

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE (AMS)
NATIONAL ORGANIC PROGRAM (NOP)

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MEETING OF THE NATIONAL ORGANIC
STANDARDS BOARD (NOSB)

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TUESDAY

NOVEMBER 3, 2009

+ + + + +

The National Organic Standards
Board convened at 9:00 a.m., in the Monroe and
Jefferson Rooms of the Washington Plaza Hotel,

located at 10 Thomas Circle, N.W., Washington,
D.C., Jeffrey W. Moyer, Chairperson,
presiding.

MEMBERS PRESENT:

JEFFREY W. MOYER, Chairperson
DANIEL G. GIACOMINI, Vice Chairperson
JULIE S. WEISMAN, Secretary

RIGOBERTO I. DELGADO
STEVE DeMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
KATRINA HEINZE
BEA E. JAMES

HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH R. SMILLIE

STAFF PRESENT:

BARBARA ROBINSON
MILES McEVOY
VALERIE FRANCES
MARK BRADLEY
SHANNON NALLY
RUIHONG GUO
VALERIE SCHMALE
J.D. MELVIN

KATHERINE BENHAM

ROBERT POOLER

JUDITH RAGONESI

TAMMIE WILBURN

ANDREW REGALADO

TONI STROTHER

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

2 (9:02 a.m.)

3 CHAIRPERSON MOYER: Good morning,
4 everybody.

5 Okay, I would like to officially
6 call the November 3rd meeting of the NOSB to
7 order. We have a quorum. The Board is
8 seated.

9 I would like to move directly to
10 the business of the Board.

11 We have an agenda that was
12 presented to the Board, to the program, and
13 posted to the public. At this time, I would
14 like to call upon the Board to approve that
15 agenda. If someone would like to make a
16 motion to approve that agenda, I would
17 entertain that.

18 MEMBER ELLOR: So moved.

19 CHAIRPERSON MOYER: Tina has made
20 a motion. Do I have a second?

21 SECRETARY WEISMAN: I will second
22 it.

1 CHAIRPERSON MOYER: Julie has
2 seconded the motion to accept the agenda as
3 presented.

4 Are there any additions or
5 corrections to that agenda?

6 Madam Secretary?

7 SECRETARY WEISMAN: Yes. One of
8 the things that is on the agenda for a few
9 minutes from now is for us to vote to accept
10 the voting results of the May 2009 meeting as
11 official record. That actually was ratified.
12 It hasn't been posted yet, but it has been
13 ratified, as of midnight last night. So it is
14 now available for posting. I suggest that we
15 move that to later in the meeting, just that
16 one vote.

17 CHAIRPERSON MOYER: Yes, I suggest
18 we put it on Thursday morning as the first
19 item of our voting around at eight o'clock.
20 Do I hear any discussion on that?

21 (No response.)

22 Okay. Hearing none, I call for

1 the vote to accept the agenda with that one
2 additional change.

3 All those in favor say aye.

4 (Chorus of ayes.)

5 Any opposed?

6 (No response.)

7 Hearing none, we have an agenda,
8 and we are ready to go. Thank you.

9 I would like to take a brief
10 moment here, if I could, to welcome the Board
11 members, the program staff in attendance, and
12 the general public. Thank you all for being
13 here. I know we have worked hard; you've
14 worked hard, and we are real excited to be
15 here to take care of the business in front of
16 the Board.

17 I would also like to take this
18 opportunity, on behalf of the Board, to be the
19 first to welcome Miles, the new Deputy
20 Administrator, to the program and to this
21 meeting.

22 Miles, nice to have you here.

1 (Applause.)

2 You realize this is the first of
3 many applauses. So you have to get used to
4 that.

5 (Laughter.)

6 Just for the first meeting. After
7 that, you know, the gloves come off later.

8 (Laughter.)

9 But this Board really does look
10 forward to working with Miles and with the
11 program under new leadership as we move
12 forward with a lot of the challenging issues
13 in front of us.

14 As you can see from the agenda we
15 have just approved, the Board has been
16 extremely busy over the past six months. We
17 focused our attention on several materials,
18 which we are going to vote on later this week,
19 and some very specific recommendations that
20 came out of each of our committees.

21 Like every Committee session
22 before us, we have logged -- I didn't get the

1 exact number from Valerie yet, but I know it
2 is hundreds of hours of conference calls over
3 the last six months and countless more hours
4 reading, writing, and in many cases laying
5 awake at night thinking about these particular
6 items that we are all working on here over the
7 next three days.

8 While many of you will agree or
9 disagree with the outcomes of the votes that
10 we present here, I can assure you that the
11 members of this Board have put forth their
12 very best effort, and I am extremely proud to
13 be part of this Board and the hard work that
14 everybody has done here. So I appreciate
15 that.

16 We have also recorded over 300 --
17 I don't know how many, Valerie, 360 or
18 something -- public comments. Not that many?
19 Three-hundred-and-something.

20 MS. FRANCES: Two hundred and one.
21 Then there were the thousands that were
22 petitions and various other.

1 CHAIRPERSON MOYER: Okay. It's a
2 lot.

3 (Laughter.)

4 A lot of written comments. We
5 know that there's a large attendance in the
6 room today that wants to speak and present
7 information to us verbally over the next few
8 days. So we know that you have been working
9 just as hard as we have, and we certainly
10 appreciate all of that effort.

11 One glance at the agenda will give
12 you an idea of the great diversity and
13 complexity of the issues that we have
14 struggled with over the past six months. This
15 Board has not backed away from dealing with
16 the most difficult tasks.

17 We have tackled head-on the issues
18 of personal body care, retail certification,
19 nanotechnology, animal welfare, bivalves,
20 inerts, and the classification and
21 definitions.

22 Every member of this Board has

1 stepped up and contributed in many ways to all
2 these issues related to their particular
3 segment of the community.

4 Now, in order to move many of
5 these recommendations to the next level, we
6 will need to partner with other government
7 agencies, like the EPA and the FDA, and we
8 know that this will require additional efforts
9 on behalf of the program and the Board as we
10 work to educate these agencies on what the
11 organic standards mean, as well as the
12 expectations of the greater organic community.

13 All this activity has not gone
14 unnoticed by Congress. The National Organic
15 Program has been allocated additional funds to
16 support the work being placed on our program
17 staff.

18 Over the next several months, the
19 program is expected to grow, I believe, from
20 14 people to 31 people, is the number that I
21 heard. Additional program staff will
22 certainly make the workload challenging in the

1 beginning, as we work to educate them, but
2 then, hopefully, make the work flow much more
3 smoothly over time.

4 In addition, the Organic Program
5 has been given full status as a separate
6 program, no longer blended into other
7 programs. So that gives us more credibility
8 and, of course, more prominence and more
9 attention.

10 Much is changing across all of our
11 industry. Managing the change in the
12 marketplace is a very real challenge.
13 Consumers are being asked daily to make
14 choices between labels for natural products,
15 alternative certifications, grass-fed, or
16 pesticide-free. There are also hundreds of
17 confusing labels designed to look just like
18 the USDA organic seal.

19 That further confuses consumers,
20 as they try to capture more of the organic
21 food dollar. Any actions taken by this Board
22 that further adds to the disillusionment or

1 confusion of consumers only makes matters
2 worse. To that end, we must all focus our
3 energy on keeping this industry strong, on
4 keeping the word "organic" meaningful, and
5 also on keeping the door open for the growth
6 of what we all want and need. Therefore, the
7 word "integrity" comes to mind, as we all work
8 on the issues that are in front of this Board
9 and in front of your particular communities.

10 Now what I would like to do is
11 continue by giving each of the Board members
12 the opportunity to introduce themselves, him
13 or herself, giving a brief summary of your
14 individual position, your representation on
15 the Board, and maybe a little something about
16 your background and how you fit into the
17 organic community.

18 I guess we will start with -- Joe,
19 do you mind starting over on your side of the
20 table, introduction of who you are and your
21 position on the Board?

22 MEMBER SMILLIE: Joe Smillie, and

1 this will be my last year on the NOSB. I
2 represent the certifier, accredited
3 certifiers, basically representing the
4 certification organization. I am also Chair
5 of the Certification, Accreditation and
6 Compliance Committee, which has been pretty
7 busy the last few years.

8 Serving on the NOSB has been a
9 remarkable experience. There is always that
10 joke: there's two things you don't want to
11 see being made. One is sausages and the other
12 is regulations.

13 (Laughter.)

14 Now I fully, completely understand
15 that old saying. It is a real balancing act.
16 I am just very proud of this Board for working
17 together as one unit. In spite of the wide
18 variety of opinion we have, we are always able
19 to work together and there's no factions on
20 this Board, which I am especially proud of and
21 glad to serve with this Board.

22 There's been a lot of issues. I

1 think we are at a point now where all the easy
2 work has been done. Now we've just got very
3 difficult choices. Just going through the
4 classification of materials showed us how
5 difficult our job now is and how attentive you
6 have to be to the issues.

7 So, in working this year, I found
8 it to be a real challenge to stay on top of
9 everything. One of the worries I have for the
10 NOSB is that we get so involved in our own
11 work that we are not really able to fully
12 participate in some of the other committees'
13 work as we go along.

14 So sometimes we come to meetings,
15 and we certainly know a lot about our areas,
16 but we haven't been fully briefed on other
17 committees' work. That is one of the concerns
18 I have for the future of the NOSB. As we go
19 deeper and deeper into the crack, that we are
20 able to work out some system that we can keep
21 in touch with each other and the Committee.

22 But that is my speech for today.

1 I will leave it to Tracy.

2 CHAIRPERSON MOYER: Tracy?

3 MEMBER MIEDEMA: Good morning,
4 everyone.

5 My name is Tracy Miedema, and I
6 work for a farm in Oregon. We farm about
7 5,000 acres, about a third of which is
8 certified organic by Oregon Tilth.

9 I am a consumer rep on the Board
10 and have two more years here of doing work on
11 the NOSB.

12 I am really, I think, looking
13 forward to hearing everyone's comments and
14 talking with you in the hall and in our breaks
15 and such.

16 I also wanted to let folks know
17 about something that we are pretty proud of in
18 Oregon. We are making energy from fruit and
19 vegetable byproduct. Our farm is now fully
20 energy-independent.

21 So I am interested in organic and
22 also some other areas of sustainability,

1 issues of hunger, and energy independence. I
2 am thrilled to have the chance to serve two
3 more years.

4 CHAIRPERSON MOYER: Bea?

5 MEMBER JAMES: My name is Bea
6 James. I live in Minneapolis, Minnesota.

7 I hold the retailer representative
8 seat, and this is my last meeting. Somebody
9 out in the hall said, "Can you run again?"

10 (Laughter.)

11 And I said, "You can run away."

12 (Laughter.)

13 Yes, but you can't hide.

14 It has really been an honor to
15 serve on the Board. I just am in awe of the
16 people that I have been able to work with and
17 learn and grow with. Everybody here just does
18 an amazing amount of work. You really don't
19 realize how much work goes into being on the
20 Board until you actually sit on it and you see
21 people try to balance professional, personal,
22 and then this job. So it is a lot, and it has

1 been great.

2 I no longer will lay awake at
3 night wondering whether or not bacteria will
4 someday be classified as livestock. So I am
5 going to sleep a lot better.

6 (Laughter.)

7 CHAIRPERSON MOYER: Thank you,
8 Bea.

9 Barry?

10 MEMBER FLAMM: My name is Barry
11 Flamm. I'm from Montana, Paulson, Montana,
12 beautiful Flathead Lake.

13 I was appointed to the Board in
14 January of 2008 and came in alone, and have
15 been the junior member up until right now. So
16 I am losing my distinction and special
17 treatment I have received from the Board, the
18 great people on the Board.

19 As I mentioned, I was appointed in
20 one of the three environmentalist positions.
21 I am Chair of the Policy Committee and serve
22 on the Crops Committee and on the big alphabet

1 committee with Joe, certification and other
2 things.

3 I had owned and managed the first
4 certified cherry orchard in Montana, which is
5 something I was pretty proud of, and also grew
6 certified apples and other fruits and
7 vegetables.

8 I have been very involved in the
9 organic community in Montana and helped put
10 together the State program, the State
11 certification program, run by the State
12 Department of Agriculture, and helped form the
13 Montana Organic Association.

14 As I have found in Montana and
15 everywhere, there is, I think, no greater
16 group of people than the people in the organic
17 community. I have been an environmentalist
18 and a conservationist all my life, but organic
19 people not only have the right kind of values
20 and beliefs, but also they are working at it
21 every day. So I am just delighted to be part
22 of such a great group. Thank you for being

1 here.

2 I look forward to working with the
3 new Board members. I know we've got work all
4 lined out before they even get officially
5 here.

6 So thank you for the opportunity
7 to serve.

8 CHAIRPERSON MOYER: Thank you,
9 Barry.

10 Steve?

11 MEMBER DeMURI: Thank you, Jeff.

12 My name is Steve DeMuri. I live
13 in Sacramento, California, and I work for a
14 certain unnamed, "Um-um, good" soup company.

15 (Laughter.)

16 My background in organics dates
17 back to about 1989 or 1990, when I was on the
18 startup team for Muir Glen. I have
19 transitioned to another company since then.

20 But I have really enjoyed my time
21 on the Board here. It has been wonderful. It
22 has been invigorating, tiring at times, but,

1 as Joe mentioned, we do work very well
2 together, which I find very, very refreshing
3 in this day and age. We are able to get some
4 things done, and we have a lot more to do, of
5 course.

6 I would like to welcome the four
7 new members that are coming on. I know at
8 least one is here today. So get ready for
9 some fun. We are looking forward to having
10 you.

11 And to the four that are leaving,
12 thank you very much for all your hard work the
13 last five years, the four that are leaving,
14 the five that are leaving. Is there five
15 leaving? I thought it was four leaving.
16 Five? Okay. Does one of you want to stay?

17 Thank you for your hard work. It
18 has been a privilege to work with you, and for
19 the tutelage you provided to me and the other
20 newbies as we have come on, we appreciate
21 that, too. So thank you very much.

22 CHAIRPERSON MOYER: Thanks, Steve.

1 Julie?

2 SECRETARY WEISMAN: My name is
3 Julie Weisman. I am from Tenafly, New Jersey,
4 just up 95 a ways, a piece.

5 I am currently the Secretary of
6 the NOSB. I am one of the handling
7 representatives. I am also currently and have
8 previously been Vice Chair of the Handling
9 Committee as well as having chaired it prior
10 to my colleague Steve's tenure.

11 This is also my last meeting. I
12 can't believe it. I don't want to add a lot,
13 you know, take a lot of time out of the
14 agenda. Already things I wanted to say have
15 been said. What a complete privilege it has
16 been to be working with these people and to be
17 part of -- and I don't just mean the Board; I
18 also mean the people that are sitting opposite
19 me from the program.

20 I don't know how I lucked out to
21 be on the Board during this time that really
22 has felt to me like this is really what

1 democracy is all about. I am sure this is
2 what it was meant to be. I don't know how
3 many places in government it really does work
4 like this, but I am happy that I got a chance
5 to experience it.

6 For that reason, I am relieved, at
7 least at the fantasy that I think I will have
8 less work to do; I don't know if that is
9 really going to happen. But it is also
10 bittersweet for me because I have really,
11 really -- being part of this process has
12 profoundly affected me, and I am really
13 thankful for that.

14 CHAIRPERSON MOYER: Thank you,
15 Julie.

16 Dan?

17 VICE CHAIRPERSON GIACOMINI: Thank
18 you, Jeff.

19 My name is Dan Giacomini. I hold
20 one of the consumer seats on the Board. This
21 is the end of my fourth year. So I will have
22 one more year.

1 I come from a livestock
2 background. I have worked with dairy animals
3 all my life. But if you spend any time around
4 the San Francisco Bay area, it is impossible
5 not to stay in touch with the consumer.

6 I think I have said before, you
7 can be a Democrat anywhere else in the country
8 and you come to San Francisco and you find
9 yourself a conservative Republican almost. I
10 have always said, the slogan there is "Where
11 the left is right." They can be so far left
12 that just being basically left is to the right
13 of them. So it is a very active place, very
14 consumer-driven. They are probably some of
15 the most politically- and socially-active
16 people around. It is really impossible not to
17 keep in very tight touch with what's going on
18 in that group.

19 Also, being a consumer, we
20 purchase all the stuff we need that we can
21 with organic, with some exceptions, but for
22 the most part.

1 It is a pleasure being on this
2 Board. I have enjoyed the time. It has been
3 a tremendous amount of time, but you just hope
4 that at the end of five years it has all been
5 worth it.

6 CHAIRPERSON MOYER: Thank you,
7 Dan.

8 Katrina?

9 MEMBER HEINZE: Good morning.

10 My name is Katrina Heinz. I am
11 also from Minneapolis, Minnesota.

12 I was raised in that place where
13 the left is right.

14 (Laughter.)

15 I don't disagree.

16 I am in my third year on the NOSB,
17 finishing my third year, in the scientist
18 slot. I serve on the Handling and Materials
19 Committee, and had the distinct honor and
20 pleasure -- I think that would be the right
21 word -- to chair the Joint Handling and
22 Materials Committee over the last six months.

1 I work for General Mills. I don't
2 know our tag line, so I can't do that like the
3 "Um-um, good" soup company.

4 (Laughter.)

5 I work for General Mills in our
6 Small Planet Foods Division. I have the
7 responsibility for product safety, regulatory
8 compliance, and quality for our Cascadian
9 Farm, Muir Glen, and Larabar brands.

10 I grew up in Marin County, just
11 north of San Francisco, raised by a mother who
12 was dedicated to organic and home-grown
13 produce. I can remember her driving an hour
14 to go buy organic milk from Straus Family
15 Farms and me arguing with her about the
16 environmental irresponsibility of that action.
17 So it has been a long time committed to taking
18 care of the planet.

19 Because I am the mother of two
20 children, Kayla and Victor, nine and five, who
21 join me on the journey, and I will say they
22 are very proud of the fact that they don't

1 shop at normal grocery stores. They shop at
2 Lakewinds Natural Foods Co-ops, and they know
3 what is organic. I have trained them to
4 recognize the seal, so that they know what to
5 buy and what not to buy, and they can do their
6 own shopping.

7 So that is why I serve on the
8 Board and why it has been a distinct pleasure
9 to work with Board members who are leaving and
10 everyone else, and looking forward to our five
11 new members.

12 Thanks.

13 CHAIRPERSON MOYER: Thank you,
14 Katrina.

15 Rigo?

16 MEMBER DELGADO: Thank you, Mr.
17 Chairman.

18 My name is Rigoberto Delgado. And
19 for the last time and just to please my
20 colleague Bea, it is "Rigoberto".

21 (Laughter.)

22 I have been giving Spanish lessons

1 for five years to my colleagues here on the
2 Board.

3 I am from west Texas. I am a
4 producer representative. I normally wear
5 light, colorful sweaters when I am very happy
6 because I am part of the fantastic five that
7 are leaving at the end of January.

8 (Laughter.)

9 Nonetheless, I have to say that it
10 has been a real pleasure to work on this
11 Board. I really made friends for life.

12 We dealt with a lot of difficult
13 issues, with a lot of challenges, and all the
14 time I think we remained objective and
15 maintained our civility to the best of
16 possibilities.

17 I am also very impressed with the
18 organic community. This Board cannot do many
19 things without the input that is coming from
20 all of these people in this room. So that is
21 impressive.

22 I am also very proud to have

1 formed part of this organic and dynamic
2 democratic process.

3 I hope to see you soon in Texas.

4 We have a brand-new adobe house, and we need
5 help with goats and the lamb that we are
6 moving into it.

7 (Laughter.)

8 Thank you.

9 CHAIRPERSON MOYER: Thank you,
10 Rigo.

11 Tina?

12 MEMBER ELLOR: There's not much I
13 can add to any of that. All of you are very
14 hard acts to follow.

15 I am Tina Ellor. I am sitting in
16 an environmentalist seat. I work for Phillips
17 Mushroom Farms in southeastern Pennsylvanian.

18 You can't help but be changed by
19 the experience of the NOSB. I hope everyone
20 in the audience gets a chance to sit up here
21 someday.

22 Thanks.

1 CHAIRPERSON MOYER: Thanks, Tina.
2 Kevin?

3 MEMBER ENGELBERT: Thanks, Jeff.
4 Good morning, everyone.

5 My name is Kevin Engelbert. I
6 operate a certified organic dairy farm in
7 upstate Nichols, New York, along with my
8 family. We have downsized a little bit on cow
9 numbers with what is happening with the dairy
10 industry right now. So we only have about 100
11 cows.

12 But our organic beef herd has
13 expanded to up to 60 animals and we still
14 fatten off a few hogs for our retail meat
15 market.

16 I sit on the Livestock Committee,
17 the Crops Committee, and also the Materials
18 Committee.

19 Echoing what Tina said, I can't
20 add much to what everybody else has said. It
21 is just simply a pleasure and an honor to
22 serve on this Board and to interact with the

1 organic community.

2 I look forward to working with the
3 new members, and I will be sad to see the old
4 members go. They are just a great group of
5 people. It is a pleasure to have worked with
6 them.

7 We have two new interesting
8 developments on our farm since the last
9 meeting. One is we have started our own
10 cheese label. We are having specialty cheese
11 made under our own Organic Farms label now.

12 The other development is my
13 youngest son is a junior at Alfred University,
14 and he has made the decision over the summer
15 to come back to the farm full-time when he
16 graduates in May of 2011. So that is going to
17 be three sons on the farm full-time.

18 As you all know, I have to thank
19 them immensely for allowing me to serve, to
20 put in the time that I do on this Board. We
21 all work 80 to 100 hours a week year-round.
22 For me to commit to the time that I have, it

1 has been a big sacrifice for them. I am very
2 grateful.

3 CHAIRPERSON MOYER: Thank you,
4 Kevin.

5 Hue?

6 MEMBER KARREMAN: Do I get the
7 last word? I never do.

8 (Laughter.)

9 CHAIRPERSON MOYER: Sometimes.

10 MEMBER KARREMAN: My name is Hue
11 Karreman. I am a veterinarian in Lancaster
12 County, PA.

13 I sit on the environmental seat.
14 All I can say is that the last five years have
15 been quite a life-changing experience. It has
16 been a true learning experience as well as a
17 real honor, and also to learn how the
18 democratic process works here in the United
19 States.

20 I was interviewed by the Lancaster
21 papers yesterday about my role on the Board
22 here. One thing that I remembered was, when

1 we had the Aquaculture Symposium, afterwards
2 I guess I heard some people say, the Europeans
3 say, "Wow, it is so different here. You have
4 so much public input." In Europe, you know,
5 it is all done by committee, not behind closed
6 doors, but not as much public input as we have
7 here.

8 I know what it is like to be out
9 there. I used to come to the meetings prior
10 to sitting on the Board, and I plan to sit out
11 there again after I am done being here on the
12 Board, to give comment, not so much as maybe
13 a veterinarian, but as a consumer of organic
14 products, and keeping in mind what I know
15 about organic dairy farms.

16 I guess the one last thing I would
17 say is that pretty much on almost all my
18 decisions up here I have always thought, what
19 would the organic consumer think about what we
20 are doing? But, also, as a veterinarian to 80
21 to 100 certified organic dairy farmers in
22 Lancaster County, I have, hopefully, served

1 them well here and brought up issues which
2 will enable them to take better care of their
3 cows and general livestock. Some of those
4 issues will be brought up here at this
5 meeting.

6 So let's let the meeting get
7 going.

8 CHAIRPERSON MOYER: Thank you,
9 Hue.

10 I would also like to mention that
11 there are two Board members who could not be
12 with us today because of issues in their own
13 personal lives. Outgoing Board member Jerry
14 Davis, he is from California, sits on the
15 Crops and Handling Committees, could not be
16 with us, and fourth year Board member Jennifer
17 Hall from the State of Washington, who sits on
18 the Livestock and I believe the CAC Committee,
19 could also not be with us today. But their
20 work should not go unnoticed by the folks in
21 the gallery.

22 Okay. I guess I should introduce

1 myself, too. Jeff Moyer. I am the current
2 Chair of the Board. I sit on the Livestock
3 Committee and the Crops Committee. I am in my
4 fourth year on the Board.

5 I am the Farm Director for the
6 Rodale Institute. I have been there, not as
7 Director, but I have been at the Institute
8 since 1976. So they tell me that is a long
9 time, but it seemed to go fairly fast.

10 And it is a pleasure to be with
11 you today.

12 The next item on our agenda is to
13 address and look at the mission statement of
14 this Board. Because of the work that we do,
15 I think that it is important that we take just
16 a few minutes, and I am going to read that
17 mission statement. You can all find it in the
18 Policy and Procedures Manual in Section 1,
19 page 6. I encourage you to look at the Policy
20 and Procedures Manual for the Board at your
21 leisure, but I am going to take a moment just
22 to read what we have here.

1 "The NOSB Vision Statement.
2 NOSB's vision is an agricultural community
3 rooted in organic principles and values that
4 instills trust among consumers, producers,
5 processors, retailers, and other stakeholders.
6 Consistent and sustainable organic standards
7 guard and advance the integrity of organic
8 products and practices.

9 "Our statutory mission is to
10 assist in the development of standards for
11 substances to be used in organic production
12 and to advise the Secretary on any other
13 aspects of the implementation of this title."

14 And the title is OFPA Section
15 2119(a).

16 "The NOSB mission statement is to
17 provide effective and constructive advice,
18 clarification, and guidance to the Secretary
19 of Agriculture concerning the National Organic
20 Program and the consensus of the organic
21 community. In carrying out the mission, key
22 activities of the Board include: assist in

1 the development and maintenance of organic
2 standards and regulations; review petition
3 materials for inclusion on the national list
4 of approved and prohibited substances, known
5 as the National List; recommend changes to the
6 National List; communicate with the organic
7 community, including conducting public
8 meetings, soliciting and taking public
9 comments," which is what we are here for
10 today, "communicate, support, and coordinate
11 with the NOP staff, and to provide information
12 and education to the National Organic
13 Program."

14 That is our mission. That is what
15 we strive to do over time, and that is what we
16 are going to try to work on today.

17 I should also mention, before we
18 move on to the next item on the agenda, that
19 this Board and this Chair will not tolerate
20 any personal attacks or disparaging remarks
21 directed to individuals in the audience or to
22 any specific Board member. We certainly

1 expect everyone to treat each other with
2 respect and dignity, and we won't tolerate
3 anything but that behavior.

4 Okay, the next item on the agenda
5 would be the Secretary's report by Julie
6 Weisman.

7 Julie?

8 SECRETARY WEISMAN: Yes, we have
9 traditionally two things that happen during
10 the Secretary's report. We vote to accept the
11 official transcript of the last meeting, the
12 transcript of the November 2009 (sic) as the
13 official record of the meeting, and the other
14 thing which we referred to earlier would be
15 voting to accept the voting summary that we
16 have been circulating for a couple of months
17 now as the official record of the voting on
18 the recommendations at that meeting. That
19 second part, the voting summary, we already
20 agreed is going to happen on Tuesday.

21 So, at this time, I move that we
22 accept the transcripts of the May 2009 NOSB

1 meeting as the official record of that
2 meeting.

3 CHAIRPERSON MOYER: We have a
4 motion on the floor to accept the transcripts
5 of our previous meeting in May of 2009. Is
6 there a second to that?

7 MEMBER HEINZE: I second.

8 CHAIRPERSON MOYER: Katrina
9 seconds that.

10 All in favor of accepting that say
11 aye.

12 (Chorus of ayes.)

13 Anybody opposed?

14 (No response.)

15 We have done that. Thank you.

16 Now what I would like to do is
17 shift the attention from the Board to the
18 program. I would like if Barbara Robinson
19 could come up to the front of the room. Then
20 we will have the program introduce themselves
21 as well.

22 Barbara?

1 I'm sorry. Hue?

2 MEMBER KARREMAN: I was just
3 wondering, with the speakers all being way
4 over in there in the corner, is there any way
5 we could have it more in the center here, just
6 for Kevin and Tina and my -- it is going to be
7 all day.

8 CHAIRPERSON MOYER: I understand
9 that. We will work on that, Hue. Thank you.

10 MS. ROBINSON: No, you have to
11 turn around, Hue.

12 Mr. Chairman, I guess I have to
13 introduce myself first. Barbara Robinson,
14 Deputy Administrator, Transportation and
15 Marketing Programs.

16 Mr. Chairman, I just wanted to
17 remind you, back this spring, we talked about
18 we had proposed to separate the National
19 Organic Program from Transportation and
20 Marketing programs and establish it on its own
21 two feet. That proposal had been accepted by
22 the Administration.

1 Along with that proposal, we also
2 proposed that the National Organic Program be
3 managed by a senior executive in the
4 Department, and that was also accepted.

5 So it is my pleasure that, having
6 those proposals accepted, the Deputy also came
7 before you in May and said that she would be
8 moving ahead with that very expeditiously, and
9 she did.

10 So, on October 1st, we did what is
11 called the magical 1010 in the Department,
12 which is the paperwork terminology, and NOP
13 was officially separated from the
14 Transportation and Marketing programs.

15 We had a very amicable divorce.
16 No child support, no alimony, no visitation
17 rights, either, I want to say.

18 (Laughter.)

19 Although they have been trying
20 very much; they sneak down every now and then
21 to the office.

22 But, no, it has been very

1 amicable. The Deputy did select from many,
2 many candidates one, and that is Miles McEvoy.
3 I am very pleased to hand over the reins
4 officially here at this meeting.

5 It has been my pleasure to serve
6 as the Deputy Administrator and for the past
7 two years as the Acting Program Director for
8 the National Organic Program. I have really
9 enjoyed this job. I have really enjoyed
10 working with all of you. It has been, and you
11 have heard me say this many, many times, to
12 me, this program has been the ultimate Rubik's
13 cube. You could get five sides all perfect
14 and turn it over, and it's, oh, it's an
15 ungodly mess. But you start all over again
16 because it is just one of those things you
17 just can't walk away from.

18 But it has been a lot of fun. It
19 has been interesting. It has been a
20 challenge. And just to be honest, it has
21 been, personally, probably for a third of my
22 career been the thing that I have loved most

1 in my career to do. It was hard to walk away
2 from, but, well, I didn't have a choice.

3 (Laughter.)

4 But it really has been fun working
5 with all of you and working with this program.

6 Before I do introduce Miles, I
7 just want to say thank you to Joe and to Rigo,
8 to Hue and to Bea and to Julie for your five
9 years of service. I won't be here in January
10 when I hope that you do come back, but I won't
11 be here to give you your official goodbye, and
12 to welcome Jay Feldman, John Foster, Joe
13 Dickson, Annette Riherd and Wendy Fulwider,
14 who are the new members who will be coming
15 onboard, whom I think you will tremendously
16 enjoy.

17 They come with just great
18 backgrounds and a true, true commitment to not
19 just organic production, but to production
20 agriculture, to local, to firm-to-consumer
21 direct marketing, just to the whole ball of
22 wax. I mean they are in it all the way.

1 So your commitment is going to be
2 carried out; I am fully, fully confident of
3 it.

4 But Miles McEvoy brings, also, a
5 strong commitment to this program and to this
6 community. For over two decades, he was the
7 head of the Washington State Department of
8 Agriculture's organic program. He also was
9 the head of NASOP for a number of years.

10 So there's not a doubt in my mind
11 that he has 100 percent commitment to making
12 sure that the National Organic Program is
13 successful. As I told my staff, and I would
14 give you the same words, you know, good
15 managers, good leaders, it is up to everybody
16 to help them when they come onboard, to show
17 them around.

18 Working in the federal government
19 isn't easy. Just because you worked in the
20 state government doesn't mean it is, okay,
21 just come onboard and it is the same transfer.
22 It is not. It is difficult. So, if we all do

1 our best and help Miles find his way around,
2 then we are all going to help him succeed that
3 much quicker.

4 But I have no doubt about his
5 commitment. I am sure you won't either, as
6 you get to know him and work with him.

7 So that is all you will hear from
8 me today until our new Administrator, Rayne
9 Pegg, comes down this afternoon. I will stick
10 around just to introduce her because she also
11 wants to meet you all.

12 So, without any more from me, I
13 would like you to welcome Miles McEvoy.

14 (Applause.)

15 MR. McEVOY: It is great to be
16 here. I am thrilled to be here.

17 But I want to recognize Barbara's
18 contributions over the years. She has done an
19 amazing thing to keep this program together
20 with very limited resources.

21 I used to be on the outside
22 looking at NOP. You know, you have a lot of

1 opinions about what they are up to. But now,
2 actually being here for a month and realizing
3 the commitment that Barbara had to keep this
4 program together, and the accomplishments that
5 she made with the very limited resources --
6 and you will see that in the presentation in
7 a few minutes, the really limited resources
8 that she had to work with -- is really a
9 tribute to her work.

10 I just want to recognize you. We
11 have a certificate of appreciation. It is
12 modeled just like an accreditation
13 certificate.

14 (Laughter.)

15 So we are accrediting her as a
16 certifying agent for the future, and it is to
17 Dr. Barbara Robinson, for service to the
18 organic food industry, and specifically, for
19 the negotiation of the U.S./Canadian
20 Equivalency Agreement in June of 2009; for
21 developing the capacity of the NOP compliance
22 and enforcement activities; for the access to

1 pasture proposed rule, and for the liquid
2 fertilizer directive, and many, many other
3 things.

4 So thank you so much, Barbara, for
5 your service.

6 (Applause.)

7 MS. ROBINSON: Thank you very
8 much.

9 CHAIRPERSON MOYER: Thank you,
10 Barbara.

11 And, Miles, the floor is yours.

12 MR. McEVOY: Okay. Thank you.

13 So I am very thrilled to be here.
14 I am actually having a pretty good time at
15 USDA. It was pretty scary at first, but it is
16 government. So I am used to state government.
17 The federal government is much larger; many
18 more steps to getting things approved. But
19 the people at USDA have been fantastic. They
20 have been really great to work with. I have
21 a lot of support from the Administration, from
22 the other AMS Deputy Administrators; they have

1 been really great. The NOP staff is really
2 fantastic.

3 I want to recognize Valerie
4 Frances and Katherine Benham for putting this
5 meeting together. They have done amazing work
6 to pull this all together. So I think they
7 deserve a round of applause for that.

8 (Applause.)

9 Okay. So I am Miles McEvoy. As
10 Barbara said, I have worked for the Washington
11 State Department of Agriculture for over 20
12 years. I have been involved in organic
13 certification work for a long period of time.

14 I just moved to Washington, D.C.,
15 in mid-September, getting settled in. This is
16 a great place to live. We are looking for
17 hiring people. So I have a lot of great
18 things to say about Washington, D.C. It is a
19 great city, lots of exciting things to do,
20 good bike trails. The weather is pretty good.
21 So really think about it; it is a good place
22 to be.

1 The next slide.

2 So I want to start with some
3 founding principles and values that I bring to
4 the NOP.

5 First of all, I believe that to be
6 successful the NOP needs to collaborate with
7 the organic community, and especially with the
8 certifiers who implement the program. I
9 believe the rules need to be clear and
10 consistent, so that certifiers, producers, and
11 handlers understand the rules that they are
12 working under. If they understand the
13 standards, it is much easier for them to be in
14 compliance.

15 It is not just the certifiers that
16 need to have clear understanding. It is also
17 the producers and handlers. So that is one of
18 the things that we are really going to work
19 for, is to have the program manual completed
20 and have clear standards available to
21 everyone.

22 I plan to be as open and

1 transparent as possible. Organic agriculture
2 prides itself on having a transparent
3 decisionmaking process. I will provide as
4 much information as possible about the
5 program's activities.

6 "Strict and sensible" is a term
7 coined by Leslie Zuck of Pennsylvania
8 Certified Organic. This refers to the goal of
9 upholding high organic standards, enforcing
10 those standards, but being sensible in the
11 application and enforcement of those
12 standards. So both of those things need to be
13 true.

14 The regulations can kill us. We
15 have to really be careful that we are strict
16 in terms of enforcing them, but we have to be
17 sensible and practical.

18 Finally, the program should be as
19 organic as possible, remembering where it came
20 from, paying attention to the biological and
21 interconnected aspects of organic agriculture,
22 and staying true to organic principles that

1 are well-articulated. For example, IFOAM's
2 principles of care, health, ecology, and
3 fairness. So that is one thing that I hope to
4 bring, is a continual context of having those
5 principles in mind.

6 Next slide.

7 In terms of input and
8 collaboration, I have received a lot from
9 various sources about the goals and challenges
10 of the NOP. I have listened to USDA senior
11 staff, reviewed USDA strategic priorities,
12 worked with NOP staff, and reviewed the ANSI
13 2004 audit and received some preliminary
14 information about the current OIG audit.

15 I have also received input from
16 NOSB, the National Organic Coalition, the
17 Accredited Certifiers Association, the Organic
18 Trade Association, and the Northeast Organic
19 Dairy Producers Alliance.

20 I look forward to hearing the
21 priorities from NASOP, Cornucopia, Organic
22 Consumers Association, and IFOAM. So I am

1 really looking forward to what people want out
2 of this program.

3 Next slide.

4 So, in terms of priorities, we
5 have developed some initial priorities for the
6 program. They include publishing the access
7 to pasture final rule, developing a strategic
8 plan -- we hope to do this in January with the
9 National Organic Standards Board --
10 implementing a peer review process through
11 being assessed by NIST, the National Institute
12 of Standards and Technology, and implementing
13 the corrective actions and obtaining ISO
14 guides 17011 accreditation within the next
15 couple of years.

16 Revise and update the website to
17 make it more user-friendly, complete and
18 accurate, and up-to-date. There was already
19 some work going on in terms of updating the
20 website. We hope to finish that by early next
21 year.

22 Hire additional staff for rule

1 writing, for creating a quality manual, and
2 compliance.

3 Conduct more training for staff
4 and also for ASAs. Create additional training
5 modules. We plan to do six to nine trainings
6 in 2010.

7 Implement or respond to all of the
8 NOSB recommendations.

9 Develop and publish a quality
10 manual for the program.

11 Develop a program manual of
12 policies and procedures to provide guidance to
13 certifiers, producers, and handlers on
14 interpretations of the NOP. Include the NOSB
15 recommendations on commercial availability of
16 seeds, for instance. So there's a number of
17 NOSB recommendations that don't require
18 rulemaking. The idea is to incorporate those
19 into the program manual.

20 Then, finally, and probably most
21 importantly, uphold and enforce the organic
22 standards.

1 Next slide.

2 So we have developed a work plan
3 for the program. Some highlights of that work
4 plan include working with the Science and
5 Technology Program to create a petition
6 substances database that will ensure better
7 tracking of the petitions. The database is
8 almost completed. It will be completed by
9 February of next year.

10 We are developing a training
11 module for the access to pasture final rule
12 that will be completed by the publication
13 date. So, when the access to pasture final
14 rule comes out, there will be some background
15 material and some training information about
16 that.

17 We are meeting with our Canadian
18 colleagues to ensure smooth implementation of
19 the U.S./Canada Equivalency Agreement.

20 We are completing rulemaking on
21 the NOSB material recommendations.

22 Complete the assessment of two

1 state organic programs, Utah and California,
2 by early 2010.

3 Developing a penalty matrix and
4 procedures for utilizing civil penalties for
5 willful violations by February of 2010.

6 These are just a few of the
7 activities that we are engaged in.

8 In terms of decisionmaking, I want
9 to review our plans on how I plan to handle
10 decisionmaking. There's a lot of decisions
11 that need to be made in the interim between
12 NOSB meetings.

13 So the plan that we started
14 yesterday with the organic labeling concept is
15 that, when we identify issues, we will attain
16 all of the information that we can, draft a
17 policy. The policy will be based on the NOP
18 regulations. It will be reviewed by the AMS
19 Administrator and the Office of General
20 Counsel. The draft policy will be provided to
21 the NOSB and ACAs for review and feedback.

22 Once we are satisfied that we have

1 the best policy possible with the current
2 information, we will publish it as interim
3 policy. It will be sent to all ACAs, state
4 organic programs, and foreign governments that
5 have recognition agreements, as well as being
6 posted on the NOP website.

7 The interim policy will be put on
8 the next NOSB agenda for review and public
9 comment, and then, once approved by the NOSB,
10 incorporated into the NOP program manual as a
11 final policy.

12 Next slide.

13 So the age of enforcement is
14 something that Deputy Secretary Kathleen
15 Merrigan has talked about. What does this
16 mean? How will that be implemented?

17 So, first of all, as I said, we
18 plan to create a penalty matrix that will
19 include civil penalties for violations,
20 provide clarity on access to pasture with the
21 new rule, and will be clarifying labeling
22 requirements. These items will be enforced by

1 working with the ACAs and through the
2 complaint process.

3 We are looking at some new
4 initiatives to enhance the NOP's ability to
5 protect organic integrity. These include
6 conducting market surveillance of organic
7 labels and the organic market. We may
8 collaborate with the certifiers, with states,
9 or with other AMS programs that already have
10 staff around the country, to have more eyes
11 reviewing organic labeling claims and ensuring
12 that those are accurate and truthful claims.

13 We are also looking at requiring
14 ACAs to conduct a certain percentage of
15 unannounced inspections, as, for instance, is
16 required in the IFOAM accreditation criteria.
17 You might want to look at that. I think it is
18 a little interesting in that the organic
19 certification process, which is a very good,
20 robust process to verify organic standards,
21 that for the most part, inspections are
22 announced. You always tell the person when

1 you are going to get there to do the
2 inspection. In most regulatory programs,
3 inspections are not announced. People just
4 show up, and you have to have your paperwork
5 in order.

6 So I think that there is room for
7 at least some of the inspections in the
8 organic certification process to be
9 unannounced inspections, to help to bring more
10 integrity to the system.

11 We also plan to utilize pesticide
12 residue sampling, as required by OFPA, to
13 identify problems and improve organic
14 integrity. It is not a zero residue standard,
15 but pesticide residue sampling can help to
16 bring more integrity to the system. It
17 identifies problems.

18 We also are looking at developing
19 a system of risk-based inspections to focus
20 resources on areas with the greatest risk to
21 organic integrity. For instance, split
22 operations would probably have a greater risk

1 than 100 percent organic operations. So maybe
2 more of the inspections should be focused on
3 those higher-risk areas.

4 Next slide.

5 So a little bit about the
6 organizational structure of the NOP. It is
7 organized into four parts: the Office of the
8 Deputy Administrator, the Standards Branch,
9 the Accreditation and International Branch,
10 and the Compliance and Enforcement Branch.

11 There are also two other AMS
12 programs that we work very closely with. The
13 ARC Branch and the Livestock and Seed program
14 is responsible for all the NOP and ISO audits,
15 and then the NOP Appeals staff is part of the
16 AMS Compliance and Analysis Program. So they
17 are very critical for the compliance
18 procedures, but they are not directly part of
19 the NOP.

20 A little bit about the staffing
21 plan. Next slide.

22 So, for the Office of the Deputy

1 Administrator, it is responsible for the NOSB
2 budget, web page, quality management,
3 personnel, public affairs, congressional
4 inquiries, strategic planning, and overall
5 management and leadership of the NOP.

6 The plan is for seven FTEs,
7 including three in the NOSB support group, and
8 then some new hires in that group would be an
9 Associate Deputy Administrator, a secretary,
10 which we don't have currently, and a quality
11 manager to handle the quality management
12 system and develop a quality manual for the
13 program.

