in some
7 people's minds doesn't mean it's not right. Let's
8 first say it's right, and then let's find a way to
9 track it. I would be willing to help with that.

10 MS. ANDREA CAROE: Okay. Steve.

11 MR. MARC COOL: Financially or otherwise.

12 MS. ANDREA CAROE: Hue and then Jeff.

13 MR. HUBERT I. KARREMAN: I just want to
14 agree with what you're saying about how, you know,
15 we have to get back down to the seed, get that
16 organic. I think it's the same thing in
17 livestock. You know, we have poults that are --
18 you can get them at one day old. They're not
19 organic until then. The origin of livestock
20 essentially, you've got to -- we have to
21 stimulate, you know, incentives to complete the
22 whole organic cycle so that organic agriculture is
23 very different than convention from, you know,
24 seed to finish, and you know, we heard yesterday
25 from a guy from Blue River, I think it was, who
26 said he sold 60 percent of his organic seed, he

1 had a lot left over, and now that's field crops,
2 and I have learned in the last day that that's a
3 very different market than the vegetable type
4 demands.

5 But still we just need to get that
6 incentive to not let farmers or whoever just find
7 conventional seed, where if they just check three
8 sources and they can't get it. It's got to be a
9 lot harder. A lot harder or just not at all so
10 that you can have your business and other folks
11 too.

12 MS. ANDREA CAROE: Thank you. Jeff?

13 MR. MARC COOL: Can I make a comment on
14 that and respond to it briefly?

15 MS. ANDREA CAROE: We really have to keep
16 rolling. I'll let you comment at the end. Jeff?

17 MR. JEFFREY W. MOYER: I don't mind
18 [unintelligible].

19 FEMALE VOICE: Gerry.

20 MS. ANDREA CAROE: Gerry.

21 MR. GERALD A. DAVIS: Marc, what was the
22 name of that seed company you mentioned that does
23 not cooperate with you on development of varieties
24 and what other major vegetable seed companies are
25 also kind of stonewalling the process, that would
26 not work with you?

1 MR. MARC COOL: It's not a matter of them
2 not working with us, it's vice versa. Without
3 getting to details, there's various companies in
4 the U.S. that have been purchased by both Monsanto
5 and Sagent in the last number of years. Those are
6 two companies who are involved in [unintelligible]
7 research, which we believe can't -- is not
8 compatible of course with organic production
9 systems, and we also believe they can't
10 differentiate in their breeding lines between the
11 GMO lines, conventional lines, and potentially
12 organic lines. So we've made the decision to not
13 work with people who actually have active GMO
14 breeding. Luckily in vegetable production it's
15 not very many. Of the 12 breeding companies in
16 the world, major vegetable breeding companies,
17 only about two, which are U.S. based, are involved
18 in GMOs. The rest are not.

19 MR. GERALD A. DAVIS: And those two would
20 be?

21 MS. ANDREA CAROE: You know, Gerry.
22 Gerry.

23 MR. GERALD A. DAVIS: Okay. Sorry.
24 Okay.

25 MS. ANDREA CAROE: Let's not go there.
26 Let's not go there. Any other questions?

1 MR. JEFFREY W. MOYER: Can I still make
2 my comment?

3 MS. ANDREA CAROE: Jeff.

4 MR. JEFFREY W. MOYER: Thank you, Andrea,
5 for allowing me the time. We did hear yesterday
6 about grain crops, and there are differences
7 between grain crops and veg crops, and I am a firm
8 supporter, and have been forever, for using
9 organic seed. However, I'm in contact with lots
10 of growers and lots of farmers on a smaller scale
11 and there's huge issues with seed quality in
12 vegetable seeds, more so than in grain seeds, and
13 I think we have to be aware of that in terms of
14 germination and true to type.

15 Personally I've bought seed from many
16 different producers, including yourselves, and
17 have found that type according to label is nothing
18 at all what it should be. Germination can be all
19 over the board because of the certification.
20 There are no good certification standards on
21 vegetable crop seeds in the small lot purchasing
22 area, and we have to be aware of that when we --
23 if we're going to put any kind of a burden on
24 growers to use this seed, that the burden has to
25 come back onto the seed producers to produce
26 quality product, because I've had a lot of

1 complaints about comments I've made in public
2 meetings about using certified organic seed.

3 MS. ANDREA CAROE: All right.

4 MR. MARC COOL: I completely agree.
5 Certified organic seed must be as high quality or
6 higher in terms of trueness to type, germination
7 purity, and disease absence to conventional seed.
8 That's a very important part of what we're doing.
9 The only way to get there is to have an organic
10 seed industry which means people using organic
11 seed.

12 MS. ANDREA CAROE: Thank you, Marc. All
13 right. Thank you very much. Any further
14 comments? Okay. Thank you.

15 MR. MARC COOL: [Unintelligible].

16 MS. ANDREA CAROE: Now, before we go any
17 further, next up is Steve Fournier, but I want to
18 ask the Board, do we need a break?

19 FEMALE VOICE: Yes.

20 MS. ANDREA CAROE: I think I have one,
21 two, three, four, five -- nine. So we're going to
22 take a ten minute break. On deck is Dave Carter.

23 [Audio interruption]

24 MS. ANDREA CAROE: Thank you for your
25 patience. Okay, Steve. Come on and -- whenever
26 you're ready to get started.

1 MR. STEVE FOURNIER: My name is Steve
2 Fournier, S-T-E-V-E, F, as in Frank, O-U-R-N-I-E-
3 R. I'm with Pet Guard Company.

4 First of all I want to thank this body
5 for all the work that they've done and kind of
6 thank you in advance for the work you're going to
7 do. So it's a ton of it.