14 The Accreditation and
15 International Branch will have six FTEs. That
16 is responsible for accreditation, recognition
17 and equivalency agreements, state organic
18 programs, and also training. It has a Branch
19 Chief, an accreditation manager, and
20 accreditation assistant. So we are looking
21 at, I think, three new hires in that area, and
22 international managers can focus on the

1 recognition and equivalency agreement; another
2 review specialist to help with the audit
3 review, and a training manager to put together
4 the online training and the onsite training.

5 The Compliance and Enforcement
6 Branch currently has five FTEs. We actually
7 just hired a sixth one in the College Career
8 Intern Program, and we will be adding one more
9 staff to that area. They are responsible for
10 investigating complaints and enforcing the
11 organic standards.

12 Next slide.

13 In the Standards Branch, we are
14 looking at having nine FTEs. That Branch is
15 responsible for rule writing and the NOP
16 program manual. We plan to add six staff to
17 this Branch in order to implement the NOSB
18 recommendations and to complete a program
19 manual to provide clarity and consistency for
20 the NOP regulations.

21 We plan to hire organic technical
22 specialists in cropping systems, livestock,

1 and processing, as well as a customer service
2 specialist and a few more rule writers.

3 We are getting some people in USDA
4 detailed to the program to get some initial
5 work done on the materials docket and to help
6 out with some other initiatives, but we will
7 be doing a fair amount of hiring in that area.

8 There are also three staff people
9 that we have in NOP Appeals, or funded by the
10 program that are in the NOP Appeals staff.
11 There is a lot of other budget considerations
12 in terms of costs. One of the ideas was to
13 have a dedicated attorney in the Office of
14 General Counsel because there is so much legal
15 work to do in the National Organic Program.
16 So that is one of the options that we are
17 looking at.

18 We don't have our own
19 administrative officer who does a lot of the
20 HR type of work, budget officer. We might
21 need database and web developers and other
22 administrative support.

1 So what we are looking at is
2 getting that support from other AMS programs,
3 but there is a cost involved in that, as you
4 will see when I review the budget.

5 Next slide.

6 Other USDA resources that are
7 important to keep in mind is the AMS
8 Administrator, Rayne Pegg, who will be here
9 this afternoon; Under Secretary of Marketing
10 and Regulatory Programs, Ed Avalos from New
11 Mexico, who just started last week. He will
12 be here, I think, on Wednesday afternoon to
13 introduce himself. Deputy Secretary Kathleen
14 Merrigan and Secretary Tom Vilsack. These are
15 all people that are very supportive of what we
16 are doing in the National Organic Program and
17 good resources for us.

18 Other USDA offices include our
19 Legal Counsel in the Office of General
20 Counsel; the Livestock and Seed ARC Branch,
21 who conducts the audits; the NOP Appeals team;
22 the AMS Public Affairs and Legislative Office

1 that assists with media and congressional
2 inquiries, and also, the AMS Science and
3 Technology Program that is providing the
4 technical reports for the petition substances
5 and also has developed the petitions database
6 for the National Organic Program.

7 Okay, next slide.

8 This is a snapshot of the budget
9 and staffing from 2002 to 2010. You can see
10 that there was very limited resources until
11 very recently, six to eight employees, a
12 budget of between \$1 million and \$1.6 million
13 between 2002 and 2007.

14 So it really helps to explain, at
15 least for me, why it was so difficult for the
16 National Organic Program to take a lot of
17 recommendations and implement them into
18 rulemaking. They just didn't have very many
19 people to get the work done.

20 So, with the additional resources
21 that are coming into the program, up to \$3.87
22 million last year and \$6.97 million for 2010,

1 we are looking to have 31 staff in the
2 program. So I feel very lucky to be coming
3 into the program at this time with these
4 additional resources. It will make things a
5 lot easier.

6 Next slide.

7 This is very preliminary budget
8 numbers, very rough. The budget was signed
9 last week or the week before; \$6.97 million is
10 what we have available.

11 The first thing that they do is
12 they take 12 percent off for overhead, for a
13 variety of different essential services that
14 AMS provides. Then, beyond that, there's also
15 other administrative services that we have to
16 pay for to get our various work done in
17 personnel or for travel or for all those
18 things that are important.

19 So we have split up the offices
20 and branches. On the left side, Office of the
21 Deputy Administrator, NOSB, Accreditation and
22 International, Compliance and Enforcement.

1 Most of the costs are going to be in the
2 salaries and benefits realm. NOSB meetings is
3 a separate line item for \$77,000.

4 But, if you look at it this way,
5 with the three support members that
6 specifically support the work of the NOSB, it
7 is about \$717,000 on this very rough estimate
8 of what it costs to run the National Organic
9 Standards Board.

10 I wouldn't get too hung up with
11 this because this is very, very preliminary.
12 So we will just give you a snapshot and move
13 on.

14 In terms of training, we are
15 continuing to develop the online training
16 modules. We plan a training manager, as I
17 said, by the end of the year.

18 We have posted four of the draft
19 modules on labeling, certification,
20 compliance, and investigation online. Those
21 will have continual development. We plan to
22 have a training on the access to pasture final

1 rule when that comes out.

2 For 2010, we are looking at three
3 to five U.S. training events and three to four
4 foreign events. The training will be
5 available to organic producers, handlers, and
6 other interested parties as space permits.

7 Next slide.

8 See, this slide shows where the
9 current certifiers are in the United States.
10 There's various clusters. We are looking at
11 having one in California. We are already
12 committed to the ACA NASOP training in Georgia
13 and, also, the Upper Midwest Conference, we
14 will be doing a training there. But then
15 there's other clusters in the Northwest and
16 the Northeast that we might also do trainings
17 in.

18 Next slide.

19 In terms of foreign trainings, we
20 have BOFOC in February. We can catch a lot of
21 the certifiers there. So we plan to do a
22 training there.

1 There's also a big cluster of
2 certifiers in Europe. There's also a big
3 cluster in India, Argentina, and Australia.
4 We are looking to do three to four foreign
5 trainings in 2010 as well.

6 Next slide.

7 Recognition agreements. There's
8 nine recognition agreements, but the Canadian
9 Equivalency Agreement makes three of those
10 moot, that we don't really need to concern
11 ourselves with those because they are covered
12 now by the Equivalency Agreement.

13 So we have six agreements with
14 Japan, New Zealand, United Kingdom, India,
15 Denmark, and Israel. Four out of those six
16 agreements have been assessed, and Denmark and
17 Israel are the two that have not. They will
18 be done by spring of 2010.

19 Next slide.

20 In terms of equivalence, we will
21 be meeting with the Canadian Food Inspection
22 Agency in early December to work out some of

1 the details, some of the issues that have come
2 up with the Equivalency Agreement, to make
3 sure that that continues to run smoothly and
4 meets the needs of the industry in both Canada
5 and the U.S.

6 We have also gotten a lot of
7 requests from other countries for equivalency
8 agreements, recognition agreements. We have
9 some interest from Europe. So there might be
10 the possibility of restarting work with the
11 European Union on an equivalency agreement,
12 which would be our highest priority since that
13 is the biggest market.

14 Next slide.

15 In terms of accreditation, there's
16 currently 100 certifying agents. The newest
17 agents include the Oregon Department of
18 Agriculture, OIA North America, BioHellas in
19 Greece, and AUS-QUAL in Australia, and there's
20 one onsite accreditation audit that still has
21 not been completed. That is Agrior in Israel.
22 That is scheduled for early 2010.

1 Next slide.

2 In terms of the Compliance and
3 Enforcement Branch, they have four main
4 functions: managing the NOP compliant system;
5 enforcing organic production, handling, and
6 labeling standards; processing and
7 investigating complaints alleging violations
8 of NOP regulations, and initiating compliance
9 and outreach activities. So, for instance,
10 the compliance and investigation training
11 modules were largely put together by the
12 Compliance and Enforcement Branch.

13 Next slide.

14 What they have accomplished: over
15 the last year, they have established standard
16 operating procedures for the complaint-
17 handling process; developed and maintained a
18 complaint tracking and management system;
19 developed enforcement guidelines to ensure
20 consistency in enforcement actions;
21 established branch management systems to
22 increase accountability; developed the

1 investigation and training module for
2 certifying agents; conducted compliance-
3 monitoring activities, and trained and
4 continue to train staff.

5 Now this Branch has really been
6 developed in really the last year. So they
7 have done a lot of great work in the last
8 year. They still have a lot to do. There's
9 a backlog of complaints that they have been
10 working on. The next slide will show some of
11 their specific activities.

12 They received 160 complaints in
13 fiscal year '09, between October and September
14 of '09. They closed 95 of those complaints.
15 They also resolved 30 of the old complaints
16 that came from AMS compliance. Their average
17 time to resolve a complaint is 75 days. So we
18 will see how that goes in the future. We will
19 keep reporting on these kinds of numbers at
20 future Board meetings.

21 They issued 34 warning letters to
22 non-certified operations, 10 notices of non-

1 compliance to accredited certifying agents,
2 and three notices of proposed suspension or
3 revocation to accredited certifying agents.
4 So they have been very busy.

5 Next slide.

6 Then their impact has been, from
7 this compliance action, 23 cases resulted in
8 product label changes and, within those 23
9 cases, 185 product labels were changed to
10 bring them back into compliance with organic
11 standards.

12 Twelve cases resulted in
13 production process changes, and 31 cases
14 resulted in website changes, and four
15 operations that weren't certified making
16 organic claims became certified. So a busy
17 group of people.

18 Moving on to the NOSB
19 recommendations, there's been a lot of concern
20 about that there is a backlog of NOSB
21 recommendations that the NOP has not been able
22 to do rulemaking or implement. What we have

1 done is we have analyzed those and put them
2 into these three different categories:
3 standards rulemaking that are significant
4 rules, like the access to pasture rule;
5 materials, which are additions/deletions to
6 the National List, the sunset materials, and
7 the tabled materials, and then policy and
8 guidance, where no rulemaking is required. I
9 will get into more of the details here.

10 So, in regard to the practice
11 standards, these are the ones that we have
12 identified that are going to require
13 rulemaking. These are NOSB recommendations.

14 Origin of livestock was going to
15 be the next one that we took on, and we would
16 attempt to include cloning within that
17 rulemaking docket.

18 Then there are a number of other
19 recommendations. Apiculture I think is the
20 oldest. Mushrooms, standardization and
21 expiration of certificates, pet food,
22 aquaculture, and greenhouses.

1 So there's a lot of work here. We
2 can't do it all at once. We have a budget
3 increase, but we won't be able to do all these
4 at the same time. So we are going to look to
5 the NOSB to help us to identify priorities.
6 Which ones do you want us to do first? Do you
7 want us to do the oldest ones first? So that
8 is up to you guys to try to come up with a
9 list for us.

10 Next slide.

11 In terms of materials, these are
12 the recommendations that you have made on
13 crops, livestock, handling, and sunset
14 materials. The materials in bold are ones
15 that have already gone through the proposed
16 rule status and are waiting for final rule.
17 Then the ones that are not in bold,
18 tetracycline, peracetic acid, sulfurous acid
19 for crops, those are the ones that we still
20 have to go through the proposed rulemaking
21 process.

22 The idea on the crop materials, if

1 I am right, Shannon, is that we will have the
2 proposed rule through, let's see -- no,
3 starting the clearance process by the end of
4 November. Then that process, the clearance
5 process, takes about two months. Then it goes
6 to Office of Management and Budget. That
7 takes 45 to 90 days. So getting a proposed
8 rule on those materials out sometime in the
9 spring. Then we get comments. Then we have
10 to respond to the comments and go through that
11 whole process again.

12 So the whole process of doing a
13 relatively simple rulemaking, from my
14 understanding, my limited time here at the
15 NOP, is about a year for a simple rulemaking
16 process. So it takes a long time.

17 Okay, next slide.

18 Recommendations not needing
19 rulemaking. We made this really small, so you
20 couldn't really see.

21 (Laughter.)

22 So I will read the list, and we

1 will provide this to the Board and probably
2 post it on the website. I am sure there will
3 be ones that people will find that aren't on
4 this list, but these are the ones that we
5 could identify over the last few weeks.

6 Commercial availability of seeds,
7 peer review, biodiversity, multiple sites for
8 the grower group recommendation, organic
9 research, and there's two recommendations
10 around organic research. There's a lot of
11 recommendations concerning compost, processed
12 manure, compost tea and vermicompost; organic
13 system plans; livestock medications; chelates
14 as feed additives; outdoor access for poultry;
15 planning stock; transitional products;
16 chlorine; wax boxes, and name of the
17 certifying agent on the package, kind of the
18 private label recommendation.

19 So all of these recommendations,
20 at least our preliminary is that they will not
21 require rulemaking. We can do these in the
22 program manual, and that is what we plan to

1 do. I think we have the target of about June
2 of next year publishing the program manual.

3 Next slide.

4 Tabled materials. Take from the
5 table recommendation I think was from
6 September 2008 recommendation. Our plan there
7 is to evaluate that list and work with the
8 NOSB to determine the next steps. I think in
9 a lot of situations it might require another
10 technical report to be done on these
11 materials.

12 The materials that are included in
13 that for crops include methanol, amino acids,
14 ash coal, creosote, ethephon, controlled
15 atmosphere lime and potassium permanganate for
16 livestock, methanol and amino acids, and for
17 handling amino acids, baking powder,
18 attapulgate clay, magnesium carbonate, non-
19 modified starch, and waxes. So there is a
20 bunch of work there to coordinate with the
21 NOSB the next steps on those materials.

22 Next slide.

1 A little information on petitions
2 and technical reports. We were working with
3 the AMS Science and Technology Program. They
4 are doing the technical reports for the
5 National List petitions. It costs us \$6,000
6 each for those reports. There's 27 petitions
7 that are in process. S&T has completed four
8 technical reports and has six additional
9 reports that they are working on.

10 Seven of the reports from S&T have
11 been received by the NOP and they are under
12 review by the NOP and the NOSB. We got them,
13 I think, a little bit late, so they couldn't
14 be on the docket for this meeting.

15 Then seven petitions do not need a
16 technical report because they are on a 606
17 list, is what I understand. We also have
18 three petitions that have not been sent to the
19 S&T for a technical report at this point.

20 Next slide.

21 Okay, spring NOSB meeting, we are
22 going to have a few requests for the NOSB to

1 work on a few issues. One is the accessory
2 nutrients. Clarification of the 1995
3 recommendation is needed. There's been a lot
4 of questions about what is included in the
5 accessory nutrients, a lot of concerns about
6 that. So we would like the NOSB to relook at
7 that to clarify that 1995 recommendation and
8 how broad is your recommendation. What does
9 that include?

10 So, depending on what
11 recommendation you come up with, that could
12 lead to rulemaking to clarify what accessory
13 nutrients really are allowed in processed
14 organic foods.

15 Other issues: pesticide residues
16 and compost, corn steep liquor, oversight of
17 material evaluation programs. I am going to
18 talk about each of those issues a little bit
19 here to give you a little primer for the
20 spring.

21 Then the plan is to have the next
22 meeting in California. California represents

1 about a third of U.S. organic ag production.

2 (Applause.)

3 So it just seems appropriate that
4 we should have a meeting out there.

5 What I would like to do is have
6 the meetings around the country, so the
7 organic community can have a much easier
8 access to participating in the NOSB meetings.

9 All right. Next, soap. Oh, boy,
10 this is a fun one. So, back in July, the NOP
11 posted a draft guidance document for comments
12 regarding the labeling of soap made with
13 organic ingredients. We received, I think, 90
14 comments on that draft. Those comments I
15 think are being posted this week. I don't
16 think they are quite posted yet, but we are
17 posting those comments.

18 The comments were not conclusive.
19 They ranged anywhere from we love organic soap
20 to soap is a synthetic and should not be
21 certified organic, to the NOP regulations were
22 not written for soap.

1 Further, we have been consulting
2 with the FDA. Those conversations have
3 revealed that there may be conflicts between
4 the FDA regulations and the NOP regulations
5 when you try to reconcile the two different
6 regulations and try to find a way to label
7 soap in a way that complies with both
8 regulations. So, basically, it is that
9 Rubik's Cube that Barbara was talking about.
10 It is really a challenge.

11 So the bottom line: certifiers
12 are responsible for ensuring that products
13 labeled as organic under the NOP regulations
14 are labeled in compliance with the NOP
15 regulations. If ACAs cannot work with the
16 clients to create a product that meets those
17 regulations, you shouldn't be certifying the
18 product. So that is the soap.

19 Next slide.

20 Pesticide residues in composts.
21 Over the summer, random pesticide testing
22 found bifenthrin residues in organic

1 wheatgrass. When they went back and looked
2 more closely, they found that it wasn't the
3 organic wheatgrass that had the residues; it
4 was the compost that was being used to grow
5 the wheatgrass that contained the bifenthrin
6 residues.

7 So, due to the amount of
8 bifenthrin that was found in the compost, CFA,
9 California Department of Food and Agriculture,
10 which is a State organic program, notified the
11 organic community and the certifiers that this
12 particular compost or these three composts
13 could not be used in organic production. They
14 did consult with the NOP on that, and we
15 supported their restriction on the use of
16 these composts.

17 So this is a very challenging
18 issue. We have been trying to come up with
19 some kind of guidance that makes sense because
20 the standard is not a zero tolerance standard
21 for input materials, but there also are things
22 in the rule that say that you can't

1 contaminate the soil, water, or crops, and
2 that composts that contain prohibited
3 substances, synthetic substances, is
4 prohibited.

5 So the residues of bifenthrin
6 ranged from .1 to .4 parts per million. The
7 EPA tolerance level for bifenthrin in crops
8 for peanuts and pistachios is .05 parts per
9 million. So the residues in the compost was
10 higher than the lowest level for crops.

11 So what we are looking at doing is
12 developing a policy that would establish a
13 UREC level, the Unavoidable Residual
14 Environmental Contaminant level. We would set
15 that at 5 percent of the lowest EPA tolerance
16 level for pesticides detected.

17 The Washington State Department of
18 Agriculture, actually, has used this. They
19 established this level for compost for the
20 international program. If you know the
21 Canadian regulations, the Canadian regulations
22 required the use of organic compost and

1 organic manure. When Washington State was
2 developing an equivalent program to get
3 accredited under the Canadian standards, they
4 said, well, we can't do that, so we're going
5 to look at a different way of addressing their
6 concerns, which was that conventional CAFO
7 manure and compost was contaminated. We would
8 do that through testing.

9 So they established that level of
10 5 percent of the EPA tolerance level. It
11 worked fairly well in Washington State. So
12 that is what we are looking at doing, is
13 establishing a UREC level at 5 percent of the
14 lowest EPA tolerance level for a crop,
15 established on that crop, for compost for
16 input materials.

17 So, obviously, this is a very
18 complex issue. We look forward to further
19 discussions in the spring.

20 Okay, the next slide.

21 Use of the term "organic" on the
22 principal display panel of products that are

1 in the made-with-organic-ingredient labeling
2 category. Component staff have noticed that
3 there is an increasingly liberal use of the
4 term "organic" on the principal display panel
5 for products in the made-with category. The
6 made-with category, under 205.304, restricts
7 the use of the term "organic" in made-with
8 products to a certain font size and format.

9 The NOP plans to clarify that the
10 term "organic" is restricted to the use
11 specified in 205.304, and the use of the term
12 "organic" in a brand name or company name must
13 meet those requirements. Some labels will
14 need to change, and we will allow a
15 transitional time period to allow companies to
16 use up existing labels to comply with this
17 clarification.

18 So we sent this out. This was
19 trying to follow that new policy; we sent that
20 out to the Board and the ACAs yesterday, and
21 we are starting to get some good feedback on
22 that.

1 Next slide.

2 Corn steep liquor. Corn steep
3 liquor is a product of the wet milling
4 process. Other products of wet milling
5 include corn gluten, cornmeal, corn syrup, and
6 corn starch.

7 OMRI, WSDA, and others have
8 accepted the use of corn steep liquor as a
9 non-synthetic for many years. The NOP hasn't
10 specifically addressed corn steep liquor, as
11 far as I know, but they have allowed the use
12 of corn steep liquor by not addressing it in
13 their accreditation audits.

14 The addition of sulfur dioxide is
15 part of the wet milling process. There is
16 debate about whether the addition of that
17 sulfur dioxide causes chemical changes to the
18 corn and then would make it a synthetic.

19 As of November 2nd, WSDA is no
20 longer allowing products with corn steep
21 liquor. My understanding is OMRI is in the
22 process of removing all of their products from

1 the OMRI list, all the products that contain
2 corn steep liquor from their list.

3 In the meantime, what we have is a
4 problem of one certifier saying that these
5 products are not allowed and OMRI saying that
6 some of these products are allowed. So that
7 is not a good thing. We need consistency in
8 terms of what products are allowed. It is
9 either allowed or it is not allowed.

10 Next slide.

11 So what we are suggesting is that
12 we should continue to allow corn steep liquor
13 until the NOSB makes a determination on
14 whether it is a synthetic at the spring
15 meeting. We think that is the best route to
16 go because it has been allowed within the
17 organic community for many years by the NOP,
18 by certifiers, by OMRI, and that there are
19 other input products that are considered non-
20 synthetic that use synthetics during the
21 manufacturing process. Fish fertilizer, for
22 instance, is allowed that has ethoxyquin in

1 it. Synthetics can be used during the
2 manufacturing if they are removed from the
3 final product. Finally, there is significant
4 debate on whether corn steep liquor is natural
5 or synthetic.

6 We need a transparent and fair
7 process to remove products from the approved
8 list, so that when we remove products from the
9 approved list, everybody gets the same message
10 at the same time. All products that contain
11 corn steep liquor would come off the list at
12 the same time.

13 So the idea is that let's let the
14 NOSB make that decision, put it on the agenda.
15 If the NOSB decides it is a non-synthetic,
16 from that point forward, that product couldn't
17 be used. Or, no, if you determine it is a
18 non-synthetic, it could continue to be used.
19 If you determine it is a synthetic, and don't
20 want to add it to the National List, then it
21 would be prohibited. If you say it is a
22 synthetic and you want to add it to the

1 National List, it would be prohibited until we
2 did rulemaking to add it officially to the
3 National List. So that is what we are
4 recommending on corn steep liquor.

5 Next, I just want to talk about
6 problems with materials. There's
7 inconsistency in approved materials. Some
8 certifiers allow some materials; whereas, some
9 others may be prohibiting them.

10 OMRI is the best source by far for
11 a consistent list of approved materials, but
12 there are other lists out there. There should
13 be one list. Everybody should be following
14 the same set of approved materials.

15 And when things come off the list,
16 for various reasons, we get more information,
17 that needs to be done in an orderly fashion,
18 in a way that the industry can be informed,
19 that businesses that have products that were
20 previously approved, that they can have an
21 orderly way of dealing with that. There's an
22 impact on the certified organic farms that

1 have purchased product. They have product
2 onsite that is, all of a sudden, now
3 potentially prohibited, and, also, the impact
4 on certified organic farms that use products
5 that were approved and are now prohibited.

6 One of the other problems with
7 materials is the NOP lacks authority over
8 material manufacturers. We get to decide what
9 is used in production, what the certifiers can
10 approve, but we don't have any direct
11 authority over the material manufacturers.

12 So this is an issue that I think
13 that the NOSB really needs to grapple with.
14 I think that we really need to look at having
15 an NOP either adoption of the OMRI generic
16 list or some way of creating a National
17 Organic Program generic list. Then, if it is
18 not on the list, it is not allowed. So, for
19 instance, on corn steep liquor, it is either
20 on this generic list or it is not.

21 Then allow OMRI or others to do
22 the brand-name process, but that has to follow

1 some kind of federal procedures, so that
2 everybody is on the same page, and things,
3 when they get off the list, everybody gets the
4 same message. They all get off the list at
5 the same time.

6 So that is something to think
7 about, something to work on for the next few
8 months.

9 I would just like to end the talk
10 with a quote from Wendell Barry, which is sort
11 of about materials or not about materials.
12 This is from 1982, one of my favorite quotes
13 about an organic farm.

14 And he says, "An organic farm,
15 properly speaking, is not one that uses
16 certain methods and substances and avoids
17 others. It is a farm whose structure is
18 formed in imitation of the structure of a
19 natural system that has the integrity, the
20 independence, and the benign dependence of an
21 organism."

22 So that's it. Thank you very

1 much.

2 (Applause.)

3 So you might have a few questions,
4 I would think.

5 CHAIRPERSON MOYER: Yes, a
6 question from the Board? Joe?

7 MEMBER SMILLIE: Thanks, Miles.
8 Wow, the age of enforcement. It sounds
9 exciting, and everything you presented makes
10 a lot of sense.

11 I think we are all very interested
12 in participating in this, and especially the
13 NOSB has got a number of specified roles that
14 you have lined out, which I think we really
15 welcome and look forward to.

16 I know there's a million questions
17 on everything. I just wanted to get two up
18 there.

19 I think the unannounced inspection
20 idea is fantastic. I would like to see that
21 linked to the risk-based assessment.

22 MR. McEVOY: Right.

1 MEMBER SMILLIE: I think those two
2 go together.

3 MR. McEVOY: Right.

4 MEMBER SMILLIE: Rather than just
5 picking it out of a hat. I think that those
6 two should be targeted.

7 The pesticide testing has become
8 more and more important as time goes on. We
9 have to work out some equitable way of sharing
10 the cost. Currently, for a certification
11 organization to just straight-up pay for those
12 costs makes it not-a-well-used tool, for
13 obvious reasons. We have to figure out an
14 equitable way of doing that.

15 And the last thing is a favorite
16 subject, which one of my mentors 30 years ago
17 said he wasn't going to talk about anymore.
18 That's Chilean nitrate. Well, we have to talk
19 about it.

20 It is now impacting the
21 Equivalency Agreement in a number of ways, and
22 it is coming up for sunset. So the NOSB has

1 got some serious thinking to do on the nagging
2 problem of Chilean nitrate, which it seems
3 will never go away.

4 Comments on a lot of the other
5 things, but those are the ones that first come
6 to mind, and I don't want to delay break too
7 much. So I will end there.

8 MR. McEVOY: Sounds good.

9 Yes, linking risk-based and
10 unannounced inspections is a great idea, yes.

11 CHAIRPERSON MOYER: Thank you,
12 Joe.

13 Any other questions or comments to
14 Miles from Board members? I'm sorry. Barry,
15 please.

16 MEMBER FLAMM: Miles, have you had
17 any discussion about GMOs and any refinement
18 of the policies and what we are going to do
19 about residues and commingling, and so forth?

20 MR. McEVOY: That is a very
21 challenging area. Yes, I am not sure what to
22 do about GMOs. There's no tolerance set for

1 GMOs, but maybe that is something to look
2 into.

3 That is a very difficult area.
4 So, no, we haven't really talked about that,
5 of where we are going to go with GMO residues.

6 CHAIRPERSON MOYER: Any other
7 questions? The Chair recognizes Rigo.

8 MEMBER DELGADO: Kudos on
9 transparency goals. Fantastic. Being a
10 numbers man, I like the metrics that you are
11 putting up there. I look forward to seeing
12 more of those. Otherwise, fantastic
13 presentation.

14 MR. McEVOY: Thank you.

15 CHAIRPERSON MOYER: Okay, if
16 there's no further questions, Miles, I would
17 like if you would take a moment to introduce
18 your team at the table, so that everyone knows
19 who is here from the program side.

20 MR. McEVOY: Okay. First of all,
21 Valerie Frances, NOSB Executive Director. I
22 think a lot of the Board knows Valerie.

1 Mark Bradley, Branch Chief of the
2 Accreditation and International Program.

3 Do you want to stand up?

4 CHAIRPERSON MOYER: It is your one
5 chance, Mark.

6 MR. McEVOY: Shannon Nally is the
7 Acting Branch Chief for the Standards Branch.
8 She has been doing lots of extra work on the
9 access to pasture final rule. It is a lot of
10 work. Yes, it takes time.

11 Ruihong Guo is the Branch Chief
12 for Compliance and Enforcement and has done a
13 lot of the great work of really bringing the
14 procedures and standards together for that
15 part of the NOP, done really great work over
16 the year. So thanks, Ruihong.

17 Next we have Valerie Schmale, who
18 is with the Compliance -- well, the reason why
19 I hesitate is because she is with the
20 Compliance and Enforcement Branch, but she has
21 been temporarily detailed to the Accreditation
22 Branch to help with our NIST work. So she has

1 been getting some of our quality manuals
2 together for that.

3 Then we have J.D. Melvin, who is
4 the Accreditation Manager and does a lot of
5 the work on the recognition and equivalency
6 work. So J.D. has been really fantastic on
7 moving those things forward.

8 Then we have Katherine Benham,
9 down at the end, who does all of the
10 administrative support, all of the work that
11 puts this meeting together. Without her work,
12 we wouldn't be here. So thank you.

13 And there's probably a few more
14 hiding in the back.

15 Oh, Bob Pooler heads up the
16 Petitions and National List, and also has been
17 doing the Cost-Share Program.

18 You notice I didn't mention the
19 Cost-Share Program?

20 (Laughter.)

21 It is not that it is not
22 important. It is just that we are trying to

1 get another branch to take on the
2 responsibility of administering the Cost-Share
3 Program. So we will see how that works.

4 Judy Ragonesi with the Compliance
5 and Enforcement Branch.

6 And anyone else?

7 Tammie Wilson and Andrew Regalado.

8 Wilburn, Tammie Wilburn, yes. See, I'm so
9 new, I can't even remember everybody's name.

10 (Laughter.)

11 And Tony Strother is in the back
12 as well.

13 So there's a few of us here.

14 CHAIRPERSON MOYER: Thank you,
15 Miles.

16 I recognize now that it was a bit
17 of a test, knowing that you were only here for
18 a month.

19 (Laughter.)

20 And I think you did very well.

21 MR. McEVOY: Okay. Thank you.

22 CHAIRPERSON MOYER: I believe Hue

1 has one question. The Chair recognizes Hue
2 Karreman.

3 MEMBER KARREMAN: Yes, just one
4 question, Miles, on the access to pasture
5 rule. I realize it is not out the door yet,
6 but where in the process is it right now? Is
7 it in OGC or OMB? Can you tell us? Are you
8 still writing it? Or can you let us know
9 something on it?

10 MR. McEVOY: It is almost at OMB.

11 MEMBER KARREMAN: Almost?

12 MR. McEVOY: Almost at OMB. I
13 think it might get there today. It might get
14 there this week, yes.

15 MEMBER KARREMAN: Okay. It is
16 just my farmers always ask after every
17 meeting --

18 MR. McEVOY: Yes.

19 MEMBER KARREMAN: -- what is
20 happening with it.

21 MR. McEVOY: We were hoping it
22 would be out by the end of the year. It is

1 more likely January.

2 CHAIRPERSON MOYER: Okay. Thank
3 you very much.

4 The next item on our agenda is to
5 take a break. Amazingly, we are on time. I
6 am sure that is going to change as the day
7 goes on.

8 But, in respect of time, we will
9 be reconvening promptly at 10:45. Please be
10 here then. Thank you.

11 We are adjourned for 15 minutes.

12 (Whereupon, the above-entitled
13 matter went off the record at 10:32 a.m. and
14 resumed at 10:50 a.m.)

15 CHAIRPERSON MOYER: Thank you. If
16 Board members could finish and get seated, we
17 will get started.

18 The hotel has asked me to make one
19 housekeeping message to all of you. During
20 break periods, if you want to have
21 conversations, they would appreciate it if you
22 keep the conversations away from the

1 conference room. Our discussion in the hall
2 is bothering a conference that is going on
3 next door to us, and I am sure they would
4 appreciate it if we can keep the volume down.
5 So just move your conversation either outside
6 or further down the hallway toward the lobby.

7 Before I call the first person to
8 the podium, I just want to make one little,
9 brief announcement. That is that I am sure
10 during the course of today and tomorrow, when
11 we have public comment, I will butcher
12 somebody or everybody's name. I will attempt
13 to do it unilaterally and not pick on any one
14 individual or race or creed in particular. I
15 am just not good with names, and I apologize
16 in advance to everyone in the room.

17 We will get started.

18 The first person that we have on
19 our agenda is Rick Mathews.

20 Rick Mathews, if you want to come
21 to the podium?

22 Good morning.

1 MR. MATHEWS: Good morning.

2 I think I might be making people
3 nervous. I notice that OIG is here, the
4 Office of Compliance is here, and the Office
5 of General Counsel is here. So I hope I don't
6 make them too nervous.

7 My name is Richard Mathews. I am
8 President and CEO of NOP Solutions.

9 Over a decade of my more than
10 three decades of public service at the USDA
11 were devoted to creation, implementation, and
12 administration of the National Organic
13 Program.

14 My time with the NOP included four
15 years of service as Program Manager, where I
16 guided the program through implementation in
17 the early years of administration.

18 I have firsthand knowledge of the
19 hard work and dedication of this Board,
20 previous Boards, and the NOP staff. I commend
21 both bodies for their hard work and
22 dedication. Each has done its best to fulfill

1 the purposes of the Organic Foods Production
2 Act of 1990, AKA OFPA.

3 The first section of the Organic
4 Foods Production Act states that its purpose
5 is to establish national standards governing
6 the marketing of certain agricultural products
7 as organically-produced products.

8 In seven weeks, we will reach the
9 ninth anniversary of publication of the NOP
10 final rules establishing those standards.

11 Just two weeks ago, we reached the seventh
12 anniversary of full implementation of those
13 national standards.

14 OFPA also states that its purpose
15 is to assure consumers that organically-
16 produced products meet a consistent standard.

17 Regrettably, that mandate has not been
18 fulfilled.

19 The evidence is found in the
20 diverse applications of the standards by the
21 100 accredited certifying agents. The
22 evidence is found in the numerous enforcement

1 actions before the NOP compliance and
2 enforcement staff. The evidence is found in
3 the nearly three-year backlog of appeal cases
4 before the NOP appeals staff. It is evidenced
5 by the diverse comments to the pasture rule
6 submitted by accredited certifying agents and
7 their associations.

8 Accredited certifying agents are
9 the face and the voice of the USDA seal to
10 certified entities and consumers, and as such,
11 they are the backbone of the program.
12 Certifying agents must fairly and evenly apply
13 and enforce the standards as written.

14 For the program to be successful,
15 there must be consistency across all 100
16 certifying agents. Accordingly, the NOSB and
17 USDA must together work to create a clear and
18 unified voice conveying a single regulatory
19 meaning to standards that need clarification,
20 a voice heard and a meaning implemented
21 consistently by all accredited certifying
22 agents.

1 In carrying out its training,
2 accreditation, enforcement, appeals, and
3 standards development and implementation
4 functions, the NOP is regularly confronted
5 with issues demonstrating the need for
6 standards clarification.

7 The NOP and the NOSB should get
8 together and work together to resolve these
9 differences. The NOP should provide the NOSB
10 with a periodic report describing issues
11 demonstrating a need for standards
12 clarification. This reporting should be done
13 on a regular schedule and in a manner that
14 would not reveal sensitive information. Using
15 this information, the NOSB and the NOP should
16 work together to develop guidance and policy
17 statements convey a single stance for
18 application by the NOP and all accredited
19 certifying agents.

20 All guidance and policy statements
21 intended to clarify regulatory language should
22 be followed by rulemaking, so as to codify the

1 clarifications, thereby assuring their
2 enforcement. We have to be conscious that
3 there are attorneys out there who will try to
4 pick apart the guidance statements and
5 undermine the intentions of this Board and the
6 consumers.

7 Consumers and certifying agents
8 are counting on you and the NOP to fulfill the
9 consistent standard mandate of OFPA. Please
10 rise to the challenge.

11 CHAIRPERSON MOYER: Thank you,
12 Richard.

13 Any questions for Richard from the
14 Board? Comments?

15 (No response.)

16 The Board recognizes Kim Dietz.

17 MS. FRANCES: Can I make a quick
18 comment? If you've got items that you would
19 like to pass out to the Board, please, when
20 you are on deck, bring them over to me before
21 you are actually up, and I will help do that.
22 Okay?

1 CHAIRPERSON MOYER: Thank you.

2 I should mention that Urvashi
3 Rangan is on deck.

4 MS. DIETZ: Ready? Okay.

5 Good morning.

6 My name is Kim Dietz. I am here
7 today just talking as myself and not as my
8 employer. It gets confusing sometimes. I
9 want to clarify that.

10 Thank you for the opportunity to
11 provide you with public comments. These are
12 my personal comments.

13 I already submitted comments on
14 the sunset process and hope that all of you
15 take a look at those before your vote on the
16 boiler materials.

17 What I want to talk to you today
18 about is just the history of this vote and
19 these materials because I think it is
20 important that you understand where we went
21 with this.

22 In 2000, I was appointed as a

1 handler representative to the National Organic
2 Standards Board. During my first year on the
3 Board, we were asked to identify materials
4 that were currently being used by the industry
5 but not on the National List. At that time,
6 the Handling Committee identified boiler
7 materials because there was confusion on how
8 steam was being used in the industry.

9 A joint committee was formed
10 between the handling materials and certified
11 representatives to determine the best course
12 of action. The Chair of the Handling
13 Committee, Mr. Steven Harper, and Certifier
14 Representative Jim Riddle together drafted
15 surveys to gather industry use on steam.

16 The NOSB also asked for the
17 industry to submit petitions on these
18 materials. Because no petitions were
19 received, the industry worked together with
20 NOSB Board members and submitted petitions.

21 At the October 2001 NOSB meeting,
22 Steven Harper showed the results of those

1 surveys. Fifty-six processors responded, and
2 43 stated that they used steam in direct
3 contact with food. Thirteen processors used
4 steam that did not come in contact with food,
5 steam-jacketed kettles and packaging
6 sterilization.

7 With regards to volatile immunes,
8 and those are the boiler materials that are on
9 the National List today, out of the 43
10 processors who used direct contact, 21 of
11 those processors turned off the chemicals, and
12 11 processors did not. Those who did not turn
13 off the steam were certified handlers.

14 The certifying information shared
15 by Jim Riddle, 13 certification agencies
16 responded. No certifiers allowed direct food
17 contact with steam that contained the volatile
18 immunes. Out of those certifiers surveyed,
19 only three certified handlers used indirect
20 steam. This practice was allowed because the
21 steam did not have direct contact with the
22 food.

1 TAP reports were compiled by OMRI.
2 Unfortunately, the TAP reports didn't have
3 enough information for the NOSB to make a
4 recommendation. We, therefore, hired Mr.
5 Richard Theuer to do a supplemental report,
6 and I put this in there because I don't think
7 the Board has that information. I have hard
8 copies. I spoke to Richard, and he actually
9 has the detailed information. We would be
10 happy to supply it to you so you can review
11 it.

12 He was paid to conduct an
13 independent review of the TAP reports against
14 the NOP work agreement and criteria as well as
15 the petitions to make sure they were thorough
16 and complete. Mr. Theuer's work closed all
17 the loopholes in the TAP and petition process.

18 It is clear by the results of the
19 surveys and the TAP reports that direct food
20 contact should not be allowed. However,
21 indirect was a practice in certified handling
22 operations. That is why the annotation

1 allowing for food packaging sterilization was
2 proposed and voted on for allowance by the
3 Board. This annotation was specific to
4 clarify how steam could and could not be used.

5 It should also be noted that those
6 Board members who didn't vote on materials due
7 to conflict of interest, it was solely because
8 they were directly involved in the petition
9 process. I was one of those. I abstained
10 from the vote.

11 It is my personal opinion that the
12 NOSB did a great job of gathering facts to
13 settle a very controversial issue.

14 Furthermore, the organic industry didn't know
15 to what depth materials were subject to
16 review. Was it limited to ingredients and
17 processing aids or were all materials that
18 came in contact with food required to be on
19 the National List? What category did steam
20 fall into?

21 We really came forth as an
22 industry to clarify this, so that we could use

1 those tools and make sure that everybody was
2 consistent with what we did.

3 I am going to jump forward.

4 After the vote on the boiler
5 materials, the NOP came out with a policy
6 statement on synthetic substances subject to
7 review. I also suggest you look at that.

8 Boiler chemicals fall under
9 secondary direct materials. Under that CFR,
10 they are allowed to have direct food contact
11 with the steam.

12 The annotation by the Board
13 actually took that one step further and
14 restricted direct food contact with the steam.
15 So, in some ways, again, the question was, did
16 these materials actually even need to be
17 petitioned? Did they even need to be on the
18 National List?

19 The industry asked the Board to
20 vote on those, so that we could have
21 clarification once and for all.

22 Anyway, I urge you to reconsider

1 your recommendation to remove these materials
2 from the National List. The current
3 annotations are restricting their use for non-
4 direct steam application. You can see there
5 is a lot more information in my review that I
6 hope you take into consideration.

7 By removing these materials, we
8 are just going to further confuse the
9 industry. Again, whether or not these even
10 need to be placed on the National List is a
11 question. But leaving them on there with that
12 restricted annotation is really serving the
13 industry best.

14 Thank you.

15 CHAIRPERSON MOYER: Thank you.

16 Thank you, Kim.

17 Any questions? Yes, Tracy and
18 then Steve.

19 MEMBER MIEDEMA: Just a quick one,
20 and, Kim, you may know the answer to this. If
21 an additive is secondary direct --

22 MS. DIETZ: Yes.

1 MEMBER MIEDEMA: -- and it is
2 added to an organic product, does that
3 preclude it from becoming 100 percent organic?

4 MS. DIETZ: No. Oh, does it
5 preclude it from the 100 percent label?

6 MEMBER MIEDEMA: Yes.

7 MS. DIETZ: Yes. Yes. Yes, it
8 has to be non-synthetic to be used in 100
9 percent organic.

10 MEMBER MIEDEMA: It is not the
11 same as packaging, for instance?

12 MS. DIETZ: Pardon me?

13 MEMBER MIEDEMA: It is in no way
14 the same as packaging-type contact? Okay.

15 MS. DIETZ: No, and most of the
16 packaging is in that secondary direct and also
17 in your food contact substances materials.

18 CHAIRPERSON MOYER: Steve?

19 MS. DIETZ: Hi, Steve.

20 MEMBER DeMURI: Kim, thank you
21 very much for your comments, both today and
22 the written comments that you provided. It

1 has been very helpful, and this is very
2 helpful as well.

3 MS. DIETZ: Thank you.

4 MEMBER DeMURI: I would like to
5 see Richard's report sometime today, if
6 possible.

7 MS. DIETZ: Sure. We can email it
8 to you.

9 MEMBER DeMURI: Okay. Thank you.

10 MS. DIETZ: That would be best.
11 You're welcome.

12 MEMBER DeMURI: That's perfect.

13 Secondly, you were on the Board
14 when this was originally listed.

15 MS. DIETZ: Yes.

16 MEMBER DeMURI: Can you provide
17 for me and the other Board members a little
18 bit about the history or how the discussions
19 went during the listing process? Because in
20 reviewing the transcripts from that meeting,
21 there appeared to be some dissension amongst
22 some Board members --

1 MS. DIETZ: Right.

2 MEMBER DeMURI: -- on whether or
3 not this should be allowed or not.

4 MS. DIETZ: Right. Well, the
5 evolution was whether or not direct steam
6 contact should be allowed. And I have the
7 transcripts, because I read them again myself.

8 But most of that discussion was
9 really a lot of processors use direct steam to
10 soften apples or soften fruit. So that
11 discussion was with regard to the direct food
12 application. The non-direct steam, which is
13 for the sterilization of packaging and kettles
14 and those types of things, was kind of a
15 separate discussion. That is why we came up
16 with that annotation. So, yes, the Board
17 clearly wanted to prohibit the direct food
18 contact.

19 So does that answer your question?

20 MEMBER DeMURI: It does.

21 MS. DIETZ: Okay.

22 CHAIRPERSON MOYER: Thank you.

1 Any other questions or comments from Board
2 members?

3 MEMBER SMILLIE: Well, just to
4 follow up with what Steve said, also, in that
5 transcript was the expressed, not written
6 consent, no, the expressed desire by the NOSB
7 at the time to see these materials come off
8 the list. That was mentioned.

9 MS. DIETZ: Yes, the sunset, and
10 if you look at the transcripts, the sunset
11 discussion, we changed the recommendation; we
12 changed the vote. There was a lot of back and
13 forth on what actually should be placed on the
14 National List with these materials.

15 To my knowledge, the removal and
16 the early sunset of those was if it was direct
17 food contact, not steam for packaging or
18 sterilization. Because, in reality, if you
19 look at the 2002 recommendation for synthetics
20 to be placed on the National List, something
21 that is not even directly contacting food
22 might not even need to be placed on the

1 National List.

2 We asked for it to be there, so
3 that it could clarify it, because inspectors
4 were going into plants and saying no steam,
5 but we were using it to temper glass and for
6 packaging.

7 So, if we had wanted to put a
8 sunset, we would have put it in the
9 annotation, and we didn't.

10 CHAIRPERSON MOYER: Kevin?

11 MEMBER ENGELBERT: Kim, could you
12 clarify a little bit for me the concept of
13 direct or indirect contact? I mean, to me, it
14 is either there is or there isn't.

15 MS. DIETZ: Yes. In this
16 document, I have actually referred to the
17 CFRs. If you want the policy statement, I can
18 show you that as well.

19 In food, you have categories in
20 CFRs that identify the type of food, whether
21 they are ingredients, processing aids, direct
22 food contact materials, or indirect. So they

1 are categories. Then we also have the
2 infamous food contact substances.

3 So it really kind of clearly
4 defines how a food should be used and limited
5 use, if applicable. So it is there as a
6 reference under the Code of Federal
7 Regulations.

8 The indirect use, there's
9 thousands of materials that are under those
10 CFRs for indirect use. It was mainly a way
11 for the program and the Board to say, how do
12 we get our arms around defining what is
13 subject to review? We said anything that is
14 in the food or comes in contact with the food
15 definitely, and anything that may still be
16 left in the food, in other words, processing
17 aids, or what have you, needs to be subject to
18 review.

19 MEMBER DeMURI: One followup to
20 that.

21 CHAIRPERSON MOYER: Certainly.

22 MEMBER DeMURI: Were there any

1 discussions during that first meeting or in
2 Richard's report regarding some incidental
3 residue that could be left? For instance, if
4 you are steaming a glass jar, some of that
5 steam is going to condense on the inside of
6 the jar.

7 MS. DIETZ: Yes.

8 MEMBER DeMURI: Unless you do
9 something to remove that condensed steam,
10 which would then be liquid, you could
11 potentially have minute amounts of those
12 volatile immunes in that, correct?

13 MS. DIETZ: We did not get down to
14 that level because it was being petitioned so
15 that we could use it. You know, we didn't
16 talk about that. I mean anything on the
17 National List could be left in there.

18 MEMBER DeMURI: Right.

19 MS. DIETZ: No, we didn't.

20 MEMBER DeMURI: Okay.

21 MS. DIETZ: Not that I remember.

22 CHAIRPERSON MOYER: Thank you,

1 Kim.

2 MS. DIETZ: Thank you.

3 CHAIRPERSON MOYER: We appreciate
4 your time.

5 The Chair recognizes Urvashi
6 Rangan, and Tom Hutcheson on deck.

7 MR. HANSEN: Hi. I realize I am
8 not Urvashi Rangan, but I am filling in for
9 her. My name is Michael Hansen. I am a
10 Senior Scientist at Consumers Union.

11 CHAIRPERSON MOYER: Okay.

12 MR. HANSEN: And I would like to,
13 since we have two sections, I should be able
14 to do this.

15 It is actually S-E-N.

16 CHAIRPERSON MOYER: Am I to
17 understand that you have a proxy, then, for --

18 MR. HANSEN: Pardon?

19 CHAIRPERSON MOYER: Do you have a
20 proxy? You said two sessions. What did
21 you --

22 MR. HANSEN: Well, no, it is just,

1 you see, that there is --

2 CHAIRPERSON MOYER: Oh, I see.

3 Okay. Thank you.

4 MR. HANSEN: I am up as well,
5 staff member.

6 CHAIRPERSON MOYER: Okay.

7 MR. HANSEN: I will try to get rid
8 of this in as short a time possible.

9 CHAIRPERSON MOYER: I am just
10 trying to get the timekeeper squared away. So
11 you have 10 minutes.

12 MR. HANSEN: Okay. I don't think
13 I will need that.

14 CHAIRPERSON MOYER: Thank you.

15 MR. HANSEN: All right. So,
16 first, I would like to thank the NOSB for this
17 opportunity to make comments.

18 The first comment I would like to
19 make is on the recommendations of the
20 Materials Committee on nanotechnology.
21 Consumers Union fully supports the
22 recommendations of the Materials Committee

1 that the NOP should, quote, "implement a rule
2 change to clarify that at present the use of
3 nanotechnology is excluded from all organic
4 production, processing, and packaging except
5 as required by law." End quote.

6 Since we are assuming that the NOP
7 will follow through on the recommendations of
8 the Materials Committee, we are not going to
9 provide detailed comments on the potential
10 health and environmental problems associated
11 with engineered nanoparticles. If the NOSB
12 did decide against this recommendation, we
13 will be glad to present detailed evidence of
14 these potential environmental and human health
15 problems.

16 In general, Consumers Union
17 supports the language in the Materials
18 Committee recommendation with a couple of
19 exceptions.

20 One, that under the definition of
21 nanotechnology, we think you should make it
22 clear that the size range of concern is not

1 just 1 to 100 nanometers, but it goes up to
2 300 nanometers, and that is because particles
3 in that size range have also been shown to
4 have unique properties that could cause
5 adverse effects.

6 In addition, also as part of the
7 definition, it should be made clear that an
8 engineered particle or structure is considered
9 to be nanotechnology if any dimension that is
10 engineered is less than 300 nanometers; that
11 is even if it later agglomerates, and that is
12 due to the greater increased surface area of
13 the nanomaterials, even when it is tightly
14 clustered together, and also because of some
15 of the problems with trying to figure out
16 whether agglomeration is happening in the
17 product itself or is an artifact of the way
18 you look at the nanoparticles. We ran into
19 this when we looked at sun care products.

20 We also strongly opposed the
21 Materials Committee minority opinion position,
22 which would treat nanomaterials as a synthetic

1 substance. We think that is a very dangerous
2 proposition because, first, for a number of
3 reasons, first, we think it wrongly confuses
4 naturally-occurring nanoparticles, such as
5 those produced during milk homogenization,
6 with engineered nanomaterials. We are
7 specifically concerned with the deliberate
8 intent to use nanotechnology, not with the
9 inadvertent creation of nanoparticles, in the
10 NOP.

11 That minority position, which
12 treats engineered nanomaterials as a synthetic
13 substance, would allow a case-by-case
14 determination on whether it is a prohibited
15 material, as companies could petition NOSB to
16 allow such materials as a, quote, "permitted
17 synthetic". This would, in our view, lead to
18 inconsistencies among organic labeled products
19 with some nanomaterials being prohibited and
20 others potentially permitted synthetics.

21 Thus, you would have an
22 inconsistent definition of organic. We think

1 that organic should mean no intentional use of
2 engineered nanomaterials, not, quote, "almost
3 no use" or, quote, "subject to discretion".

4 We would point out that, as with
5 genetic engineering, consumers do not expect
6 that organic products they buy will contain
7 deliberately-engineered nanomaterials, and
8 they should not be confused by an inconsistent
9 policy on organics that would allow some
10 engineered nanomaterials, but not others.

11 For other recommendations, on the
12 recommendation about vaccines, we are not
13 supporting that recommendation. We think the
14 genetically-engineered vaccines, that,
15 basically, they should maintain the status
16 quo; that is, they shouldn't be completely
17 exempted. They should be required to go
18 through the approval process that is laid out
19 in accordance with Section 205.600(a).

20 The reason for that is it isn't
21 the case that you can't do agriculture without
22 engineered vaccines. There's still a number

1 of problems that do need to be worked out with
2 the genetically-engineered vaccines.

3 I was part of an expert
4 consultation that WHO and FAO put on. One of
5 our recommendations, and this was on
6 engineered animals, we did actually recommend
7 that WHO, FAO, and OIE really need to look at
8 the issue of engineered vaccines because they
9 do raise safety issues. Because there is data
10 that suggests some of these engineered
11 vaccines can hang around for much longer than
12 previously thought.

13 So, in that area, again, we are
14 not supporting the recommendations to
15 basically give carte blanche to engineered
16 vaccines. We are actually asking you to
17 maintain the status quo.

18 Then, third, on the personal care
19 products, our basic position is that no
20 organic claims should appear on any personal
21 care product that does not come under the
22 purview of NOP. So that means, we believe,

1 that for personal care products there should
2 be the same standard as food.

3 We understand that there may be
4 some alternative standards for, quote, "made
5 with organic" or other non-USDA organic
6 products, but we believe that that is not in
7 line with the NOP. So we think the NOP has to
8 make a decision. You either have to take it
9 all on -- that means for all categories -- or
10 do none of it.

11 We think you should take it all
12 on, so as to have consistency in the meaning
13 of organic, not only within personal care
14 products, but also in a consumer's comparison
15 of what that product label means vis-a-vis
16 food.

17 There should be one standard,
18 whether it is for personal care products or
19 food. So one way we think this could be done
20 is that there should be a section on the
21 National List for, quote, "made with organic",
22 end quote, and, quote, "organic". So there

1 should be sections on the National List for
2 these personal care products.

3 Then, finally, one other
4 recommendation which we wholeheartedly
5 support, and that is the recommendation on
6 retail certification.

7 I will end there.

8 CHAIRPERSON MOYER: Thank you,
9 Michael.

10 Are there some questions? I see
11 Kevin, then Dan, and then Katrina.

12 MEMBER ENGELBERT: Just briefly,
13 could you tell us how you arrived at 300-
14 nanometer upper limit? Do you think that will
15 eventually rise as more is learned about
16 nanotechnology?

17 MR. HANSEN: Well, no. There's
18 actually a lot of discussion internationally.
19 Folks had done the 1 to 100, but I know that
20 the National Nanotech Initiative here hasn't
21 come up with a definition. Some of the
22 international folks are also concerned with

1 that strong cutoff because there are particles
2 in the 200-to-300-nanometer range that have
3 been shown to cause adverse effects. So that
4 is why we think a clear cutoff shouldn't be
5 the 100 nanometers.

6 I can supply -- I mean I will go
7 back. I can actually get you a couple of
8 those papers, if you would like to see them.

9 CHAIRPERSON MOYER: The Chair
10 recognizes Dan.

11 VICE CHAIRPERSON GIACOMINI: Yes,
12 Michael, I think we are going to be doing a
13 little working to tighten up on the
14 definition.

15 MR. HANSEN: Yes.

16 VICE CHAIRPERSON GIACOMINI: You
17 used the term "engineered" --

18 MR. HANSEN: Nanomaterials.

19 VICE CHAIRPERSON GIACOMINI: --
20 "nanomaterials". Is that the preferred, most
21 understood within the industry, as small and
22 developing an industry as it is, and without

1 knowing exactly where it is going to go? Is
2 that the tightest thing we can --

3 MR. HANSEN: Within the regulatory
4 community and in the technical community, that
5 is what people refer to, is engineered
6 nanomaterials. That is to make it very clear
7 that what you are talking about is
8 intentionality is, of course, important.

9 VICE CHAIRPERSON GIACOMINI: We
10 are not talking about something you get from
11 the mouth field from deep freeze, from liquid
12 nitrogen freezing and homogenization, and
13 those kinds of things?

14 MR. HANSEN: No. No.

15 VICE CHAIRPERSON GIACOMINI: Okay.

16 MR. HANSEN: When you are talking
17 about, part of the reason that nanotechnology
18 is an issue is because people want to take
19 advantage of the fact that materials at the
20 nano-scale, you basically have quantum effects
21 coming into the case and this dramatically-
22 increased service-area-to-volume ratio. So

1 people want to take advantage of these novel
2 characteristics of nanomaterials. So we point
3 out that that means that there could be
4 changes. If there are changes in the behavior
5 of a component, there could also be changes in
6 the environmental or health status.

7 CHAIRPERSON MOYER: Thank you.
8 Katrina?

9 MEMBER HEINZE: Nanotechnology is,
10 obviously, a very new technology, in its
11 infancy, and there is a lot that we don't
12 know, particularly about its health effects.

13 Can you envision a situation in
14 the future where we do know more about their
15 health effects and their benefits, where a
16 specific nanotech particle or technology would
17 bring benefits to the organic industry?

18 MR. HANSEN: Well, I guess my
19 response to that is it is really ultimately
20 not about whether something is safe or not.
21 The idea of organic is that it is a method.
22 You could have a synthetic chemical. You

1 could have citric acid produced synthetically,
2 but you don't allow that. It has to come from
3 a natural source.

4 So I think, yes, you could, if you
5 want to think of it theoretically, you can
6 think of a number of products that might be
7 developed out of engineered nanomaterials that
8 might be very useful, but does that really fit
9 in with the whole philosophy of organic?

10 I should point out that a lot of
11 the scientists, the World Society of the UK,
12 they are all recommending that there should be
13 actually moratoriums on release of free
14 nanoparticles until we know a lot more.

15 But I could actually see some
16 beneficial uses in tracking disease and
17 actually identifying disease pathogens and
18 other things that might be used.

19 CHAIRPERSON MOYER: Thank you.

20 The Chair recognizes Bea.

21 MEMBER JAMES: Thank you for your
22 comments. Did you submit them in writing?

1 MR. HANSEN: The comments on
2 nanotechnology, yes.

3 MEMBER JAMES: Okay, because you
4 had made a comment that you supported the
5 retailer recommendation at the end of your --

6 MR. HANSEN: Wait a minute. Say
7 that again?

8 MEMBER JAMES: At the very end,
9 you had made a comment that you supported the
10 retail recommendation that is out there
11 currently.

12 MR. HANSEN: Yes.

13 MEMBER JAMES: Or did I mis-hear
14 you?

15 MR. HANSEN: The retail
16 certification.

17 MEMBER JAMES: Yes. Can you give
18 us a little bit more detail on that?

19 MR. HANSEN: That was just one
20 thing I had with a short conversation with
21 Urvashi yesterday before I left. She said
22 that is one thing that we should comment on.

1 We think that that is actually a good program
2 to have certification for retailers. We think
3 it is something that is needed.

4 If you would like more details, I
5 can get you those in written form.

6 CHAIRPERSON MOYER: Thank you,
7 Bea, and thank you, Michael.

8 Any other comments for Michael?

9 (No response.)

10 Thank you for your time.

11 MR. HANSEN: Thank you.

12 CHAIRPERSON MOYER: Tom Hutcheson,
13 and then Forest Eidbo on deck.

14 MR. HUTCHESON: Good morning.

15 I am Tom Hutcheson, Regulatory and
16 Policy Manager for the Organic Trade
17 Association, OTA. OTA is the membership-based
18 business association for organic agriculture
19 and products in North America. OTA's Board of
20 Directors is democratically elected by its
21 members.

22 We thank the National Organic

1 Standards Board for the opportunity to provide
2 comment.

3 Please refer to our written
4 comments for details.

5 On animal welfare, OTA agrees that
6 animal welfare is a basic principle of organic
7 production, and the rule needs substantial
8 clarification, especially in regard to
9 poultry, as ruminants will be covered in the
10 access to pasture rulemaking.

11 Nonetheless, OTA supports the call
12 of many of other commenters not to move this
13 recommendation forward. There has not been
14 adequate time for stakeholders to consider and
15 respond appropriately to this new
16 recommendation.

17 OTA suggests that NOSB maintain
18 the direction provided last May articulating
19 more clearly the principles on which organic
20 animal welfare standards should be based, and
21 then requesting NOP to undertake rulemaking.
22 NOP would then be able to craft a proposed

1 rule that works for all stakeholders,
2 producers, certifiers, the trade, consumers,
3 and, of course, the animals.

4 On personal care, OTA agrees there
5 needs to be a greater consistency in the
6 labeling of organic personal care products.

7 We support both our members who are certified
8 to the NOP rule and those who have chosen to
9 be third-party certified to private standards.

10 OTA supports the rule changes in
11 the recommendation to the extent that they
12 simply codify existing NOP policy. But if any
13 processed product, regardless of end use,
14 meets the rule, it may be certified. However,
15 it is premature to recommend NOP regulation
16 because of unanswered jurisdictional issues,
17 implications for the National List and
18 international trade, needed additional
19 research on consumer expectations and
20 understanding, and the need to more carefully
21 examine other solutions.

22 OTA has submitted a white paper on

1 personal care as part of our written comments,
2 which we hope will serve both as background
3 for interested parties and as an aid to
4 discussion on a range of policy approaches
5 that might address the current situation.

6 On definitions, OTA requests that
7 NOSB defer this recommendation. The
8 recommendation does not cover several
9 necessary aspects of the problem.

10 OTA does support the proposed
11 changes to the definition of non-synthetic,
12 deleting "or bacterial culture" and the entire
13 last sentence of the definition, or even to
14 delete the definition of non-agricultural
15 entirely, revising Section 605 to require
16 organic preference.

17 We disagree with the suggestion
18 that a substance may not be both synthetic and
19 agricultural or even both synthetic and
20 organic. The definition of agricultural
21 product in OFPA and the NOP rule includes
22 processing, and accepted processing methods

1 can and do create synthetics according to the
2 definition.

3 On sunset materials, OTA does not
4 support the recommendation that boiler
5 chemicals be removed from the National List,
6 as the alternatives identified are not
7 demonstrated to be viable, and NOSB should
8 examine the impacts on the trade before taking
9 such a step and assuming that an adjustment
10 from current methods will be easy or even
11 possible.

12 On nanotechnology, although NOSB
13 does not intend to include nano-scale
14 particles incidentally created through normal
15 processing, the definition outlined does not
16 convey that and would include the ability to
17 control or manipulate at the atomic scale,
18 which could be a description of
19 emulsification.

20 The minority opinion expressed in
21 the recommendation is a better approach. This
22 recommendation is premature. Any products of

1 nanotechnology that NOSB wishes to prohibit
2 beyond engineering synthetics should be
3 individually considered.

4 On enclosed or containerized
5 production, OTA supports this recommendation,
6 but notes that it does not provide for the
7 possibility of organic greenhouse production
8 based on aquaponics, the ecologically-complex,
9 integrated culture of aquatic animals and
10 terrestrial plants.

11 Although not soil-based,
12 aquaponics seems consistent with organic
13 production principles. Such systems have the
14 potential to produce two types of organic
15 products, and therefore, offer the potential
16 for expanded organic production.

17 On bivalves, we welcome this step
18 and urge you to move this forward to NOP for
19 rulemaking. We understand this will complete
20 the requirements for moving ahead to
21 rulemaking for that.

22 On retailer certification, looking

1 at the definition of "raw" and "ready to eat"
2 is important, as is exploring whether there is
3 a distinction in processing for deli, bakery,
4 or any other department in the retail handling
5 operations. We can work with you on that with
6 our good organic retail handling practices
7 manual.

8 Thank you very much.

9 CHAIRPERSON MOYER: Thank you,
10 Tom. We appreciate your time.

11 Any questions for Tom? Steve and
12 then Katrina.

13 MEMBER DeMURI: Tom, thanks for
14 your comments.

15 Did you receive any comments from
16 your membership on the boiler chemical
17 sunseting that we don't already have from
18 folks that responded directly to us?

19 MR. HUTCHESON: I believe our
20 members would be the same ones who have
21 commented to you on this.

22 MEMBER DeMURI: Okay. I was just

1 trying to get an idea if there's others that
2 we weren't aware of.

3 Okay. Thank you.

4 CHAIRPERSON MOYER: The Chair
5 recognizes Katrina.

6 MEMBER HEINZE: Thank you, Tom,
7 for your comments.

8 I have two questions on the
9 classification of materials. So, in your
10 comments here just a second ago, you said that
11 you supported our definition of non-synthetic.
12 I am wondering if you meant our definition of
13 non --

14 MR. HUTCHESON: Non-agricultural.
15 I am sorry. I misspoke. Thank you.

16 MEMBER HEINZE: Okay. Then what I
17 heard you say is you support possibly
18 eliminating it altogether? Did I hear that
19 properly?

20 MR. HUTCHESON: That would be
21 possible if organic preference were required
22 for 605.

1 MEMBER HEINZE: Okay. So my
2 second question had to do with your position
3 not supporting -- I'm sorry, I am struggling
4 with phrasing here -- our determination around
5 ag synthetics, that we rejected the term that
6 acknowledged the concept.

7 We had a number of public comments
8 to that point. I am trying to understand the
9 concern.

10 Is the concern that, if an allowed
11 synthetic was used at under 5 percent with 95
12 percent organic agricultural inputs, that what
13 we have come up with would classify that as
14 synthetic, the final material? Is that the
15 concern? Or am I misunderstanding the
16 concern?

17 MR. HUTCHESON: The broader
18 concern is that the definition of synthetic in
19 OFPA is so broad that some agricultural
20 products, when processed, would under the law,
21 the definition in the law and the rule, be
22 synthetic product.

1 Cooked eggs would be a good
2 example of that. So, then, if you wanted to
3 use that in a multi-ingredient product, all of
4 a sudden your cooked eggs are --

5 MEMBER HEINZE: You are in a bind?

6 MR. HUTCHESON: -- non-
7 agricultural, and that doesn't seem
8 consistent.

9 MEMBER HEINZE: So I am
10 understanding it right, that there are a
11 number of materials or products that are
12 created in full compliance with the final
13 rule, that if you applied a strict, letter-of-
14 the-law interpretation, would be classified as
15 synthetic? Then we would end up in a muck?

16 MR. HUTCHESON: That is our
17 understanding, yes.

18 MEMBER HEINZE: Okay. Thank you.
19 That helps me.

20 CHAIRPERSON MOYER: Any other
21 questions from Board members?

22 (No response.)

1 Hearing none, we will move on.

2 Thank you, Tom. We appreciate
3 that.

4 Forest Eidbo next, and Curtis Bel
5 on deck.

6 MR. EIDBO: For the record, my
7 name is Forest Eidbo.

8 Good afternoon, NOSB members, Mr.
9 Chairman, USDA, and National Organic Program
10 staff.

11 Thank you for your work toward
12 regulating a very important sector of our
13 agriculture. I appreciate your commitment to
14 serve for five years on a government board.

15 The development of true, sound,
16 and accurate organic regulation is a very
17 important part of the future success of
18 organics, and your contribution toward that is
19 to be commended.

20 I am 16 years old, go to Cooper
21 High School in New Hope, Minnesota. I am here
22 to give you the perspective of someone who

1 wants to support organics, but sometimes has
2 a hard time understanding the value of organic
3 compared to non-organic.

4 Let me give you an example. Not
5 long ago, I went to the farmers' market where
6 I approached a local apple farmer. I asked
7 him if his apples were organic, to which he
8 replied, "No, but they were grown sustainably
9 and are local."

10 Then I asked him, "What does it
11 mean that your apples are grown sustainably?"

12 He told me farmers who take the
13 sustainable approach substitute knowledge for
14 pesticides and fertilizers. They use crop
15 rotations and other agricultural adjustments
16 to solve problems.

17 For example, soil enrichment
18 produces healthy plants that resist disease,
19 cover crops retard erosion and control weeds,
20 and natural predators such as lady bugs and
21 beneficial bacteria help control pests.

22 The result is that farmers are

1 able to minimize their use of pesticides and
2 fertilizers, thereby saving money and
3 protecting the environment, similar to what I
4 imagine organic agriculture is like.

5 He also told me that he never uses
6 pesticides or harmful chemicals in his apple
7 orchard. His apples are only \$1.49 a pound
8 and were of high quality.

9 Then I thought, why is my local
10 grocer charging me \$2.99 a pound for organic
11 apples when I can get sustainably-local-grown
12 apples at the farmers' market? Maybe there is
13 an additional benefit to certified organic
14 apples I just didn't know about.

15 I inquired with the produce
16 manager at my local grocer. He told me that
17 organically-grown apples are inspected by an
18 agency that is accredited by the USDA National
19 Organic Program. He told me that the
20 inspection process assures that apples have
21 been grown according to strict organic
22 regulation. That was assuring.

1 But then I told him about the
2 local apple farmer at the farmers' market and
3 that he gave me his word that he never uses
4 his pesticides or synthetic chemicals, but he
5 was not certified organic.

6 I asked if the USDA National
7 Organic Program gives the same guarantee.
8 This is where my confusion set in.

9 He told me, "Well, sort of, but
10 there's a thing called the National List of
11 Approved Synthetic Substances," that some
12 stuff listed there might not be completely
13 pure.

14 My first reaction was this guy,
15 obviously, doesn't know what he talking about.
16 But then I did my own research and I found
17 that he was right. I was about to pay \$2.99
18 for USDA-certified organics that could have
19 been treated with antibiotics. There goes my
20 guarantee.

21 Under 205.601, tetracycline and
22 streptomycin are listed for use in organic

1 apple and pear production. I am not an expert
2 in this area by any stretch, but I feel it is
3 important that I come to you to say that some
4 of your decisions are confusing me and
5 possibly other consumers that want to trust
6 organics.

7 Why is it that in 205.238(c)(1) it
8 states, "The producer of an organic livestock
9 operation must not sell, treat, or represent
10 as organic any animal or edible product
11 derived from any animal treated with
12 antibiotics."? Yet, in organic crops, two
13 antibiotics are allowed.

14 The regulatory hand of the NOP
15 needs to follow the text of the final rule,
16 which states that the NOP must, quote, "Assure
17 the consumer that organically-produced food
18 meets consistent and uniform standards,"
19 unquote.

20 I am asking you, the NOSB, to make
21 sure that we, the consumers, understand your
22 decisions, so that we can feel good about

1 putting our dollars toward organic purchases.

2 Thank you for your time.

3 CHAIRPERSON MOYER: Thank you very
4 much, Forest. I appreciate those comments, as
5 does the rest of the Board.

6 Are there any questions for
7 Forest? Bea?

8 MEMBER JAMES: I just wanted to
9 say good job and thank you for coming up and
10 making your public comment.

11 CHAIRPERSON MOYER: The Chair
12 recognizes Joe.

13 MEMBER SMILLIE: Forest, those are
14 good points, and I know Hue agrees with you on
15 the antibiotics. If he can't have them for
16 livestock, why should we have them for apples,
17 right?

18 (Laughter.)

19 So these issues aren't new. I am
20 glad you spotted them because it is a
21 complicated issue. I know that sounds like we
22 are covering it over.

1 But sticking with apples, there
2 may or may not be a good reason for the
3 antibiotics. For example, I really like it
4 when orchardists use a synthetic pesticide.
5 Why is that? Synthetics are evil, right?

6 Not necessarily. And the point I
7 always like to make out is that synthetic
8 pheromone mating disruptives, under FIFRA, it
9 is a synthetic pesticide. It is used to
10 disrupt the mating by causing a blocking of
11 the signals of one coddling moth to another,
12 so that they don't mate and lay the egg in the
13 apple, which causes the worm.

14 It is a synthetic pesticide. So
15 we can't say that our organic orchardists
16 don't use synthetic pesticides. I hope they
17 do use this one because we don't like worms in
18 our apples.

19 But it is an example of why all
20 synthetics aren't necessarily bad and, at the
21 same time, why you can't say that we don't use
22 synthetic pesticides.

1 It is a benign, non-toxic,
2 excellent solution to what had been a huge
3 problem. How can you tell the apple is
4 organic? Well, there's a worm in it, you
5 know. We didn't like it. We didn't like it
6 in those days that our apples weren't up to
7 snuff.

8 But because of scientific
9 research, we were able to develop a synthetic
10 pesticide that was allowed by the National
11 Organic Program. So, if that confuses you
12 more, that is okay, because if you are
13 confused, you are right with the rest of us.

14 It is confusing to try to define
15 what is a living, dynamic system. The hard-
16 and-fast rules sometimes cut off the feet to
17 fit the bed.

18 So you are right, it is confusing,
19 but our intentions are good.

20 (Laughter.)

21 MR. EIDBO: Thank you.

22 CHAIRPERSON MOYER: Thank you,

1 Joe, I think.

2 (Laughter.)

3 The Chair recognizes Dan.

4 VICE CHAIRPERSON GIACOMINI: I
5 just hope the transcript's got what Joe said
6 about those apples.

7 Forest, I see you are 16,
8 finishing high school, maybe going off to
9 college. When you are all done with all that,
10 if you stayed in touch with organics and you
11 still have all this interest, keep in mind a
12 possible seat for you up here someday.

13 (Laughter.)

14 I think you are off to a great
15 start.

16 MR. EIDBO: Thank you.

17 CHAIRPERSON MOYER: Thank you,
18 Forest.

19 I also would like to comment that
20 I think it is important and you should be
21 commended for taking steps to connect with
22 your food system, to ask those questions.

1 Some of the questions that you asked of your
2 local producers show that, when you connect
3 with the people who actually produce the food,
4 you can have a great impact.

5 So, again, you are to be commended
6 for that, and for coming and presenting to the
7 Board. Thank you very much.

8 MR. EIDBO: Thank you.

9 CHAIRPERSON MOYER: Okay. Thank
10 you.

11 The Chair recognizes Curtis Bell,
12 and Jessica Waldon on deck. Curtis Bell?

13 (No response.)

14 Okay. Jessica Waldon, and Joe
15 Dickson on deck.

16 MS. WALDEN: Hello. My name is
17 Jessica Walden. I work for Quality Assurance
18 International. I am going to comment on a few
19 things.

20 The first thing is the definition
21 of materials. Thank you very much, thanks to
22 the Committee for broaching this topic. It is

1 extremely complex, and you have done a
2 wonderful job getting through it all.

3 We generally support the proposed
4 changes. We see that, initially, if the
5 changes are adopted, that it will affect how
6 the made-with organic products are assessed in
7 terms of that 30 percent of known organic
8 ingredients that are allowed.

9 We know that the non-agricultural
10 ingredients do have to be on the National
11 List, but the difficulty has been determining
12 what is agricultural. We have had a lot of
13 manufacturers approach us with various
14 ingredients stating that they are
15 agricultural. It has been very difficult for
16 us to try to determine whether they are or
17 they aren't, whether they should be on the
18 National List or whether they don't need to
19 be.

20 In the long-term, we see that
21 these changes will also improve the methods by
22 which items on 605 and 606 are evaluated. We

1 see that probably some items on 605 will move
2 to 606, and then eventually even start to be
3 produced organically. So we see that that is
4 a move in the right direction.

5 We don't see that these
6 recommendations will detrimentally affect
7 materials used in crop and livestock
8 production systems because synthetics have to
9 be on the National List. So we see that it is
10 all fine so far.

11 We agree with the approach that a
12 material is defined by both the source and
13 also the process by which it is produced. We
14 also agree with the approach that we first
15 decide whether or not it is synthetic. Once
16 it is synthetic, it has to be on the National
17 List. If it is non-synthetic, then it is much
18 easier for us to determine whether or not it
19 fits under the agricultural or non-
20 agricultural category.

21 However, there is another change
22 that needs to be made to the regulation.

1 Under the heading of 605, currently, the
2 heading does state the acceptable non-
3 agricultural ingredients allowed in organic
4 and made-with products. So that would need
5 further refinement to say something like non-
6 synthetic, non-agricultural and synthetic
7 ingredients that are approved.

8 We generally accept the
9 definitions of synthetic, how you arrive at
10 that. However, we don't agree with the last
11 point on page 6, I believe, that says that a
12 material is synthetic if it contains at a
13 significant level a synthetic substance not on
14 the National List. That is ambiguous. A
15 significant level doesn't tell us very much.
16 Then, again, we start on this whole problem of
17 where certifiers are inconsistently applying
18 the regulation.

19 So, instead of including that
20 additional point there, we think that you
21 should, since the rule is already being
22 changed, let's go in further into

1 205.270(c)(2) and clarify the language there.
2 In that section of the regulation, it talks
3 about synthetic volatile solvents and
4 synthetic processing aids not being allowed
5 for use to produce organic products or
6 ingredients. What we think the intention of
7 that part of the regulation is saying, that
8 any non-organic ingredient used in an organic
9 product cannot be produced using synthetic
10 solvents or synthetic processing aids not on
11 the National List.

12 However, that part of the
13 regulation doesn't specifically say that. So
14 going into that part of the regulation and
15 clarifying exactly what the intent is would
16 perhaps bring more benefit to this whole
17 argument.

18 That same section of the
19 regulation also talks about made-with product
20 and, basically, says that volatile synthetic
21 solvents and synthetic processing aids not on
22 the National List can be used for non-organic

1 ingredients that are used in made-with
2 products. So it does make that distinction.

3 So going and finetuning that
4 language would be a great benefit for the
5 certifiers and the clients that want to get
6 their products certified.

7 We agree with the proposed
8 definitions in general. We do see that,
9 within the definition of non-agricultural,
10 that agricultural system does need to be
11 defined. There's some question there about
12 what that really needs.

13 We generally agree with the use of
14 -- I do have a proxy as well. So another six
15 minutes?

16 We do agree with greater use of
17 annotations. We feel that that will inspire
18 the NOSB to delve further into the many
19 different ways certain materials can be made.
20 Sometimes they can be made in synthetic ways,
21 sometimes not. The source material also can
22 differ.

1 So we would appreciate further
2 annotations on materials, so that we know
3 where we are going with materials, and also
4 for formulated products that are already on
5 the National List, 205.605, like enzymes,
6 dairy cultures, flavors, we also appreciate
7 annotations there because you have a lot of
8 incidental additives into those materials.
9 Again, certifiers are not sure how far to go
10 with that, when to actually draw the line and
11 say, no, materials not allowed, things like
12 dyes, preservatives, that sort of thing.

13 In terms of microorganisms and
14 their products, we understand the Committee's
15 rationale behind holding off on classifying
16 them, microorganisms and their products.
17 However, we do feel that currently, if a
18 microorganism or yeast can be certified to the
19 regulation as written currently, that it
20 should be allowed to be certified.

21 And I don't feel that this
22 regulation actually -- or sorry -- this

1 recommendation was actually trying to address
2 whether or not an organic product that
3 potentially could also be synthetic, according
4 to the definition, I don't feel that this
5 recommendation was actually even trying to
6 cover that at this stage. It does probably
7 deserve some discussion, but I don't think
8 this recommendation was discussing that.

9 So, just quickly, I wanted to
10 comment on animal welfare and temporary
11 confinement for outdoor poultry. In general,
12 QAI supports amending the sections of the NOP
13 regulation that pertain to livestock, so the
14 intent of the regulation is clear and we can
15 enforce that.

16 We also support the view, though,
17 of the ACA and the OTA and others that this
18 document should serve as a discussion document
19 for now, until we have more information, in
20 order to make these very important decisions
21 on the regulation itself.

22 We do, though, ask for further

1 clarification -- and this is really from the
2 NOP -- to the interpretation of the NOP
3 regulations with regard to outdoor access for
4 poultry.

5 As a result of this year's round
6 of audits by the NOP staff, several ACAs, but
7 not all, were issued non-compliances because
8 they were allowing their poultry clients to
9 use specifically-established conditions
10 described in the regulations to justify
11 temporary confinement beyond an initial three
12 weeks of the feathering-out period.

13 It caused considerable confusion
14 in going back to clients, where we had to try
15 to explain that confinement couldn't go beyond
16 three weeks of the initial feathering-out
17 period. We were not able to point to the part
18 of the regulation that actually substantiated
19 that.

20 So we need clear guidance, and we
21 need to be consistent with how certifiers are
22 meant to follow the regulation. But, more

1 than that, the guidance needs a phase to be an
2 opportunity for comment, and then we need to
3 go our clients after that time. There's too
4 much confusion.

5 That also goes to the CDFA banning
6 of composts. We are excited to see that the
7 next agenda is going to include more
8 information on composts and the use of organic
9 in the brand name on made-with products, and
10 several other topics.

11 Again, though, encouraging that
12 the guidance is put out, that there is enough
13 time to comment, and that it is solidified
14 before we start enforcing, because it causes
15 great confusion, and not everyone who is
16 affected is able to comment.

17 Then, just to really put it on the
18 radar -- this is not a part of the agenda this
19 time -- is the use of Chilean nitrate in
20 organic farming operations, that all the other
21 standards of the world don't allow it. It
22 also has been linked with perchlorate

1 contamination, which is a serious issue. So
2 it is something that really needs to be
3 addressed sooner rather than later.

4 That's it. Thank you very much
5 for your time.

6 CHAIRPERSON MOYER: Thank you,
7 Jessica.

8 Questions? Hue, and then Steve,
9 then Dan.

10 MEMBER KARREMAN: Thanks for your
11 comments.

12 Over here.

13 I am not going to get specific on
14 the animal welfare with you right now. Just
15 there is a common thread among a lot of the
16 comments on animal welfare that there wasn't
17 enough time to comment.

18 All of our recommendations that
19 are put out -- this is not you specifically --
20 but all the recommendations that are put out
21 by the Board have to be in by a certain date,
22 posted, and there's a certain amount of time

1 that people can comment.

2 So, granted, the animal welfare
3 document that we put out is, you know, a lot.
4 We were talking about it earlier in the year.
5 Granted, we changed things from that
6 discussion document, but it is not like we did
7 a surprise attack and you have 35 days just to
8 look at it, and that's it. I mean that is
9 with any recommendation we put out. So I just
10 want to state that.

11 MS. WALDEN: Noted.

12 CHAIRPERSON MOYER: Thank you,
13 Hue.

14 Steve?

15 MEMBER DeMURI: Thanks for your
16 comments, Jessica.

17 I gathered from your comments that
18 QAI is against Chilean nitrate being listed.
19 Why wouldn't you put in a petition to have it
20 delisted?

21 MS. WALDEN: Well, generally, we
22 tend not to petition ourselves, just because

1 we are meant to represent a huge body of
2 certified producers and handlers. It is
3 really just to sort of put it out there to
4 discuss and sort of sowing the seed,
5 essentially.

6 CHAIRPERSON MOYER: Thank you,
7 Steve.

8 The Chair recognizes Dan.

9 VICE CHAIRPERSON GIACOMINI: Yes.
10 Hi, Jessica.

11 On your comments on microbes and
12 feeling that if -- I think you used the
13 example yeast in that case, but it is really
14 to be any of them -- that if they can be grown
15 meeting the regulations, that they should be
16 able to be certified.

17 Is it in your opinion that there
18 are any now that can meet what the regulations
19 currently state that could be certified? I am
20 specifically looking at the conversion period
21 and whether it fits under origin of livestock,
22 but that whole aspect of it. I am wondering,

1 if you see anything that can qualify now, how
2 you view those sections?

3 MS. WALDEN: You know, QAI doesn't
4 actually certify any microorganisms or yeast
5 products at all. So I would imagine it would
6 even be under something that would be
7 considered more like a mushroom. It is
8 something that straddles both the production
9 and handling aspects of the regulation.

10 But, again, I don't know in terms
11 of having to go so far as to change the
12 regulation completely now. It appears that
13 some products already are certified. So,
14 obviously, the certifiers have managed to find
15 the section of the regulation that does allow
16 that, those products to be certified.

17 So I apologize for not knowing
18 anything else, but --

19 VICE CHAIRPERSON GIACOMINI: No,
20 that's okay. That's okay. I was just
21 wondering, and not even whether QAI did --

22 MS. WALDEN: Yes.

1 VICE CHAIRPERSON GIACOMINI: --
2 but just if you see any -- I don't understand
3 how any of them would be getting through that.
4 I mean mushrooms I can understand. It is in
5 the soil at start. But in some of these where
6 it is such a start and stop, and stainless
7 steel tanks, and all the other things, I am
8 just confused on how they are getting that
9 through now.

10 MS. WALDEN: Yes.

11 VICE CHAIRPERSON GIACOMINI: So it
12 was just a question of how they are getting
13 around that part of the regs.

14 MS. WALDEN: Yes. I don't know
15 specifics.

16 CHAIRPERSON MOYER: Thank you,
17 Dan.

18 Any other questions from Board
19 members or comments?

20 (No response.)

21 Thank you, Jessica.

22 A couple of changes here. Joe

1 Dickson has agreed to move to comment
2 tomorrow. So that puts Liana Hooded at the
3 podium and Susan Prolman on deck.

4 Liana?

5 MS. HOODES: I am Liana Hooded,
6 National Organic Coalition.

7 I first would like to apologize
8 that I don't have my written comments
9 completed. I will get them to you later
10 today.

11 The National Organic Coalition is
12 a national alliance of organizations
13 representing farmers, environmentalists, other
14 organic industry members, and consumers
15 concerned about the integrity of the national
16 organic standards.

17 The goal of the coalition is to
18 assure that organic integrity is maintained,
19 that consumers' confidence is preserved, and
20 that policies are fair, equitable, and
21 encourage diversity of participation and
22 access.

1 NOC would like to thank its
2 ongoing, long hard work in reviewing materials
3 issues pertinent to the integrity of this
4 label.

5 We would also like to take the
6 opportunity to thank, in particular, the
7 outgoing members of the Board for devoting so
8 much of your time during the past four years
9 to the work of the Board: Rigoberto Delgado,
10 Hue Karreman, Gerald Davis, Julie Weisman, and
11 Bea James. Thanks.

12 And we would also like to welcome
13 our long-time colleague Miles to the
14 leadership of the program. It is great. Good
15 luck.

16 (Laughter.)

17 I have to say that that was quite
18 a presentation that really was substantive and
19 gave us a really good feeling that this
20 program is going into its next phase and going
21 to really ramp up what it can do.

22 In regard to that with TAP

1 reviews, NOC, we have said this again and
2 again, that Technical Advisory Panel review to
3 be an essential part of the materials petition
4 process. We hope that that would be increased
5 in the budget numbers, that we can see those
6 to be for every material that will go along
7 with the petition.

8 The petitions and the TAP reviews
9 need to be posted for public to reference
10 prior to the close of the comment period. I
11 also saw in Miles' presentation that I think
12 website stuff will be improved.

13 Just to note, in the additional
14 money granted by Congress, they did include
15 report language about TAP reviews, talking
16 about comprehensive, scientific review. So
17 that additional budget money was also for
18 scientific review.

19 List for inerts. We thank the
20 Board for continuing to work on this topic.
21 We recognize that many questions exist as to
22 how the review of inerts will proceed, and

1 that this discussion paper is the beginning of
2 a process to resolve the issues.

3 NOP regulations must be amended to
4 reflect the changes made to inert
5 classifications and do so in a manner
6 consistent with OFPA and the criteria in OFPA.

7 In current thinking at the EPA and
8 elsewhere, we understand that the distinction
9 between active or inert ingredients is
10 becoming less meaningful. It may be that the
11 organic label will take the lead in listing
12 all product ingredients.

13 NOC has not taken a position on
14 exactly how NOP should proceed with the
15 inerts. We look forward to further
16 discussions by the NOSB and the public, as
17 well as from new, incoming Board members.
18 Specifically, Jay Feldman has a lot of
19 experience in working with the EPA on this.
20 That should really help in furthering this
21 discussion.

22 We do note that there may be a

1 longer timeline needed for compliance on this.
2 It will have a big effect on producers in
3 crops, and we need to be really aware of that.
4 We want to see rigor in the review of inerts,
5 but we also want to be able to continue,
6 farmers continue growing.