8 Although not heavily discussed today, my
9 comments are concerning organic pet foods.
10 Companion animals are no longer considered pets;
11 they're family members. As such, Pet Guard feels
12 organic pet food should be under no less scrutiny
13 than human foods.

14 While the differences in nutritional
15 needs are a fact, they should not be an impediment
16 to bona fide organic pet foods being in the
17 market. With the combination of organic
18 regulations with AFCCO nutritional regulations, and
19 the vast amount of nutritional data that goes with
20 that, I feel that with minor adjustments, organic
21 standards can be applied fairly and beneficially.
22 Being the sole diet supplier for companion animals
23 make them unique and dependent upon their humans
24 for 100 percent of their nutritional adequate
25 needs.

26 As such, these diets must be fortified

1 with nutrients that may not be needed in human
2 diets or that humans can consume at will, as
3 needed. Taurine is such an ingredient. While
4 available for supplemental use only, as a
5 synthetic it is essential to the health of cats,
6 and to a lesser extent, dogs.

7 Supplementation is necessary because the
8 animals cannot physically eat enough food to
9 supply it with its needs. While it is [clearing
10 throat] excuse me. While it is preferable to
11 adhere strictly to human standards for pet foods,
12 the unique nutritional needs of cats and dogs is
13 the hurdle we must get over. With that being
14 said, the closer the guidelines are to each other,
15 the less temptation there may be for companies to
16 only look in the short term gain or ride a wave of
17 popularity instead of the final destination for
18 organics. That being healthier foods, healthier
19 people, and a healthier environment. That's it.
20 Thank you.

21 MS. ANDREA CAROE: Thank you. Do we have
22 any questions for Steve? Julie, any questions
23 from pet food?

24 MR. STEVE FOURNIER: Thank you.

25 MS. ANDREA CAROE: Thank you so much. Up
26 next, Dave Carter with Neil Simms. Neil, are you

1 in the room? Neil?

2 MALE VOICE: He's long gone.

3 MS. ANDREA CAROE: He's long gone?

4 MALE VOICE: Yeah [unintelligible].

5 MS. ANDREA CAROE: Okay. Well, that
6 makes -- then I need Nicole. Nicole, I can't read
7 your writing. Nicole from Vermont.

8 MALE VOICE: Daney.

9 MS. ANDREA CAROE: You're here. Okay.
10 You're on deck. Thank you. Dave.

11 MR. DAVE CARTER: Okay. Madame Chair,
12 members of the Board, my name is Dave Carter. I'm
13 involved in bison pet food, consulting, and an
14 alumni of this auspicious group. Today I'm
15 speaking strictly for myself, though.

16 First of all Andrea I want to
17 congratulate you on completing a successful term
18 and over the weekend we'll start teaching you the
19 secret handshake for former NOSB chairs.

20 I do want to limit my comments tonight
21 strictly on Board policy issues and specifically
22 the Board policy manual. In two areas in
23 particular, conflict of interest and activities
24 outside the Board.

25 I know yesterday morning, when Barbara
26 gave her initial comments, she outlined some

1 things in terms of those issues, and one of the
2 things where I think she and I could agree on
3 completely is that this Board contains a lot of
4 conflict of interest. In fact, I would go beyond
5 that. I would say that by design the drafters of
6 OFPA put together the NOSB to rife with conflicts
7 of interest, because when you bring together a
8 people with the wealth of experience and
9 expertise, they naturally bring along a lot of
10 their biases and their personal issues as well.

11 And so the real test is how we handle
12 that balance, and that's why the Board policy
13 manual was developed, or one of the reasons it was
14 developed and why it's so critical. When we put
15 together, or started putting together, the Board
16 policy manual, one of the things that we started
17 to draw on was what are some similarities out
18 there. And if you look, almost every state in the
19 United States has a state statute that governs
20 nonprofit associations. Those are groups that
21 serve a larger constituency, so that's where we
22 kind of drew on. And if you take a look at almost
23 every one of those statutes, or at least every one
24 that I'm familiar with, it talks about nonprofits
25 are allowed to have conflicts of interest, that is
26 not the issue.

1 It's that when there are those conflicts,
2 that they need to be clearly identified and then
3 publicly identified and addressed, and in some
4 cases, people ought to recuse themselves and in
5 other cases not, but it's up to the Board to make
6 that decision.

7 And so that's the model that we tried to
8 develop. The problem is we really don't have any
9 way within the Board policy manual to enforce that
10 within the Board or to talk about compliance, and
11 I would encourage the policy development Committee
12 to start looking at some of those things within
13 the parameters of what the Board can and cannot
14 do. I always like to say that whatever's good
15 enough for a local community group that helps
16 raise money for playground equipment is good
17 enough in terms of a procedure for a \$17 billion
18 industry.

19 In terms of, you know, recusing yourself
20 in the quorum, the integrity issue that was
21 raised, I guess I have to disagree with the Deputy
22 Administrator in that I think that the process is
23 served -- it's enhanced when people will recuse
24 themselves from time to time. You've got 15
25 members on here. If a couple of folks recuse
26 themselves, I think ultimately the decisions -- we

1 may agree or disagree with those decisions, but
2 they -- the integrity of those decisions are
3 enhanced by the fact that people that have
4 identified conflicts of interest have willingly
5 recused themselves in certain circumstances.

6 And then finally the activities outside
7 the Board, I was surprised yesterday by the
8 comment that what you do on your own time is your
9 own business because that really reflects a 180
10 degree departure in previous directives, at least
11 to the Board. I know in February 25th and 26th of
12 2003 we had a Board planning retreat here in
13 Washington D.C. where we started to talk about
14 Board policies, and to develop that, and it was
15 very clear at that time that when you are outside
16 of the Board, that you need to do everything you
17 could to make sure that your activities were not
18 conveyed in any way at all of representing the
19 Board, or speaking for the Board, or as a member
20 of the Board.