7 So classification of materials.
8 NOC applauds the work of both the NOSB and the
9 long slog of that Materials Working Group in
10 finally laying out basically principles and
11 definitions of synthetics and non-synthetics,
12 as well as the decisionmaking matrix for first
13 determining whether a material is synthetic or
14 non-synthetic, and then determining whether
15 the non-synthetic is agricultural.

16 We agree, as we have stated
17 before, that annotations are useful and
18 sometimes necessary in clarifying which forms
19 of a substance are reviewed and approved. We
20 are pleased to see the proposal to bring back
21 the practice of first voting on whether the
22 substance is synthetic or not. Kudos again.

1 It is a big deal, we believe.

2 Nanotechnology. NOC does not
3 support the use of nanotechnology in organic.
4 We agree with the comments that you will hear
5 by the Center for Food Safety. We also agree
6 about using the precautionary principle in the
7 issue of size.

8 GMO vaccines. We disagree with
9 the recommendation. Jim Riddle will make some
10 detailed comments on this. We think that,
11 basically, the NOSB should step back, follow
12 established policies and procedures, and amend
13 the recommendation to call for TAP review of
14 GMO vaccines to determine if they are
15 compatible with organic.

16 Is that it? Okay. Thank you very
17 much.

18 Any questions?

19 CHAIRPERSON MOYER: Thank you.

20 Any questions? Katrina, and then
21 Hue.

22 MEMBER HEINZE: Thank you for your

1 comments on the classification of materials,
2 especially the kudos.

3 MS. HOODES: Yes.

4 MEMBER HEINZE: It was a long slog
5 for the Committee.

6 MS. HOODES: Yes.

7 MEMBER HEINZE: So what I heard is
8 you have no concerns. Did I hear that
9 correctly?

10 MS. HOODES: I think it is very
11 detailed and most of it out of my area of
12 expertise. It lays the foundation.

13 MEMBER HEINZE: Okay.

14 MS. HOODES: I think there are
15 probably some issues, but this is the
16 foundation that you can move forward with. So
17 we do agree with --

18 MEMBER HEINZE: Great. Thank you.

19 CHAIRPERSON MOYER: The Chair
20 recognizes Hue.

21 MEMBER KARREMAN: Hi, Liana.

22 MS. HOODES: Hi.

1 MEMBER KARREMAN: Regarding the
2 vaccines, do people understand that they have,
3 all vaccines that have been being used since
4 2002 without much review because it is a
5 preventative? So just keep that in mind. I
6 mean they are already in.

7 MS. HOODES: Well, there's a
8 couple of thoughts on that. One is that there
9 hasn't been a real review of whether there are
10 non-GMO vaccines available of the same ones.
11 So, if there are, and this is an evolving
12 industry, if there are non-GMO vaccines
13 available, then I think it behooves the
14 organic to not use GMO vaccines.

15 So I think there needs to be an
16 evaluation of the state of the industry right
17 now and availability.

18 I also think that GMOs are a
19 special class and they need to be reviewed.
20 Anytime that an excluded method is considered
21 to be used, extra special care needs to be
22 taken. I think that individual reviews do

1 need to be done, even if the vaccines are
2 already used.

3 CHAIRPERSON MOYER: A followup,
4 Hue?

5 MEMBER KARREMAN: So, if someone
6 wanted to use, a poultry producer wanted to
7 use avian encephalomyelitis-fowl pox-
8 laryngotracheitis vaccine made by a specific
9 company, and it is the only one and it is
10 genetically-engineered, and they have a proven
11 outbreak, what would the organic producer do?

12 MS. HOODES: Well, I think the
13 guidance needs to come from the program on
14 what to do. But if it is the only vaccine,
15 and the issue is a vaccine for AI or keeping
16 all your birds inside, the evaluation may be
17 very well that it needs to be used. But there
18 would be an individual evaluation of that
19 product and whether there is a non-GMO
20 aniline.

21 MEMBER KARREMAN: Followup, one
22 more?

1 So let's just say for a fact I
2 know that there's no alternative to that one.

3 MS. HOODES: Right.

4 MEMBER KARREMAN: I am looking at
5 the listing right here.

6 Let's see, Miles mentioned that it
7 is a year's time for a simple review
8 process --

9 MS. HOODES: Yes.

10 MEMBER KARREMAN: -- and any time
11 longer, let's say six years for like the
12 medicines that got approved.

13 So, okay, you have an outbreak
14 happening. What do you do? And it is the
15 only one. Right now, vaccines have been
16 allowed by most certifiers to this point. I
17 am just curious, what do you do for the
18 welfare of the animals in that birdhouse?

19 MS. HOODES: I think what I am
20 talking about is process, Hue. You said that
21 most certifiers are using it. That is a
22 problem for us. Most are, but some aren't.

1 Because why? This needs to be a consistent
2 part of the regulation.

3 Now, as far as the outcome and the
4 health issues, they do need to be dealt with.
5 First of all, in emergency cases, there are
6 some emergency provisions. I am not sure how
7 those apply. But I think that consistency of
8 evaluation and whether certifiers are using
9 that is important. Maybe there is a way to
10 expedite medicines and vaccines that are
11 needed.

12 Yes, there is a disconnect in how
13 long it takes, but the process has to be
14 transparent and consistent and address the
15 excluded methods and whether or not they are
16 appropriate for organic.

17 So I think there's two parts to
18 that, and one shouldn't supersede the other.
19 I think, as the program grows, these emergency
20 situations or situations that are needed to
21 have decisions right away, there needs to be
22 a process for that.

1 CHAIRPERSON MOYER: The Chair
2 recognizes Kevin.

3 MEMBER ENGELBERT: Hi, Liana.

4 MS. HOODES: Hi, Kevin.

5 MEMBER ENGELBERT: Hue was trying
6 to get you to answer a simple question. If
7 there's an outbreak of a disease, and he gave
8 the example of this vaccine that is the only
9 one available, should the operation be allowed
10 to use it on their birds?

11 MS. HOODES: I think there needs
12 to be some evaluation. I really am not
13 qualified to answer that. I do know that
14 outbreaks are a serious issue. I also
15 understand on the AI issue it may be the best
16 way to go, which is to have vaccine rather
17 than have the birds everywhere die. But we
18 want to see evaluation.

19 And I don't know on the specifics
20 of this. It is not my area.

21 CHAIRPERSON MOYER: Okay, thank
22 you.

1 Any other questions for Liana?

2 (No response.)

3 Hearing none, we will move on to
4 our next presenter, Susan Prolman, and that
5 will be our last presenter for the morning
6 session. We will start in the afternoon
7 promptly with Beth Unger then.

8 So, Susan?

9 MS. PROLMAN: Hello. Thank you
10 very much.

11 Yes, I am Susan Prolman. I am
12 with the Humane Society of the United States.
13 It is the nation's largest animal protection
14 organization, representing 11 million
15 supporters.

16 My comments today concern the
17 animal welfare provisions. I have submitted
18 them in writing in great detail. So what I am
19 going to try to do today in five minutes is
20 sort of hit some of the high notes on it.

21 To start with, I would like to
22 applaud the Livestock Committee for its hard

1 work and for doing a very good job on this,
2 and ask the NOSB to move forward with the
3 recommended edits that we have submitted.

4 The Humane Society of the United
5 States agrees that animal welfare is a basic
6 principle of organic production and that this
7 area warrants effective regulation.

8 We suggest that the rule be
9 accompanied by a guidance document to assist
10 producers in meeting the requirements and to
11 provide further explanation of animal welfare
12 concepts and concerns.

13 Such a document could help
14 producers comply with NOSB's animal welfare
15 standards and would also allow for the
16 inclusion of information that would be much
17 too detailed if written into the rule.

18 For example, we applaud the
19 measures that would not allow the use of tail
20 docking and beak trimming, but think that some
21 producers may need additional guidance to
22 prevent tail biting and injurious pecking

1 behaviors, such as cannibalism.

2 Such a guidance document could
3 also help to address monitoring methods and
4 reducing lameness in dairy cattle.

5 We also ask that the rule
6 explicitly contain a statement of zero
7 tolerance policy for willful acts of neglect
8 and abuse of animals. We believe that, in
9 order to assure that animal welfare standards
10 are being met, it is imperative that organic
11 inspectors make some of their visits
12 unannounced.

13 Just to start going through some
14 of the provisions, in regard to Section
15 205.238(a)(2), which is talking about feed, we
16 recommend that it be amended to include the
17 requirement that nutritional content and
18 rationing of feed result in appropriate body
19 condition.

20 In regard to surgical procedures,
21 we find the language of Section 205.238(a)(5)
22 too vague. We recommend incorporating the

1 concept of best practices as a minimum.

2 We recommend that the NOSB
3 consider separate requirements relating to the
4 use of anesthetics, analgesics, and sedatives
5 for each species and each surgical procedure.

6 The HSUS offers to develop
7 recommended requirements for the use of these
8 substances for each species and each surgical
9 procedure, if requested by the NOSB or the
10 Livestock Committee of the NOSB.

11 We also recommend that the NOSB
12 consider requiring the use of pulled cattle in
13 order to eliminate any need for dehorning and
14 disbudding.

15 In regard to Section
16 205.238(a)(6), we recommend that there be an
17 addition that each physical alteration shall
18 be recorded in individual animal health
19 records with dates, reasons the physical
20 alteration is needed, and methods of the
21 alteration. We also recommend adding a
22 prohibition on mulesing of sheep.

1 We believe that the phrase
2 "competent persons" should be better defined
3 to explain the exact training required, and
4 details of such training requirements is the
5 type of thing that could be included in the
6 guidance document.

7 In regard to Section
8 205.238(a)(8), we recommend monitoring for
9 lameness and keeping written records on the
10 percent of herd suffering from lameness and
11 the causes. And again, the guidance document
12 could go into approaches to addressing
13 lameness issues.

14 The HSUS recommends that slow-
15 growing heritage, hardy chicken breeds be used
16 or, at a minimum, encouraged.

17 We applaud the -- well, excuse me.
18 Let me back up.

19 The provision regarding the
20 withholding of medical treatment for sick
21 animals, that it should not be done, we
22 applaud that. We think it is important for

1 the inspector to evaluate how the animals are
2 being treated, as well as corrective actions
3 being taken and any intentions of the
4 producers to market meat, eggs, or milk from
5 these animals as non-organic.

6 I am sorry, I have to stop, but
7 the rest of the information is in our
8 comments.

9 Thank you.

10 CHAIRPERSON MOYER: Thank you,
11 Susan.

12 Questions? The Chair recognizes
13 Hue.

14 MEMBER KARREMAN: Thanks for
15 coming in, Susan.

16 As I leave the Board, I hope I can
17 help the HSUS and the organic livestock
18 sector, if you want.

19 My question would be, how would
20 you propose that we make sure that the neglect
21 of individual animals does not happen?
22 Certifiers just go on the farm once a year.

1 We have heard there will be stepped-up
2 surprise inspections. I am a cow doc and I
3 like working on individual animals. I am not
4 a herd-oriented person, although you have to
5 be, but it is the individual animals that make
6 up the herd.

7 So how would you propose that we
8 could state somehow or another about the
9 neglect, that it doesn't happen? It is not an
10 easy thing to answer.

11 MS. PROLMAN: Yes, yes.

12 MEMBER KARREMAN: But you did
13 bring it up. How should we go about that?

14 MS. PROLMAN: Yes. No, I agree,
15 it is not easy to address. I think that, as
16 we say, unannounced inspections are something
17 that we recommend, you know, and explicit
18 statements against neglect can be helpful.

19 Yes, I am sorry if I don't have a
20 better answer for you.

21 MEMBER KARREMAN: I caught you by
22 surprise, but it is something that I am

1 always, always thinking about. Hopefully, the
2 Board in the future, whatever can come out,
3 something about that, because it needs to be
4 addressed.

5 MS. PROLMAN: Thank you. I agree.
6 Thank you.

7 CHAIRPERSON MOYER: Any other
8 questions from Board members for Susan?

9 (No response.)

10 Okay. Hearing none, thank you,
11 Susan.

12 MS. PROLMAN: Thank you.

13 CHAIRPERSON MOYER: This Board
14 will adjourn for lunch. We will reconvene
15 promptly at 1:30.

16 We have a lot of comment to go
17 through yet today and we would prefer to get
18 out of here before breakfast.

19 So we are adjourned until 1:30.

20 (Whereupon, the above-entitled
21 matter went off the record at 12:11 p.m. and
22 resumed at 1:31 p.m.)

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 1:31 p.m.

3 CHAIRPERSON MOYER: Okay. Good
4 afternoon, everybody. Our Board meeting is
5 back in session.

6 We are ready to resume public
7 comment. I would like to say once again that
8 we have a lot of folks who want to give public
9 comment. The Board does have work to do this
10 evening, and we do have dinner reservations
11 for eight o'clock that we would like to meet,
12 and we appreciate if you can cooperate with us
13 and see that we can get out the door in time
14 to make that meeting.

15 We understand that your comment is
16 extremely important as well. So we do look
17 forward to that.

18 So we will start with Beth Unger,
19 and Charlotte Vallaeys is on deck. Thank you.

20 MS. UNGER: Good afternoon. Thank
21 you so much for this opportunity.

22 I am Beth Unger from CROPP

1 Cooperative. We are a farmer-owned
2 cooperative with over 1300 member owners in 35
3 states, with a lot of organic dairy producers,
4 egg producers, pork producers, beef producers,
5 all marketing under CROPP Organic Valley Brand
6 and CROPP subsidiary, the organic meat
7 company, marketing under the Organic Prairie
8 brand.

9 I came here today to talk about
10 your animal welfare recommendation. I very
11 much appreciate the work that you have put
12 into this. It is more than due to strengthen
13 the animal welfare. It is out there. The
14 consumers are asking for it.

15 There's many labels that are
16 coming out with certified humane, American
17 humane, and I am sure soon the Global Animal
18 Partnership certification. So I applaud you
19 for your work on the Livestock Committee in
20 addressing these issues.

21 I would also like to support OTA,
22 CCOF, and the ACA comments, and many other

1 comments that you will hear today regarding
2 this particular document.

3 I don't think that this is the
4 time to put forward the recommendation as
5 presented. It needs to be a discussion
6 document, so that you can hear from a lot of
7 the folks who are assembled here today to take
8 a look at this.

9 We posted our public comment
10 online.

11 I really appreciate the fact that
12 you spend time reading over 200 documents
13 before you come to this meeting, on top of all
14 of the telephone calls. It is amazing work,
15 and bless you for what you are doing for the
16 organic community.

17 But we just wanted to respectfully
18 request that you withdraw this recommendation.
19 Keep it as a discussion document and bring it
20 back at another time.

21 I remember very clearly the
22 proposed rulemaking for the pasture standard

1 and the amount of comments that that
2 generated. You take a look at that and other
3 documents that have come out that have a lot
4 of prescriptive language in it, and you get
5 the same general outcry about this is an
6 outcome-based regulation, and based on
7 process.

8 We cannot undermine the importance
9 of an organic system plan that each producer
10 and handler generates, and the relationship
11 that that has with the certifier.

12 All of this looks -- well, I
13 should say most of this document that you
14 created really is very good work. We really
15 agree with the large part of it, but it is
16 guidance, you know. We want to keep this
17 outcome-based. We want to have the importance
18 of the relationship between each certified
19 entity and their certifier, and allow farmers
20 to farm in their own production model, paying
21 attention to the goals, achieving the goals,
22 and not being told precisely how to do it.

1 That is less than five minutes,
2 and that is in honor of your dinner
3 engagement.

4 (Laughter.)

5 CHAIRPERSON MOYER: Thank you.
6 The Board certainly appreciates that.

7 Are there questions for Beth?
8 Hue?

9 MS. UNGER: Yes, I knew it.

10 MEMBER KARREMAN: I like asking
11 questions, you know.

12 MS. UNGER: I know you do.

13 MEMBER KARREMAN: Hopefully, I get
14 to a point. But I am sorry I walked in late,
15 but I read your written comments. I also
16 heard your last half.

17 So you want us to pull back this
18 document to be a discussion document because
19 there's just a whole lot of prescriptive-type
20 information in it, or whatever requirements.
21 Do you think there's anything in this document
22 that is worth keeping, Beth, as far as no tail

1 docking of cows? Or should we like pull back
2 on that and say, "Um, we need to think about
3 that for the next two years."?

4 MS. UNGER: No.

5 (Laughter.)

6 MEMBER KARREMAN: I mean the
7 Governor of California has signed a law --

8 MS. UNGER: Yes.

9 MEMBER KARREMAN: -- that has said
10 no tail docking of cows. So I think in
11 organics we should be doing that.

12 MS. UNGER: Absolutely. I agree
13 with you. As I said at the beginning, the
14 part you missed, I think a lot of what you put
15 in here is very important and right on. Yes,
16 that should be in there, and from a personal
17 perspective, I like the idea of purchase for
18 laying hens, as far as that goes.

19 But, you know, when you go back to
20 your discussion document that you put out last
21 May, the language recommendations that you are
22 putting in there I thought were very

1 appropriate in regard to the way the rule has
2 been constructed and has been administered all
3 this time.

4 It is when you have things in
5 there like a half an acre per thousand pounds
6 of ruminant, to me, that doesn't work in all
7 areas of the country. There are different
8 growing situations, and there are some areas
9 where it is nowhere near enough.

10 MEMBER KARREMAN: A follow-up one?

11 CHAIRPERSON MOYER: Certainly,
12 Hue.

13 MEMBER KARREMAN: So I guess we
14 will be going over all this tomorrow or the
15 next day, of course, making amendments and
16 whatnot. But I would hope that we will be
17 able to keep some things that are not
18 contested at all. So it is a first step.

19 Then the contested-type things or
20 things that need more discussion, hey, we will
21 discuss more, and we have got a lot of time
22 here; everyone else does; I will be gone.

1 (Laughter.)

2 I guess the reason we pulled back
3 from what we had on the discussion document
4 with inspectors doing measuring of lameness
5 and cleanliness, and that kind of thing, body
6 condition scoring, is because on one of our
7 phone calls with inspectors, they said that is
8 really difficult to do. I mean to train
9 people to do that.

10 So we pulled back from that.
11 Instead, we are saying cows have to be clean.
12 Cows have to have their tails. Those kind of
13 end goals, so that the farmer can figure it
14 out how to get there.

15 Now there are other areas, I
16 agree, that we do have specific things which
17 people are worried about and need more
18 discussion. But I do believe there are some
19 end goals that should be in everyone's organic
20 system production plan, since that is the big
21 thing.

22 We are just making sure that it

1 has got to be in there in the organic realm,
2 so that consumers, not just the farmers and
3 certifiers together, but consumers looking at
4 the organic world can say, you know, we know
5 that they are not docking tails; we know they
6 are keeping their animals clean. And we will
7 let the farmers figure out how to keep them
8 clean.

9 Does that make any sense?

10 MS. UNGER: Yes.

11 MEMBER KARREMAN: Okay.

12 CHAIRPERSON MOYER: Any other
13 questions for Beth?

14 (No response.)

15 Hearing none, thank you, Beth.

16 Charlotte Vallaeys is up.

17 And you have a proxy?

18 I'm sorry, could we just wait one
19 moment, Charlotte?

20 Barbara?

21 MS. ROBINSON: Yes.

22 CHAIRPERSON MOYER: Barbara,

1 please.

2 MS. ROBINSON: Mr. Chairman,
3 members of the Board, thanks for letting me
4 interrupt just briefly.

5 I would like to take a moment to
6 introduce the new Administrator for the
7 Agricultural Marketing Service, Ms. Rayne
8 Pegg.

9 If you just will allow me briefly
10 to mention Rayne's considerable qualifications
11 that she brings to this job, because I think
12 you will find a very, very formidable ally and
13 a very qualified advocate for this program and
14 your industry.

15 Rayne, very interestingly -- I
16 didn't realize this, either, until we just had
17 our senior management retreat a couple of
18 weeks ago -- I knew that Rayne had spent some
19 portion of her life growing up in that State
20 known as California, which you guys are
21 somewhat familiar with. But Rayne also spent
22 a good portion of her life also growing up the

1 other side of the country in Maryland as well.
2 So she is familiar both with the eastern and
3 the western shores.

4 Rayne most recently served as the
5 Deputy Secretary of Legislation and Policy for
6 CDFA. In that role, she was an advisor to
7 both the Secretary of the Department and the
8 Governor of California on legislative and
9 policy issues.

10 Rayne represented the Department
11 before the California legislature, regulating
12 bodies, and interested parties on issues that
13 potentially impacted the Department's
14 programs.

15 She has worked with growers and
16 the public to find common ground and reach
17 agreement on many controversial issues. She
18 has worked on legislation and public policy
19 that address invasive species, the Farm Bill,
20 the Department's budget, organic production,
21 food safety, farmers' markets, government
22 oversight, and trade barriers.

1 Rayne has also had some experience
2 in U.S./Korea free trade negotiations. She
3 has worked with USDA to resolve phytosanitary
4 barriers that restrict the movement of
5 California products to foreign and domestic
6 markets. She has been heavily involved in the
7 fertilizer issues out in California and the
8 Leafy Greens Marketing Agreement.

9 So if you will join me in
10 welcoming our newest Administrator Rayne Pegg,
11 thank you very much.

12 (Applause.)

13 MS. PEGG: Hi. I feel awkward
14 standing here with my back to the crowd, but
15 I will do my best anyway.

16 It is very nice to finally see all
17 of you. I have heard so much about you, and
18 I am looking forward to getting to know you
19 better as well as the new members that will be
20 joining the Board in January. I understand
21 probably quite a few of them are here today.

22 This program is clearly a program

1 that is under a watchful eye, which is good.

2 It has grown tremendously, and it has been
3 built on limited resources.

4 The plan is, moving forward, that
5 we increase those resources, we dedicate more
6 funds to this program, to ensure that it can
7 be there for the future and the future
8 problems and questions that it is coming
9 under.

10 You know, where does this program
11 need to go? I think when it was originally
12 enacted, the NOP didn't really know some of
13 the questions that are coming before it. I
14 know that you, Miles, has laid out a very
15 strict agenda moving forward on some of the
16 things that we need to tackle.

17 Inputs, what are we going to do
18 about inputs? What are we going to do about
19 consistency in the program and how we apply
20 that consistency throughout not only those
21 producers here in the United States, but the
22 rest of the world?

1 The biggest thing that we have to
2 protect is the integrity of this program and
3 the integrity of the National Organic Seal
4 when you see it on your grocery store shelves.
5 I know that I am dedicated to that. Miles is
6 definitely dedicated to that. Clearly, the
7 Department is dedicated to that. That is why
8 we have increased its funding so dramatically
9 in the 2010 budget, and we plan to only
10 increase it even more.

11 I think it will help not only
12 people gain further trust of the organic seal
13 and the organic program; I think it will help
14 us tackle issues more quickly and with a
15 better knowledge base, as we bring more people
16 on with that diversity, and what we need in
17 order to tackle some of the things that we
18 didn't realize we were going to have to tackle
19 and some of these questions that are coming
20 before us.

21 I look forward to working with all
22 of you. I always have an open door. Please

1 feel free to call me at any point, anything
2 that you want to share.

3 There's a lot of discussion that
4 goes on behind the issues that the NOP is
5 facing, and we need to have those. We need to
6 have those as open discussions. We need your
7 input, and we need you to be a part of the
8 process as we review all of these things and
9 we make decisions in terms of what we are
10 going to do and how we are going to address
11 these things that everyone is asking.

12 So thank you very much. Thank you
13 very much for your service. We look forward
14 to working with you over the next four years,
15 and then four more, hopefully.

16 (Laughter.)

17 So thank you very much.

18 (Applause.)

19 CHAIRPERSON MOYER: Thank you,
20 Rayne. I know the Board looks forward to
21 having you in that position and working with
22 you closely, along with Miles, as we move

1 forward on all of these challenging issues.

2 So thank you for coming and addressing it. We
3 appreciate that.

4 Okay. We will resume our public
5 comment now with Charlotte.

6 Charlotte, I believe you have a
7 proxy? Is that correct?

8 MS. VALLAEYS: Yes.

9 CHAIRPERSON MOYER: Okay. And
10 Dave Will will be on deck.

11 MS. VALLAEYS: Thank you for the
12 opportunity to comment.

13 My name is Charlotte Vallaeys. I
14 am Policy Analyst with the Cornucopia
15 Institute. I will also be commenting on
16 behalf of Mark Kastel, our Senior Farm Policy
17 Analyst. Mark is in Missouri this week
18 presenting at a conference and couldn't be
19 here.

20 I wasn't planning on commenting on
21 this, but Miles mentioned the 1995
22 recommendation for accessory nutrients. So I

1 thought I would just remind the Board that
2 this issue includes DHA and ARA, which I have
3 mentioned before at previous meetings.

4 We have found that these
5 additives, which are currently put in as
6 accessory nutrients, are creating some
7 problems in some infants. So just to be aware
8 of that when you are looking at this, coming
9 up with this perhaps new recommendation. Just
10 keep in mind there is a lot of research out
11 there, and we would be happy to help you and
12 share any information that we have on that.

13 Next I would like to comment on
14 animal welfare. Cornucopia agrees with the
15 Livestock Committee that animal welfare is a
16 basic principle of organic production and
17 warrants appropriate and effective regulation.

18 We wholeheartedly support the
19 Livestock Committee's initiative and urge the
20 adoption of stronger, more effective
21 regulations for improving animal welfare.

22 Thank you to the members of the

1 Livestock Committee for your work in coming up
2 with these recommendations.

3 We support stronger animal welfare
4 regulations, but we also believe that the
5 Board should invite and consider input from
6 all stakeholders, which will probably result
7 in even stronger recommendations, regulations
8 consistent with current and common best
9 practices widely adopted in the industry.

10 From our own research and
11 conversations with our organic livestock
12 producer members, we would like to make the
13 following suggestions for strengthening the
14 animal welfare recommendations:

15 First, we strongly support the
16 minority position and encourage the Board to
17 consider its adoption. We agree that milking
18 dairy cows more than two times in a 24-hour
19 period is not compatible with fundamental
20 organic management principles, and request
21 that this restriction be included in the
22 recommendation. Pushing cows for high

1 production results in short, stressful lives
2 and does not meet the expectations of organic
3 consumers.

4 Accordingly, the provisions in the
5 minority proposal for restricting replacement
6 cow acquisition are also important, since high
7 turnover is indicative of burnout from pushing
8 for high production.

9 The minority opinion also
10 eloquently articulates the daily cycle and the
11 relationship of a cow's behavior to the
12 pattern of the sun, when cows and other
13 ruminants are allowed to exhibit their natural
14 behavior. The trend of confinement dairy
15 operations to incorporate bright lighting,
16 sometimes 24 hours a day, should be analyzed
17 for its impact on the health and welfare of
18 dairy animals. Again, we believe the minority
19 opinion should be incorporated in its entirety
20 in the final recommendations.

21 Moreover, Cornucopia requests that
22 the NOSB solicit input from organic dairy

1 producers on the following recommendations,
2 since we have received mixed feedback:

3 The first is the provision that
4 animals must be kept clean during all stages
5 of life with the use of clean, dry bedding,
6 when necessary. Some producers worry that an
7 organic operation with cows out on pasture,
8 for example, mud season in Vermont, may not be
9 able to keep their cows totally clean at all
10 times.

11 The second provision we ask the
12 NOSB to look into further states that the
13 producer must have valid veterinary
14 client/patient relationship with a licensed
15 veterinarian. This measure may be hard on
16 some producers who live in areas where
17 veterinarians familiar with organic practices
18 are hard to find.

19 Next up, poultry. Since the
20 current standards have been easily interpreted
21 by some certifying agents as allowing
22 producers to keep chickens indoors, it is

1 important for the new rules to clearly offer
2 no room for loose interpretation. As such, we
3 offer the following suggestions for
4 strengthening the rules:

5 One obstacle remains to granting
6 true outdoor access, which is the size and
7 number of pop holes. Doors to the outdoor
8 area must be easily accessible to every bird
9 in the house, and this is best achieved
10 through quantitative rules.

11 We recommend taking a look at the
12 European organic standards as a guide. They
13 require doors with a combined length of at
14 least 4 meters per hundred square meter area
15 of the house available to the birds.

16 Second, the current recommendation
17 says that poultry reared in houses shall have
18 complete access to pasture, open-air runs, and
19 water, or other exercise areas. We are
20 concerned that this language remains too
21 vague, and the phrase "or other exercise
22 areas" could easily be interpreted as meaning

1 an enclosed concrete porch, as is currently
2 common. By deleting "or other exercise
3 areas", the recommended rule becomes much more
4 firm and less open to selective
5 interpretation. All poultry should have
6 access to either pasture or open-air runs.

7 Cornucopia has no comments at this
8 time regarding the recommendations for animals
9 other than dairy cows and poultry. However,
10 we are confident that organic producers
11 involved in raising other livestock animals,
12 such as hogs, sheep, and goats, would be able
13 to provide valuable input. Again, we
14 encourage the Board to solicit input from all
15 organic stakeholders before finalizing the
16 recommendations.

17 Last, we anticipate that operators
18 of industrial-scale farms will fight stronger
19 regulations that will benefit animal welfare
20 at the expense of their large-scale production
21 model and profits. We strongly encourage the
22 Board to vote on behalf of organic principles,

1 family-scale producers, respecting consumer
2 expectations in animal welfare, instead of
3 accommodating industrial-scale producers that
4 may oppose stronger regulation.

5 Some may argue that chickens must
6 be kept indoors to protect their health.

7 Research has shown that overcrowding
8 contributes to stress, which weakens the
9 immune system of animals, and therefore,
10 contributes to disease.

11 The argument that animals should
12 be kept indoors to promote their health is not
13 only scientifically-invalid, but is also in
14 direct opposition to the kind of production
15 system that organic consumers expect when they
16 pay a price premium for organics.

17 It is also important to note that
18 during disease outbreaks, such as avian
19 influenza, producers may be required to keep
20 their birds inside. This should be a
21 temporary scenario for emergencies. In no way
22 should producers build houses without outdoor

1 access and argue that this grants their birds
2 permanent protection. Keeping birds confined
3 will not protect from viruses such as avian
4 influenza, which can be transferred into a
5 biosecure operation on someone's clothing.

6 When consumers, who are
7 increasingly hungry for the story behind their
8 food, learn the reality of some organic
9 production, they lose confidence in the
10 organic label. This harms the entire organic
11 community.

12 Making sure the reality of organic
13 production is consistent with realistic
14 consumer expectations of organic production,
15 for which they pay a significant premium in
16 the marketplace, should be seen as a positive
17 step.

18 For these reasons, it is important
19 to move ahead with strong animal welfare
20 standards. However, the input of rank-and-
21 file, family-scale organic livestock producers
22 must be taken into consideration. The timing

1 of this proposal did not permit its evaluation
2 and two-way dialog with farmers and ranchers
3 around the country who did not have access to
4 the internet.

5 I would like to note that about 30
6 to 40 percent of Cornucopia members, for
7 example, do not typically use email. This
8 includes many of our Amish farmers. A 30-day
9 period to them is not adequate time to provide
10 input on this proposal.

11 Furthermore, because of the
12 controversy subsequent to the release last
13 fall of a wholesale rewrite of the organic
14 livestock regulations, and the impending
15 release of the rewritten draft, we would
16 encourage tabling the animal welfare proposal
17 until final livestock rulemaking is completed.

18 At that point, industry
19 stakeholders should be invited to participate
20 in shaping the final NOSB animal welfare
21 recommendations. Let's take a minimum amount
22 of time and get this right.

1 We need to protect ethical
2 practitioners in this industry and close the
3 loopholes that are currently being exploited
4 on industrial-scale operations.

5 But, just like the proposed
6 rewrite of the livestock standards, animal
7 welfare provisions must not create regulations
8 that are unworkable in real-world conditions.
9 Taking the time now for a collaboration with
10 farmers and ranchers will assure a successful
11 initiative.

12 Next I would like to comment on
13 vaccines. According to OFPA, the NOSB shall
14 convene Technical Advisory Panels to provide
15 scientific evaluation of the materials
16 considered for inclusion in the National List.
17 This applies to GMO vaccines which must be
18 reviewed and added to the National List in
19 order to be used in organic production. The
20 preamble to the final rule is clear on this.

21 We do not agree with the Livestock
22 Committee's recommendation that the NOP ignore

1 the law and regulation in recommending that
2 the NOP should require that any vaccines
3 previously allowed stay allowed, including
4 those derived from excluded methods, until the
5 rulemaking is completed.

6 We do not agree that the NOP
7 should allow the use of prohibited substances
8 until rulemaking is completed. Doing so would
9 undermine the authority of the NOP and harm
10 the reputation of the NOSB.

11 One of the Livestock Committee's
12 arguments for allowing GMO vaccines without
13 individual review is to be prepared for an
14 infectious disease outbreak. But, under NOP
15 Section 205.672, emergency pest or disease
16 treatment, such a scenario is already
17 addressed.

18 In the event of a mandated --
19 well, I will skip this because my time is --
20 all right, I'll stop.

21 Thank you.

22 CHAIRPERSON MOYER: Thank you,

1 Charlotte.

2 Questions or comments? The Chair
3 recognizes Hue.

4 MEMBER KARREMAN: Thanks,
5 Charlotte.

6 So do I understand that Cornucopia
7 is in favor of specific numbers? I think you
8 said that early on. So, in essence,
9 prescriptive-type regulatory language versus
10 the former speaker said don't do that; just
11 stick with the OSP pretty much.

12 MS. VALLAEYS: Right.

13 MEMBER KARREMAN: Sorry, I'm
14 paraphrasing, but how do you reconcile that?

15 MS. VALLAEYS: Do you mean our
16 position with the previous speaker's position?

17 MEMBER KARREMAN: Yes, yes.

18 MS. VALLAEYS: Do I have to
19 reconcile it?

20 (Laughter.)

21 MEMBER KARREMAN: You don't have
22 to reconcile it. Sorry. You don't have to

1 reconcile it.

2 CHAIRPERSON MOYER: You don't; we
3 do. You don't; we do, yes.

4 MEMBER KARREMAN: I'm sorry. But
5 you are, basically, saying you do want hard-
6 and-fast numbers for certain things? Okay.

7 CHAIRPERSON MOYER: Thank you,
8 Hue.

9 Any other comments or questions
10 for Charlotte?

11 (No response.)

12 Thank you.

13 MS. VALLAEYS: Thank you.

14 CHAIRPERSON MOYER: Dave Will, and
15 Mark McCay is on deck.

16 MR. WILL: Good afternoon. How
17 are all of you?

18 My name is David Will. I am the
19 General Manager, Chino Valley Ranchers. This
20 is Chris Nichols, Vice President of Chino
21 Valley Ranchers, and will soon be the owner of
22 Chino Valley Ranchers once his father retires,

1 maybe soon. It depends on you.

2 We are a southern California-based
3 organic and free-range egg producer. Our
4 company has been in business since the late
5 1950s and has been certified organic since
6 March of 1997.

7 I wanted you to meet Chris and to
8 know that, if you pass the animal welfare as
9 written, that you will put out of business our
10 third-generation farm, and one of Chris' first
11 business programs will be to actually
12 terminate our employees and close down our
13 ranches.

14 I brought a label for you, just to
15 kind of see something that, when we read this,
16 that we kicked around. At the start, Mr.
17 Chairman, you said that the goal of this group
18 was not to confuse consumers and to continue
19 to grow the industry, as I wrote down.

20 This is something we have actually
21 toyed with and looked at. If you could scan
22 that, please? Going to a natural egg that is

1 fed a certified organic diet. We don't know
2 where else to go, unfortunately. That is
3 something that we are actually going to
4 consider. It has actually tested well, too,
5 which scares us.

6 It is not that we don't want or
7 need standards to protect the word "organic";
8 we do. But we need one that reflects the past
9 12 years of growth and investment since we
10 have started to produce a certified organic
11 egg.

12 Consumer demand has forced us to
13 expand, and in California we are not able to
14 purchase vacant land zoned for poultry. We
15 have grown the only way possible, which is to
16 buy existing operations, gutting them, and
17 turning them into an organic facility.

18 All of our organic houses have
19 outside access, but these areas are defined by
20 the existing footprints of the ranches
21 purchased. To get the space required of three
22 feet per bird outside is impossible due to

1 existing buildings, roads, range areas of
2 other houses, or property lines that we just
3 cannot change.

4 In addition to the outside space
5 that you are requesting, you are also
6 requesting a change in the inside space from
7 an industry standard of 1.5 to 2 feet per
8 layer. The current 1.5 is used and supported
9 by the free-farm standards, the humane farm
10 standards, and it is also supported by the
11 Humane Society and the new cage-free standards
12 published by the United Egg Producers, which
13 have all gone through lengthy scientific
14 review and standard reviews as well.

15 The new standard of 2 feet per
16 layer will have a serious impact on our
17 production cost with little or no gain on
18 animal welfare. Layers prey. They flock
19 together for safety by instinct. Adding a
20 half a foot of space per layer will only add
21 empty space at one end of our barns that no
22 birds will utilize, increasing our heating

1 cost and increasing our fixed cost by 25
2 percent, due to the flock size reductions.

3 Don't get us wrong; we do believe
4 that all organic layers need and demand
5 outside access, and that the 1.5 foot per bird
6 inside space is acceptable. In fact, that
7 requirement of having outside access is why we
8 chose CCOF as our organic certifier back in
9 1997.

10 We are pleased that the National
11 Organic Standards Board is looking into this
12 issue and making all organic production equal,
13 and to protect the word "organic" with
14 consumers. But we need a reasonable standard
15 that reflects the lack of specific standards
16 for the past 12 years.

17 Our last concern is that the new
18 standards need to be adapted for layers and
19 broilers. Their life cycle and growth
20 patterns are quite different, and we urge the
21 separation in the standards for the issue of
22 outside access.

1 Boilers, on average, have a 45-day
2 life cycle, which is much more different than
3 that of an 80-to-110-week layer. We have a
4 much longer life to protect and a much more
5 rigorous vaccine schedule that is regional as
6 well.

7 We would urge language that allows
8 to keep the pullets inside until their
9 vaccines are administered and it becomes
10 effective and active in the bird. This should
11 come as a regional, depending on each
12 individual producer's and veterinarian
13 concerns.

14 I know Chris had a couple of
15 things to add.

16 MR. NICHOLS: Thank you for
17 letting me have a word here.

18 I have been raised with this
19 business my whole life. We have had cage-free
20 birds since I was born in the late seventies.

21 I have seen it. I have seen how
22 it works. We have moved to organic. I see

1 the birds, how they act.

2 In response to space outside for
3 birds, it is very evident, once you go into
4 these production facilities.

5 A lot of these standards, I would
6 love for everyone here, we invite you publicly
7 now, if you want to come see our farms, if you
8 want to come see the birds, we invite you to
9 do so. That way, you are not just taking our
10 word for it; you are seeing it in front of
11 your face. It is not just something we are
12 saying.

13 But everything needs to be
14 regulated well. We just want to make sure it
15 is done correctly.

16 And I appreciate your time.

17 CHAIRPERSON MOYER: Thank you.

18 Perfect timing, yes.

19 Questions for Dave or Chris?

20 Kevin?

21 MEMBER ENGELBERT: I want to be
22 careful how I phrase this because I don't want

1 to give the impression that I am just jumping
2 down your throat. But your label up here
3 intrigues me in that you chose to use a small,
4 little barn with a silo, a landscape, and one
5 chicken.

6 (Laughter.)

7 Does that represent your
8 operation? Do you think you may be deceiving
9 consumers with that type of label as opposed
10 to an image of your current facilities on that
11 label?

12 MR. WILL: Absolutely not. That
13 is just a mockup. We haven't even looked at
14 the imagery of it at all. It is mainly just
15 the words that we were using for the value of
16 the fact that, under these standards, you are
17 going to force us and a majority of the
18 business out of the organic certified egg
19 program, and we will have to become a natural
20 egg, which has a huge resonance with
21 consumers.

22 I have seen many studies by the

1 Fancy Food Association that natural actually
2 outperforms organic in certain markets. This
3 is an option that we may have to look at if
4 the standard goes into effect as written, that
5 we would have to go to a natural egg, which
6 has absolutely no meaning, no longer carry the
7 USDA seal, and go to fed a certified organic
8 diet, which in a way is kind of a win because
9 it will save us a huge amount of certification
10 cost as well.

11 But we don't want to do it, and I
12 don't think the consumer wants it done. I
13 think it would be terrible for the marketplace
14 to have it happen.

15 CHAIRPERSON MOYER: Thank you.

16 The Chair recognizes Rigo.

17 MEMBER DELGADO: Yes, you were
18 talking about an increment of 25 percent in
19 your production cost.

20 MR. WILL: Fixed cost.

21 MEMBER DELGADO: Fixed cost? What
22 is that in relation to your overall cost?

1 MR. WILL: Well, our fixed cost
2 would be, if we had a house that was geared
3 for 1.5 foot per bird and we had to go to 2
4 feet per bird, we are going to lower the
5 number of birds in that facility. So we are
6 going to have less production out of that in
7 number of eggs per day.

8 So we will have a higher cost of
9 the employee. The utilities really won't
10 change. In fact, they will go up. The taxes
11 on the facility, the mortgage on the facility,
12 all of those costs will go up due to the lower
13 production, and that is going to be passed
14 onto the consumer.

15 MEMBER DELGADO: In terms of your
16 overall total cost of production, fixed cost
17 is what percent?

18 MR. WILL: Can I get back to you
19 this afternoon and put a pencil to it?

20 MEMBER DELGADO: Sure. Because
21 that is critical, yes.

22 MR. WILL: Ten percent? Feed is,

1 obviously, the No. 1 cost.

2 MEMBER DELGADO: I would assume
3 that.

4 MR. NICHOLS: Increased labor as
5 well.

6 MR. WILL: Yes. Put on the spot,
7 I --

8 MEMBER DELGADO: Okay. Is that
9 the only -- a followup, if I may, Mr.
10 Chairman?

11 CHAIRPERSON MOYER: Certainly.

12 MEMBER DELGADO: Is that the only
13 objection you have to this document, that the
14 space is too much, or what?

15 MR. WILL: Our main concern is the
16 outside access and the inside access space per
17 bird, defining that so strict.

18 The rest of the document, with the
19 changes that have been proposed by the other
20 groups, we basically support. In five
21 minutes, it was hard to get into the fact of
22 the no-force molting and the beak trimming.

1 I think other people after us are going to
2 cover those as well.

3 Part of it is we think that you
4 have come in with Canadian standards because
5 you have mirrored them so well, but,
6 unfortunately, in Canada they have an Egg
7 Marketing Association that mandates the number
8 of birds each producer can have. It is not a
9 free market system like we have in the United
10 States.

11 We also fully support outside
12 access for poultry. We think it is important
13 to have, but we think that, for the last 12
14 years, you have allowed the businesses to
15 grow. In California, we have been forced to
16 grow the only way that is an option for us.
17 That has space requirements.

18 To suddenly now change the rules,
19 or to define them further, yes, that is the
20 issue we have. Everything else, for the fact
21 of the requirement of outside access, the
22 requirement of space inside, we think that is

1 great, yes.

2 MR. NICHOLS: One thing I have to
3 add: about your outside access, one thing
4 that was presented in that regulation was
5 feeders and waterers outside. Currently, we
6 don't do that because migratory birds are the
7 No. 1 cause of disease for our birds. If we
8 have our drinkers outside, and we have
9 sparrows or blackbirds, or whoever, bringing
10 disease to those pans, and then our birds go
11 over and feed and drink with them, you are
12 just increasing the risk.

13 This was all based upon science
14 previously to make a safe food product. By
15 adding just the waters and feeders alone, you
16 are adding a lot more risk to the flock.

17 CHAIRPERSON MOYER: Thank you.

18 The Chair recognizes Hue.

19 MEMBER KARREMAN: Just since you
20 brought that up, so then I try to think about,
21 okay, well, I realize chickens aren't cows,
22 but cows have to be outside out on pasture and

1 there's waterers out there and everything like
2 that. So that has been going on a long time.
3 Sometimes they drop some manure in the water,
4 and it happens. There's not a whole lot of
5 increased disease and mortality on animals
6 that are outside other than chickens.

7 So I don't always buy the argument
8 that chickens should not be outside because
9 they are going to get parasites from pecking
10 the ground and all that. I know I am going to
11 hear that, but I don't buy that argument
12 because I don't see it with cattle, and
13 there's a lot of them out there.

14 One question I wanted to ask is,
15 though, the vaccines, you said you are worried
16 how long they have got to be outside because
17 you want to wait until the vaccines take. I
18 am just curious, how often do you vaccinate
19 the birds? How many vaccines are they
20 getting?

21 MR. NICHOLS: I don't think we
22 made that comment.

1 MEMBER KARREMAN: No, no, you did,
2 I believe.

3 MR. WILL: We did a little bit,
4 yes.

5 First, to your first part of the
6 comment, I don't think we oppose the outside
7 access to birds, either. I don't think we
8 said that there was going to be a risk of
9 increased disease by having the birds outside
10 that concerns us.

11 As far as the vaccination
12 schedule, in California, I can get you the
13 specific list. It is done by our
14 veterinarian, and I may have it; I am not
15 sure.

16 But up to about 14-15 weeks, we
17 are vaccinating for different things, Coryza,
18 Salmonella, and a variety of other illnesses.

19 MR. NICHOLS: Newcastle.

20 MR. WILL: Newcastle.

21 CHAIRPERSON MOYER: Okay, the
22 Chair recognizes Kevin.

1 Mark, just so you will know, we
2 will take drink orders a little bit later on.

3 (Laughter.)

4 MEMBER ENGELBERT: The outside
5 access that you provide for your birds right
6 now allows these birds to interact with
7 sparrows or blackbirds or any other bird that
8 flies into that area? It is not caged? It is
9 all --

10 MR. WILL: No, it is open to the
11 environment.

12 MEMBER ENGELBERT: So what
13 prevents your birds from leaving?

14 MR. WILL: We have a side fence
15 that is high enough that they can't get over.
16 That's it.

17 MEMBER ENGELBERT: That's it?

18 CHAIRPERSON MOYER: The Chair
19 recognizes Bea.

20 MEMBER JAMES: My question has to
21 do with your growth. How long have you been
22 in business?

1 MR. WILL: The company has been in
2 business since 1953, and then we have been
3 owned by the current owner since the mid-
4 1980s.

5 MEMBER JAMES: And your annual
6 percent growth per year is, on average?

7 MR. WILL: Before this year? On
8 average, 18 to 25 percent.

9 MEMBER JAMES: As you have grown
10 almost 20 percent annually, how often do you
11 have to add new barns?

12 MR. WILL: We have actually added
13 new facilities, not specifically barns. Since
14 I have been with the company in 2001, we have
15 bought four properties.

16 MEMBER JAMES: Okay. So, if you
17 were to have to adapt to a larger space per
18 bird, and with a 20 percent annual growth,
19 knowing that you would probably have to add
20 more facilities, would that cost be that much
21 different if you were planning for larger
22 space per bird? How much time of a transition

1 would you need in order to do that?

2 MR. WILL: Excellent question.

3 First, a majority of our existing facilities
4 could never conform. So we would immediately
5 have to scrap all those and go to somewhere
6 else, which would then limit cash flow in
7 order to invest into the new facilities and
8 finding the space.

9 Unfortunately, again, like I said,
10 in California, we don't have access to zoned
11 agricultural poultry land. It is almost
12 impossible to buy vacant land and go in and do
13 that. Plus, the cost is ridiculously high,
14 land in California in general.

15 I don't know what we would do if
16 we were painted into that picture as a
17 business. I honestly feel our option would be
18 to perhaps pursue a cage-free certification
19 with some sort of organic feed claim, like we
20 have shown, or go out of business. I honestly
21 don't know what the owners would do at that
22 point.

1 MEMBER JAMES: So you don't think
2 that, if there was a transition period for
3 existing producers, that that would work for
4 you?

5 MR. WILL: I don't know that we
6 have the options in some of the facilities.
7 We are hemmed in with other buildings. We are
8 hemmed in with property lines. I don't know
9 how we would get the space in certain
10 facilities, and I don't know that we have
11 enough other facilities that we could open it
12 up.

13 When you buy a commercial
14 operation that has gone under, you don't have
15 the ability to go in and design from the
16 beginning.

17 CHAIRPERSON MOYER: Thank you,
18 Bea.

19 The Chair recognizes Dan.

20 VICE CHAIRPERSON GIACOMINI: You
21 commented on the 1.5 inside, preferring the 2.
22 Are you comfortable with any number for the

1 outside?

2 MR. WILL: Yes. In our public
3 comment, we wrote that we think not 100
4 percent of the birds will utilize outside
5 access on any given day. We leave our open
6 access for 24/7, and at the peak of the day,
7 we have about 25 to 30 percent of the birds
8 out there.

9 We felt that, if you start with a
10 square foot per bird as outside access, since
11 you have about a 25 to 30 percent usage, that
12 really translates to 3, 3.5 foot per bird in
13 the entire facility. We were comfortable with
14 that as a number, and put that in our public
15 comment, sir.

16 Thank you.

17 CHAIRPERSON MOYER: Okay. The
18 Chair recognizes Hue, then Kevin.

19 MEMBER KARREMAN: Just a quick
20 question.

21 CHAIRPERSON MOYER: Briefly, if
22 you can, please.

1 MEMBER KARREMAN: Yes. What is
2 the lifespan of a chicken house? It kind of
3 adds onto Bea's. What is the lifespan where
4 you are going to redo that chicken house
5 anyway to maybe new standards?

6 MR. WILL: We have some that were
7 built in the fifties that are still in use.
8 We have just modified their existence.

9 The ranches we have bought, I
10 don't think any of those were built before the
11 seventies. When we go into a ranch, we leave
12 the walls alone and everything else is torn
13 out.

14 MEMBER KARREMAN: What is the
15 average for the industry?

16 MR. WILL: You will probably get
17 some people after me that may have a better
18 answer for that. I'm sorry.

19 But I would say, you know, what is
20 the amortization? Thirty years? So a minimum
21 of that.

22 CHAIRPERSON MOYER: The Chair

1 recognizes Kevin again, briefly, if you can.

2 MEMBER ENGELBERT: Yes, very
3 briefly.

4 Just to try to get a better handle
5 on your operation or operations, do you grow
6 any of your own feed? If so, what percentage?
7 And what do you do with your waste that you
8 produce at your facility?

9 MR. WILL: We do not grow any of
10 our feed. We do have certified organic mills
11 at all of our locations, and we mill all of
12 our own feed that we bring in to our specific
13 standards.

14 And all of our manure is collected
15 several times during the life of the birds.
16 Then some ranches compost. Most just take and
17 sell it out as fertilizer.

18 CHAIRPERSON MOYER: Okay, thank
19 you.

20 MR. WILL: Thank you.

21 CHAIRPERSON MOYER: We appreciate
22 both of you for your time.

1 MR. WILL: Thank you very much.

2 CHAIRPERSON MOYER: You're
3 welcome.

4 Mark McCay is next, and Greg
5 Herbruck is on deck.

6 MR. McCAY: I'm certain the Board
7 expected to see Dave Martinelli talking about
8 methionine. I am going to stand in for him
9 today and give an update on the Methionine
10 Task Force. We have a PowerPoint presentation
11 that I will try to go through quickly.

12 Methionine, the task force was
13 formed about five years ago. Over the past
14 two years, after we got the extension to the
15 annotation, we put together a 24-month work
16 plan. It included three things that we were
17 going to specifically work to address from
18 trying to generate different options for being
19 able to provide the methionine needed for the
20 diets for all poultry production. That is
21 broilers, layers, and turkeys are covered in
22 this.

1 So we talk about options for high
2 methionine in corn. We sponsored research
3 around naturally producing methionine. Then
4 we are also doing some commercial trials, both
5 on broilers and on layers, with different
6 types of diets to try to see how birds perform
7 with different options for supplemental
8 methionine in a non-synthetic form.

9 We also committed, obviously, to
10 making regular updates to the NOSB.

11 For this meeting, discussion of
12 the petition. In August, we made a petition
13 to extend the annotation period to 2015. I
14 will talk about that as well.

15 There are some additions, there
16 are some changes that we would recommend in
17 terms of how we would position that for
18 getting approval for that extension.

19 I will go through the updates on
20 the research alternatives, and then get a
21 little bit ahead of what we are going to talk
22 about again in the spring meeting.

1 So the petition -- and there is a
2 copy on what Valerie has. I have attached it
3 as part of the materials. So it is something
4 that we could provide. It was provided on
5 August 2nd. We would expect that it would be
6 something that would be on the agenda for the
7 spring meeting.

8 But, basically, a little bit of
9 background on methionine: it is an essential
10 amino acid in poultry. Poultry cannot make it
11 themselves. It has to come from feed.

12 What currently is happening is
13 that organic poultry aren't able to satisfy
14 the entire nutrient or methionine demands from
15 the sources that we are able to feed them. We
16 supplement about 30 to 40 percent of the
17 required amount of methionine, is in
18 supplemental synthetic form currently.

19 A little bit of background, also,
20 that poultry and birds are omnivores. We
21 would have expected, typically, that if you go
22 back historically kind of within the 20th

1 century, that broiler and layer feeding
2 programs were actually the supplemental or the
3 additional methionine that the birds needed
4 typically came from bonemeal, meat meal, blood
5 meal, other types of things like that, which
6 are precluded from use in organic feeding
7 regimens. And prior to that, birds which were
8 omnivores, forest-dwellers, would have been
9 able to pick up the necessary methionine
10 through their feeding practices and their
11 scavenging practices, probably from meat-based
12 sources.

13 Next page.

14 We talked about that we have
15 submitted the petition to extend the
16 annotation date to 2015. Combined with that,
17 though, the Methionine Task Force has proposed
18 a cap on the usage.

19 The usages are listed here. This
20 is the total amount of synthetic methionine in
21 the diet over the lifespan of the birds, based
22 on a per-ton-of-feed basis. The next page

1 actually explains it a little bit better
2 Actually, the next two pages explain it a
3 little bit better.

4 As part of the TAP review, in
5 1994, we -- let's go back one more. No, the
6 other way. Yes, perfect. Sorry.

7 As part of the TAP review, the
8 National Research Council stated what they
9 thought were the nutritional diet requirements
10 for methionine in the diet of different types
11 of poultry. They were basically the minimal
12 levels that were required not to optimize
13 growth, not to make the birds grow faster, not
14 to increase production, but, basically, just
15 to maintain the general productive activities
16 of the different types of poultry.

17 Next page.

18 Down at the bottom are the NRC
19 values for methionine and cystine. A little
20 bit here about why we -- and I think this came
21 up in the last meeting as well. We talked
22 about methionine and cystine in combination.

1 Methionine in the birds actually
2 converts to cystine. So the cystine
3 requirements of the birds was actually one of
4 the main building blocks for the feathering
5 process. The methionine will meet the cystine
6 requirements of the bird.

7 So, for both laying chickens and
8 broiler chickens -- I am sorry we didn't have
9 it for turkeys -- those are the NRC values.
10 You can see that the average for laying
11 chickens is .6. The average requirement in
12 the diet for broiler chickens is .75.

13 The proposed cap requirements --
14 and I didn't mention on the previous page, but
15 the previous page, the NRC says or commented
16 that, typically, about 60 percent of the
17 methionine requirement in poultry's diets can
18 be provided by the grains and the feeds. The
19 balance, that remaining 40 percent, needs to
20 be provided in a supplemental form.

21 The proposed caps on these
22 actually represent 33 percent of the NRC

1 average values. So the average value on
2 broiler chicken is .6. I am sorry. For a
3 laying chicken is .6. The .2 percent
4 represents a 33 percent -- okay, sorry. Going
5 too quickly.

6 I have more material that we can
7 provide on the corn trials, the high
8 methionine corn trials, and also a little bit
9 more detail about the grow-out broiler and
10 layer trials. There is detail and appendices
11 in the back of the materials that were
12 provided as well.

13 The Methionine Task Force also
14 commented on animal welfare as part of the
15 public comment period, and that was posted as
16 part of your packet as well.

17 CHAIRPERSON MOYER: Okay.

18 MR. McCAY: Sure.

19 CHAIRPERSON MOYER: Thank you,
20 Mark.

21 I see we have some questions.
22 Tina, then Katrina.

1 MEMBER ELLOR: I know this has
2 come up before. Was any of this work done on
3 chickens that had outdoor access?

4 MR. McCAY: There is one study
5 that has just started off at Herbruck's
6 poultry farm that the birds will have outdoor
7 access availability.

8 On the broiler pen trials that
9 were originally done, none of those birds had
10 outdoor access. We do now have a research
11 barn in Marin County in California and will
12 start a research trial that will allow the
13 birds to have outdoor access.

14 MEMBER ELLOR: Can I ask a
15 followup?

16 CHAIRPERSON MOYER: Sure.

17 MEMBER ELLOR: What kind of
18 outdoor access?

19 MR. McCAY: I won't be able to
20 comment on what is going to be available for
21 the layer trial. For the broiler trial, it is
22 what I would call pasture/forage area that

1 would meet any kind of outdoor access or
2 current organic standards.

3 CHAIRPERSON MOYER: Thank you,
4 Tina.

5 Katrina?

6 MEMBER HEINZE: I was wondering if
7 we can get a copy of your presentation.

8 MR. McCAY: Absolutely.

9 MEMBER HEINZE: Valerie can send
10 it to us. That would be great.

11 MR. McCAY: After the meeting?

12 MEMBER HEINZE: After the meeting?

13 MR. McCAY: Yes, we can unplug,
14 and it is on a flash drive.

15 MEMBER HEINZE: Okay. Great.
16 Thank you.

17 MR. McCAY: Sure. Yes.

18 CHAIRPERSON MOYER: Okay. Thank
19 you, Mark. We appreciate your time.

20 MR. McCAY: Thank you.

21 CHAIRPERSON MOYER: Greg Herbruck
22 is up, and Kurt Lausecker is on deck.

1 MR. HERBRUCK: Good afternoon.

2 My name is Greg Herbruck. I am an
3 egg producer in Michigan.

4 I appreciate the chance to
5 comment. I appreciate, also, the effort the
6 Board has put forth, recognizing the need for
7 animal welfare standards for laying hens and
8 all animals.

9 I think it is in our best interest
10 to be interested as a producer in animal
11 welfare. I think we are on a path of
12 recognizing we need to head in that direction.

13 We have been an organic egg
14 producer for a little over 11 years. I am a
15 third generation. My family has been in the
16 egg business for over 50.

17 We have been a part of the growth
18 of the organic business in the last few years.
19 To answer a question, we started with 7,000
20 organic hens. We are up to about 700,000 in
21 that 11 years. So it has been a huge growth.

22 Some of these things that we did,

1 in the last year, my family and I invested \$13
2 million in a dedicated organic site. If you
3 do the math on that, it is about \$40 a chicken
4 we have invested.

5 These new guidelines, as David had
6 mentioned, they weren't designed to give the
7 -- the main restriction is the outside access.
8 It is just, if we give them that much space,
9 they are going to be into drainage issues.
10 You are going to have environmental issues.

11 Basically, with the guidelines the
12 way they stand, we would have to double that
13 outside access with a rule requiring letting
14 it set fallow, so you can regrow grass and all
15 that sort of thing. So you are almost going
16 to have an either/or scenario.

17 That is why we strongly disapprove
18 of the guidelines as recommended. I think
19 there are some things in agreement, we can
20 agree on.

21 It mentions that they were
22 science-based. I serve on one of our egg

1 businesses and egg producer animal welfare
2 committees, and also the audit committee. So
3 I am intimately involved in animal welfare
4 issues for our entire industry.

5 To a person, none of these people
6 were contacted and our group wasn't. So we
7 deal with all the scientists and researchers
8 in animal welfare, and as well as third-party
9 certification agencies. To a person, none of
10 them were contacted for input on this thing.

11 I think that is something that
12 should be considered in the future, in looking
13 at this again, as many others have pointed
14 out, a discussion document to look forward.

15 So I think there are a few points
16 we agree on. There are some of the animal
17 care things, practices, how we take care of,
18 that I think should consider molting. Feed
19 withdrawal molting should be banned. The
20 research would point to molting is a natural
21 process. There is a basal feed-type molting
22 where you feed a different protein, mimic the

1 fall period when birds actually molt, and
2 allow the practice.

3 Beak trimming, there are options
4 other than the blunt blade. You should
5 consider the infrared effect. It is an
6 important management tool to prevent two birds
7 -- if you have two birds together, one may
8 pick if they've got a strong beak and in a
9 situation.

10 But there are several of the other
11 treatment guidelines we agree with. The main
12 issues are with the outside access with us.
13 I don't believe they can be met. As Dave Will
14 had mentioned also, our facilities weren't
15 designed -- to put us in that position, we
16 would not be able to produce organic eggs or
17 we would have to do, to make that assignment,
18 we would have to go to 5 to 10 percent of the
19 capacities to allow for that outside access as
20 proposed. So, as I mentioned earlier, the
21 investment we have put into this, we would not
22 be in the organic business.

1 Some of the other things we don't
2 agree with, the third of the life. We are in
3 Michigan. Birds are going to sleep inside
4 one-third of their life. The other two-thirds
5 have to be split over 365 days. We have at
6 least five months when the temperature for a
7 high doesn't get over 50 degrees. That
8 doesn't support animal health. To force a
9 chicken to go outside in the winter months,
10 you are risking them to be more exposed to
11 health issues at that point.

12 Access to the soil. It talks
13 about insects and things like that. We
14 provide a full nutrition in the feed inside.
15 That is one thing that gets them to come back
16 in. If we have some of these outside access
17 rules, the birds will lay a lot of eggs
18 outside, and it will be a matter of trying to
19 find those things. I would not be wanting a
20 consumer to get that egg that took a week or
21 so to find because it got laid outside in some
22 corner of the pasture area.

1 Wire floors, I think that is an
2 important part of a system.

3 In summary, I think we should move
4 forward with recognizing this is a base
5 document to start with. I think the USDA
6 program has a base to promote programs. I
7 think some of these things, as proposed, would
8 be a detriment to that.

9 I think we should consider some of
10 the professionals in this area that are -- in
11 the absence of NOP standards, most producers
12 went to a third party to assure our customers
13 that we are caring for the animals. So I
14 think you should consider the American Humane
15 Association, Humane Farm Animal Care. They
16 have a science-based standard already. Almost
17 everybody to a person, to a company, is doing
18 it now. It may be a base to work from because
19 there are some codified standards that are out
20 there.

21 I see my time is nearly up. So I
22 will conclude there.

1 CHAIRPERSON MOYER: Thank you,
2 Greg.

3 Some questions? Tina?

4 MEMBER ELLOR: What kind of
5 outdoor access do you provide now spacewise,
6 approximately?

7 MR. HERBRUCK: Right now, it is
8 around 10 to 25 percent, depending on the
9 design. We have many buildings over the time.

10 MEMBER ELLOR: Ten to 25 percent
11 of the --

12 MR. HERBRUCK: Of the inside
13 space, of the living space. Some of that is
14 based on -- what is not recognized is there
15 are different systems. We mentioned 1.5
16 square feet. Different systems, a lot of
17 these other standards recognize a flat floor
18 space, a raised floor, an aviary style, that
19 enhance the bird health and the birds enjoy
20 being on them.

21 We have, if you come and look at
22 our outside access, on any day, the birds when

1 they are growing are outside, and there may be
2 30, 40, 50 percent of them out at any one
3 time. You put them in a properly-designed
4 system; we may have 50 birds outside. And
5 they have full access. They enjoy it when
6 they come out there, but they enjoy being
7 inside. They have it safer. As Dave Will
8 mentioned, they are prey animals. They tend
9 to find a spot where they feel comfortable.

10 So, if you properly design a
11 system, they don't go out as much. However,
12 again, we give them that access. They come
13 out; they enjoy it. They do their scratching
14 and all that sort of thing.

15 MEMBER ELLOR: Can I follow up?

16 CHAIRPERSON MOYER: Sure.

17 MEMBER ELLOR: Do they derive any
18 food from their outdoor access?

19 MR. HERBRUCK: No.

20 CHAIRPERSON MOYER: The Chair
21 recognizes Hue for a question. If we can be
22 brief, only because we have a lot of

1 commenters to get through.

2 MEMBER KARREMAN: A quick
3 question: are you certified like a third-
4 party animal welfare certification? I don't
5 know if you said that or not.

6 MR. HERBRUCK: Yes. We have the
7 American Humane Association and Humane Farm
8 Animal Care, both of them, as well as United
9 Egg Producers.

10 So we have to supply all our
11 customers with assurance that we are caring.
12 We have all three of them that we have
13 available to the egg industry.

14 MEMBER KARREMAN: Because there
15 was a written comment, and I don't know by
16 whom, that said, you know, basically,
17 certified organic poultry operations simply
18 should be also certified to an animal welfare
19 organization.

20 MR. HERBRUCK: I think the Board
21 should consider they are the trained experts.
22 Our current inspectors, it is tough enough to

1 teach them what a chicken life cycle is.
2 These third-party people are experts in animal
3 welfare, and they come and audit us on those
4 very descriptive issues.

5 CHAIRPERSON MOYER: Okay.

6 MR. HERBRUCK: Thank you.

7 CHAIRPERSON MOYER: Thank you,
8 Greg. We appreciate your time in coming.

9 The Board would now like to call
10 Kurt Lausecker to the podium, and Bob
11 Beauregard will be on deck.

12 MR. LAUSECKER: Thank you for
13 allowing me to comment on the proposed NOSB
14 animal welfare recommendations for organic
15 laying hens.

16 My name is Kurt Lausecker. I am
17 the owner of Nature Pure LLC, an organic egg
18 farm in Raymond, Ohio.

19 I worked for 30 years as manager
20 of Daley Egg Farm, a layer operation with 2
21 million laying hens in cages and with 200,000
22 cage-free organic laying hens.

1 I have a strong commitment to
2 animal welfare and served on the Animal
3 Welfare Committee of the United Egg Producers.
4 I also like organic food.

5 Two years ago, I was able to buy
6 the organic part of Daley Egg Farm, including
7 an organic feed mill. The investment at the
8 time was several million dollars. This is my
9 life now and the life of my family. A dream
10 came true when I invested in organic food
11 production.

12 My farm consists of six laying
13 buildings for 32,000 layers each and one
14 processing room with an egg crater and a
15 cooler. I also have one organic pullet house,
16 and I employ 35 people.

17 All buildings have state-of-the-
18 art equipment for cage-free organic egg
19 production and were furnished according to
20 current organic and cage-free rules and
21 regulations, as outlined by the AHC and by the
22 National Organic Program.

1 I agree with the written and
2 verbal comments of my peers which address the
3 many contradictions and potential disease
4 risks associated with the proposed
5 recommendations. I also submitted my
6 concerns, comments, and recommendations to the
7 NOSB in writing.

8 Today I am just here to let you
9 know what these recommendations would do to my
10 company. I cannot comply. I just do not have
11 additional outside space available.

12 When the original transition from
13 cage-laying hens to cage-free organic laying
14 hens was made, the existing buildings were
15 utilized. While I am in compliance with the
16 current requirements for outside access, I am
17 very restricted on outside space.

18 The proposed recommendations would
19 reduce the number of hens in my houses from
20 32,000 to 3,076. My young company is highly
21 leveraged, and our financing is spread out
22 over the useful life of the buildings and the

1 equipment.

2 If the recommendations will be
3 implemented as proposed without grandfathering
4 or without adequate compensation for my
5 substantial investment, they would force my
6 company out of business and me into
7 bankruptcy. Thirty-five employees would lose
8 their job, and many local organic grain
9 farmers would have to look for another market.

10 As Miles, the new Deputy
11 Administrator, said earlier, regulations can
12 kill you. I just hope it is not me who gets
13 killed.

14 Thank you for your consideration.

15 CHAIRPERSON MOYER: Thank you,
16 Kurt. We appreciate those comments very much.

17 Are there any questions or
18 comments from Board members?

19 (No response.)

20 All right. Hearing none, we
21 appreciate your time in coming. Thank you
22 very much.

1 Bob Beauregard, and George Bass on
2 deck.

3 MR. BEAUREGARD: Good afternoon.

4 CHAIRPERSON MOYER: Good
5 afternoon.

6 MR. BEAUREGARD: My name is Bob
7 Beauregard. I am the manager of the Country
8 Hen.

9 The following is in response to
10 the Livestock Committee's request for public
11 comment on their recommendations for animal
12 welfare. Our comments represent the opinion
13 of George Bass, the owner, and the TCH staff.

14 The Country Hen, located in
15 Hubbardston, Mass, supplies supermarkets
16 across the United States with the first
17 commercially-produced organic omega-3-enriched
18 egg.

19 The Country Hen spent countless
20 hours developing our organic system plan
21 months before the implementation date. We
22 devised a system of providing our hens with

1 safe, protected access to the outdoors via
2 porches.

3 As many of you are aware, we
4 encountered difficulties with our then-
5 certifying agency regarding this design, and
6 our organic certification was rejected on this
7 basis. We appealed this decision to
8 Washington, and our appeal was sustained by
9 the USDA AMS.

10 Based upon this decision, the
11 verification that our outdoor access plan was
12 in keeping with the rule, we quickly
13 implemented this outdoor access design into
14 our organic system plan.

15 Since this time, we have spent
16 over a million dollars in capital
17 improvements, including all of our porches on
18 existing buildings, two new two-story
19 buildings with their own porches, and initial
20 preparation work to construct our next layer
21 house for future expansion.

22 We feel strongly that we do comply

1 with CFR Part 205. It seems unfathomable that
2 a different set of rules could be written at
3 this stage, ones that would completely
4 undermine everything that we have built our
5 organic system plan around for the past seven
6 years.

7 With specific regard to these
8 proposed recommendations, we would like to
9 thank the Committee for your commitment toward
10 organic integrity.

11 With that being said, we would
12 hope the committees creating the
13 recommendations will consider, first and
14 foremost, animal health and welfare,
15 biosecurity on poultry farms, protecting
16 poultry from disease, food safety, food
17 production, volume, and price.

18 From our own experience, birds
19 confined to housing due to weather or other
20 conditions at 1.5 square feet per bird
21 experience prevalent pecking. When
22 cannibalism occurs, it is very hard to watch.

1 It is cruel. Birds suffer, which is the exact
2 environment that 205.238(a)(5) seems to be
3 attempting to avoid.

4 We believe layers should be
5 allowed to be peck trimmed and, as new
6 standards, methods, and/or traits can be bred
7 out of the birds, the subject could then be
8 revisited.

9 The Country Hen is concerned about
10 bird health in a free-range system for several
11 reasons. Although high-path avian influenza,
12 H5N1, has not been introduced in the United
13 States, most experts agree it is just a
14 question of when it will be. Other strains of
15 low-path viruses are somewhat common and
16 characteristically can mutate the highly
17 pathogenic very quickly.

18 Non-domesticated avian species are
19 common carriers of AI, such as waterfowl,
20 geese, ducks, and/or wild turkeys. They don't
21 exhibit any symptoms, but carry these diseases
22 commonly. The risk is high, and given what

1 has happened in Europe and Asia in the last
2 few years, it seems to be just a matter of
3 time before we experience it here in the
4 United States.

5 The recommendation suggests that
6 feed and water be provided in the outdoor
7 areas. Implementing this suggestion would
8 seem contradictory to the health and safety of
9 the hens. It would be inviting natural
10 predators, insects to uncontrollable levels,
11 and rodents.

12 Experienced farmers know that,
13 when you invite with feed and water, most
14 everyone will show up. They will be sure to
15 bring along something with them, such as
16 Salmonella, E. coli, rabies, ticks, lice,
17 bedbugs. We do not believe that this is in
18 keeping with the best health and safety
19 conditions for the hens at stake.

20 Biosecurity on poultry farms, and
21 from our experience, again, of farming in a
22 somewhat rural area, you would think that

1 biosecurity would be simple to control and
2 maintain. Biosecurity practices are the most
3 important means of preventing outbreaks in
4 poultry. This includes preventing access of
5 wild birds to domestic flocks and limiting
6 access to farm buildings. The three most
7 potential hazards are people, trucks, and
8 other avian species.

9 We, as farmers, use every
10 preventative measure allowed in organic
11 livestock production to maintain healthy
12 flocks. These measures include vaccinations,
13 probiotics, feed additives, et cetera. We
14 believe that our porch system helps to protect
15 the hens from potential poultry diseases.

16 The FDA has also stepped up the
17 regulations for Salmonella prevention. New
18 regulations require that measures that are
19 designed to prevent Salmonella enteritidis be
20 adopted by virtually all egg producers with
21 3,000 or more laying hens whose shell eggs are
22 not processed with a treatment such as

1 pasteurization to ensure their safety.

2 Free-ranging our layers at 3
3 square feet per bird on the ground is not in
4 keeping with the health and safety in mind.
5 The land to range the hens properly would not
6 be practical, nor would the hens be safe from
7 natural predators.

8 Establishing and maintaining pest
9 control, rodent control, and biosecurity
10 measures outdoors to prevent people and
11 equipment from spreading bacteria throughout
12 the farm would be stringent and would likely
13 not be successful.

14 It is more detailed in our comment
15 that we submitted.

16 CHAIRPERSON MOYER: Okay. Thank
17 you, Bob.

18 I know Hue has a question, and
19 then Bea.

20 MEMBER KARREMAN: Just another
21 quick question, Jeff.

22 Is the land -- you are using

1 porches. I don't want to get into that whole
2 thing. I know there is a history on that.
3 But is the land that your farm is on, is that
4 all certified organic land?

5 MR. BEAUREGARD: Yes, it is.

6 CHAIRPERSON MOYER: Thank you,
7 Hue.

8 Bea?

9 MEMBER JAMES: I just was
10 wondering how you manage the health and
11 vitality of the chickens if they never have
12 outdoor access.

13 MR. BEAUREGARD: Well, they are
14 still free-ranged. They are free-ranged in
15 the barn.

16 MEMBER JAMES: But they can go in
17 and out?

18 MR. BEAUREGARD: They can go in
19 and out of the barn.

20 MEMBER JAMES: So other pests and
21 predators can go in and out, too?

22 MR. BEAUREGARD: No. No.

1 Actually, they're screened-in porches.

2 MEMBER JAMES: Okay. So that is
3 kind of outside, but not really outside.

4 MR. BEAUREGARD: Exactly.
5 Exactly.

6 CHAIRPERSON MOYER: That is the
7 issue, Bea, yes.

8 MEMBER JAMES: Yes.

9 CHAIRPERSON MOYER: Okay. Thank
10 you, Bob. We appreciate your time.

11 Next we have George Bass, and Kurt
12 Kreher on deck.

13 MR. BASS: Thank you very much.
14 We appreciate what you have done and the
15 opportunity of speaking.

16 I had a little bit of a stroke.
17 So some of the times I am not very good, but
18 I hope I can do it.

19 Thank you. Thank you.

20 We have had the porches from '02.
21 Therefore, we had problems with the certifies.
22 But we worked and worked and worked, and

1 finally, it was the USDA Agricultural
2 Marketing Services. In '02, we finally had
3 it, and it is okay.

4 So really what happens, and I
5 think it works, and it works very, very good,
6 I think. And I will explain about the
7 porches.

8 But the big thing that I don't
9 know if you have ever seen it, about this, but
10 there are 250 million birds are dead. Now I
11 don't know if you know that, but there are 250
12 million birds, about maybe three or four years
13 ago, in Asia. That is the big thing that
14 really that does it, is this wild birds. They
15 go with the connections with the other birds,
16 and that is really what happens. You should
17 not get those seabirds with the other
18 chickens. So that is really what happens. So
19 it is avian influenza.

20 Of course, as you know, it is
21 very, very highly pathogenic of these H5N1,
22 and that is really what happens in Asia. That

1 is really what happens.

2 So I will explain about four
3 things that we did, trying to get through on
4 the people and also the NOP and the NOSB.
5 That is really what we did, and I think it was
6 okay. So I am going to talk about four
7 different points.

8 One is the dirt, the barren dirt.
9 Then there's the disease and the animals. We
10 always get the animals. Then you've got the
11 pandemic. Right now, at this moment, we've
12 got this pandemic.

13 So, if you put those chickens on
14 the barren dirt, it is a little bit crazy. If
15 you really want to put those chickens on the
16 grass, the fellow that did it way down in
17 1924, he was a professor and said they should
18 have put 100 chickens in an acre. That sounds
19 crazy. One hundred acres. But that is really
20 very good for the hens. So, if we would be
21 doing something like that, we would have to
22 get acres and acres and acres and acres

1 because they are very good for the grass. Now
2 that was 1924.

3 Now, also, at Cornell, they had
4 another expert at that time at Cornell
5 University. They thought it was very, very
6 good for the grass, to think about the grass.
7 Really, alfalfa or clover and grass. So that
8 is really what they should.

9 Then another, Bob that just was
10 right here and talked to you people, we did
11 it. He sent a little expert, and it took a
12 little time. We got about 50 birds and, all
13 of a sudden, what happened? The birds were
14 done. There weren't anything else. There was
15 birds. So that is one of the problems.

16 So, anyway, the other one is
17 you've got disease, which is cocci and
18 neuritis and worms, intestinal. So, if you
19 put it outside, that is what you are going to
20 have, some of the problems.

21 Then, also, you've got to get
22 those animals that are going to work, and

1 you've got the owls. You've got the hawks.

2 So that is really what is happening.

3 We thought and thought because the
4 devil of -- we thought that there was really
5 a problem in this Asian, of course. But the
6 big thing in the United States, we don't have
7 anything. We really don't. The United States
8 is free. There's no humans and there's no
9 chickens, and then, evidently, there are no
10 wild birds. But anything at any time could
11 happen. So that is really what happens.

12 Now they've got about 50-60
13 countries that have that stuff. Right now,
14 probably I think it is another -- I found 80
15 acres mentioned about that whole stuff.

16 We did at one time in the United
17 States, we had three different times.

18 Thank you very, very much.
19 Appreciate it. It's wonderful, the time to
20 talk.

21 CHAIRPERSON MOYER: Thank you,
22 George. We appreciate your time.

1 Any questions for the presenter
2 from the Board?

3 (No response.)

4 Okay. Thank you very much,
5 George.

6 Kurt Kreher is next, and Howard
7 Magwire is on deck.

8 MR. KREHER: Actually, I am Hal
9 Kreher. My brother is Kurt.

10 Thank you for the opportunity to
11 comment on the proposed livestock welfare
12 recommendations. I appreciate the hard work
13 that went into producing this document. It
14 might not sound like that when I pick at it a
15 little bit, but I do appreciate that a lot of
16 work went into it.

17 My brother Kurt has already
18 provided written comment.

19 My name is Hal Kreher. I am a
20 third-generation poultry farmer from Buffalo,
21 New York. I am quite proud of the business
22 that my family has built from a subsistence

1 farm in the 1930s to one of the few surviving
2 family-owned commercial egg producers in New
3 York State.

4 There are very few folks left who
5 saw the advances in poultry housing in egg
6 production from the time we grew chickens on
7 the range to the modern-style egg production.
8 It seems that the reasons and research that
9 led to the current system have been lost over
10 the years.

11 For instance, few of us remember
12 the predation by foxes that required trapping
13 to control. Few of us remember the parasites,
14 both external and internal, that resulted from
15 barnyard life. Few of us remember the
16 heartbreak of a pileup in a floored building,
17 taking away the pullets that you worked so
18 hard to raise. Few of us remember the
19 improvements in health and mortality that came
20 with the separation of birds from their
21 excrement by using wire flooring. Few of us
22 remember the improvements that came from

1 better drinker designs.

2 My point is that the current
3 animal welfare recommendations by the
4 Livestock Committee go too far in trying to
5 eliminate practices such as wire flooring that
6 are actually beneficial to the health and
7 welfare of the chickens.

8 Another example is beak trimming.
9 If left to grow unchecked, a chicken's beak
10 would grow to look much like an eagle's beak.
11 You can all picture that. It is a sharp,
12 hooked weapon.

13 Chickens naturally have a pecking
14 order, and you have heard that expression
15 before. What it means is that the chickens
16 enforce their dominance by pecking each other.
17 They are not civil in this. If it leads to
18 bloodshed and the chickens do not have their
19 beaks blunted, then not only the initial
20 injured birds, but several others may be
21 injured in the ensuing melee.

22 There is a new egg safety rule, 21

1 CFR 118. Among the requirements is
2 environmental testing for Salmonella
3 enteritidis. I do not know of the incidence
4 of this bacteria in a barnyard, although I
5 have been told, if you look for it, you will
6 find it. But if it is found, then eggs must
7 also be tested to make sure that they are
8 okay.

9 If the eggs are all right, the
10 area will still need to be disinfected after
11 the flock, according to the rule. How will a
12 pasture be disinfected?

13 Another requirement of the egg
14 safety rule is that a biosecurity program is
15 in place to, quote, "prevent stray poultry,
16 wild birds, cats, and other animals from
17 entering poultry houses," end quote.

18 This is difficult to do if the
19 poultry have complete access to the pasture,
20 as required by the proposed animal welfare
21 recommendations. It would also have complete
22 access to the inside for anything outside,

1 too.

2 Another requirement of the egg
3 safety rule applies to rodent control, flies,
4 and other pest control. It requires you to,
5 quote, "remove debris within a poultry house
6 and vegetation and debris outside a poultry
7 house that may provide harborage for pests."
8 This is in direct conflict with the proposed
9 recommendations for open-air runs described in
10 Section 205.239(a)(3).

11 If organic eggs are raised in a
12 manner where there is evidence to support the
13 possibility of significant contamination by
14 Salmonella, is this a good thing? I don't
15 think so.

16 There are standards for humane
17 care for poultry which already exist. The
18 American Humane Association has a very
19 comprehensive program for cage-free housing.
20 There are other standards as well.

21 Rather than developing a
22 completely separate program, perhaps requiring

1 producers to follow existing standards off a
2 list of acceptable standards, similar to how
3 the NOP uses different certifiers, would be a
4 better solution.

5 In closing, I would like to add
6 that eggs are an organic product that could be
7 widely available to the consumer. They could
8 be a gateway organic food. However, the
9 current recommendations would severely limit
10 the ability to supply such a market.

11 Thank you.

12 CHAIRPERSON MOYER: Thank you,
13 Hal.

14 Are there any questions for Hal?

15 I see Hue and then Dan.

16 MEMBER KARREMAN: Question: what
17 is the percentage or prevalence of bumblefoot
18 Staph aureus infection in the chickens in wire
19 floor caged houses in general in the industry?

20 MR. KREHER: I think it is much
21 reduced compared to chickens that are running
22 around on the floor. I don't have figures to

1 cite, but I can give you my own personal
2 observations.

3 When I was a child, actually,
4 until the mid-eighties, we had a floor house
5 that had 10,000 birds in it. Every flock you
6 would see one or two birds, and their feet
7 would be all swelled up. You could see they
8 were in pain.

9 In a properly-maintained wire
10 floor facility, a caged facility, it is
11 virtually non-existent, you know, if things
12 are properly maintained. Yes, you can cite
13 places that haven't been maintained.

14 CHAIRPERSON MOYER: Dan?

15 VICE CHAIRPERSON GIACOMINI: That
16 humane program that you have there --

17 MR. KREHER: Yes, sir.

18 VICE CHAIRPERSON GIACOMINI: --
19 can we have that?

20 MR. KREHER: Sure. It is
21 available online, and I can leave a copy for
22 you.

1 CHAIRPERSON MOYER: A question for
2 you, Hal, then. Are you inferring in your
3 comments, then, Hal, that you would prefer to
4 have no access to the outdoors at all? Is
5 that what you are saying?

6 MR. KREHER: No, I didn't mention
7 that.

8 CHAIRPERSON MOYER: Okay.

9 MR. KREHER: I mean I think it
10 needs to be controlled access. Having them
11 run around where they can get access to -- I
12 know Hue doesn't believe the parasites that
13 are out there, but, you know, I wish my dad
14 was still around to come to you and tell you
15 what he found in the forties and fifties. And
16 he would explain to you what they did.

17 I can still remember we used to
18 have a bag. You know, it wasn't used anymore.
19 It was stuck in the barn from long ago. We
20 got rid of it since then. Nicotine powder,
21 that was commonly used to control fowl mites.

22 You know, if they go outside, they

1 are going to get that thing. They can go
2 outside into an enclosed area that has
3 screening to keep the other birds from coming
4 in.

5 Nobody wants to see another
6 Newcastle outbreak like we had in California
7 a few years ago.

8 CHAIRPERSON MOYER: The Chair
9 recognizes Hue and then Kevin.

10 MEMBER KARREMAN: Just to clarify,
11 it is not that I don't think there's parasites
12 outside. I just don't think that that should
13 be the automatic barrier, that animals should
14 not go outside. Because you can manage things
15 in such a way that there is an optimal life
16 for the animals outside without them getting
17 parasitized. There's ways to do it, believe
18 me. I have seen it with cattle. I am sure
19 you can do it with chickens.

20 And anyway, by the way, nicotine
21 is not a prohibited natural for livestock use
22 in organic, not that I would recommend it, but

1 it is not a prohibited natural for livestock
2 use. For crops it is prohibited, not for
3 livestock, no; just strychnine.

4 CHAIRPERSON MOYER: Kevin?

5 MEMBER ENGELBERT: Hal, thank you
6 for your time.

7 I know we are pressed, but how do
8 we rectify this problem with consumers
9 believing that organic poultry is held not
10 only to a slightly higher standard, but a far
11 higher standard than conventional poultry
12 houses, that they are fed more -- that it is
13 not just simply feeding organic feed, that
14 they are actually animals and they are meant
15 to be outdoors, and that is how they exhibit
16 their natural behavior? When a consumer
17 purchases an organic product, that is what
18 they expect. That is how they expect that
19 animal is raised.

20 Any thoughts on how we get around
21 this dilemma?

22 MR. KREHER: Well, you know, that

1 is a difficult one. Because I think if people
2 think all your food came from a small farm
3 where there's chickens in the barnyard and you
4 go around with your apron and collect the eggs
5 in it, I don't know how you get around that.
6 Because who wants the eggs that are picked up
7 outside in the barnyard? You do? Well,
8 hopefully, they were clean.

9 CHAIRPERSON MOYER: You asked the
10 wrong group, yes.

11 (Laughter.)

12 MR. KREHER: Hopefully, they were
13 clean.

14 CHAIRPERSON MOYER: Thank you,
15 Hal. We appreciate it.

16 MR. KREHER: You know, just as a
17 little background, we used to have a lot of
18 tracebacks on eggs. Twenty years ago, you
19 heard about a lot of tracebacks on eggs for
20 Salmonella. You are not seeing it anymore.