21 And so those are some things that I agree
22 more with the former interpretation as in terms of
23 the guidance, rather than with the one that was
24 issued yesterday morning, because I think it is
25 very important for all of us to be very respectful
26 that while we're here, we need to recuse ourselves

1 of some things, while we're outside we need to
2 make sure that we recuse ourselves of being part
3 of the NOSB.

4 With that I thank you very much, and
5 thank you all for your patience at this late hour.

6 MS. ANDREA CAROE: Okay. Thank you Dave.
7 I'd like to say I can talk about nonprofit
8 management with some expertise, and my company, in
9 full disclosure, my company does have members on
10 my Board of directors that do maintain conflict of
11 interest. And we fully expect those members to
12 participate in discussion and development. When
13 it comes to a vote perhaps they recuse themselves,
14 but they are not expected to be quiet. In fact, I
15 would think they'd be doing a disservice to our
16 Board, because that's why they're there, is to
17 provide that. I think that's consistent with what
18 I read in our Board policy manual, and all members
19 can and are expected to participate in those
20 discussions. Our Board policy manual also
21 indicates that before a vote, and I will, before
22 we start voting, just as you did, call for any
23 potential or perceived conflicts of interests, and
24 the Board will make that decision on whether we
25 consider that conflict enough that members should
26 recuse themselves from vote.

1 We have not had votes on -- in the
2 particular situation that -- there has been no
3 votes.

4 MR. DAVE CARTER: Okay.

5 MS. ANDREA CAROE: So I'm a little
6 puzzled by what you're protesting, because we
7 haven't gotten there yet. Votes are for tomorrow,
8 and at that time we'll call for any conflicts of
9 interests, and those will be disclosed, and the
10 Board, in fitting with the policy manual, will
11 decide whether they're conflicts. I think what --
12 not to speak for you, Barbara, but what Barbara
13 was saying in regards to on our own time and what
14 we do is our own thing, is that we as private
15 individuals, and I was told this from the very
16 beginning of the -- my term on the Board, is I
17 have a right to do whatever I want on the outside.
18 However, I will not represent myself as
19 representing the Board. Even as members, if it
20 is, you know, you have to be very careful even if
21 it is something that has been discussed at the
22 Board, not to represent yourself as answering for
23 the entire Board. That's consistent as well, so
24 I'm -- I guess I would like some more detail from
25 you. I think, you know, we're in agreement on a
26 lot of different -- of the basic premise, Dave,

1 but I don't understand a particular situation. I
2 don't feel like anything has gone past the point
3 where there's been any policies of this Board that
4 have been broken.

5 MR. DAVE CARTER: Okay. There's -- well,
6 there's a couple of issues at play here. Number
7 one is the whole issue of yes, having a voice and
8 no vote. I mean, at what times you choose to have
9 a voice and no vote. And I think it's important,
10 you know, in terms of not only in materials
11 issues, I think the procedure is very clearly laid
12 out that when you go to take formal votes that you
13 ask for that conflict. I mean, there's that whole
14 process, and that's good, and there were times we
15 forgot to do that when I was Chair and you went
16 back and did it after the fact, just to make sure
17 that it was done.

18 More and more there's, you know, as much
19 as I hate to say this, it's not likely that the
20 Board is going to be involved in fewer of the
21 controversial policy issues and administering. I
22 mean, we've seen the whole thing with grower
23 groups, with everything else. And I think clearly
24 on, you know, clearly first -- early on in those
25 discussions that folks that have conflicts of
26 interests need to get those out. The case in

1 point I would use in mind, for example, is you
2 know, when the issue of a pet food -- that we were
3 going to start organizing a pet food taskforce,
4 was to -- even before that taskforce was appointed
5 or the process was there, announce that I was
6 involved in the formation of a pet food company
7 and so that I was going to try to refrain from
8 being in certain positions, and in fact that's one
9 of the reasons that the Handling Committee ended
10 up dealing with pet food is because I was chair of
11 the Policy Committee at the time, and even though
12 the Policy Committee was supposed to deal with all
13 of these directives, we handed off the other one
14 just to make sure that, you know, beyond an
15 appearance of a conflict of interest there.

16 MS. ANDREA CAROE: Dave, you know, I
17 guess we're going to have to agree to disagree,
18 because I think that you could have lent quite a
19 bit of expertise to a discussion on pet food if
20 you were involved to that point.

21 Now, if you chose to abstain from a vote,
22 or if the Board felt that you were in conflict for
23 the vote, that's a different situation, but
24 definitely I think you robbed this Board of your
25 expertise in that situation. So I -- again I
26 think we should agree to disagree. And this is

1 from my expertise and my experience outside this
2 Board on a nonprofit Board that is under that
3 same -- nonprofit organization that's under that
4 same structure that you have suggested.

5 So with that I think we've heard your
6 comments, Dave, and I -- you know, for the next to
7 24 hours as Chair of this Board, I feel that we
8 are fully within it. I stand by all of our
9 members and what they've done, and, you know, I do
10 not believe that there has been an issue, and we
11 will continue to try to uphold the policy manual
12 as interpreted.

13 MR. DAVE CARTER: Okay.

14 MS. ANDREA CAROE: Thank you.

15 MR. DAVE CARTER: Thank you.

16 MS. ANDREA CAROE: Any other questions
17 for Dave. Thank you, Dave. Next up is Nicole,
18 and on deck is -- I'm having trouble with the
19 handwriting, but Eunice.

20 FEMALE VOICE: Eunice.

21 MS. ANDREA CAROE: Eunice. Is that -- I
22 don't have your last name at all.

23 MS. EUNICE CUIRLE: It's Cuirle,
24 C-U-I-R-L-E.

25 MS. ANDREA CAROE: Okay. Nicole,
26 whenever you're ready.

1 MS. NICOLE DANEY: Great. I want to
2 thank the Board for the opportunity to speak
3 today, and I'm going to try to be brief, partly
4 because it's going to be facilitated by the fact
5 that my brain is much this late in the evening.

6 My name is Nicole Daney and I'm the
7 Certification Administrator for Vermont Organic
8 Farmers. I'm speaking on behalf of 501. We
9 finally broke the 500 mark, certified producers.
10 So there are several things I wanted to comment on
11 today.

12 Starting with I'd like to address the
13 clarification of definition of materials. In
14 general I guess I just feel nervous about changing
15 past NOSB Board decisions. I understand kind of
16 the motivation of this Board was to clear up
17 inconsistencies regarding substances that have
18 been listed as both agricultural and
19 nonagricultural in different parts of the rule.
20 But I'm wary about changing the definition of
21 agricultural to allow more substances to be
22 considered agricultural and thus qualify for
23 certification.

24 I'm not totally against it, just wary of
25 it. As stated in the Materials and Handling
26 Committee's recommendation, the OFPA states that

1 not all live is agricultural. And my question;
2 who benefits by having more substances meet the
3 criteria for agricultural, so I would like to
4 recommend to the Board that they keep the
5 definition as conservative as possible.

6 I guess I'm feeling skeptical today
7 because I'm also skeptical of the value of
8 redefining yeast as agricultural, partly because I
9 am concerned -- that was something that was
10 mentioned in the discussion before about cost and
11 supply for livestock producers in Vermont. I'm
12 afraid of the way our dairy farmers are going to
13 look at me when I tell them that their yeast and
14 their feed has to be certified organic.

15 But I do agree with Rose's comments
16 earlier today about adding an annotation to the
17 existing allowance of yeast. And I feel that as a
18 certifier I'm already verifying that the yeast
19 itself is not genetically modified, and in some
20 cases that the substrate that it's grown on is
21 non-GMO. So I don't think it would be too much
22 different to verify that it was grown on organic
23 substrate, so I think this is possible and it
24 might solve the problem.

25 As far as standardized certificates, I
26 wanted to commend the Board for addressing this

1 topic, because I do feel like it's an issue in our
2 industry, and I generally agreed with most of the
3 ideas and statements for the recommendation.

4 In regards to the standardized terms for
5 certificates, I wanted to remind the Board that
6 mixed vegetables has been the accepted description
7 for many of our small, diverse, vegetable growers,
8 and so I would like that to be taken into
9 consideration when the NOP or the Board decides on
10 standardizing terms.

11 As far as grower groups, we don't certify
12 any grower group, so it's not our area of
13 expertise, but we do support the ACA position on
14 grower groups, and I did want to reiterate that we
15 do not believe that grower groups should include
16 retailers or handlers. We support the definition
17 of grower groups that was posted in the minority
18 opinion attachment to the recommendation. I won't
19 read that for you, because you know what that
20 says.

21 But I would like to add, just from the
22 earlier discussion, that as far as our
23 organization, initial and renewal inspections for
24 our farmers and processors look almost identical.
25 We do check buffers on a yearly basis because we
26 never know what might be happening on adjacent

1 non-ag land.

2 So I think historically grower groups
3 were certified because of accessibility and
4 financial obstacles, and I think the Board should
5 consider that reasoning as they come up with the
6 recommendation.

7 I'm not going to -- I'll skip my
8 recommendations on the commercial availability
9 requirement because I do support the Certification
10 Committee's decision when they changed their
11 recommendation to keep seed and planting stock
12 separate, which I think was a good decision.

13 And then I would just remind the Board
14 that probably planting stock shouldn't get lost in
15 the language when you're writing that
16 recommendation.

17 As far as livestock materials, I wanted
18 to reiterate the need for the NOP to approve the
19 livestock materials that have been recommended by
20 the NOSB, and I do appreciate Barbara's comments
21 that she's personally prioritizing the addition of
22 some of these materials to the national list. But
23 I do urge the Board to assist the NOP in finding a
24 reasonable solution for allowing the materials
25 that have been left out of the current proposed
26 rule. For example, the propylene glycol and

1 calcium propionate. So dairy farmers we feel
2 really need these critical tools to care for their
3 animals, and in light of these animal welfare
4 discussions that we've been having, the importance
5 of proving all of these materials is really
6 paramount.

7 Okay. So lastly I just -- I also, like
8 always, need to comment on pasture and origin of
9 livestock. I really feel our organization of
10 farmers feel that consumers and producers are
11 really waiting with baited breath to see how these
12 two issues are going to be resolved. We feel
13 that these two issues are the major cornerstone of
14 consumer confidence, and if we disappoint them
15 with either the regulations that we write, or the
16 enforcement of these regulations, their confidence
17 will erode and I feel that the organic label will
18 stagnate, which will affect the livelihood of
19 thousands of farmers and their families, as well
20 as the continued growth of the entire organic
21 industry. So thank you.

22 MS. ANDREA CAROE: Thank you very much.
23 Comments? Joe.

24 MR. JOSEPH SMILLIE: Mixed vegetables.
25 How specific do you feel as a certification
26 organization, you want to get on that certificate?

1 MS. NICOLE DANEY: I feel on a case by
2 case basis, depending on what the growers are
3 doing. And in certain -- different circumstances,
4 where we have orchard as they're growing apples,
5 we would clearly write apples in that situation,
6 and in some regards we would even potentially list
7 the three different varieties of apples that
8 they're growing.