21 The reason is because the
22 industry, the commercial egg industry, has

1 cleaned up their act in regard to rodent
2 control and that sort of thing. We don't have
3 that disease vector. We have eliminated the
4 rodents, which was the big disease vector. It
5 is going to be difficult to do under this
6 system.

7 So you are bringing back that
8 disease vector that we have strived so hard --
9 in fact, they have passed a law, you know, the
10 egg safety rule, in regards to it.

11 So I don't know how you get those
12 two, you know, a rule on one hand and a rule
13 on the other hand, how do you get those two to
14 work out?

15 Thank you.

16 CHAIRPERSON MOYER: Thank you for
17 that point.

18 MR. KREHER: And I didn't mean any
19 disrespect to you.

20 CHAIRPERSON MOYER: Okay. We have
21 Howard Magwire, and then Dr. James Barton on
22 deck.

1 MR. MAGWIRE: Thank you.

2 This is the second time I have
3 attended one of your meetings, although when
4 Barbara Robinson was in here, it reminded me
5 of many years ago, before you had to have
6 certification to organic rule, there was a
7 poultry company -- I'll not name them; many of
8 you know it -- I happened to run poultry
9 programs at USDA at that time, and Barbara and
10 I were peers.

11 But they had long been advertising
12 organic chickens. All of a sudden, USDA said,
13 "Hey, you have to have that certified."

14 They said, "Fine."

15 "You have to have organic feed."

16 "What do you mean organic feed?"

17 There's not that amount of organic feed
18 around."

19 I think they even went to the
20 Hill. So, as they used to say, you've come a
21 long way, baby, or we have, I guess, in this.
22 So accolades to that.

1 I want to address the Livestock
2 Committee recommendations.

3 My name is Howard Magwire. I am
4 with United Egg Producers. I work for the
5 farmers that produce 97 percent of the eggs in
6 the United States. You have heard six or
7 seven of my bosses speak this afternoon so
8 far. Be kind to me.

9 Anyway, I want to speak to the
10 livestock recommendations. Rather than try to
11 address points that my bosses can address much
12 better than I, is to urge you to go beyond the
13 35 days and give this much further
14 consideration.

15 As I said, we represent 97 percent
16 of the layer production in the United States.
17 So we have some knowledge about it.

18 I think, Dr. Karreman, you have
19 our attention. I don't know, maybe we were
20 following melamine or we were watching cap and
21 trade on the Hill, or whatever, but we are
22 ready to be engaged in this thing now and

1 appreciate you listening to us now. We've got
2 to be part of the discussion.

3 The equivalency with Canada thing,
4 one of the speakers mentioned that. Yes,
5 Canada has a controlled market. They
6 guarantee to cover cost, everything else. In
7 fact, the only time we see Canadian eggs is
8 when they decide that they've got more than
9 they can sell at the set prices up there, and
10 they dump them down here. So it is quite a
11 different thing.

12 Right now, we are dealing with
13 other things like carbon footprint. So, as we
14 talk expanding acreage to put housing and
15 birds, that is the other side of the coin that
16 we have to deal with, too, as somebody called
17 the EPA.

18 The producers have made many good
19 points. As I said, I am not going to try to
20 go over them. But we need a discussion.

21 Dr. Karreman, I am not picking on
22 you again, but you picked on us a little bit.

1 (Laughter.)

2 So one of the earlier speakers
3 talked about vaccine. That is just an example
4 there. We have alluded to high-path AI. We
5 have an active group. We have been working
6 for probably four years now. We talk every
7 two weeks on controlling high-path AI in the
8 United States. Vaccination is part of that.
9 Biosecurity is part of that.

10 The FDA new egg safety rule that
11 goes into effect next summer, in fact, I've
12 got to head out of here tomorrow afternoon and
13 go to Atlanta for a meeting on that. We have
14 committees that look at that, too.

15 Biosecurity is a big part of it,
16 and vaccine is. Probably by next summer, most
17 of the egg producers in the United States,
18 other than some that are exempted from
19 complying with the rule next summer, are going
20 to have to vaccinate for Salmonella
21 enteritidis or FDA is not going to let them
22 market their eggs.

1 You asked the number of times.
2 Four times at least, probably three live and
3 one dead, to be effective, so that we can
4 assure FDA and our customers that Salmonella
5 enteritidis is not in the shell of eggs. That
6 is why we need to talk to you.

7 UEP has standards. They have been
8 referenced. Our standards, we don't care if
9 they are organic or not organic. We believe
10 in animal welfare. Over 80 percent of the
11 layers in this country are in our program; now
12 they may be on some other programs also, but
13 over 80 percent of them on our program -- it
14 doesn't matter if they are organic, if they
15 are free-range, if they are caged -- one
16 minute; I will be quick.

17 There is science-based, and I can
18 talk about the scientists, but the scientists
19 also go to veterinarians, like you here, and
20 our poultry veterinarians. You heard
21 scientists today, and that's those folks that
22 have been working with it all their life.

1 They know when the chicken's happy and when
2 it's not, and when it is healthy and when it
3 is not.

4 I just want to finish up here by
5 saying that we appreciate the grandfathered in
6 this or the discussion of the grandfathered
7 thing and some of the questions, but it is
8 bigger than that.

9 If we want organic to continue to
10 grow, as it has over the last many years,
11 we've got to have science-based rules, not go
12 by somebody else's agenda, but look at the
13 whole thing and say, how do we meet the
14 science for animal welfare, not animal rights
15 -- I didn't say, "animal rights" -- animal
16 welfare, environmental, carbon footprints,
17 family farms?

18 It is like President Obama said
19 last fall when he was campaigning, "Yes, we
20 can," and I know that we can, if we all talk
21 about it and work together.

22 Thank you very much.

1 Right on time.

2 CHAIRPERSON MOYER: Thank you,
3 Howard.

4 A couple of questions. I see Hue
5 and then Joe.

6 MEMBER SMILLIE: I actually would
7 like to probe this. The Canada card keeps
8 being played here, both Hue and yourself.

9 We are going to great lengths to
10 describe how the egg marketing system controls
11 that and how their costs are certainly covered
12 to a certain extent. Is that, Hue, because
13 your recommendation is similar to the current
14 Canadian regulation? Have they implemented
15 what you are proposing to some degree?

16 MEMBER KARREMAN: We based a lot
17 of the animal welfare regulations on the
18 Canadian regs that have now come in because of
19 equivalence. We know it is not compliance.
20 We realize that, but equivalence.

21 Those regs have been based on
22 various animal behavior, animal welfare groups

1 from the University of British Columbia,
2 Guelph, and various other places up there. So
3 the science is actually in the Canadian
4 standards which we have extracted from.

5 Now, as far as their marketing
6 goes, I don't know. I know they have a quota
7 system on eggs, but not broilers.

8 MEMBER SMILLIE: Well, I was up
9 attending a couple of trade shows in Canada,
10 and this issue came up. There is this fear in
11 Canada that their egg market is going to get
12 flooded with U.S. organic eggs. That was
13 expressed, and they were greatly interested in
14 our agreement, whereby we are reporting
15 stocking density, herd density, you know, the
16 layers per square foot.

17 So my understanding was that the
18 different marketing scheme was actually
19 important in this since there is some sort of
20 guarantee that they have that our egg
21 producers don't have, and I don't quite
22 understand how an egg marketing board could

1 make it easier for Canadians to allow more
2 foot per bird than a U.S. regulator. I don't
3 quite get the connection, but, apparently, it
4 is there.

5 MR. MAGWIRE: In Canada, unlike in
6 the U.S., the Board agrees on how many
7 chickens there will be. If there's 10 million
8 chickens and they're saying, "We can't cover
9 our cost and producer profit," -- I don't know
10 if I turned this off or not -- you cut down
11 the number of chickens.

12 We talk about \$40 in
13 capitalization per bird. In Canada, I know
14 going back 20 years the value of the bird was
15 \$40 because you have to buy the right to raise
16 the bird, and that is how they control the
17 market.

18 This is not an economic thing. I
19 know it is to us if we have a family that is
20 going out of business. Organic is organic.
21 Animal welfare is animal welfare. You've got
22 to treat your animals right.

1 But there you can raise the
2 standard to whatever you want, even if it
3 doesn't make scientific sense, and maybe it
4 does fit somebody's agenda, because they still
5 are going to be able to produce an egg and
6 sell it and get their cost back.

7 And as far as U.S. product dumping
8 on that market, they have quotas. It is just
9 not going to happen that some kind of
10 substandard U.S. product is going to go up
11 there.

12 Canada has very restrictive SE
13 requirements also. So there's a lot of
14 hurdles we face to put eggs up there.

15 CHAIRPERSON MOYER: Hue?

16 MEMBER KARREMAN: Question: I
17 hear with a lot of the poultry folks the
18 vaccines that are needed and everything. I
19 understand that.

20 If I may ask, what is your thought
21 on the vaccine proposal that is here? Because
22 a lot of the genetically-engineered vaccines

1 that have been being used for the last seven
2 years in organics actually fall under the
3 poultry?

4 MR. MAGWIRE: And I am not
5 qualified to speak to that, so I will just be
6 honest.

7 My point on that is, if there is a
8 concern about what can be used as a vaccine,
9 then we need to extend this discussion and
10 talk about it because we are forced by another
11 agency, a sister agency to USDA, to use a
12 vaccine, not by regulation.

13 When we commented on the FDA egg
14 safety rule back in 2004, we said you ought to
15 give our producers an incentive to vaccinate
16 because we know it works, and not money, but
17 maybe you come visit them less often.

18 Everybody is afraid of an FDA visit. Maybe we
19 have to sample less. It is very expensive.

20 We do some very expensive and intensive
21 sampling.

22 They didn't. When the final rule

1 came out this summer, they didn't give any
2 incentive for vaccination.

3 And I met with FDA and I said, "I
4 guess you really did, didn't you?" And they
5 smiled because they knew they had made the
6 rule so tough that we have to have two things,
7 absolutely strong biosecurity and a
8 vaccination program, or we can't comply.

9 CHAIRPERSON MOYER: Okay. Thank
10 you, Howard.

11 MR. MAGWIRE: Thank you very much.

12 CHAIRPERSON MOYER: We appreciate
13 that.

14 At this point in time, the Board
15 is going to take a brief, very brief, break.
16 Keep in mind that we will get back into our
17 seats by 20 after 3:00 on the dot because we
18 have a lot to go through today yet, and the
19 clock keeps ticking.

20 Thank you.

21 (Whereupon, the above-entitled
22 matter went off the record at 3:09 p.m. and

1 resumed at 3:23 p.m.)

2 CHAIRPERSON MOYER: Okay, we are
3 ready to go. We are back in session.

4 Dr. Barton, I presume?

5 DR. BARTON: Yes, sir.

6 CHAIRPERSON MOYER: Dr. Barton, if
7 you will, we are ready to go.

8 DR. BARTON: All right. Thank
9 you, Mr. Chairman. Thank you, Committee.

10 My name is James Barton. I am a
11 Board-certified poultry veterinarian. I have
12 got 19 years of experience. I have worked in
13 commercial poultry farming, veterinary
14 diagnostic labs. I have done scientific
15 investigation, and I have done some teaching.

16 I am also a certified animal
17 welfare auditor, and I am the immediate Past
18 President of PAACO, the Professional Animal
19 Auditor Certification Organization.

20 PAACO, through its work training
21 animal welfare auditors, certifying auditors,
22 and certifying animal welfare audits, it has

1 become the recognized authority on quality
2 animal welfare auditing practices.

3 I conduct about 20 animal welfare
4 audits every year, and I provide veterinary
5 consulting services to conventional and
6 organic poultry farms.

7 I am also an AVMA member, and I am
8 a member of the American Association of Avian
9 Pathologists, AAAP. I have the privilege of
10 serving on their Animal Welfare Committee.

11 One part of my background that I
12 would like to mention, because I think it is
13 pertinent to this group, my family raised
14 vegetables on a small truck farm, if you will,
15 in northwest Arkansas for much of my childhood
16 and early adulthood. In fact, my veterinary
17 school tuition fees and living expenses were
18 paid through the scholarship provided by the
19 hard work of my family raising corn, tomatoes,
20 cantaloupes, watermelons, blackberries, and
21 other crops.

22 I have been involved in small

1 farming for most of my life. I spent
2 innumerable mornings and Saturdays selling
3 produce at the farmers' market.

4 I am here at the request of the
5 AAAP Animal Welfare Committee. My comments
6 are going to be regarding the welfare needs
7 associated with organic management of poultry
8 raised for food production.

9 General comments: a review of the
10 proposed welfare recommendations suggests many
11 of these recommendations are intended to
12 address behavioral concerns. This is
13 commendable. However, some of these changes
14 will have the unintended effect of impairing
15 physiologic needs that outweigh the potential
16 improvements in behavior.

17 We believe organic farmers want to
18 protect the physical health and welfare of
19 animals under their care. In looking at how
20 different housing systems protect the welfare
21 of animals, it is important to consider all
22 the factors contributing to the animals'

1 welfare.

2 The proposed recommendations
3 contain criteria that are not directly related
4 to organic requirements, if you will, and will
5 significantly negatively impact the welfare of
6 animals in these systems. The new rules, if
7 implemented, will make organic poultry farming
8 uneconomical and will also adversely affect
9 the health and welfare of chickens and
10 turkeys.

11 Specifically addressing 205.238,
12 Section (a)-(c), livestock healthcare practice
13 standards regarding beak trimming, there are
14 alternative methods for preventing flock
15 behavior issues such as persecution or
16 cannibalism, but many of these methods are not
17 yet available, such as genetic selection.
18 They may not be consistent with the intent of
19 organic farming, such as the use of synthetic
20 methionine treatment, or they may require a
21 high capital investment, such as specific
22 housing for low light intensity.

1 So, until alternatives are fully
2 available to farmers, beak trimming and other
3 procedures designed to prevent injuries must
4 be allowed.

5 The draft recommendations lump all
6 avian species into one category, and the
7 proposal to prohibit beak trimming and toe
8 trimming across all categories of poultry are
9 in error.

10 The Board should consider amending
11 the proposed rule to prohibit beak and toe
12 trimming in broilers intended for short
13 growing periods, less than eight weeks.
14 However, animals intended for longer-term
15 production, such as older broilers or roasters
16 that are greater than eight weeks old,
17 turkeys, breeding flocks, and egg production
18 flocks, beak trimming should be specifically
19 permitted to control feather pecking and
20 cannibalism.

21 Additionally, for male poultry
22 being raised for breeding purposes, trimming

1 the rear toe on each foot should be allowed to
2 prevent injury to the females during multiple
3 mating acts that are common in poultry.

4 Only trained personnel should
5 perform beak trimming, using proper equipment
6 and procedures that minimize pain, excessive
7 bleeding, promoting rapid healing, and prevent
8 infection.

9 On Section 205.239(a)(2)(i), space
10 requirements, lower flock density is not
11 always directly related to better welfare for
12 the flocks. In many regions, hen body heat is
13 important to keep the birds warm, to reduce
14 the amount of fossil fuel that is burned. If
15 farmers can't purchase this fossil fuel, this
16 will lead to higher mortality due to cases of
17 birds piling.

18 Required for outdoor access.
19 Raising poultry indoors has a proven track
20 record for better poultry health, not to
21 mention reducing the potential implications
22 for public health.

1 With almost certain increases in
2 disease incidence, with the associated
3 negative welfare impact in organic farms,
4 spillover of disease into large commercial
5 farms in the vicinity is likely. The AAAP is
6 particularly concerned about this proposed
7 change.

8 I will refer you to my written
9 comments for further information.

10 CHAIRPERSON MOYER: Thank you very
11 much, James.

12 Questions for James? Kevin?

13 MEMBER ENGELBERT: Do you know
14 from your studies how long beak trimming has
15 been used in the poultry industry?

16 DR. BARTON: Well, I can tell you
17 it has been used for my entire career in
18 laying hens and breeder hens. It has not been
19 used in broilers in commercial production for
20 a long period of time. The only discussion of
21 late that has made any mention of the need to
22 beak trim broiler chickens is because of the

1 resurgence of the heritage breeds. They are
2 much slower-growing. So they actually reach
3 maturity before they reach a marketable
4 weight.

5 CHAIRPERSON MOYER: Followup,
6 Kevin?

7 MEMBER ENGELBERT: So could you
8 make an educated case, then, on what caused
9 that practice to be developed? Obviously, it
10 started at some point in time, even though we
11 can't pinpoint when that was.

12 DR. BARTON: I can tell you that
13 cannibalism and persecution is the highest
14 cause of mortality in cage-free birds today,
15 even with beak trimming. So I am certain that
16 the reason that beaks began to be trimmed for
17 commercial birds was due to the intent of
18 reducing the implications of their attempt to
19 attain a pecking order.

20 MEMBER ENGELBERT: One more
21 quickly.

22 CHAIRPERSON MOYER: Go ahead,

1 Kevin.

2 MEMBER ENGELBERT: So the keyword
3 there for me was "commercial". What do you
4 mean by the commercial birds? That seems to
5 be the word that has triggered the use of the
6 debeaking practice.

7 DR. BARTON: People that are
8 raising poultry with the intent of selling
9 them to make money, or selling their eggs to
10 make money, that is commercial.

11 MEMBER ENGELBERT: At any scale?

12 DR. BARTON: At any scale. If
13 they invest money in the purchase of that bird
14 with the intent of selling it later, or
15 selling their eggs over a period of time, they
16 are intending to get a return on their
17 investment. Otherwise, it is a hobby. If it
18 is a hobby, then we can talk about all sorts
19 of requirements that really the economic level
20 has no importance.

21 CHAIRPERSON MOYER: Go ahead,
22 Kevin.

1 MEMBER ENGELBERT: I failed in my
2 argument, but I do want to make the point that
3 I do know people that are growing birds in my
4 area on a commercial scale that don't do any
5 trimming or debeaking whatsoever.

6 DR. BARTON: And that may be true,
7 and I can tell you that in Europe peak
8 trimming is uncommon or not done, but they
9 also use other things that mitigate it. For
10 example, in turkey production in Europe, they
11 use extremely low light conditions to keep the
12 birds from persecuting one another.

13 MEMBER ENGELBERT: Thank you.

14 CHAIRPERSON MOYER: Any other
15 questions for James? Rigo?

16 MEMBER DELGADO: Can we talk about
17 practices that could be combined to avoid
18 certain things like beak trimming? I am
19 asking specifically, say, a lower bird
20 population, access to outdoors? Would that
21 influence the level of attack among birds or
22 not? And if your question is affirmative or

1 negative, do we have any evidence pointing to
2 that fact?

3 DR. BARTON: I am not sure that we
4 have any real evidence. I know that in
5 situations where birds have access to the out
6 of doors, they have access to bright sunlight,
7 they tend to be a little bit more aggressive,
8 a little more violent. One of the methods to
9 keep birds from persecuting one another is to
10 keep them under low light conditions.

11 CHAIRPERSON MOYER: Okay. Thank
12 you very much, James.

13 DR. BARTON: Thank you.

14 CHAIRPERSON MOYER: We appreciate
15 it.

16 I'm sorry, there was one other
17 question? Rigo, please.

18 MEMBER DELGADO: Just to follow
19 up.

20 CHAIRPERSON MOYER: Sorry.

21 MEMBER DELGADO: Now explain to
22 me, how do you define the welfare in the

1 context of trying to control birds from
2 attacking each other or trying to keep low
3 levels of light? You are a certifier of
4 welfare, animal welfare.

5 DR. BARTON: Yes, sir.

6 MEMBER DELGADO: How do you define
7 that?

8 DR. BARTON: Welfare is difficult
9 to define, and it really does depend on who is
10 defining it. I define welfare based on the
11 bird's ability to exhibit most of their
12 natural tendencies and freedom from
13 preventable causes of distress. For example,
14 freedom from disease is just as important as
15 the ability to step outside and see the
16 sunshine, perhaps more important.

17 CHAIRPERSON MOYER: Okay. Thank
18 you very much, James.

19 DR. BARTON: Thank you for your
20 time.

21 CHAIRPERSON MOYER: We appreciate
22 your time.

1 The Board calls Mark McCay to the
2 podium and Frank Hurtig is on deck.

3 MR. McCAY: Back again, last time
4 as a representative for the Methionine Task
5 Force; this time specifically as a
6 representative for Coleman Natural Foods.

7 Coleman Natural is one of the
8 largest organic broiler producers in the
9 nation. We have organic operations both on
10 the East and the West Coast.

11 We fully support the NOSB's
12 objective of developing quantifiable animal
13 welfare standards as part of the NOP. We
14 would, however, propose that recommended
15 standards actually be modified in two
16 important ways.

17 The first is develop the standards
18 for measuring the outcome of the actions
19 proposed in terms of both the animal
20 husbandry, rather than focusing on the
21 structure and the engineering, focus on what
22 does that do to the welfare of the animal.

1 Combined with that, then pare back
2 the current recommended, what we would
3 consider to be, best practices to include a
4 smaller set of minimum standards for all
5 producers.

6 The minority opinion that was
7 attached to the recommendation suggested that
8 there are outcome-based metrics that can be
9 used to monitor the health and welfare of
10 livestock: cull rates, veterinary calls,
11 disease frequency. And we agree.

12 While the minority opinion seemed
13 targeted more towards dairy animals, we would
14 propose our own set of outcome-based metrics
15 for broiler operations. And I have some
16 examples.

17 On the farm, we can measure the
18 health of the flock through mortality or
19 livability rates. We can measure hardiness
20 and nutrition through lameness and gait
21 scores.

22 If transportation is involved from

1 a farming area to a processing plant, that is
2 part of the life cycle of the birds. We would
3 consider that to be a very important area for
4 the health and welfare of the animals to be
5 measured as well.

6 We can measure the DOA and the
7 trauma that is caused through that process
8 and, also, if the birds are at a processing
9 plant, through the USDA FSIS inspection
10 system. We can also measure health through
11 condemnation rates, also, at the processing
12 facility.

13 We could measure how well the
14 conditions of the housing, the bedding, the
15 ventilation, and litter management programs
16 were effective, through checking both the foot
17 and hocks for burns or other kinds of
18 conditions.

19 We believe there should be a
20 smaller list of minimum standards that
21 producers could be reasonably expected to
22 meet. To use examples from the final rule,

1 there's no use of antibiotics, 100 percent
2 organic feed, et cetera.

3 We believe that individual
4 producers may need to actually exceed these
5 minimums in order to meet the performance and
6 outcome results that we think should be
7 specified.

8 Since we are primarily a broiler
9 company, we will also make some specific
10 recommendations to a few areas.

11 The requirements for the birds to
12 be outside for one-third of their lives should
13 be preempted, we believe, by the current
14 exception of temporary confinement during
15 inclement weather. We actually believe that
16 inclement weather can be defined and should be
17 in the rules.

18 We don't believe that feeders
19 should be required in the outdoor areas
20 because we actually feel that this conflicts
21 with the objective of outdoor access to
22 encourage the birds to forage naturally in the

1 soil and the grass.

2 Producers should be required to
3 provide as much space outside the house as
4 inside the house. Using the current
5 recommendation for broilers, this would be 10
6 birds for every 12 square feet of space in the
7 open areas. And in addition to that,
8 producers -- and this was mentioned earlier as
9 well -- producers should be required to
10 provide easy access from the indoor area to
11 the outdoor space. We think that is very
12 important.

13 We appreciate the opportunity to
14 comment on these recommendations.

15 CHAIRPERSON MOYER: Thank you,
16 Mark.

17 Any questions for Mark?

18 (No response.)

19 Okay. Thank you for your time.

20 Frank Hurtig, the Board calls you
21 to the podium, and Ed Maltby on deck.

22 MR. HURTIG: Thank you very much.

1 As my slides come up here for you to review as
2 I am going through, I want to thank you, and
3 thank you for the opportunity to speak on
4 something besides poultry for a few minutes.

5 With that, the next slide, please.

6 I would like to bring to the
7 attention of the Board here for consideration
8 four points relative to eprinomectin and as
9 compared to moxidectin.

10 First, the environmental
11 footprint, the parasite spectrum, then
12 persistence in the animal, and human safety as
13 things to look at in consideration and
14 reconsideration of inclusion of eprinomectin
15 on the National List.

16 Next slide, please.

17 In looking through -- and my
18 apologies because I think the bottom of the
19 page is not showing up there for you -- but in
20 looking through the FOI and various other
21 publicly-available documents, as well as the
22 applications to this Committee, first off, I

1 would like to call attention to one of the
2 issues, which is the binding of these products
3 in the soil.

4 In fact, when one looks at the
5 literature, anytime the binding coefficient is
6 greater than 1,000, that indicates that these
7 products, these compounds, will not be readily
8 moved by water in the soil, but that does not
9 preclude their breakdown in the soil. And in
10 fact, when one looks at the aerobic breakdown
11 of these products, both of them break down in
12 64 or 63 days. Therefore, there is no
13 persistence of either one of these products in
14 the soil.

15 When one looks at, then, other
16 impacts, especially looking at manure and the
17 impact on degradation of manure, in fact, one
18 of the concerns that has been raised and is a
19 PR issue from some companies is dung beetles,
20 and especially looking at the larvae of those
21 particular organisms. When one looks at the
22 actual impact of dung beetles, even in areas

1 where they are very common, which happens to
2 be mainly the southern U.S., they do account
3 for probably no more than 10 percent, and
4 often quite a bit less than 10 percent, of the
5 actual degradation.

6 So, then, we go on down the list
7 here to look at some of these other organisms.
8 Earthworms, plants, soil microbes, and birds.
9 In fact, those, along with cattle themselves
10 actually trampling the manure, are probably
11 some of the bigger -- in fact, they are the
12 bigger -- impacts on degradation of manure.

13 So, when we look at both of these
14 compounds, in fact, the science would say that
15 there is absolutely no difference in the
16 impact of either of these compounds on
17 degradation of manure.

18 It is very well spelled out in all
19 the documents filed with the various
20 government organizations, FOIs, et cetera,
21 that both these compounds, when free, can be
22 toxic to aquatic species. However, the good

1 news is that neither of these compounds, once
2 they are put on an animal, will wash off the
3 animal, even when applying two inches of rain
4 per hour to them, to any greater than a
5 fraction of 1 percent. So, even if an animal
6 was standing in a watershed, there would still
7 be very little, and in fact, it does bind,
8 both of these compounds would bind to the
9 organic matter in the bottom of a watershed
10 and be tied up.

11 I would call the Board's attention
12 to the fact that, of course, neither of these
13 compounds are ivermectin, which has been, of
14 course, on the list and I know is being
15 reviewed for sunseting. But they should not,
16 either one, be considered as the same thing or
17 having even many of the similar
18 characteristics.

19 Finally, the last point, I would
20 call your attention, and it is certainly
21 publicly available, to a letter that Wyeth has
22 received relative to moxidectin and its

1 environmental impact.

2 Next slide, please.

3 Briefly, on the parasite spectra,
4 the main thing here is they are both
5 essentially the same. I call your attention
6 that both of them have a label indication for
7 control of horn flies, which is my next slide
8 then.

9 That is looking at persistent
10 effects. One of the things that I think this
11 particular slide brings out is how long each
12 of these drugs lasts in and on the animal.
13 That is very easily and quite readily
14 reflected in the number of days' control that
15 are on the label.

16 Going down through the list,
17 moxidectin is at least twice for everything
18 but horn flies. In fact, there is an effect
19 on horn flies, and that is in the FOI for that
20 product, out through seven days and beyond.
21 It just was simply not enough to get a label
22 point.

1 So, with that, I would move on to
2 the next slide.

3 One of the things that has been
4 readily noted in the standards is that there
5 is a withdrawal time for any of these products
6 used in a milking cow for 90 days. In fact,
7 perhaps it would be worth the Board's taking
8 a look at some of the pharmacokinetics of
9 these products.

10 This particular study by Lanuza,
11 et cetera, shows doramectin, ivermectin, and
12 moxidectin. As one can see, the study went
13 out to 80 days. At the end of 80 days, both
14 ivermectin and doramectin were below the limit
15 of detection; whereas, moxidectin was not.

16 The next slide, and actually,
17 please skip to the next one. Both of these
18 are the same. The first one shows the data.

19 This looks at the persistence of
20 moxidectin and eprinomectin in the milk. This
21 happens to be a water buffalo study, but it is
22 the only side-by-side study that is out there.

1 I wish I had one in dairy cows, but it doesn't
2 exist.

3 The main thing to look at here is
4 that tall bar, which is the area under the
5 curve. That is the amount of moxidectin that
6 is put out in the milk in the 20-day study,
7 and there were a number of animals in the
8 study where at 20 days moxidectin was still
9 seen.

10 The next slide, please.

11 This one looks at the human
12 safety.

13 In conclusion, the last slide, I
14 would say that, first, there is no significant
15 difference between these two products when it
16 comes to environmental footprint. We do have
17 a slightly different spectrum of parasites.
18 There is less persistence of eprinomectin in
19 animal and tissues as well as in milk for
20 eprinomectin versus moxidectin, and there is
21 a higher allowable ADI for eprinomectin.

22 Thank you.

1 CHAIRPERSON MOYER: Thank you.

2 Any questions from Board members

3 for Frank? Let me guess. Hue?

4 (Laughter.)

5 MEMBER KARREMAN: Thanks for that
6 presentation.

7 MR. HURTIG: You're welcome.

8 MEMBER KARREMAN: I am glad we got
9 to see that, the comparative things. I read
10 through the whole FOIA document for when
11 eprinomectin got approved, and wherever in
12 Pennsylvania, you know, at those labs there.

13 It is not so much that moxidectin
14 is better or worse than eprinomectin. There's
15 two issues involved with the avermectins, in
16 general, as a family. One is technically, but
17 we have been told that it doesn't matter at
18 this point, technically, there are macrocyclic
19 lactones that are antibiotics. That is on
20 paper.

21 But this Board has a certain stand
22 on antibiotics except for crops, I think.

1 (Laughter.)

2 Sorry, sorry, sorry.

3 (Laughter.)

4 But the other thing is this: the
5 intention when moxidectin was put on, and it
6 hasn't come through the process yet, to have
7 ivermectin come off, once moxidectin gets put
8 on.

9 Since that time, we have had
10 fenbendazole petitioned, and we have voted to
11 allow that to come on, with the intent of
12 moxidectin not being on and ivermectin not
13 being on, or any avermectin.

14 So it is not that -- eprinomectin
15 looks better on the comparison studies without
16 a doubt. It just that it falls into a certain
17 category of things that we don't want to be
18 expanding the list on.

19 It is a comment. I am sorry, it
20 is not a question.

21 CHAIRPERSON MOYER: Thank you,
22 Hue.

1 MR. HURTIG: And I appreciate
2 that. I guess it was my understanding that
3 the Board had answered the questions relative
4 to macrocyclic lactones and antibiotic,
5 quote/unquote, "status", and that that had
6 been resolved. So am I to understand that
7 that has not been resolved at this point?

8 MEMBER KARREMAN: The NOP has told
9 us last year or the year before that they will
10 be proceeding with rulemaking for moxidectin,
11 and that because it is only a technicality
12 with the macrocyclic lactone fact, that they
13 are going to proceed with the rulemaking.

14 But, since then, fenbendazole has
15 been petitioned, and we kind of all can live
16 with that better, at least we have as a Board.

17 CHAIRPERSON MOYER: Thank you.

18 MR. HURTIG: So perhaps I guess,
19 then, my petition would be, if there is a
20 possibility for reconsidering eprinomectin,
21 and if some of these other issues would weigh
22 more heavily to allow that, that it be given

1 consideration.

2 Thank you.

3 CHAIRPERSON MOYER: Thank you,

4 Frank.

5 Ed Maltby to the podium, and Robin

6 Allan on deck.

7 MR. MALTBY: Good afternoon. It

8 is so wonderful to come up here when you are

9 talking about chickens and not milk all the

10 time. I come here as a minority interest,

11 which is great.

12 I want to thank those Board

13 members that are leaving. It has been great

14 to work with you. I have worked a lot more

15 with one in particular, but I will continue to

16 do that.

17 Access to pasture, FOOD Farmers

18 has a request to the NOSB that they recommend

19 to NOP that that rule be effective one day

20 after publication in The Federal Register.

21 We are very encouraged that the

22 NOP is planning to do educational sessions for

1 certifiers and inspectors, but we believe that
2 after eight-ten years, then it should become
3 effective the day after publication. That,
4 obviously, allows time for all the
5 implementation, but it is effective
6 immediately.

7 Animal welfare, just to bring it
8 home, I got a call this morning from AP press
9 wanting to know my comments on the organic
10 slaughterhouse that was closed down in Vermont
11 for animal cruelty. They quoted a person in
12 Vermont that had said that the NOSB is meeting
13 this week in D.C. to sort out animal welfare
14 for organic livestock. Not to put any
15 pressure on you guys.

16 In our comments which we didn't
17 have time to get to you ahead of time, but we
18 put in writing, we basically ask for the
19 return to a discussion on a lot of these
20 issues. The pasture rule is not yet out.
21 Some of them will be covered by that.

22 Realities of organic production,

1 many different production systems, and the
2 emotional tie that organic dairy farmers have
3 with their livestock. We have had our regular
4 annual meetings across the country. I raised
5 the issue of animal welfare, and after they
6 bombarded me with not quite abuse, but "Why
7 should we question what they are already
8 doing?", and I know the answer to that, but it
9 is still something that we have to bear in
10 mind, that we should be positive about what
11 organic agriculture does currently for animal
12 welfare, and not be on the defensive.

13 Within the existing regulations, a
14 lot of the issues are covered. What we need
15 to do is to look and see how they can be
16 applied.

17 Altering livestock for cutting off
18 tails is already covered and has been the
19 subject of prosecution in the past, or so I
20 have been told, reliably, by somebody who
21 knows the regulations far better than I do.

22 So where we can find in the

1 existing regulations that can be enforced, we
2 have a big gap in educating certifiers and
3 inspectors. If you look at what Whole Foods
4 does with their animal welfare, it is a two-
5 or three-day visit to a farm annually with
6 highly-qualified inspectors that are trained
7 in animal welfare and go down through a
8 checklist. So we are not talking about
9 something that can be easily taught.

10 Also, to proceed with caution.

11 When we had the solution to the Harvey
12 lawsuit, it was a quick fix, and we are now
13 suffering dramatically in the organic dairy.

14 To quickly move on to GMO
15 vaccines, it is a quandary. We need vaccines.
16 Vaccines is the basis of organic livestock.
17 Some certifiers say yes; some certifiers say
18 no.

19 We would suggest that you put a
20 moratorium on doing anything. Maintain the
21 status quo while you do investigation, so
22 neither the producers who are currently using

1 those vaccines will suffer or we don't get a
2 headline in the newspapers that NOSB approves
3 GMO, which does happen at times, from the
4 point of view of taking one small part of a
5 meeting and blowing it out of proportion.

6 I can stop and answer any
7 questions.

8 CHAIRPERSON MOYER: Thank you.
9 Thank you. The Board certainly always
10 appreciates brevity of comment.

11 (Laughter.)

12 But well presented.

13 Any questions from the Board for
14 Ed regarding the comments he made?

15 (No response.)

16 Hearing none --

17 MR. MALTBY: Thank you.

18 CHAIRPERSON MOYER: -- we
19 appreciate your time very much. Thank you
20 very much.

21 Now the Board would like to call
22 Robin Allan to the podium.

1 And you have a proxy?

2 MS. ALLAN: I do have a proxy for
3 Jake Lewin. I am going to try really hard not
4 to use it.

5 CHAIRPERSON MOYER: We certainly
6 appreciate that.

7 You can set your time, yet.

8 And Robert Yang will be on deck.

9 MS. ALLAN: All right. Good
10 afternoon.

11 My name is Robin Allan. I am here
12 representing CCOF. I am the Director of
13 Grower and Livestock Certification.

14 We are a nonprofit, accredited
15 certification agency located in Santa Cruz,
16 California. We currently certify about 122
17 livestock operations, representing over 50,000
18 organic ruminants and close to a million
19 organic poultry.

20 Let me begin with my sincere
21 thanks to Dan, Kevin, and Hue, the Livestock
22 Committee members, for your obvious hard work

1 in these recommendations.

2 To start with the easy stuff --
3 I'm sorry, and Rigo and Jennifer. Seven of
4 you? Okay. It is the three of you I hear
5 asking all the questions. I thank you all for
6 all of your work.

7 CHAIRPERSON MOYER: There you go.

8 MS. ALLAN: All right. So, for
9 the easy stuff, we fully support your
10 Committee recommendation on zylazine,
11 chlorhexidine, eprinomectin, and vaccines.

12 All right. So, regarding the
13 recommendation on excipients, we do support
14 the recommendation as written. However, we do
15 think that additional guidance is still needed
16 to clarify how we should be applying this
17 section of the rule as certifiers.

18 It is unclear to us, and I think
19 to other certifiers also, whether an excipient
20 is allowed if it is included in the new animal
21 drug application or new drug application for
22 any branded product or only for the product

1 for which it is being reviewed.

2 Additionally, it is unclear
3 whether FDA approval as an indirect food
4 additive is adequate for approval. We would
5 appreciate written guidance on this from the
6 NOSB or the NOP on this subject.

7 From the recent NOSB comments on
8 excipients in these recommendations, it
9 appears as though the Committee is taking the
10 approach of recommending allowance of any
11 excipient currently used in animal healthcare
12 products. While this approach will ensure
13 there's a wide variety of healthcare products
14 that are approved for use, it does appear to
15 inhibit the development of a market for
16 products specific to organic livestock
17 production.

18 Organic crop producers have had to
19 seek out formulations of allowed pesticide
20 products, such as dust and sulfur, which do
21 not contain prohibited synthetic inert
22 ingredients. We are concerned that the

1 approach of allowing all excipients in
2 livestock products may be harmful to the
3 organic industry in the long run.

4 Additionally, while there may not
5 be other attractive options at this time, we
6 caution against the reliance of basing NOP
7 approval on listing by other government
8 agencies such as FDA or APHIS. As we have
9 seen with the EPA who has an inert conundrum
10 regarding pesticides, reliance on outside
11 agencies can lead to unforeseen difficulties
12 down the road.

13 Now addressing the animal welfare
14 recommendation, we strongly recommend that the
15 Committee does not present this document to
16 the entire NOSB for a vote this week. We
17 request that it be treated as a discussion
18 document and not as a final recommendation.

19 As this new animal welfare
20 recommendation is radically different than the
21 discussion document presented at the May 2009
22 meeting and has wide-reaching effects on the

1 organic industry, the stakeholders, including
2 producers, consumers, and certifiers, need
3 more time to adequately review the
4 recommendation in full.

5 I hope that you have had, or will
6 have, a chance to read my full written
7 comments. These proposed recommendations
8 contain language in much greater depth and
9 breadth than the previous documents, and our
10 written comments contain many details which I
11 will not have time to discuss here. I will
12 touch on only a few major points.

13 First, we strongly support the
14 inclusion of numeric measures in the rule in
15 areas that have clear, quantifiable
16 measurements, such as square feet per animal,
17 specific stocking rates, or minimum age for
18 outdoor access. Clear thresholds for
19 compliance can allow certification to be
20 granted in a more consistent and equitable
21 fashion. We cannot and have not supported
22 numeric measures that are based on estimates,

1 such as dry matter intake from grazing or
2 impose a massive documentation burden on the
3 producer.

4 We believe that the vast majority
5 of certified organic livestock producers
6 utilize management practices which protect and
7 promote animal welfare, and that we should not
8 require additional paperwork burdens on
9 producers unless there is a clear need and
10 obvious benefit.

11 We appreciate the desire to align
12 the NOP requirements with the new Canadian and
13 EU standards. However, we are not convinced
14 that shoehorning the new Canadian specific
15 requirements into the existing NOP regulations
16 is the best approach.

17 Other organizations have developed
18 humane certification standards outside of
19 organic, and it may make more sense to refer
20 to the requirements of these humane standards
21 rather than the Canadian's or European organic
22 laws.

1 While much fuss about the
2 specificity of the EU and Canadian
3 prescriptive metrics has been made, it should
4 also be noted that the Canadian requirements
5 are still in an implementation period and are
6 untested in the real world, while in the EU,
7 member states have the authority to grant
8 exceptions to the requirements based on
9 regional issues.

10 We must be careful to temper our
11 desire for measurable limits with the
12 continued flexibility that can be equally
13 applied to livestock producers worldwide.

14 We are also concerned that the
15 proposed recommendation might contain language
16 which would conflict with or overlap with the
17 forthcoming pasture regulation, such as
18 specific stocking rates or densities. We
19 strongly recommend that the Livestock
20 Committee ensure that any final recommendation
21 be harmonized with the upcoming pasture
22 regulation.

1 In our evaluation of which
2 practices to require and what practices to
3 prohibit, we must understand that there may be
4 some tradeoffs between requirements and
5 consequences for animal welfare. Requiring
6 pasture for poultry may lead to increased
7 mortality from disease and predators.
8 Allowing poultry to express its natural
9 behavior of the pecking order while
10 prohibiting beak trimming may lead to
11 increased mortality from cannibalism.
12 Requiring physical alterations to be performed
13 at the youngest age possible may not be in the
14 animal's best interest.

15 We recommend that the community be
16 granted additional time to come to some
17 relative agreement about how to handle these
18 tradeoffs, many of which were clearly
19 explained in the AVMA's public comments on
20 this topic.

21 Last, but certainly not least, the
22 current proposed regulation contains language

1 which appears to require pasture for poultry.
2 This is an entirely new requirement which
3 would have serious, if not catastrophic,
4 effects on currently certified organic poultry
5 producers, due to infrastructure investments
6 and limitations, as you have heard from a
7 number of people here earlier.

8 We firmly support poultry
9 producers who provide pasture conditions to
10 their birds. However, we do not believe it
11 should be required.

12 There are a number of other
13 sections in the proposed recommendation which
14 need to be hashed out among the stakeholders,
15 such as whether bedding must be organic if it
16 is not consumed by animals, what constitutes
17 forced molting, and whether it is necessary to
18 disinfect animal housing in which there has
19 been no disease outbreak, just to name a few.

20 The current document is also
21 missing requirements for animal welfare during
22 transport and slaughter.

1 Again, we respectfully request
2 additional time for the community to discuss
3 this document and review both the overall
4 approach and the details.

5 Thanks very much for the
6 opportunity to present these comments.

7 CHAIRPERSON MOYER: Thank you,
8 Robin.

9 Questions from the Board for
10 Robin? Hue and then Kevin.

11 MEMBER KARREMAN: Hi, Robin.
12 Okay, a couple of questions.

13 On the specific numbers we have
14 proposed for whatever in the animal welfare
15 section, the reason we did that is, talking to
16 inspectors on a conference call, it is a lot
17 easier for inspectors to say, okay, there's
18 100 animals in this square feet. How many
19 square feet is that per animal? That is why
20 we did that, for ease of inspection. Okay?
21 That's why.

22 MS. ALLAN: And we would agree, we

1 do support the inclusion of specific metrics
2 for something that is measurable like that.

3 MEMBER KARREMAN: Okay.

4 MS. ALLAN: I don't have a comment
5 right now about the actual metrics you
6 proposed.

7 MEMBER KARREMAN: Right, right.

8 MS. ALLAN: I think for the number
9 of different measurements that were included,
10 we would need additional time to really see
11 whether or not those are appropriate.

12 MEMBER KARREMAN: And one of the
13 third-party animal welfare groups -- I won't
14 name it -- but, anyway, on a page, says that
15 their hens, "do not require that hens have
16 access to range, but when range is
17 provided..." and it goes into all this.