9 But when I think of our small, diverse
10 vegetable growers, it is included in their
11 application, the list of vegetables that they're
12 growing, but potentially they might have crop
13 failures, and I almost worry more or it could
14 potentially be a worry that you've now got a
15 certificate that lists a specific crop, but
16 they've had a crop failure on and, you know, as
17 far as keeping that up to date, I worry about
18 that. And I also feel like during the audit and
19 the inspection, the verification of what they're
20 growing, that happens there.

21 MR. JOSEPH SMILLIE: Okay.

22 MS. ANDREA CAROE: Anybody else? Hue.
23 I'm sorry.

24 MR. HUBERT I. KARREMAN: Nicole, just
25 with that docket that hopefully will come out in
26 the next week or two, we'll just have to see

1 what's on that and not, but there certainly have
2 been some creative ways to deal with some of those
3 over the counter things that you mentioned. So
4 hopefully we can get to that, but also just --
5 nah, maybe, well, regarding, you know, you were
6 saying you're kind of fearful of telling your
7 dairy farmers, you know, they're going to have to
8 use organic yeast -- why? Shouldn't they --
9 they're getting the organic premium, shouldn't
10 they just be wanting to use it?

11 MS. NICOLE DANEY: Well --

12 MR. HUBERT I. KARREMAN: [Interposing] I
13 mean, they're organic.

14 MS. NICOLE DANEY: Yeah.

15 MR. HUBERT I. KARREMAN: I would think
16 they would want to use organic yeast if they
17 could.

18 MS. NICOLE DANEY: But I'm not
19 necessarily sure that yeast should be considered
20 agricultural, and I do feel that some of our
21 farmers might question that, especially since
22 they've been feeding yeast that was acceptable and
23 certifiable -- or not certifiable.

24 MR. HUBERT I. KARREMAN: No, I understand
25 that, when something gets switched midstream,
26 dairy farmers go nuts. You know --

1 MS. NICOLE DANEY: [Interposing] I also
2 just -- I see their faces looking at me, like,
3 yeast? Yeast is agricultural? And I feel like
4 that -- that I have that question too.

5 MR. HUBERT I. KARREMAN: Yes.

6 MS. NICOLE DANEY: And as much as I want
7 to push our industry to make sure that, you know,
8 we're trying to create innovative techniques, I
9 think we can do that potentially with this -- with
10 yeast without having to make it certifiable. You
11 know, by creating the annotation.

12 MR. HUBERT I. KARREMAN: Yeah, no. I
13 understand that. It's very complex. But I mean,
14 I'd say if there's a light at the end of the
15 tunnel for yeast to become organic, you know, I
16 would want to see that happen. I know it's really
17 complex, but then I would also I guess like to see
18 the dairy farmers say good, we got organic yeast,
19 we can get it now. Finally.

20 MS. NICOLE DANEY: Right.

21 MR. HUBERT I. KARREMAN: But I have a
22 feeling that won't happen, and that worries me,
23 that the dairy farmers, they get their premiums,
24 but just like anybody in society, if you can be
25 cheap about something potentially, you will, and
26 yet they're getting the organic premium, so they

1 should wrap their arms around the idea of getting
2 organic yeast, potentially.

3 MS. NICOLE DANEY: Uh huh.

4 MS. ANDREA CAROE: Any other comments?

5 MALE VOICE: [Unintelligible].

6 MS. ANDREA CAROE: Kevin.

7 MR. KEVIN ENGELBERT: Speaking on behalf
8 of organic dairy farmers who, if --

9 MALE VOICE: I thought you might speak
10 up. That's fine.

11 MR. KEVIN ENGELBERT: We don't all go
12 nuts when something changes, and if organic yeast
13 becomes a reality, we will embrace that.

14 MS. ANDREA CAROE: Any other comments,
15 questions? Thank you very much. Eunice, you're
16 up, and Rich Theuer, you're on deck.

17 MS. EUNICE CUIRLE: Okay. My name is
18 Eunice Cuirle, that's E-U-N-I-C-E. Last name is
19 C-U-I-R-L-E and I'm here representing Marinalg, M-
20 A-R-I-N-A-L-G International, and I'll keep my
21 comments brief, considering the time. Marinalg
22 International is a trade association representing
23 the worldwide producers of seaweed derived
24 extracts. First I'd really like to commend the
25 Handling Committee for taking the time to review
26 comments that were submitted in response to your

1 October 2nd report regarding carrageenan and
2 auger -- auger. We agree with the recommendation
3 presented this morning that carrageenan and auger
4 be reconsidered for retention on the national
5 list, and thank you for that. Carrageenan and
6 auger each provide unique properties when used in
7 food. In fat reduced products carrageenan
8 provides an indulgent property. It provides
9 versatile gel textures and controls syneresis and
10 whey off. It provides a range of viscosities, and
11 it's used as a film former. Carrageenan's
12 properties provide for its use in meat and dairy
13 products, as you've seen earlier today. And it's
14 also applicable in personal care items, such as
15 toothpaste and chewable vitamins.

16 Auger, on the other hand, is somewhat of
17 a niche product. It's unique in that it provides
18 a thermal set when exposed to high temperatures,
19 and as such it's used in the icing on preassembled
20 baked goods; meringues, aspics, some meat
21 products, and sauces. And I'll end my comments
22 there. I just wanted to give you some additional
23 clarification on these two products.

24 MS. ANDREA CAROE: Thank you very much.
25 Is there any questions? Thank you very much.
26 Rich, you're up, and I have Will Fantle down, but

1 I think you've already done -- Mark.

2 MALE VOICE: [Unintelligible.]

3 MS. ANDREA CAROE: Okay. You're on deck.

4 MR. RICH THEUER: Well, good evening.

5 It's very late and you've been here a long time,
6 and I hope everybody's had a little candy like I
7 had to keep from getting too hypoglycemic. My
8 name is Rich Theuer, I'm a private citizen and
9 occasional consultant from Raleigh, North
10 Carolina. My comments represent my own views and
11 probably nobody else's. As you can see, I -- oh,
12 can I go back? As you can see I happen to be part
13 of the cause of the problem in 1992 and 1994,
14 relating to materials.

15 And then I got my comeuppance as a tap
16 reviewer, trying to figure out what really was
17 synthetic and what was nonsynthetic. Lesser so
18 the agricultural, but I was very gratified when
19 Dan mentioned this morning about the cellulose,
20 and I remember in the tap review coming to the
21 conclusion, in one out of three, that yes, you
22 could make it organic if you started with cotton.
23 You could make it probably organic if you started
24 with glucose -- organic glucose and had a
25 microbial fermentation, but it certainly was
26 synthetic if you did the pulp isolation, the

1 chemicals ways that they do it.

2 Then I'm now with OMRI, trying again to
3 figure out from old cap reviews what do materials
4 do.

5 What I'd like to do today is review your
6 materials from a rather unique point of view. Can
7 I have the next? First of all I think the
8 definition of agricultural substance, as you have
9 described, should be either deleted or
10 substantially modified, because it's confusing,
11 problematic, ambiguous, and I think it's contrary
12 to the sense of the OP -- the Organic Food
13 Production Act. Actually something starts or
14 agricultural, it really doesn't change, and it can
15 actually become synthetic or start synthetic, but
16 it really doesn't change. The other thing that I
17 think is required is a working definition of a
18 chemical process. In the synthetic definition
19 there are -- if it's formed by a chemical process
20 or it's chemically changed, or -- and then the
21 exemption for something that's from a naturally
22 recurring biological process.

23 The work done two years ago on coveilant
24 ionic by Rose Kiernagan [phonetic] and associates,
25 I think did a nice job on point number two. But
26 point number one really could use, if not a

1 definition, some good examples, right? Cellulose
2 isolation from wood pulp by these horrible
3 chemical methods would be a good example. We need
4 more, but we don't really know what chemical
5 process means, and as Dan mentioned earlier, the
6 early tap reviews are so inconsistent, so
7 ambiguous sometimes, and you really wonder how did
8 people ever figure that out. And of course after
9 seeing that, the Board would vote you know, like 8
10 to 5 that it was synthetic. You know, you don't
11 tell sex that way and sometimes you can't tell
12 synthetic that way either.

13 No, the next one is -- they're points to
14 disagree with and it sounded like, when I was
15 reading the document, that minimal processing of
16 an agricultural product could make it
17 nonagricultural. Further processing could change
18 it enough to make it synthetic, even if there was
19 no chemical change. And maybe I misread it wrong,
20 but -- misread it, but I think I disagree if
21 that's the meaning. Could I have the next?

22 When we talk about agricultural product,
23 getting to the point of does any processing change
24 it, and I think in the document you mentioned that
25 lysozyme [phonetic] really should be synthetic,
26 and I would disagree with that because of the

1 words of the act; a product derived from
2 livestock, marketed for human consumption, is
3 still agricultural. And chicken goes to egg, goes
4 to egg white, goes to lysozyme, and so lysozyme is
5 still agricultural, and I know a processor would
6 never want to fool around with it chemically
7 because then it would lose activity. Can I have
8 the next?

9 And so the paradigm of agricultural and
10 nonagricultural, nonagricultural to synthetic, I
11 don't think is right. Agricultural always stays
12 agricultural, synthetic can actually go to
13 nonsynthetic if you isolate. Can I have the next
14 one?

15 If you take corn starch from GMO, the
16 decision tree of about two, or three, four years
17 ago, says you can remove synthetic part and you
18 wind up with corn starch that you can ferment to
19 citric acid, and that is nonsynthetic.

20 And then a final question; can there be
21 nonagricultural organic. That to me is the \$64
22 question. I don't think you can.

23 MS. ANDREA CAROE: Thank you.

24 MR. RICH THEUER: It has to be -- can I
25 have one more, please, and then -- synthetic
26 definitions, and just as a point of view, next

1 one, in processing it doesn't make really a big
2 difference. Everything goes thorough the national
3 list. But for crops it does make a difference,
4 and I think as I learned after last meeting, can I
5 have the next and final, and then I'm gone. I
6 think you've got a real problem with streptomycin.
7 It's a natural material, it's on the list of
8 synthetics, it's really nonsynthetic, and someday
9 someone's going to use it and there will be no way
10 of stopping them from using it for anything.

11 MS. ANDREA CAROE: Thank you, Rich.

12 MR. HUBERT I. KARREMAN: I've got one
13 question.

14 MS. ANDREA CAROE: Jeff -- Katrina, and
15 then Hue, and then Bea.

16 MS. KATRINA HEINZE: Thank you for some
17 very well thought out comments. I really
18 appreciate it, and some good slides that we can
19 use.

20 MR. RICH THEUER: Thank you.

21 MS. ANDREA CAROE: Hue.

22 MR. HUBERT I. KARREMAN: On your
23 streptomycin then, what do you think about
24 penicillin, because I hear that from straight --
25 or conventional [unintelligible] so they say well,
26 penicillin's natural, it's from the soil.

1 MR. RICH THEUER: They're, well, let me
2 tell you what I know, and then what I don't know.

3 The two microorganisms to make the
4 oxytetracycline and streptomycin were isolated
5 from the soil. It's a very simple fermentation,
6 I've read the patents, and it's a -- in fact, for
7 the fire blight they actually spray I think, from
8 what I read, the entire culture, so there's no
9 isolation. So it's absolutely nonsynthetic.