18 So, you know, I am a little bit
19 hesitant now. I was kind of leaning toward
20 like having third-party animal welfare
21 certified on top of organic. But, you know,
22 this first sentence says they don't have to be

1 out on the range, and that's not good, I don't
2 think.

3 MS. ALLAN: Well, we do see a big
4 difference between outdoor access and what
5 might be considered rangeland or pasture. For
6 the most part, at the densities at which
7 poultry are outside, they pretty much will
8 destroy any vegetation very quickly. So the
9 type of outdoor land in which they are doing
10 their dust bathing would not be considered
11 rangeland or pasture.

12 MEMBER KARREMAN: And one on the
13 excipients, if I may?

14 CHAIRPERSON MOYER: Certainly, the
15 Board will indulge that.

16 MEMBER KARREMAN: Yes, the
17 excipients, just a brand-new topic for the
18 day.

19 (Laughter.)

20 What do you think about allowing,
21 let's say, excipients that are approved in an
22 NADA or NDA, or whatever, to be also, okay,

1 well, if they are an excipient in that
2 formulation and it has been approved, can it
3 be also, then, an excipient? What do you
4 think about that, I guess as a certifier?

5 MS. ALLAN: I think what we have
6 seen is that the intent of the allowance is to
7 allow as many excipients as possible. And we
8 have, therefore, taken the approach of, if it
9 is allowed in any, in an NADA or NDA, we will
10 allow it in a product, whether or not it is
11 specific to that product. That is based on
12 the ability to also search by things that are
13 approved in any NADA or NDA.

14 CHAIRPERSON MOYER: Thank you.

15 The Chair recognizes Kevin.

16 MEMBER ENGELBERT: Three things,
17 Robin, and, first, thank you.

18 Do you think that organic poultry
19 should be required to have outdoor access?

20 MS. ALLAN: Yes.

21 MEMBER ENGELBERT: You say no to
22 pasture.

1 MS. ALLAN: Yes.

2 MEMBER ENGELBERT: And can you
3 give a specific matrix, not right now, but
4 along those lines? Even though we are not
5 talking about pasture and the document still
6 has to come out, pasture intake is a
7 measurable parameter because all farmers
8 measure what they feed to their cows. Simply
9 by subtracting that out, you can come up with
10 the amount of feed that is being delivered or
11 gathered by the animal in pasture.

12 Three, are there any other,
13 quickly, radical changes in this proposal that
14 you didn't have time to touch on?

15 MS. ALLAN: Hopefully, I did list
16 quite a number, I think maybe 15 or 20 in my
17 written comments, off the top of my head,
18 going backwards in answering your question.

19 Specifically, I think we would
20 support limited amounts of beak trimming and
21 detoeing, as previously noted, for when it
22 does promote animal safety and welfare.

1 Going back to your second
2 question, we have, very at length and quite
3 publicly, discussed this issue of measuring
4 DMI with Rigo and Dan during the pasture
5 regulation. So I would be happy to discuss
6 more with you, but I respectfully disagree
7 with your assessment of the ability to measure
8 DMI accurately without making estimates.

9 And No. 1, going back -- sorry --
10 I don't at this time have any specific
11 requirements that I would ask to be included
12 as far as space. But I think that, as a
13 community, we could come up with one
14 relatively easily and painlessly, and possibly
15 based on what I would think the various humane
16 standards require right now.

17 CHAIRPERSON MOYER: Okay. Any
18 other questions from the Board for Robin?

19 (No response.)

20 Thank you, Robin. We appreciate
21 your time.

22 Robert Yang, to the podium, if you

1 would, and Lisa Bunin on deck.

2 MR. YANG: Good afternoon.

3 My name is Robert Yang. I work
4 with the Pennsylvania Certified Organic.

5 PCO, as a USDA-accredited organic
6 certification agency, currently certifies
7 about 520 operations; 265 of them are dairy
8 producers, and 100 of them are poultry
9 operations.

10 And as many others have commented
11 here at the podium, we also acknowledge that
12 animal welfare is currently a topic of great
13 concern for both the producer and consumers,
14 and we are also very thankful for all the hard
15 work that the Livestock Committee has put into
16 putting this proposal together. So we
17 definitely welcome the Livestock Committee's
18 proposal for improving such provisions in the
19 NOP regulations.

20 However, for this past 30-day
21 comment period, we have personally experienced
22 that it has just been only a limited

1 opportunity that we have been able to consult
2 with our own membership, our own producers, on
3 these requirements that may, in the end, cause
4 a major change in their current practices.

5 So our recommendation is to be
6 able to provide a full opportunity for public
7 consideration. We respectfully request that
8 this document be considered for discussion and
9 not voting at this meeting. So that is our
10 main recommendation.

11 We have submitted our comments in
12 writing to the Committee. I think I would
13 just take a few minutes here to touch upon a
14 few points that we have commented on.

15 I know there has already been a
16 lot of discussion. A lot of producers came
17 out here, and they have already, actually,
18 expressed their views. So I am going to make
19 it as brief as possible.

20 Regarding livestock living
21 conditions, an operator of an organic poultry
22 operation shall establish and retain perches

1 of usable height, length, and diameter
2 appropriate for the species, shall be
3 provided.

4 Our producers express that the
5 language is just too vague. Perches should be
6 required for layer hens, but what if they are
7 in pasture based on mobile housing? What
8 would be required then? And in some cases,
9 perches are not usually needed for the
10 broilers or the turkeys.

11 So we, in our view, support the
12 humane farm animal care requirements, which is
13 six inches per hen with space available for 55
14 percent of the flock when in multi-story
15 buildings.

16 Another comment that we had was
17 for poultry reared in houses shall have
18 complete access to pasture, open-air runs, and
19 water, other exercise areas, subject to the
20 species, on and on. Our comment is that the
21 requirement for pasture for poultry represents
22 definitely a major change in current organic

1 production practices. We really feel that
2 this needs much more discussion and
3 consideration.

4 Some points that may need to be
5 considered is whether open-air runs are
6 sufficient or organic poultry should have
7 access to vegetation that supplies some
8 nutrient needs.

9 And we would also like to point
10 out that it is not clear in the language
11 whether confinement for inclement weather will
12 be accepted for broilers who are slaughtered
13 at seven to ten weeks, especially if they are
14 raised in the winter months.

15 One other thing is the physical
16 alterations in 205.238(a)(6). I know there
17 has already been a lot of discussion on that.

18 We found out that our certified
19 poultry producers, they do practice limited
20 beak trimming. They have expressed that they
21 believe it is a necessary practice to prevent
22 bird injury.

1 Many of these producers, they are
2 already certified by the Humane Farm Animal
3 Care, HFAC, which does, actually, currently
4 permit tipping of the beak at less than 10
5 days. Current PCO policy is actually to allow
6 beak trimming up to 10 days.

7 So we currently support, also, the
8 Accredited Certified Association language
9 which states that minimal beak trimming is
10 allowed for protection of the flock and must
11 be done in a manner that minimizes pain and
12 stress, no later than 10 days. Debeaking,
13 severe beak trimming is prohibited.

14 In closing, I would just like to
15 add that PCO does support the comments filed
16 by the Accredited Certifiers Association. We
17 have actively participated in a working group
18 that developed the guidance document on
19 poultry production.

20 We also request that the NOSB
21 consider whether some components of the animal
22 welfare recommendation might be better suited

1 as guidance documents and organized according
2 to the animal species. The reason being is,
3 since all of the producers are familiar that
4 the NOP regulations do allow some degree of
5 flexibility in achieving compliance, it would
6 give them more of a guidance to be able to
7 come into compliance.

8 So that is our final proposal.

9 The only last concern that we have is that
10 maybe these proposed changes may overlap or
11 conflict with the final regulation change on
12 pasture requirements. So perhaps these
13 changes should be tabled until publication of
14 the pasture rule.

15 Thank you.

16 CHAIRPERSON MOYER: Thank you,
17 Robert.

18 Questions from the Board for
19 Robert?

20 (No response.)

21 Seeing none, we appreciate your
22 time. Thank you very much.

1 MR. YANG: Thank you.

2 CHAIRPERSON MOYER: The Board
3 would like to call Lisa Bunin to the podium,
4 and Emily Brown-Rosen on deck.

5 MS. BUNIN: Good afternoon.

6 My name is Lisa Bunin. I am the
7 Organic Policy Coordinator for the Center for
8 Food Safety.

9 CFS is a nonprofit membership
10 organization that works to protect human
11 health and the environment by curbing the
12 proliferation of harmful food production
13 technologies and by promoting organic and
14 other forms of sustainable agriculture.

15 My remarks today will address
16 animal welfare, GMO vaccines, and
17 nanotechnology. Later, my colleague, Jaydee
18 Hanson, will provide more detailed comments on
19 nanotechnology and be available to answer
20 technical questions.

21 The humane treatment of animals is
22 an important issue for CFS and its members,

1 and so is the urgent need to promulgate
2 explicit guidance and standards for organic
3 livestock and poultry management.

4 Consumer awareness about the
5 ethical treatment of animals in food
6 production is at an all-time high, due in
7 large part to the Humane Society's
8 documentation of the despicable animal-
9 handling practices on a large CAFO and similar
10 footage shown in the movie "Food, Inc."

11 State battles over the labeling of
12 milk from cows injected with rBGH to produce
13 more milk in less time also has contributed to
14 this national concern.

15 The time is right for the NOSB to
16 set the bar high for animal welfare practices
17 in organic and for organic farmers to
18 capitalize on this aspect of organic as a
19 competitive advantage over conventional
20 livestock operations.

21 An important issue for CFS is that
22 organic milking cycles protect the comfort of

1 animals and that they do not disrupt their
2 natural patterns, which includes access to
3 pasture. Evidence from case studies in Europe
4 and New Zealand demonstrates that two milkings
5 per day not only protect the welfare of
6 lactating animals, but they also are
7 sufficient for producers to obtain acceptable
8 milk yields to remain economically viable.

9 In terms of livestock stocking
10 rates, we urge the NOSB to include in its
11 definition a measurement of the long-term
12 carrying capacity of pasture based upon
13 available nutrients, climate, and potential
14 ecosystem impacts. When determining a
15 stocking rate for a given producer, the
16 biodiversity impacts associated with pasturing
17 should be evaluated in accordance with the NOP
18 biodiversity conservation guidance document.

19 We further urge the NOSB to
20 formally recognize the many ecosystem services
21 and benefits that good pasture management
22 affords, including carbon sequestration,

1 protection from manure runoff, pollution of
2 waterways, soil erosion, and the maintenance
3 of native grasses and species' habitats.

4 CFS supports the Livestock
5 Committee's recommendation for including clear
6 and specific language detailing the types of
7 animal alterations that are prohibited and
8 allowed by the NOP. It sends a strong message
9 to organic consumers and the livestock
10 industry as a whole that egregious animal
11 welfare practices will not be tolerated in
12 organic production.

13 CFS supports the Committee's
14 recommendation to ban confinement of laying
15 hens in cages. We also recommend the adoption
16 of nesting, perching, and litter requirements
17 for laying hens to allow them to exhibit their
18 natural behavior. We support complete access
19 to pasture, open-air runs, and continuous
20 access to clean water.

21 CFS opposes the Committee's
22 inadequate proposed calf housing standard that

1 would allow six months of calf isolation after
2 birth. Scientific research demonstrates that
3 calves benefit from environments corresponding
4 to their needs as a herd-living species, and
5 the proposed standard severely and
6 unnecessarily limits their natural activity.

7 We, instead, support the EU's
8 existing eight-week standard of allowable calf
9 isolation as an exemplary welfare practice
10 which allows for consistency with EU
11 regulations, an important consideration for
12 organic food exporters.

13 CFS does not support the Livestock
14 Committee's recommendation on GMO vaccines,
15 and we urge the NOSB, instead, to follow the
16 required procedures detailed in the final NOP
17 rule for conducting a TAP review of GMO
18 vaccines.

19 CFS supports the National Organic
20 Coalition and others in their call for the
21 Board to critically evaluate GMO vaccines and
22 organic production, and urge the Board to

1 address the seven health and environmental
2 criteria required by OFPA to be used as a
3 basis for determining whether to allow GMO
4 vaccines in organics.

5 CFS believes that the public has
6 the right to review, evaluate, and comment on
7 scientific data used to allow GMO vaccines in
8 organic livestock production. We urge the
9 NOSB to make the TAP review a priority.

10 CFS supports the Materials
11 Committee's recommendation that nanotechnology
12 is prohibited as an excluded method in organic
13 production. We urge the Board to formally
14 acknowledge the many potential health,
15 environmental, and broad social risks of
16 nanotechnology presented in CFS's written
17 comments, and they will be discussed by Jaydee
18 later today.

19 CFS strongly opposes the Materials
20 Committee minority opinion and urges that it
21 is excluded from the final Board
22 recommendation. Prohibiting nanotechnology is

1 the only way to protect organic integrity now
2 and in the future, and it is not expected by
3 organic consumers in their products.

4 Thank you.

5 CHAIRPERSON MOYER: Thank you,
6 Lisa.

7 Questions from the Board? The
8 Board recognizes Dan.

9 VICE CHAIRPERSON GIACOMINI: Thank
10 you, Lisa.

11 Under your section on milkings per
12 day, could you get us copies of those case
13 studies?

14 MS. BUNIN: I absolutely can.

15 VICE CHAIRPERSON GIACOMINI: Could
16 you please get those to Valerie when you have
17 a chance?

18 MS. BUNIN: Sure. They are also
19 referenced in our detailed comments.

20 VICE CHAIRPERSON GIACOMINI: Are
21 they specified as --

22 MS. BUNIN: They are not attached,

1 though.

2 VICE CHAIRPERSON GIACOMINI: They
3 are not attached? Is there at least a link?

4 MS. BUNIN: I think so, but I will
5 check on it for you.

6 VICE CHAIRPERSON GIACOMINI: Okay.
7 If you can't get the actual study, at the very
8 least, a reliable link. Thanks.

9 MS. BUNIN: Absolutely.

10 CHAIRPERSON MOYER: Okay.

11 Katrina?

12 MEMBER HEINZE: On your comments
13 on nanotech, the minority opinion would have
14 the same effect of not allowing nanotech to be
15 used today, but would allow flexibility in the
16 future, should we learn more, as the science
17 develops.

18 So I guess I am wondering, since
19 the effect is the same, why the strong
20 opposition?

21 MS. BUNIN: I think I am going to
22 leave that to my colleague, Jaydee Hanson,

1 when he comes in and gives his remarks on
2 nanotechnology.

3 MEMBER HEINZE: Okay.

4 CHAIRPERSON MOYER: Thank you,
5 Lisa.

6 MS. BUNIN: Thank you.

7 CHAIRPERSON MOYER: We appreciate
8 your time.

9 Emily Brown-Rosen, the Board will
10 entertain you at the podium, and Dave Decou on
11 deck.

12 MS. BROWN-ROSEN: Good afternoon.

13 Thank you, and I just want to say
14 I am from Pennsylvania Certified Organic. We
15 thank you for the diligent, extensive work at
16 this meeting. You guys have been really busy.
17 It has been a lot of work to keep up and read
18 it all, but it is great progress. So I am
19 really grateful that you put the time into it.
20 I know it is a lot of work.

21 We have submitted our comments in
22 writing. I am going to focus on materials

1 issues and just highlight a few things, a
2 couple of new things that came up since I had
3 more chance to read things. So I will just
4 try to hit the highlights. Feel free to ask
5 any questions.

6 Also, I don't want to be remiss in
7 welcoming Miles to his job. It is wonderful
8 to have an experienced materials guy here, and
9 we look forward to working with him and all of
10 you in the future, except for those of you who
11 have to leave and I am sure you will still be
12 around to give your advice.

13 No. 1, list of inerts, I am glad
14 you put this out there for our discussion. It
15 is a really important issue. It has been
16 really hard to figure out where to go with
17 this, but at least we are talking or getting
18 more ideas, because we have kind of forced the
19 discussion here.

20 We share OMRI's concern. They
21 have identified a minimum of 250 inert
22 ingredients that are in pesticide products

1 that they review. In addition to OMRI review,
2 there's EPA review, there's WSDA review,
3 there's PCO review.

4 There's a lot of products out
5 there; we don't know exactly how many there
6 are or how many would bother to petition and
7 come forward, but we do agree with the concept
8 that they need to be looked at. We need a new
9 system. We are not sure what is the best
10 option.

11 I don't think necessarily putting
12 them all on the National List is going to be
13 a great idea. Then you have to sunset review
14 them every five years also, and it is just a
15 huge amount of technical work.

16 One point I would like to make is
17 I have just been made aware by Jay Feldman,
18 your next incoming Board member, that there
19 are major changes underway at EPA. They have
20 just issued a notice. They are planning to
21 require all inerts in pesticides to be
22 disclosed on labels.

1 So this is an amazing thing. We
2 have been trying to get this done for like 20
3 years. You know this, Joe.

4 So this is a result of lawsuits
5 that NCAP and a couple of environmental groups
6 filed years ago, but with our new
7 Administration, they are just suddenly going
8 to change. So it will take some time, and I
9 am sure there will be opposition, but if it
10 happens, it will make a big difference. We
11 won't have the secrecy thing. We will be able
12 to look at these things, consumers will be
13 able to look at them, and that will have an
14 impact, I think, on what people want to spray
15 on their crops, once they know.

16 But, as far as options, I am
17 encouraging further consultation with EPA. We
18 had one of the EPA egg people who was here
19 earlier who had to leave, but he will be here
20 tomorrow to answer questions.

21 I think they are going to be more
22 open to collaborating, and if there is any way

1 we can possibly work out some kind of sharing
2 deal where they do reviews of inerts, but we
3 get an agreement that they can review for
4 organic products, improve the organic
5 production label that they currently -- I mean
6 they currently have a program for organic
7 production or gardening on labels, meeting the
8 NOP requirements.

9 And frankly, they are not doing
10 the best job right now with that program, but
11 I think there's new interest in there.
12 Hopefully, we can get them to improve that
13 program and maybe take on some of this inerts
14 review to the OFPA criteria and have a whole
15 sort of banner, green chemistry kind of label.
16 So that is the ideal goal. I don't know if we
17 can get there.

18 But we need to have those kinds of
19 discussions. That would be a way to work
20 collaboratively with the other agencies and
21 maybe not burden you with this technical
22 review of inerts.

1 So we will hear more about that
2 tomorrow, and I have some sort of imaginary
3 ideas about how you could rewrite the rules,
4 but I don't think we are there yet. I just
5 put it in because I know you like language.

6 Other items: peracetic acid, I am
7 a little concerned about the annotation. Part
8 of the problem is that the petition, the links
9 are broken. I know we have problems with the
10 website, and we are really looking forward to
11 that getting fixed because it made it really
12 hard to review some of these materials before
13 this meeting.

14 I don't really understand the
15 annotation of 5 percent. I read the
16 petitioner's comments, and I think you
17 probably want to listen to what he says
18 because some of their products are
19 concentrates. Okay? They are 12 percent, but
20 when you dilute them on the farm, they are
21 less than 20 parts per million.

22 You have to clarify what you are

1 after here. Are you looking at actual
2 application rate, which is kind of hard for us
3 certifiers to -- oh, one minute left. All
4 right.

5 Anyway, skipping on, vaccines. We
6 appreciate that you have provided some
7 information, but we remain very concerned
8 there's no TAP review. We think this is a
9 big-deal issue. I don't take a position one
10 side or another. Maybe you should approve all
11 vaccines irregardless of their GMO or not. I
12 mean I think that could be argued, but I just
13 don't feel like we have the evidence in front
14 of us to support it and justify it to the
15 larger community at this point.

16 I understand you have been doing
17 more research and review, and it is just not
18 there for us to see. So I would like you to
19 delay or rephrase this, so that we get a TAP
20 review or more information to justify it. I
21 think we are going to run into a lot of
22 trouble with the consumers on this until we do

1 the required TAP reviews to the OFPA criteria.

2 I think it is a big issue.

3 Well, okay, there's a few more
4 things I would like to say, but I guess I ran
5 out of time.

6 So any questions?

7 CHAIRPERSON MOYER: Thank you,
8 Emily.

9 Any questions from Board members
10 for Emily? Hue?

11 MEMBER KARREMAN: Emily, vaccines.
12 What would you think if we were to say
13 something to the effect that non-GE vaccines
14 need to be used if they are available?

15 MS. BROWN-ROSEN: That would
16 probably be a reasonable thing if we are
17 trying to promote non-GMO vaccines, yes. Yes.

18 MEMBER KARREMAN: Because that is
19 maybe where we go with this because there are
20 some vaccines -- I mean I've got the whole
21 list -- where the only vaccine for that
22 particular problem is a genetically-engineered

1 vaccine. You know, we are trying to be good
2 to the animals and not tie the farmers too
3 tight with their hands both behind their
4 backs. They already can't use the
5 antibiotics.

6 So that seems to be reasonable?

7 MS. BROWN-ROSEN: Well, I think
8 that is a reasonable way to go about it, but
9 I still feel like we need to be able to
10 justify this to the consumers. I am concerned
11 that we haven't -- I don't know, maybe what
12 downsides there are to GE vaccines. I feel
13 like the report that you posted was very
14 interesting. It stresses all the benefits
15 and, of course, we are struggling with
16 fighting disease, which is really important.

17 But when you have a TAP review,
18 you look at what are the risks? What are the
19 risks to the environment? What are the risks
20 to the animals, to the humans, to health?

21 I just haven't seen that anywhere.
22 Maybe it wouldn't take much to provide that

1 information, but I don't feel like we -- you
2 know, when we are down the road and we have to
3 justify GMO vaccines to consumers
4 particularly, and we say, well, just look at
5 this very well-written TAP review that tells
6 you why and the lack of alternatives; plus, we
7 are requiring non-GMO whenever possible, and
8 we are trying to protect the health of the
9 animals and prevent epidemics. But then you
10 have something to say to people.

11 And I also would just like to say
12 that we have only identified two so far that
13 have come across our desk, and we are not
14 penalizing growers for them now because this
15 is sort of a whole new development and
16 everything is so up in the air.

17 So I don't think taking the time
18 to do a review, and I think most of the
19 certifiers are allowing them at this point
20 because they are just not aware -- it is very
21 hard to find out exactly -- from our end, we
22 don't have guidance on identifying them,

1 either.

2 So, if we could step back and make
3 the policy and make it real deliberative, I
4 don't think it would be harmful to the
5 producers.

6 CHAIRPERSON MOYER: Kevin, the
7 Chair recognizes Kevin.

8 MEMBER ENGELBERT: I would just
9 like to play devil's advocate, Emily, and
10 trying to look at all sides of the issue, and
11 two quick points.

12 One, farmers don't always have the
13 time with an outbreak to wait a week, a month,
14 a year for any type of decision like that.
15 And, two, we all understand the public
16 relations nightmare. Like someone said
17 earlier, "NOSB allows GMO vaccines."

18 But we also have to deal with the
19 dilemma of the public relations nightmare if
20 -- Hue used the avian example, but, also, if
21 a hoof-and-mouth disease outbreak occurred in
22 this country like it has in Europe, and

1 organic animals are either put down or suffer
2 because they weren't allowed to be vaccinated.
3 So I agree, it is a conundrum.

4 MS. BROWN-ROSEN: Yes.

5 CHAIRPERSON MOYER: The Chair
6 recognizes Hue.

7 MEMBER KARREMAN: You know, what
8 do we say to the organic consumers right now
9 with all the animals that have been vaccinated
10 with possibly genetically-engineered vaccines
11 since the last seven years? That is one thing
12 to ponder because it has been happening,
13 period; the end. It's been happening. It is
14 nothing new.

15 The second thing is the EU allows
16 genetically-engineered vaccines in organics.
17 And that is I don't know how many millions of
18 people over there in their marketplace.

19 MS. BROWN-ROSEN: Well, my answer
20 to your first -- do I get to answer your first
21 question? Or was that just a rhetorical
22 question? Okay.

1 You know, organic is continuous
2 improvement. We find this all the time with
3 materials, that we find out something new that
4 we didn't used to know. We didn't used to
5 know.

6 I mean it is very difficult. They
7 are not required to label genetically-
8 engineered on their labels. We generally
9 accept these vaccines as a good, preventative
10 thing.

11 When the rules was written, the
12 staff reviewed and there weren't any approved
13 at that time. So we haven't been looking.

14 So now we know there has been a
15 change. So we just tell people we are
16 researching it, identifying it, and moving on.
17 If we find it harmful, we will say no. If it
18 seems the benefits are better than the risks,
19 then we say yes. I mean that is how we always
20 make rules.

21 MEMBER KARREMAN: I have to add
22 one thing.

1 CHAIRPERSON MOYER: Hue, briefly,
2 please.

3 MEMBER KARREMAN: In 2002, when
4 this rule was implemented, there were 32
5 genetically-engineered vaccines already in the
6 marketplace that were for livestock.

7 MS. BROWN-ROSEN: Well, then it
8 would have been nice to know that. We didn't
9 know that.

10 MEMBER KARREMAN: And they are all
11 labeled with an "R" in the totally public
12 biologics listing of APHIS CVB.

13 CHAIRPERSON MOYER: The Chair
14 recognizes Rigo.

15 MEMBER DELGADO: Just to follow up
16 on Hue's point, Hue has had considerable
17 experience. We discussed those points at the
18 Committee level.

19 You brought up the fact that you
20 have experience with those vaccines, the same
21 as Dan, and so forth. So we felt comfortable
22 at this point that there was enough evidence

1 out there, probably not as strict with going
2 out to a third party, but at least within the
3 Committee we had enough experience to move
4 forward with our recommendation.

5 MS. BROWN-ROSEN: Well, I
6 appreciate that you collected evidence, but I
7 would like to see a report, so we have
8 something after you are gone to look at. You
9 know, we don't have that.

10 CHAIRPERSON MOYER: Okay.

11 MS. BROWN-ROSEN: Thank you.

12 CHAIRPERSON MOYER: Thank you,
13 Emily.

14 MS. BROWN-ROSEN: Yes.

15 CHAIRPERSON MOYER: Dave Decou, if
16 you could come to the podium, we would
17 appreciate it, and Richard Theuer on deck.

18 MR. DECOU: Good afternoon.

19 Dave Decou, the Executive Director
20 of OMRI.

21 Careful; you're going to have two
22 tall guys in a row, so you get to strain your

1 neck the other way.

2 I really appreciate the efforts
3 that you guys all go to. I hear a lot of
4 discussion about, it seems like, other
5 projects like, why not review all the inerts
6 and how about personal care products and
7 review all the ingredients that are going to
8 go there? No wonder you all want to retire.

9 I also very much appreciate the
10 NOP stepping up, planning on getting the
11 petitioned substances database updated and
12 hope to keep it current. That is one of those
13 things we at OMRI use a great deal with a lot
14 of other information.

15 TAP reviews being a very important
16 piece of our work because, as Emily just
17 indicated, the history of the thought is very
18 important to us. When you guys make a
19 decision and we can't find the history, we
20 don't know what to do five years later when
21 you've all retired.

22 So I would actually recommend that

1 you have TAP reviews for anything that goes on
2 606 as well because I don't know what the
3 thought process was. Often that becomes an
4 important issue in the future. If you are
5 trying to get into the subtleties of a
6 material issue, some of that becomes very
7 important.

8 I am going to talk very briefly
9 about inerts, List 4. I think one of the
10 issues that I think is kind of not really
11 thought of very often, the Canadian organic
12 regulation cites List 4 in the PMRA, which was
13 probably originally the same list as the List
14 4 in the U.S. EPA.

15 If we go radically far from it, we
16 are going to have a different set of inerts
17 from what they are using, what they are
18 allowing under equivalency. If that is a
19 concern to anybody, that might be a concern.
20 My associate is going to talk further about
21 inerts.

22 Ferric phosphate is listed as

1 something to discuss under sunset. Having
2 read the petition to remove it, it appears the
3 petition is not arguing about ferric
4 phosphate, but about EDTA. EDTA, under the
5 EPA regulations, is listed as an inert under
6 the products that are used under ferric
7 phosphate, and EDTA is a List 4B inert.

8 Unless we can change that
9 structure or separate ourselves from the EPA's
10 structure, I don't see a way to change the use
11 of ferric phosphate, which is also a very
12 important tool for growers in areas where
13 slugs are a big problem, California being
14 probably the biggest one. I live in Oregon
15 where we raise them bigger.

16 (Laughter.)

17 So just a couple of more points.
18 Miles McEvoy pointed out this problem with
19 compost with bifenthrin in it, and the
20 suggested policy that they came up with was to
21 go for the 5 percent of the lowest EPA
22 tolerance for any commodity.

1 OMRI has looked into this. We are
2 kind of living in this big question mark. I
3 think everybody needs to recognize that
4 probably in California, where we have a lot of
5 products that we know a lot about in the
6 composted, probably most of the products that
7 are composted that are using green waste as a
8 source material for their feedstock are going
9 to be prohibited under that line that they are
10 suggesting. I am not saying the line is
11 wrong. I am just saying the reality is that
12 a whole lot of compost is going to become
13 unavailable.

14 Partly the reality is that
15 California, as a state -- and this is where we
16 in the organic industry kind of fit in a very
17 funny juxtaposition. Everybody wants to save
18 the universe, do recycling. California has a
19 law that is trying to get most of your organic
20 material out of the landfills. So what do you
21 do with it? Well, the best thing to do with
22 it is compost it.

1 At this point, the organic
2 industry is saying, well, that's a good idea,
3 but don't let us use it. It is sort of what
4 we are going to go on.

5 We are going to end up in the
6 green, and the organic juxtaposition is going
7 to go on over and over again. Fortunately,
8 you guys get to decide it. Thank you.

9 I would also like to say that
10 Miles also suggested a resolution with an
11 issue that probably isn't widely known around
12 corn steep liquor. I would like to commend
13 him. That is probably a good consideration,
14 to have corn steep liquor continue to be used
15 until you and the NOSB get to work it through.
16 We would probably like to see a TAP review
17 again.

18 Thank you.

19 CHAIRPERSON MOYER: Thank you,
20 Dave.

21 Questions for Dave from Board
22 members? Joe?

1 MEMBER SMILLIE: Yes, Dave, you're
2 scaring me here. On what do you base your
3 conclusion that a lot of the green matter
4 waste that goes into compost production is not
5 going to qualify? We are talking about
6 herbicided lawn waste? Or are we talking
7 about agricultural waste?

8 MR. DECOU: Well, when I say,
9 "green waste", it is usually lawns and
10 clippings --

11 MEMBER SMILLIE: It is? Okay.

12 MR. DECOU: -- yard clippings, and
13 so forth.

14 The reality of this situation has
15 arisen because EPA banned a very commonly-used
16 pesticide, chlorpyrifos --

17 MEMBER SMILLIE: Right.

18 MR. DECOU: -- from various uses,
19 maybe completely. I haven't really paid
20 attention to the deeper details.

21 So I think it is a third-
22 generation pyrethrum has been allowed to be

1 used, which is this bifenthrin. It has only
2 recently been allowed to be used on lawns and
3 gardens.

4 It happens to be highly persistent
5 in the sense that it doesn't break down under
6 soils or microbes. It only breaks down in
7 sunlight. And it is an insecticide. It is
8 not an herbicide.

9 The particular case that came up
10 was one in which, as Miles pointed out,
11 wheatgrass was grown in pure compost. The
12 testing that originated this problem was to
13 actually take the compost and the wheatgrass
14 together as the sample. They tested it. It
15 showed up bifenthrin. Later tests indicated
16 that the compost had all the bifenthrin, and
17 none of it had gone up into the wheatgrass.

18 So this is a very complex issue,
19 just like vaccines. It is not an easy
20 question because the public doesn't want us to
21 have prohibited materials used on the land
22 that somebody might grow organic crops, but we

1 live in a world that isn't perfectly clean.

2 MEMBER SMILLIE: Yes, that is my
3 concern. We don't get our vegetables from
4 Pluto, as I was quoted as saying, I think, in
5 a recent article.

6 (Laughter.)

7 But the whole thing of throwing
8 things to testing is just going to increase
9 the expense. It is going to keep people from
10 composting because, if they are going to be
11 required to do a whole series, a battery of
12 tests to prove that their compost qualifies,
13 we are going to get back into that game where
14 we have to prove we are good by spending money
15 for testing, as in other areas. I am just
16 really nervous about taking that step.

17 It is one thing like organic to me
18 is composting. That is like one of the key
19 tools that we have, and it is one of the key
20 tools that farmers have. A lot of farmers
21 don't have enough material. They have got to
22 bring in their compost.

1 You know, segregated compost
2 yards, organic -- I don't know. I am very
3 worried about the path we are taking, going
4 down, to start requiring the testing for all
5 compost. I understand the fears, but I think
6 the downside is also dangerous because, as you
7 said, everything moves around the planet, and
8 we are part of the solution.

9 If we start taking away these
10 tools because we are fearful of consumer
11 expectations, if we define organic by consumer
12 expectations, I think that we could get
13 ourselves without any tools left to fix.

14 MR. DECOU: That is a possibility.

15 CHAIRPERSON MOYER: Well said,
16 Joe.

17 Hue and then Kevin. I'm sorry.
18 You've got to get faster, Kevin.

19 (Laughter.)

20 MEMBER KARREMAN: Dave, you
21 mentioned vaccines when you looked over here.
22 I am just wondering what the listing is in the

1 OMRI Generic Materials Book about vaccines.

2 MR. DECOU: I can ask my associate

3 because I don't have a copy with me right now.

4 I would assume it -- actually, I don't know.

5 I shouldn't say. As soon as I make a

6 statement that "I assume", I am in trouble.

7 (Laughter.)

8 CHAIRPERSON MOYER: Thank you,

9 Hue.

10 The Chair recognizes Kevin.

11 MEMBER ENGELBERT: Very briefly,

12 Dave, a new subject, the EDTA. I wanted to

13 just give you a brief update on where the

14 Crops Committee was coming from, why this is

15 a discussion item. We will get into it more

16 when that comes up.

17 But when that was approved, we had

18 learned that the EDTA was not revealed to be

19 part of that product. Even though it is

20 listed as a List 4 inert, it is essential for

21 the product to work. So, in the Crops

22 Committee's mind, that is not an inert.

1 That is part of the whole
2 conundrum of looking at all of them and
3 seeing, are they really inerts or not? This
4 is probably the first material that is going
5 to be scrutinized because of that realization.
6 If it essential for the product to work, in
7 our minds, at least the current Crops
8 Committee's minds, it is not an inert.

9 MR. DECOU: And I can't argue with
10 you, except I deal with EPA definitions. When
11 OMRI does its work, it can't be trying to
12 figure out what the mind of the Crops
13 Committee is at that time.

14 And it is probably not the first.
15 It is at least the second. Peracetic acid is
16 the exact same issue, only EPA decided to
17 change their minds. That is why it has gone
18 to you, because it was there all along. It
19 was considered an inert until EPA decided, no,
20 it's an active now.

21 So it is an ongoing issue. I
22 always think these materials issues will just

1 settle down and go to sleep. They don't.

2 CHAIRPERSON MOYER: Thank you,
3 Dave. We appreciate your time.

4 The Board will now call Richard
5 Theuer to the podium; Renee Mann on deck.

6 I will remind both the gallery and
7 the Board that it is 4:30 in the afternoon and
8 we are now halfway done with our list. So, if
9 everybody can be mindful of the time, both
10 from the gallery and from the Board, I would
11 appreciate it.

12 MR. THEUER: Thank you. My name
13 is Richard Theuer. I am a retired scientist
14 from North Carolina and a former member of the
15 Board.

16 A year ago, I came here to ask the
17 question about micronutrients in organic crop
18 production, and specifically, whether the
19 601(j)(2), where they list zinc, copper, iron,
20 manganese, molybdenum, selenium and cobalt,
21 was an exclusive list or not.

22 Can I have the next?

1 Well, when it is considered an
2 exclusive list, several micronutrients that
3 are required for production of crops are
4 eliminated.

5 Can I go to the next?

6 The one I mentioned of several
7 last year was nickel. AAPFCO recognizes
8 nickel is essential. Certifiers are not
9 permitting it. Nickel deficiency is being
10 found in organic orchards.

11 Why is it not being permitted?
12 Because the wording of the statute or the law
13 is that it is an exclusive list.

14 Last year I had two comments after
15 my presentation, and I am back to answer,
16 respond to those comments.

17 Joe Smillie said it is an
18 exclusive list because it doesn't say it is an
19 inclusive list, and I will respond to that.

20 And Dan asked a question, that he
21 would like to see the language that had been
22 in the animal mineral listing to see how that

1 compared.

2 So I went to the preamble for the
3 regulation. In fact, for the livestock
4 production, when it gets to minerals, it is an
5 extremely science-based approach. It says,
6 "The producer must provide a feed ration
7 including minerals." The definition of feed
8 additive includes minerals.

9 The next slide. Next. Next.

10 And the preamble says these
11 additions make the livestock healthcare
12 practice standard more consistent with the
13 NRC's Committee on Animal Nutrition's nutrient
14 requirement series. So there is an
15 authoritative standard that you have for the
16 regulation.

17 The next slide shows that the
18 section of the regulation is extremely simple
19 and straightforward. Trace minerals are
20 allowed, used for enrichment or fortification,
21 when FDA approved.

22 When we get to the crops side, it

1 is very, very different. This one section
2 talks about maintaining the
3 chemical/biological condition of the soil,
4 managing soil fertility, crop nutrients. It
5 doesn't even mention mineral materials.

6 The next slide.

7 It says a producer may apply a
8 crop nutrient or soil amendment if it is
9 included on the list in the case of a
10 synthetic.

11 The next section, also, the
12 producer may not use any -- it confirms Joe's
13 point last year. This (j)(6)(ii) is an
14 exclusive list.

15 The next. And the next.

16 Now the question is, there is a
17 section that relates to disease. So is there
18 a disease related to micronutrient deficiency?
19 And the answer is, yes, there is. And disease
20 conditions can be controlled through the
21 application when certain practices are
22 insufficient by application of a synthetic

1 substance that is allowed on the National
2 List.

3 Let me go to the next, and you
4 might want to look at the board. If you look
5 at the leaves on the left, you will notice
6 black around the edges. That is the condition
7 called mouseear. That is related to a buildup
8 in urea levels at the edge of the leaf. The
9 urease, the enzyme that breaks down urea, is
10 a nickel metalloenzyme. No nickel, no enzyme.
11 Buildup. Necrosis.

12 The next slide gives another
13 picture of the nickel-deficient on the left
14 and the normal on the right.

15 That meant, since (j)(6) is an
16 exclusive list, and we need to have nickel put
17 on the National List, I filed a petition.
18 Hopefully, that will wind its way to you over
19 the next few months. I ask that the NOSB
20 Crops Committee add this to its work plan when
21 it comes through the system, so that pecan
22 growers are not forced to choose between being

1 organic and being successful.

2 CHAIRPERSON MOYER: Thank you,
3 Richard.

4 Any questions for Richard? Kevin?

5 MEMBER ENGELBERT: I know, time.

6 What causes the buildup of urea
7 that can't be controlled any other way, right?

8 MR. THEUER: Well, the buildup of
9 urea -- okay, the pecan plant and a few
10 others, tree nuts, river birch, transport
11 nitrogen from the ground to the leaves in the
12 form of ureides, arginine, that have the urea
13 component in the molecule.

14 So, when it gets to the top of the
15 leaf, you have to have ureides to break it
16 down to ammonia, so the plant at that edge can
17 do some good. So you have urea because you
18 don't have the nickel enzyme, the urease to
19 break it down into the ammonia that the plant
20 can utilize for protein synthesis, et cetera.

21 CHAIRPERSON MOYER: I'm surprised
22 you didn't know that, Kevin.

1 MR. THEUER: Does that answer your
2 question, Kevin?

3 MEMBER ENGELBERT: Well, no. I am
4 still trying to get at why there's a surplus
5 of the urea. Has there been an application
6 that --

7 MR. THEUER: No, no. No, nitrogen
8 is transported to the leaf in the form of a
9 urea-derivative by the plant. When it gets
10 there, because there's not enough urease, it
11 can't break it down.

12 CHAIRPERSON MOYER: Thank you,
13 Richard. We appreciate your time.

14 MR. THEUER: Thank you.

15 CHAIRPERSON MOYER: Renee Mann to
16 the podium, if you would, and Keith Pitts on
17 deck.

18 MS. MANN: Good afternoon.

19 Thank you for the opportunity to
20 address the Board, and thank you all for your
21 hard work.

22 I am Renee Mann, and I work for

1 OMRI as the Review Program Manager. I was
2 going to address just a few topics here for
3 inerts.

4 We really appreciate the hard work
5 that the Crops Committee has put into clarify
6 and put together a recommendation for inerts.

7 We recognize the balance that you
8 are trying to strike between putting a huge
9 list of materials on the National List or
10 reviewing each individual one. So I don't
11 really have an answer for you except to say,
12 please consider that there are a minimum of
13 258 inerts on OMRI's list. These are inerts
14 confidentially within products that we have
15 reviewed.

16 So, if you were go to forward with
17 this recommendation to review these materials,
18 you might have that many that come to you
19 within the next six months. Then I think you
20 have given yourself a total of a year and a
21 half to review them. I am not really sure of
22 your whole process of review, but you could be

1 looking at that many inert materials.

2 Peracetic acid, I really recommend
3 that you speak with the petitioner Kristin
4 Knox, who is coming up in a couple of
5 comments, about what she thinks is a feasible
6 annotation for peracetic acid. In our
7 comments, we recommended 100 parts per million
8 in the application rate instead of the 5
9 percent annotation that was recommended.

10 Then excipients, I just wanted to
11 touch on a little bit. Thank you for tackling
12 the issue of excipients. It has been an issue
13 since it got on the National List.

14 We agree with the addition of the
15 APHIS-considered excipients. One question I
16 have for the Board is whether you could or
17 would or would like to reconsider the
18 statement of adding healthcare products. I
19 know that you are trying to expand the use
20 from excipients just in drugs to excipients in
21 healthcare products, but healthcare products
22 includes a huge number of materials. It seems

1 like more than what was recommended or what
2 was mentioned in the recommendation.

3 So, just from my glancing at the
4 OMRI generic materials list and seeing every
5 single product that is considered a livestock
6 healthcare product, there are a heck of a lot
7 of materials. You might want to open the
8 generic materials list and look, to consider
9 what is going to happen if you add healthcare
10 products -- or excipients allowed in
11 healthcare products to the National List,
12 because we may be looking at a huge expansion
13 of excipients allowed in things like vitamins
14 that are fed instead of just vitamins that are
15 injected.

16 Then, to address Hue's question
17 about vaccines, in our generic materials list
18 we say that vaccines may be used against
19 problems that are endemic. Those derived from
20 excluded methods must be approved in
21 accordance with 205.600(a). And that's it.
22 And we reference a couple of sections of the

1 rule, but that is basically it.

2 Thank you.

3 CHAIRPERSON MOYER: Okay. Thank
4 you very much, Renee.

5 Any questions for Renee? Hue?

6 MEMBER KARREMAN: Thanks for that
7 from your generic materials book.

8 The reason for the animal
9 healthcare products -- I think that is the
10 term we use -- is because in organics you are
11 not allowed to give any kind of treatment or
12 anything like that to organic livestock unless
13 they are sick. You can't give drugs unless
14 they are sick.

15 So a lot of farmers will give
16 health enhancements, we'll say, to an animal.
17 It's all in the wording, Joe.

18 So there's a lot of products out
19 there, I fully agree and we know that.
20 However, you know, there always seems to be a
21 whole lot of focus on the excipients rather
22 than the active ingredient, which might be

1 essential oil of peppermint for some of these
2 lotions that are out there that farmers rub on
3 the udder. It seems an undue focus, like you
4 are throwing out the baby with the bath water
5 with the excipients.