10 In the case of penicillins, many of them
11 are semisynthetic penicillins, and so I would
12 have -- I would, you know, from a point of view, I
13 think you need to look at each and every one to
14 exactly know what is it, what is a direct product
15 of fermentation, and also the aspect of was it a
16 GMO organism that may have been involved.

17 So streptomycin, it is not a GMO. The
18 organism was isolated in about 1940. The fellow
19 who did it got the Nobel prize in '52 because they
20 thought it would eliminate TB, but it's all pre-
21 modern science.

22 MS. ANDREA CAROE: Okay. Gerry.

23 MR. GERALD A. DAVIS: So I remember when
24 we reviewed streptomycin for the last Sunset
25 process this question came up, but what was
26 unclear in the tap was whether there was something

1 in the formulation process of the finished product
2 as used in agriculture that made it synthetic, and
3 this is kind of interesting, new information to
4 bring up, and --

5 MR. RICH THEUER: [Interposing] I have
6 not gotten that far, except to -- there's a
7 professor at Wisconsin working on fire blight in
8 pairs in Wisconsin who basically indicated, and
9 from what I've read on the internet, that the
10 culture of streptomyses drisius [phonetic] is very
11 little modification, it's just blown all over the
12 orchard.

13 Now, the reason I got into that is after
14 the nanomycin which was, you know, nonsynthetic,
15 you know, looking into this and saying oh, this is
16 even worse in terms of having the resistance
17 factors generated. I'd have to look into that,
18 Gerry.

19 MR. GERALD A. DAVIS: I'd be interested
20 in your input if we could be in contact. Thanks.

21 MS. ANDREA CAROE: Dan.

22 MALE VOICE: Who's next?

23 MS. ANDREA CAROE: Bea said she didn't
24 have him.

25 MR. DANIEL G. GIACOMINI: On that -- the
26 one slide where you think you may have

1 misunderstood, I think you may have -- it wasn't
2 what we intended to say, but certainly was your
3 intent. I'll put it that way. Were you on the
4 Board when lysozyme was put on the list?

5 MR. RICH THEUER: I think that was later.

6 MR. DANIEL G. GIACOMINI: Okay. Well
7 then I'll ask it then; why do you think they put it
8 on 605a?

9 MR. RICH THEUER: I have no idea. No,
10 Dan, when I was on the Board '92 to '94, and they
11 asked me to come back in '95 to chair the sessions
12 of going through processing materials, and it blew
13 my mind how some things were said to be synthetic
14 and some things were said to be nonsynthetic,
15 knowing -- having done 63 out of the 71 tap
16 reports. That, you know, I knew those materials
17 and I don't understand how it happened. It was by
18 a vote.

19 MR. DANIEL G. GIACOMINI: Well, it was
20 confusing then, and it's confusing now, and if our
21 document did nothing more, it's getting --
22 hopefully it's at least getting people maybe to
23 look a little bit outside the box of things in
24 different ways and maybe we'll find an idea that
25 we can move with.

26 MS. ANDREA CAROE: I think lysozyme is,

1 like, within the last three years. I'm pretty
2 sure I voted on it, but at this point I've got
3 random access memory, so I can't remember what the
4 logic was. But I'm pretty sure that it was fairly
5 recent that that was put on the list.

6 MR. RICH THEUER: And sometimes there's
7 no rhyme or reason.

8 MS. ANDREA CAROE: It's case by case,
9 which is, you know, what we're trying to solve.
10 So any other Board member questions, comments?
11 Thank you, Rich. Always thank you.

12 MR. RICH THEUER: Thank you.

13 MS. ANDREA CAROE: Your historic
14 perspective is very valuable.

15 MR. RICH THEUER: If I can be of
16 assistance I'll -- I'm here.

17 MS. ANDREA CAROE: We will definitely
18 call on that.

19 MALE VOICE: We need your card.

20 MS. ANDREA CAROE: All right. Mark
21 Kastel and that is our final commentor for today,
22 so this is it, folks.

23 MR. MARK KASTEL: Okay. Good afternoon.
24 Thank goodness. My name is Mark Kastel, I'm
25 representing the Cornucopia Institute, we're based
26 in Cornucopia, Wisconsin. I also have a proxy

1 here from Tom Willey of T. D. Willey Farms in
2 Madera, California. Am I saying that right, Dan?
3 Madera. Okay. Thanks. First I want to preface
4 before I go into my remarks -- substantive
5 remarks, I want to say that what happened during
6 my testimony yesterday I feel was inappropriate,
7 and let's look forward though, instead of back.
8 But I want to highlight history for some of the
9 newer Board members.

10 The tradition of the Board chairperson
11 briefing the participants at the beginning of the
12 meeting to act in a respectful manner is a
13 byproduct of an era which predates, incidentally,
14 the Cornucopia Institute's founding, where there
15 was some vociferous language and behavior on the
16 part of some participants on the Board. Sometimes
17 some staff, and sometimes some participants. But
18 let me say that I would like to see whoever comes
19 in as chairperson discontinue this tradition of
20 briefing the adults in this room as in terms of
21 acting in an appropriate manner, because it leads
22 to potential censorship.

23 I don't think there's anything that I
24 said yesterday that was either disrespectful or
25 factually inaccurate, but if I had, you folks have
26 the right and ability to either scold Mark Kastel

1 or any other participant here if you think my
2 behavior's out of line, or if you think that
3 statements made by somebody making a presentation
4 that's factually inaccurate, you have obviously
5 the right and maybe the responsibility to try to
6 correct the record.

7 So I really want to discourage whoever
8 comes in from continuing this tradition, and hope
9 that we all remain and continue to respond in a
10 respectful and professional manner.

11 Folks, it's time. It's time for the NOSB
12 to take a look at the exemption, the cap on the
13 exemption for certified organic direct market
14 producers which was set at \$5,000 when this
15 process began in the year -- prior to the year
16 1990. What that number should be I'm not going to
17 recommend today, but I want to read you a brief
18 part of an article that was in the Wall Street
19 Journal this morning on biodynamic agriculture,
20 and it said in part, for those who feel organic
21 farming has sold out to corporations, biodynamic
22 farming has often seen as the last bastion here of
23 shelter.

24 So first of all that sentiment we don't
25 like to hear, obviously, as we get more larger
26 players in, and the smaller farmers are the folks

1 who really consumers can romantically relate to,
2 and I think it's important for us to have
3 marketers and participants in this industry in all
4 scales.

5 And so whether that number should 15,000
6 or some other number, it really eliminates the
7 possibility for a lot of small, part-time seasonal
8 direct marketers to label their products
9 organically, and we should be encouraging the
10 expansion. A lot of them will be the ones to
11 raise to a higher commercial level in the future,
12 and we want to encourage that entry level growth.

13 Grower groups. My comments are intended
14 in no way to impugn the credibility of an
15 example -- the Whole Foods representative that was
16 just recently speaking, and she's rightfully proud
17 of their internal procedures and their internal
18 auditing protocol. But I want to emphasize that
19 these are internal auditors.

20 The Cornucopia Institute, as a public
21 charity, by law in the State of Wisconsin, has to
22 be audited every year by outside auditors, and
23 that's really the strength and basis of our
24 certification program in the organic industry is
25 that consumers depend on the USDA to accredit
26 outside auditors, outside certifiers, and we at

1 the Cornucopia Institute, and much of our
2 membership, thinks it's not in the same class, and
3 shouldn't be in the same discussion to talk about
4 third world peasant farmers on a very small scale,
5 and talk about multinational retailing
6 corporations in the United States in the same
7 breath.

8 Next subject, leafy greens. There is an
9 advance notice of proposed rule making with a
10 docket open right now that I hope the Board will
11 consider, if nothing else, as individuals
12 participating in voicing your views on. This is
13 a -- this is bad news for organic producers around
14 the country. This is an effort to take, quote,
15 the voluntary program in California, and turn it
16 into a national program. First of all, let me
17 emphasize that the California program is not
18 really voluntary, that there are a number of large
19 supermarket chains and food distributors that are
20 requiring their suppliers -- their growers to
21 adhere by these standards. At a minimum, the
22 United States Government should delay potential
23 implementation of this on a national basis. There
24 is not a good scientific basis for these
25 protocols. Since the California voluntary -- the
26 Leafy Green Marketing Agreement went into effect,

1 there's been at least two recalls from
2 participants in that program that were adhering to
3 those protocols, so this is no guarantee we're
4 going to solve the problem that manifested itself
5 in spinach last year.

6 The regulations would discriminate
7 against organic farmers. It would eliminate forms
8 of biodiversity, it would cause farmers to have
9 to, in essence, sterilize the environment and it's
10 in conflict with our -- some of our mandates in
11 the organic standards.

12 The problem has been in a prewashed
13 spinach, and bagged leafy greens. The problem has
14 not been in other leafy greens. But the proposal
15 on the table is to expand this for all leafy
16 greens, including this like arugula and chard. At
17 a minimum, if the problem is with these prewashed
18 greens, we should get these other crops off the
19 table.

20 At a minimum we should think about, and I
21 hope you folks will chime in exempting small
22 direct marketers and organic growers. These are
23 not the people responsible for national epidemics.
24 The one size off rule does not fit. This is a
25 disproportionate burden on small organic growers.
26 One of the requests is testing at harvest time,

1 and so let me contrast this.

2 We have large farms, commercial
3 industrial farms in California that some of them
4 are monocrop producers, some of them are producing
5 one to three crops per year that will be mandated
6 to be tested at harvest. We have members in New
7 York State, in Wisconsin, in California that
8 produce many, many crops. You've heard testimony
9 about the challenges of procuring organic seed for
10 vegetables. Many -- dozens of crops, and some of
11 these farmers are going to market every week, and
12 doing a harvest every week. If they have to go to
13 the expense of a testing protocol, this could put
14 some of them out of business, and so I want to
15 lastly read just a couple of quotes from Mr.
16 Willey's testimony here. He said last week a
17 shipment of ours was held up at the Canadian
18 border because it included two boxes of bunched
19 kale, and we are not signatories in the, quote,
20 Leafy Green Handler Marketing Agreement. Thank
21 you.

22 What's objectionable about the Leafy
23 Green Agreement it is -- is it is anti-biological,
24 anti-nature, and biased. It imposes growers --
25 discriminates against growers using traditional
26 production methods demonstrated to be safe over

1 time.

2 Coerced by processors, farmers up and
3 down the Salinas Valley are destroying hedgerows,
4 any farmscape that might attract wildlife, though
5 no significant evidence exists to implicate native
6 species in produce contamination. And I also in
7 closing want to recognize the California Alliance
8 with Family Farmers, CAFF, for their work --
9 leadership on this issue, and I'll close here and
10 take any questions, if there are any.

11 MS. ANDREA CAROE: Are there any
12 questions or comments?

13 MR. MARK KASTEL: Then I'll say good
14 night and thank you.

15 MS. ANDREA CAROE: We are -- that
16 completes our public comment session, and our
17 agenda for the day, so we stand in recess until
18 8:00 a.m. tomorrow morning, where we will start
19 public comment again.

20 [END TRANSCRIPT]

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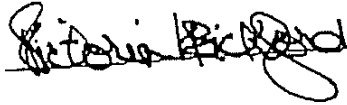
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