6 So, keeping that in mind, plus,
7 that drugs aren't allowed for organic cows
8 unless they are sick, we wanted to say animal
9 healthcare products. That is the reason. I
10 think we stated it in there.

11 But, yes, we know it is going to
12 increase the list, but it is still within the
13 parameters of what is defined in 603(f), "F"
14 like "Frank". Okay?

15 MS. MANN: Yes.

16 CHAIRPERSON MOYER: Thank you,
17 Hue.

18 Any other questions for Renee?

19 (No response.)

20 Thank you, Renee.

21 If Keith Pitts could come to the
22 podium, and Kristin Knox is on deck.

1 MR. PITTS: I thank you for the
2 time to speak before you.

3 I am Keith Pitts and work for
4 Marrone Bio Innovations. We are a
5 biopesticide firm based in Davis, California;
6 has been established since 2006, primarily
7 focused on microbial pesticides, but we do do
8 some work and development on plant-based
9 extracts as well.

10 We are developing our products for
11 agriculture on the whole, in hopes of lowering
12 the toxicity profile of pest management in
13 general. We do have a commitment to
14 formulate, so the products are available for
15 organic agriculture. So, certainly, that is
16 a goal of ours.

17 That said, even if we were not to
18 pursue an organic label, we would continue to
19 work from the 4B and A list as it exists
20 today, just to keep using minimal-risk
21 products.

22 In general, I notice OMRI's

1 comments and support the approach they have
2 put before the Committee. I think we all know
3 that EPA recently completed an inerts review
4 process and, by and large, the regulatory
5 status of the inerts that are currently
6 available to us hasn't changed. There are a
7 few that are going to be taken off, I imagine;
8 a few that potentially could be added on, if
9 someone wanted to petition.

10 So that is probably the most
11 discrete and, using Miles' sensible and
12 practical test, that may be the most immediate
13 way to deal with the issue of housekeeping
14 between EPA and USDA.

15 Unfortunately, we didn't go into
16 this process with an understanding of how the
17 EPA decisions were going to impact NOSB
18 decisions. It would have been nice to have
19 known that early on. That said, we appreciate
20 the fact that the Board is trying to tackle
21 this and come up with something that can work
22 for everyone.

1 There seems to be an underlying
2 issue that maybe an approach or a philosophy
3 or thinking has changed on these inerts or is
4 evolving. If that is the case, I just would
5 ask that we have a little bit clearer sense of
6 what the rationale is for the change, as well
7 as the criteria that would be used for judging
8 the products.

9 It appears that their proposal is
10 setting up a new review process for these
11 inerts, mainly, I would assume, to deal with
12 the volume. But I think just having clarity
13 on why we may be going down a different path
14 would help inform all of us.

15 As far as the timelines, I can't
16 speak to the resources that would be necessary
17 for the NOSB to complete its work, but just I
18 would like you to keep in mind that it can
19 take several months to a year or longer just
20 to nail down a formulation. We are working on
21 some products now that we haven't quite
22 figured out how to stabilize the active

1 ingredient.

2 So reformulation presents
3 challenges to us from an R&D perspective, in
4 addition to the four to six months it would
5 take at best to get an EPA review of a new
6 formulation.

7 Then we have to go to states and
8 get the new formulation approved, and that,
9 quickly, it can happen in two months. We have
10 some states where it takes over a year now to
11 get the product approved after EPA approval.

12 Then we have to go to OMRI and get
13 the reformulated product okayed. That can
14 take four months to I think we have one that
15 has taken about 10 months to get the new OMRI
16 label, which we appreciate.

17 Then, if we do get the new label,
18 we have to go back to EPA with a new label
19 after the new formulation is approved, which
20 can run anywhere from four to eight months.
21 I think some companies have talked about it
22 taking longer to get a label amendment

1 through.

2 And I did not realize the Canada
3 issue. That was new to me. I just will say
4 that we do license products from time to time,
5 and we see things that are IFOAM-certified
6 that have inerts in them that would not be
7 approved here. So I think there is a
8 cascading effect that we need to be mindful of
9 any time we start changing any of these lists.

10 We look forward to working with
11 you.

12 CHAIRPERSON MOYER: Thank you,
13 Keith.

14 Any questions from the Board
15 members for Keith?

16 (No response.)

17 Seeing none, I appreciate your
18 time.

19 Kristin Knox, if you could come to
20 the podium, we would appreciate it, and
21 Michael Fiery on deck.

22 MS. KNOX: Good afternoon. Almost

1 good evening, I guess.

2 My comments right now I understand
3 were distributed, and they are in addition to
4 what was posted for comments back in October
5 to the Crops Committee and to the NOSB Board.

6 Thank you again for the
7 opportunity to speak here today. We want to
8 thank you, as everyone else is clearly
9 understanding the magnitude of what you do,
10 your dedication to the preservation of organic
11 farming and to the careful consideration of
12 the synthetic substances that you do allow as
13 part of the organic system plan.

14 As a company, BioSafe Systems
15 strives to provide environmentally-sustainable
16 alternatives to the harsh chemicals that have
17 been traditionally available and, for
18 organics, tools that were never available
19 before.

20 We hope that we have demonstrated
21 in our previous submissions for the PAA
22 petition that it is safe to the environment

1 and to humans. There truly are no other
2 organic alternatives to PAA that provide
3 immediate knockdown of the plant pathogenic
4 organisms without mutational resistance,
5 phytotoxicity, or persistence in the
6 environment.

7 One of the basic principles of
8 organic farming is to sustain and enhance the
9 health of ecosystems and organisms, from the
10 smallest in the soil to human beings.
11 Obviously, the most desirable course to follow
12 would be strict adherence to IPM practices
13 such as crop rotation, cultivar selection, and
14 proper site selection.

15 We understand and support the
16 respect for soil and the natural growing
17 environment, and we also understand the
18 concern for the effects that PAA might
19 potentially have on the beneficials in the
20 ecosystem.

21 There are times, however, when
22 conditions will rise that can prove to be

1 economically devastating. One such example
2 occurred in the Northeast U.S. this past
3 summer when late blight destroyed much of the
4 tomato crops belonging to conventional and
5 organic farmers alike.

6 Our hydrogen peroxide peracetic
7 acid products have proven to be highly
8 effective against late blight. When applied
9 during high pressure or first sign of damage,
10 PAA chemistry has demonstrated well against
11 phytophthora, both in the soil and on the
12 plant surfaces.

13 We are not advocating that the
14 chemistry should be used with every irrigation
15 cycle, although it can be. We merely want to
16 make sure that this is a valuable, versatile
17 chemistry that will continue to be available
18 to organic farmers who trust and rely on our
19 products.

20 Peracetic acid is currently
21 limited to the treatment of fire blight under
22 205.601(i)(7) and for the disinfection of

1 equipment, seeds, and asexually-propagating
2 plant material under 205.601(a)(6).

3 In the most recent Crops Committee
4 recommendations for peracetic acid, dated
5 September 11th of '09, the annotation would
6 state that peracetic acid can be used in
7 hydrogen peroxide solutions up to 5 percent,
8 but the current restrictions to the fire
9 blight and other applications are not
10 addressed.

11 We would like to emphasize that
12 this petition was originally submitted to
13 include the use of PAA for treatment of all
14 crops or a broad spectrum of plant pathogens
15 and also as an algicide for irrigation waters.

16 We are very concerned that this
17 current annotation does not sufficiently
18 address these uses, and we would appreciate
19 the Committee taking this item up for
20 discussion as part of this meeting.

21 We would also like to again urge
22 the Committee to consider listing peracetic

1 acid as approved in use dilutions up to 200
2 parts per million, instead of concentrations
3 up to 5 percent. We have demonstrated in
4 previous submissions that peracetic acid at
5 200 ppm's has a negligible effect on insects
6 and soil nematodes.

7 Also, our plant pathologist, Dr.
8 Vijay Choppakatla, has provided comments that
9 there is very little effect on beneficial
10 organisms on plant surfaces and in the soil at
11 200 ppm's. At this level, PAA sufficiently
12 suppresses the plant pathogenic organisms
13 while leaving the beneficials to flourish.

14 Please take this opportunity to
15 limit the amount of peracetic acid that can be
16 applied as opposed to limiting the
17 concentration percentage, which could
18 potentially be applied at even higher ppm's.

19 We would like to thank OMRI and
20 Dave Decou for the comments that were posted,
21 and for Renee's recent comments as well, on
22 multiple topics, including their support for

1 the peracetic acid.

2 On page 2 of his comments, Mr.
3 Decou writes that peracetic acid "is an
4 important tool for farmers to control crop
5 diseases in high-value crops." It also helps
6 reduce the food safety issues originating in
7 production fields.

8 The two considerations that OMRI
9 wanted the NOSB to consider are, No. 1,
10 listing PAA in ppm's, as the FDA and EPA both
11 limit the permissible amounts of PAA this way,
12 and, No. 2, that peracetic acid be considered
13 in ratio to the amount of hydrogen peroxide.

14 The concern about the ratio to
15 hydrogen peroxide seems to be for higher
16 concentrations of hydrogen peroxide that can
17 be present within the higher concentrations of
18 peracetic acid. We appreciate the concern,
19 but we want to clarify that, when peracetic
20 acid is created in situ between hydrogen
21 peroxide and acetic acid, as the acetic acid
22 is added in, hydrogen peroxide is taken away.

1 The peracetic acid actually steals the
2 molecules. So you will never have any
3 combinations with higher hydrogen peroxide and
4 peracetic acid. It has to be converse.

5 Thank you, again, for your time
6 and consideration of this petition to include
7 peracetic acid for a wider range of use in
8 organic crop production. This is exciting
9 chemistry with an enormous amount of
10 potential.

11 Emily Brown-Rosen of Pennsylvania
12 Certified Organics indicated in her written
13 comments, also, that peracetic acid products
14 have promise as fungicides to replace the more
15 persistent materials such as copper sulfate or
16 other objectionable products.

17 Peracetic acid is gaining in
18 acceptance among the organic community, and we
19 are very optimistic about its versatile role
20 in organic agriculture.

21 I am happy to answer any questions
22 that I can.

1 CHAIRPERSON MOYER: Thank you,
2 Kristin.

3 Tina?

4 MEMBER ELLOR: I have a couple of
5 questions.

6 There is a discrepancy between the
7 OMRI recommendation of 100 ppm as a ceiling
8 and your 200.

9 Also, as a very broad spectrum
10 oxidate, or whatever, I don't really
11 understand how it can take out the bad guys
12 and leave the good guys alone.

13 MS. KNOX: Okay, let's see if I
14 can answer those questions in order.

15 First of all, I can't speak for
16 OMRI's annotation for the 100. I can only
17 speak for our annotation of the 200 ppm's.
18 The 200 ppm's of the PAA is what is present in
19 a 1-to-100 dilution of our product oxidate or
20 StorOx, the 2 percent peracetic acid products.
21 We also have a 5 percent product, which is
22 what the Committee was originally considering

1 limiting it to, and a 12 percent product,
2 which is mostly for agricultural processing
3 waters.

4 But, as you go up in the peracetic
5 acid percentage, the dilutions are so high
6 that your ppm's go way down. So there would
7 never ever be more that we could see, 200
8 ppm's necessary to be added into the
9 concentration -- from the concentration into
10 the dilution, I mean. And we also have
11 submitted data at the 200 ppm level showing
12 that the beneficials do still thrive well.
13 The pathogenic ones are taken care of.

14 I defer to Dr. Vijay Choppakatla,
15 who also presented comments that you folks
16 should have. If you don't, I can get them
17 again. He discusses that in much better
18 detail, as a plant pathologist, than I ever
19 can, on the likelihood of the soil and on the
20 plant surface.

21 Did I answer all your questions?

22 CHAIRPERSON MOYER: Tina, do you

1 have additional questions?

2 MEMBER ELLOR: You did, and there
3 was extensive discussion about this in the
4 Crops Committee, and we will probably be
5 discussing it more. But our concern was
6 unleashing this very broad-based germicidal
7 thing, even though it is far more benevolent
8 than other things available, and we certainly
9 take that into account as well.

10 MS. KNOX: Yes.

11 MEMBER ELLOR: So we will be
12 discussing it more, and we really appreciate
13 your input.

14 MS. KNOX: Yes. Dr. Choppakatla
15 does discuss that, how at the 200 ppm level,
16 which I think you really have an opportunity
17 to limit how much can be applied up to a ppm
18 level. By going to the 5 percent
19 concentrations or 12 percent concentrations
20 that are out there, or 15 percents that are
21 out there, you could apply it at a 1-to-100
22 dilution and be putting way too much down

1 there, and then, yes, you will kill absolutely
2 everything in there.

3 The way that we have formulated
4 it, it is so that it is at the level where we
5 will get the bad guys but not the good guys.

6 Okay?

7 CHAIRPERSON MOYER: Any other
8 questions from any of the Board members? Joe?

9 MEMBER SMILLIE: Sorry, I haven't
10 kept up with your work on the Crops Committee,
11 but your recommendation right now for this
12 material, she is asking for a broader
13 application for it. The current Crops
14 Committee recommendation limits that?

15 MEMBER ELLOR: Yes, we actually
16 had two that we voted on. I was counting on
17 Gerry to be here because he was really the
18 architect of this. But we weren't comfortable
19 with broadening the usage of this very broad-
20 based germicidal thing.

21 And this is the important
22 background that is probably missing. It used

1 to be considered an inert. It was
2 reclassified as an active. So, as an inert,
3 it is in many products that are used by
4 organic farmers. As an active, it had to be
5 reconsidered. That is really why --

6 MEMBER SMILLIE: I guess my
7 question is not the dosage, but the
8 application. In other words, there are two
9 issues. One is the percentage that you are
10 going to allow, like the maximum levels, and
11 the other is the usage of the material, right?

12 MS. KNOX: Yes.

13 MEMBER ELLOR: Right.

14 MS. KNOX: Because that is the way
15 I am reading the annotation, is that it is
16 just still restricted to fire blight, so we
17 gain nothing.

18 MEMBER ELLOR: No, it can still be
19 used is what you have gained. Because,
20 otherwise, as -- now it is an active, not an
21 inert.

22 MS. KNOX: Yes.

1 MEMBER ELLOR: So it would have to
2 be repetitioned and go through the whole
3 process. That is the difference.

4 CHAIRPERSON MOYER: It is an
5 oxidizer, Joe.

6 MEMBER SMILLIE: Yes.

7 CHAIRPERSON MOYER: It chews up
8 organic matter like crazy when it is applied
9 to the soil. It burns up organic matter. So
10 it is kind of counterintuitive to what we are
11 trying to do in organic with soil if it is
12 applied through irrigation systems at high
13 levels. That is the --

14 MEMBER SMILLIE: You're talking to
15 somebody who sprayed sulfur in orchards and
16 used copper sulfate on grapevines. And if I
17 can find an effective fungicide for late
18 blight, that is an incredibly wonderful tool.
19 Because, as they mentioned, this fall in the
20 Northeast crops just like died. Right, Steve?
21 The tomatoes, they didn't get sick; they just
22 died.

1 CHAIRPERSON MOYER: Mine did, too,
2 yes.

3 MEMBER SMILLIE: I don't know. I
4 am not arguing the dose. I think that the
5 deliberation -- I am not on the Crops
6 Committee, and I apologize for jumping in at
7 the last minute, but this one interests me a
8 lot because, to me, the argument should be
9 about the dosage, what is going to hit the
10 target and not damage the beneficials of the
11 soil microorganism. We can work on the dose.

12 But I don't understand the
13 restriction on the usage. That is my
14 question, but I will leave that up to you
15 guys.

16 CHAIRPERSON MOYER: Well, there is
17 plenty of time for discussion of that
18 tomorrow.

19 MEMBER SMILLIE: Okay.

20 CHAIRPERSON MOYER: If we have
21 questions for Kristin, we will entertain
22 those.

1 Otherwise, thank you, Kristin.

2 MS. KNOX: Okay. Thank you.

3 CHAIRPERSON MOYER: We appreciate
4 your time.

5 Michael Fiery, if you are in the
6 room, come to the podium.

7 (No response.)

8 Okay. Michael is not here.

9 Lisa Nichols? Is Lisa Nichols
10 here?

11 (No response.)

12 Fred Betz? If Fred Betz is here,
13 if he would come to the podium?

14 (No response.)

15 Okay. We are making progress
16 here.

17 (Laughter.)

18 I'm going to start making up names
19 here.

20 (Laughter.)

21 Maria Herrero -- I apologize --
22 Herrero. Is Marie Herrero in the room?

1 (No response.)

2 They're leaving.

3 Chris Dively? Is Chris Dively
4 here?

5 (No response.)

6 Leslie Zuck? I know Leslie is
7 back there.

8 (Laughter.)

9 Caught you offguard, did we,
10 Leslie?

11 MS. ZUCK: I'm not sleeping yet.

12 CHAIRPERSON MOYER: That's what
13 they said when they missed the flight in the
14 Twin Cities, that they weren't sleeping.

15 (Laughter.)

16 MS. ZUCK: All right. Bear with
17 me here a minute. I'll be right with you.

18 Okay.

19 Hi, everyone. I'm Leslie Zuck,
20 Executive Director of Pennsylvania Certified
21 Organic and, as of today, a famous advocate of
22 strict and sensible standards.

1 (Laughter.)

2 Thanks, Miles.

3 I would like to take a few
4 minutes, five, to be exact, to discuss your
5 discussion document on terrestrial plants
6 grown in containers and enclosures.

7 PCO certifies operations that
8 would be affected by such a standard,
9 including greenhouses, sprouts, mushrooms,
10 hydroponics, and some combinations of the
11 above.

12 As an organic greenhouse producer
13 myself, certified by the venerable
14 organization QCS, my own operation would be
15 affected by the recommended standards. So
16 that inspired me -- you know, I'm usually a
17 real quiet and meek bystander -- to actually
18 come up here and offer a few comments on the
19 subject.

20 The discussion document is very
21 thorough and does a good job, thank you, of
22 addressing most issues, but we do have a few

1 friendly suggestions.

2 First, we are going to need a
3 bunch of definitions. You kind of may be
4 aware of that. Aeroponics is something that
5 we haven't talked about before and a few
6 things like that.

7 We actually see an amazing amount
8 of very innovative materials and production
9 techniques out there. I am worried that we
10 are going to need more guidance and
11 definitions to really determine if these
12 operations fall under the definition of
13 container- or enclosure-grown crops. Things
14 like unheated cold frames, high tunnels, field
15 tunnels, low tunnels, shade houses, hay
16 groves, you know, are these enclosures? Are
17 they included or meant to be or not meant to
18 be? So I think a little more clarification on
19 that would be helpful because there's some
20 amazing things that people are trying out
21 there.

22 I think it would also be helpful

1 to have a definition of container. I actually
2 didn't check the definition on the original
3 rule. Maybe it is in there. But I think what
4 you are thinking about, pots, and I am
5 wondering whether these really large, wooden
6 boxes people grow sweet potatoes in and raised
7 beds that are lined with plastic, whether
8 those would be considered containers because
9 they go the whole length of the greenhouse.

10 We certify several acres of
11 tomatoes that are grown in these really long,
12 plastic sort of bag-like things that are
13 filled with compost. So the question is,
14 would they be subject to crop rotations and
15 cover cropping or not? You know, how are we
16 going to kind of apply these good suggestions
17 and standards to those systems?

18 I think defining aeroponics and
19 hydroponics would be useful, and then some
20 guidance on whether sprouts and micro-greens
21 are included in the standards. Sprouts, we
22 know are allowed or already in the rule, and

1 they are grown in water with no nutrients
2 added. So we probably should at least mention
3 how those are either included or not in this
4 standard.

5 And micro-greens are grown in
6 flats with little or no nutrients added,
7 depending on the type of micro-greens. So it
8 would actually be a soil-less mix that they
9 are growing in. These would seem to be
10 prohibited under the proposed standard. I
11 just want to get a sense of whether that is
12 where we are going with those because they are
13 quite popular, and a lot of people do grow
14 them and provide those to restaurants and
15 stores.

16 And another issue you might want
17 to consider is growers purchasing plant stocks
18 or perennial transplants, bringing those
19 conventional -- now we are talking
20 conventional, planting stock and perennial
21 transplants, that they are allowed to buy if
22 organic is commercially unavailable. So they

1 bring those transplants into their organic
2 greenhouse operation or their nursery. They
3 repot it into approved potting mix and then
4 proceed to resell it as certified organic.

5 Neither the rule nor this
6 discussion document appears to prohibit this
7 practice. Yet, something doesn't quite seem
8 right about that. So let's try to look at
9 that, and we can work with you on that.

10 Because in the past we have tried to have some
11 guidelines on it, like at least they have to
12 grow it for a certain amount of time before
13 they can actually resell it as certified
14 organic. But, right now, the way we have
15 things, it isn't really prohibited.

16 Would the prohibition against
17 growing medium devoid of sufficient organic
18 matter prohibit growing certified organic
19 seedlings in flats filled with an approved
20 potting mix? These mixes are, by definition,
21 soil-less, no nutrients. They contain peat
22 moss, perlite sand, and would meet that test

1 for nutrient deficiencies.

2 Growers could add soil or compost,
3 but a lot of times they don't want to because
4 nutrients aren't really necessary at that
5 stage of growth, so it would be a waste. And
6 the soil can introduce pathogens that they
7 don't want inside their greenhouses.

8 Then I am going to bring up
9 something that some of you may remember. The
10 American Organic Standards, remember that.
11 The American Organic Standards, I am not going
12 to read them here. I was going to, but I
13 don't have enough time.

14 Any proxies out there? No.

15 In seven short paragraphs, they
16 really do what you are trying to do here, and
17 I could say some more about that, if people
18 have questions, but the language is really
19 simple and easy to understand and enforceable.

20 Then you have to add a few more
21 definitions. My suggestion is to draft
22 something similar to the AOS language that we

1 can refer to because it does include the
2 field-grown crop regulations, and then it is
3 not redundant or adding additional regulations
4 that we don't have in the field-grown crops,
5 which some of the other certifiers have
6 commented on, and then leave some of the
7 specific guidance to the program manual to
8 really kind of interpret that, which would
9 alleviate the redundancies on potting mix,
10 treated wood, commingling, and some of the
11 complications that we have seen by including
12 requirements that are not actually required
13 for field-grown crops, like the sprayers and
14 the GMO pollen drip.

15 Any questions?

16 CHAIRPERSON MOYER: Thank you,
17 Leslie.

18 Are there any questions from Board
19 members for Leslie?

20 (No response.)

21 Seeing no hands, we appreciate
22 your time.

1 MS. ZUCK: Well, thanks. It is
2 really good work. We appreciate it.

3 CHAIRPERSON MOYER: Thank you,
4 Leslie. We appreciate that, the comments.

5 Zea Sonneband at the podium, if
6 you would, and Peggy Miars on deck.

7 Hi, Zea.

8 MS. SONNEBAND: Hi. Good
9 afternoon, everyone.

10 I am Zea Sonneband from California
11 Certified Organic Farmers.

12 Thank you for the opportunity to
13 address you.

14 Welcome, Miles. We are looking
15 forward to working with you.

16 I am getting half my time out of
17 the way by seconding everything that Leslie
18 just said about the plants in containers.
19 There's some things that need further
20 clarification and some very odd things that go
21 beyond farm requirements, like the dedicated
22 sprayer clause. We hope that you will look at

1 our written comments on that, which second
2 what Leslie said.

3 Okay. On the definition and
4 clarification of materials document, we really
5 appreciate that you are finally trying to
6 bring this work to fruition, and we really
7 appreciate the paper and agree with most of
8 it.

9 We strongly encourage you to start
10 working right away on a decision tree-type
11 model to go along with the clarifications on
12 your materials because you are really going to
13 need it when you review corn steep liquor at
14 your next meeting, as Miles is trying to bring
15 forward.

16 We also strongly urge that a TAP
17 review be prepared for corn steep liquor
18 because, being part of the group that works
19 with OMRI on this, it is a very complicated
20 situation. We hope to give it some due
21 consideration.

22 I want to talk briefly about the

1 petition process. I really am glad that Miles
2 has prioritized dealing with petitions in a
3 more systematic way.

4 In addition to the category,
5 though, of petitions that he wants to take off
6 the table, there is the category of petitions
7 that are commented on at the previous meetings
8 which were never on the table, and I am
9 calling them petitions that were never taken
10 up by the NOSB, even though they have come in
11 over the years.

12 I have identified six things that
13 are still left in this category, including
14 terpene polymers; phosphoric acid as
15 fertilizer as part of aquatic plant products;
16 potassium carbonate in aquatic plant products;
17 sulfuric acid as fertilizer, as a manure
18 treatment; sodium and potassium lactate as
19 handling ingredients.

20 So there are historic petitions on
21 these. They need to get taken up to the NOSB
22 and reviewed.

1 On the inerts paper, I hope you
2 realized that what you proposed really isn't
3 workable. Emily led me to think that maybe
4 you realized it wasn't and you just had to
5 throw something out.

6 I supervised the NOSB through the
7 initial TAP review period, and the most we
8 ever did at a meeting was 40 input reviews.
9 So the fact that you are going to do 286
10 potential inert reviews in addition to
11 reclassifying things between 605 and 606, we
12 need a better idea.

13 So the best idea is really to try
14 to take the reference out of the rule and put
15 some sort of inert policy in the program
16 manual, I think, because then it will be more
17 flexible to some extent. You can work with
18 the EPA. It can evolve without having to go
19 through the very formal sunset review process.
20 Or you can develop an in-house mini-EPA for
21 organic, if you want to, to look at these
22 inerts.

1 I also hope that you will address
2 with a little bit more clarity the liquid
3 fertilizer directive. Perhaps maybe this is
4 just NOP and not the NOSB, but I heard
5 Barbara, and we all heard Barbara, say at the
6 last meeting that the 100-yard requirement
7 might be considered to be flexible if there
8 was a sufficient audit trail.

9 I believe it, but we have a lot of
10 people out there who are very squeamish
11 because that has never appeared in writing,
12 even though she said it on numerous occasions.
13 So something really needs to appear in writing
14 to make the companies -- there are many
15 companies who do meet every requirement except
16 the 100 yards, and it would make them feel
17 more comfortable.

18 So, since Leslie covered the
19 greenhouse, I am going to use one minute on
20 ferric phosphate. If I had a quarter for
21 every time someone said, "This inert is an
22 important part of the formulation," and then

1 has to be reviewed with it, I would be fairly
2 well off and would take everyone to dinner.

3 Many inerts are really active, and
4 many of them need to be reviewed with it, but
5 they are not because of the way the inerts
6 policy is. So, until you change the inerts
7 policy, you have to stick with ferric
8 phosphate the way it is, I think, and you
9 can't just do a separate review of an inert in
10 one thing and not review the inerts that are
11 associated with many of the other things that
12 are already on the National List.

13 So thank you.

14 CHAIRPERSON MOYER: Thank you,
15 Zea.

16 Any questions from Board members?
17 Katrina?

18 MEMBER HEINZE: So I am trying to
19 understand that ferric phosphate situation a
20 little bit more. I will be honest, I don't
21 understand the inerts policy.

22 MS. SONNEBAND: Okay.

1 MEMBER HEINZE: Could you
2 elaborate on that last 30 seconds that you
3 said?

4 MS. SONNEBAND: Yes. Ferric
5 phosphate, as it originally was put on the
6 list in 2005, was just ferric phosphate
7 generic thing. In order to formulate a
8 product that is going to work on slugs and
9 snails -- i.e., Sluggo is the main one -- they
10 put it with EDTA and other inert ingredients.

11 So the NOSB just put ferric
12 phosphate on the list. OMRI or the certifiers
13 look at the formulated package and decide
14 whether or not it is okay.

15 Apparently, another product had
16 the word "EDTA" in its name, which means they
17 can't really call the EDTA inert; they have to
18 call it active. So, then, that product had to
19 be reviewed as though it was an active, and
20 was turned down by the NOSB.

21 The petition to remove is because
22 the -- I mean you can't tell who submitted the

1 petition because it is from a lawyer, but my
2 guess, just from reading the petition, it was
3 the competing product that got removed that
4 doesn't like it that the other one was on
5 there, and says that it should be removed
6 because of harmful effects on earthworms.

7 Well, the removal petition did not
8 present sufficient evidence of that. So, at
9 the very least, it would take a TAP review.
10 But, nonetheless, it is back to the old it's
11 an inert; it can't be looked at.

12 MEMBER HEINZE: So, if I am
13 understanding, because of the list for inerts
14 on the list, if they are present in a
15 formulation, they are not part of the review.
16 Is that the inerts policy?

17 MS. SONNEBAND: They would be part
18 of OMRI's review, but they would not be part
19 of the NOSB's review.

20 MEMBER HEINZE: Got it. Thanks.

21 MS. SONNEBAND: Now what that
22 company should have done is a petition to

1 prohibit EDTA. That would be the proper form
2 for you to take it up in, because, then, it is
3 something that is a list for a synthetic, and
4 you could review it and specifically prohibit
5 something on List 4, if you wanted to, but not
6 the generic ferric phosphate just because it
7 is used with.

8 Other questions?

9 CHAIRPERSON MOYER: Any other
10 questions for Zea?

11 (No response.)

12 MS. SONNEBAND: Thank you.

13 CHAIRPERSON MOYER: Thank you,
14 Zea.

15 Peggy, if you can come to the
16 podium, and Bill Wolf on deck.

17 MS. MIARS: I am striving to win
18 the brevity award of the day.

19 CHAIRPERSON MOYER: Thank you.

20 MS. MIARS: Thank you for this
21 opportunity to provide comments on retail
22 certification. We did not submit comments in

1 advance. So you just got them handed to you.

2 CCOF certification services
3 certifies about six retail establishments,
4 ranging from a single store to a chain of
5 about 275 stores.

6 We appreciate the hard work of the
7 Compliance, Accreditation and Certification
8 Committee, who have been working on this issue
9 for over a year.

10 We believe the regulations
11 sufficiently define the issue areas of
12 commingling, contamination, and recordkeeping
13 enough to apply them to retailers at this
14 time.

15 The Committee did bring up the
16 question of labeling, but we are not sure that
17 these concerns are problematic or pervasive
18 enough to warrant significant discussion by
19 the organic community, as evidenced by the
20 very few comments that were received on this
21 topic.

22 Continued discussion will result

1 in multiple versions of a recommendation,
2 public comment, handing it off to the NOP for
3 further deliberation and implementation. And
4 instead, we prefer that the NOP use its
5 resources to survey the marketplace to ensure
6 that there is not overt or misleading
7 labeling.

8 Our written comments address how
9 CCOF has dealt with the scenarios discussed by
10 the Committee. I will let you read those on
11 your own.

12 We fully support the actions of
13 the Committee and will engage in any further
14 discussion on retail certification, if the
15 organic community warrants it. Our main
16 concern at this time is that the Committee's
17 suggested measures for retailers levy greater
18 requirements on retailers than on certified
19 growers or processors.

20 I am actually not discussing the
21 other two issues that are up there.

22 The last thing I wanted to say is

1 that Miles or someone at USDA took the wind
2 out of what I was going to say as my last
3 comment. You have heard me say before that we
4 would like to see the NOSB meet on the West
5 Coast. As we heard earlier, that is going to
6 happen in the spring. So thank you to whoever
7 made that happen. We appreciate that.

8 The NOSB should be more accessible
9 to certified operations, and this is one way
10 to do so. CCFO will encourage our members to
11 participate in the process to experience the
12 full scope of how organic regulations are
13 created and amended, and we will tell them to
14 be very brief in their comments.

15 Thank you.

16 Did I win?

17 CHAIRPERSON MOYER: Thank you,
18 Peggy. I believe you did.

19 Any questions for Peggy? I'm
20 sorry, Bea.

21 MEMBER JAMES: Thank you for your
22 comments.

1 Help me understand how, to
2 communicate as a retailer to the consumer, the
3 difference between a deli operation that is
4 selling a salad with organic ingredients and
5 calling it organic, and they are not
6 certified, and a certified organic deli that
7 is going to the trouble to go through all of
8 the certification process following
9 compliance, and also being able to call their
10 salads certified, but they can say, "certified
11 organic" instead of the deli that is not
12 certified that can say, "organic salad".

13 MS. MIARS: Okay.

14 MEMBER JAMES: So my question is,
15 from the consumer perspective, they don't
16 really pay attention to the word "certified".
17 They are just paying attention to the fact
18 that it is being called out as organic.

19 So the deli that is going to the
20 trouble to be certified is not getting any
21 kind of extra competitive advantage next to
22 another retail operation that is selling the

1 same thing and not certified.

2 MS. MIARS: Well, in our comments
3 at the bottom of the page 1, I think we
4 address what you are talking about. So, a
5 multi-ingredient salad that is made in an
6 uncertified kitchen, we would not call
7 "organic".

8 MEMBER JAMES: "We" as in?

9 MS. MIARS: CCOF. Excuse me.
10 CCOF certification services would not call
11 that "organic salad".

12 MEMBER JAMES: Right, but,
13 currently, the retailer that is not certified
14 in a deli or a bakery operation is allowed to
15 call those products "organic" even though they
16 are not certified. They just can't say,
17 "certified organic".

18 MS. MIARS: Okay.

19 MEMBER JAMES: So the issue that
20 we see as a potential disadvantage and
21 confusion is that there's mixed messages for
22 the consumer who might shop both locations.

1 MS. MIARS: I think that is an
2 education of the consumer that the retailer
3 needs to do, whether it is through their
4 newsletters or through more clear signage. I
5 think it is an education issue of consumers.
6 I think that is what I would recommend doing.

7 MEMBER JAMES: So the retailer
8 that is not certified should tell their
9 consumers that they're not certified but they
10 are selling an organic salad anyway? I
11 just --

12 MS. MIARS: Yes, I see what you
13 are saying.

14 MEMBER JAMES: Yes. I bring it up
15 because I live in a State that has the highest
16 population of natural food co-ops than any
17 other state. So a lot of them are certified.
18 Some of them are not. They are competing with
19 larger other retailers that are certified in
20 some departments and not in others, and
21 there's this competing disadvantage.

22 And if we want to encourage

1 certification at retail, which we want to
2 do --

3 MS. MIARS: Yes.

4 MEMBER JAMES: -- we want to make
5 sure that the people that go to the trouble to
6 be in compliance educate their staff and their
7 consumers, put their OSPs in place, that they
8 are getting a value from that, that they are
9 getting an advantage to that, and that
10 consumers are getting a fair message.

11 MS. MIARS: Yes, yes, I see your
12 point, and we will continue to participate in
13 that discussion. Thank you.

14 MEMBER JAMES: Thank you.

15 CHAIRPERSON MOYER: Thank you,
16 Peggy.

17 Any other questions from members
18 of the Board?

19 (No response.)

20 Hearing none, we appreciate your
21 time.

22 As Bill makes his way to the

1 podium, I will mention that, as Board members,
2 we are subject to the same organic biological
3 processes as the plants and animals we are
4 talking about. But, in an effort to remain --
5 I guess we are woefully behind schedule -- so
6 we won't say that to remain on schedule, we
7 will not take a scheduled break, but people
8 can just leave, program and Board members just
9 leave as you need to, hopefully, maintaining
10 a quorum at the table. So we need nine, I
11 believe, to have a quorum. So come and go as
12 you need to, but we are going to keep moving.

13 Bill?

14 MR. WOLF: I will not try to
15 compete with Peggy, but I will try to be
16 brief.

17 First, I really want to thank this
18 Board for all of the hard work and
19 extraordinary number of issues you are
20 grappling with, and all of the documents that
21 were brought forward.

22 We have submitted written comment

1 on a number of issues, but today I would
2 really like to go back to some of the roots of
3 organic regulations around the issues of the
4 National List.

5 I do have a few slides, very
6 briefly, talking about those roots as really
7 being in the soil, and the next slide really
8 addresses some of the principles behind
9 decisions about organic regulations.

10 That is that, from the beginning,
11 we have thought in terms of what practices
12 encourage biological systems, not static,
13 mechanical systems, but biologically-active
14 systems. The challenges have been, how do you
15 quantify and regulate a philosophy based on
16 that principle?

17 I think that the discussion of --
18 next slide, please -- the whole idea of
19 continuous improvement has been captured very
20 well in the regulations. There are a number
21 of places where the regs really talk about
22 having organic system plans that require

1 continuously-improving soil systems.

2 I see the regulations continuously
3 improving as well. I am not going to try to
4 go through those examples in the regs where it
5 documents that type of improvement, not only
6 in crop rotation or fertility, but I would
7 like to talk in terms of encouraging the
8 process now.

9 I have got a couple of broad
10 requests to make that I don't think can all be
11 addressed at this meeting. One is to
12 challenge all of us to encourage innovation.
13 To encourage innovation in the regulatory
14 process, I suggest that we need to, one, have
15 the program require that all commercial
16 availability decisions be publicly available,
17 meaning that those exceptions are available so
18 that we can drive towards the development of
19 those non-organic ingredients that are
20 currently not available, so that we all know
21 what is going on and how those decision are
22 made. So it is completely transparent.

1 My second suggestion is that
2 organic preference has to be applied to all
3 ingredients on the National List. I applaud
4 the Canadian reg from that point of view
5 because that will push the system further.

6 As a part of that, I believe that
7 it would be valuable to merge 605 and 606 as
8 one list, and I believe that that is how OFPA
9 was originally discussed and envisioned, and
10 that this is a construct. In the construct
11 that has been established in the rule, we
12 spent a lot of time debating the ag/non-ag,
13 synthetic/non-synthetic, especially around
14 materials.

15 Those three broad recommendations
16 I just would like to put in front of you.
17 Some of them are captured to an extent in the
18 evolving document that I would like to talk
19 about next.

20 That is the National List
21 clarification of materials. I think the
22 working document that was posted is

1 extraordinary. It is real progress in
2 clarifying and articulating the issues.

3 I think there are areas that have
4 been addressed by some of the commenters today
5 and in the posted comment that suggest some
6 additional improvements. I think that there
7 are one or two definitions we may be able to
8 even drop out, and I am looking forward to the
9 discussion tomorrow of hearing how the Board
10 is viewing those.

11 But I am concerned about one
12 thing, and that is that the definition of
13 synthetic and the definition of chemical
14 change was specifically intended to capture
15 the precautionary principle and to have us
16 have a vehicle for identifying any manmade
17 synthesized compounds, and requiring that
18 those compounds be reviewed for placement on
19 the National List, so that it is a transparent
20 process.

21 The challenge is that in today's
22 society there are many, many materials that

1 touch synthetics and then are used in organic.
2 That is the nature of inputs in agriculture
3 today.

4 I have worked in the field of all
5 aspects of organic agriculture, including in
6 a past life being an organic pesticide
7 manufacturer. I've got to tell you that what
8 goes on in the processing of fertilizers and
9 pest controls, as an example, if you tighten
10 that definition too tight, you won't have any
11 inputs. That is one of the risks here, and we
12 need to be conscious of that.

13 So I am suggesting, if you could
14 identify a way to have that intent be in the
15 document, you have passed.

16 Finally, I have articulated in my
17 comments the CAS issues, and not requiring the
18 CAS because there are broad categories like
19 insecticidal soaps. That is my two comments
20 there.

21 I want to honor Oliver the
22 Earthworm at the organic garden at the USDA.

1 Thank you.

2 CHAIRPERSON MOYER: Thank you,
3 Bill.

4 We have some questions here.
5 Katrina and Joe.

6 MEMBER HEINZE: Thank you for your
7 comments. I really appreciate them.

8 Your concern about the definition
9 of synthetic and chemical change, does that
10 mirror the concern that was brought up earlier
11 that it could be misinterpreted to apply to
12 products that apply to the final rule? Or is
13 it a separate concern?

14 MR. WOLF: Well, my concern is
15 that, if you look closely enough at any
16 process for segregating a natural material
17 used today in any quantity, you do have the
18 potential of defining it or arguing that there
19 is chemical change or contact with synthetic
20 compounds.

21 If we become chemophobes over this
22 issue, then we risk a radical narrowing of

1 options for organic production and processing,
2 and we end up with a very convoluted process
3 for a huge number of things being looked at on
4 the National List that can't be handled.

5 MEMBER HEINZE: Can I ask a
6 followup?

7 CHAIRPERSON MOYER: Please.

8 MEMBER HEINZE: So, specific to
9 your concern, you would want us to add
10 something to the definition that limits it to
11 manmade synthesized compounds? Am I
12 understanding that properly?

13 MR. WOLF: Yes.

14 MEMBER HEINZE: Okay.

15 MR. WOLF: And whether that is in
16 the description of the intent as part of your
17 document or whether you can actually
18 incorporate it in the actual definition, you
19 guys are much closer to how that would work.

20 MEMBER HEINZE: Thank you very
21 much.

22 MR. WOLF: Yes.

1 CHAIRPERSON MOYER: The Chair
2 recognizes Joe.

3 MEMBER SMILLIE: I appreciated
4 your comments, Bill, especially the 605 and
5 606. I think that that's where I will
6 personally want to head also because
7 commercial availability was what drives
8 innovation.

9 I just saw a recent article that
10 talked about a new organic inulin that is
11 going to be on the market, which is one of our
12 606 items. Julie and I are steadfast in that
13 posting something on 606 drive innovation. I
14 hope that the manufacturers back us up on
15 that, like the new inulin project.

16 My question to you, on behalf of
17 the certification community, is when you say
18 you want transparency in the declaration of
19 commercial availability decisions, do you mean
20 that when we grant a 606 item for use, that we
21 have examined, how we have examined or how we
22 justified that they can use that as

1 conventional because there is no organic
2 available? Is that what you are asking for?
3 MR. WOLF: No. What I am asking
4 for is that there be a site on the NOP site
5 where every material that has been determined
6 not available in an organic form is listed,
7 and it just says, "cert", and it lists the
8 certifier that has made that decision. It
9 doesn't have to go into a lot of details. Or
10 the numbers of certifiers or some way to have
11 it be publicly available, so that that will
12 drive the research and development of options.

13 I don't know the detail; we need
14 to work on whether it should be how many times
15 that decision has been made or how many
16 products or how many labels. But I am not
17 looking for it to be by product or even how
18 that decision was made, but have some
19 availability of that information, so that
20 anyone can look at it and say, "Whoa, I'm
21 going to go out and make an organic inulin"
22 because, in fact, there's 47 labels of

1 products using it, using a non-organic source.

2 MEMBER SMILLIE: Okay, as long as
3 we recognize the fact that it could be granted
4 in one case and not in another, farm
5 quality/quantity. Right?

6 MR. WOLF: Got it.

7 MEMBER SMILLIE: Okay.

8 CHAIRPERSON MOYER: Any other
9 questions for Bill?

10 (No response.)

11 Thank you, Bill.

12 MR. WOLF: Thank you.

13 CHAIRPERSON MOYER: We appreciate
14 your time.

15 Grace, if you could come to the
16 podium, we would appreciate it, and Gwen Wyard
17 is on deck.

18 MS. MARROQUIN: Hello. My name is
19 Grace Marroquin. I am CEO and President of
20 Marroquin Organic International, based in
21 Santa Cruz, California. We have been
22 importers and suppliers of organic ingredients

1 since 1941.

2 I have addressed this Board at
3 almost every meeting since 2004, happily.
4 Once again, I am here to talk about organic
5 yeast.

6 I appreciate the comments of
7 Oregon Tilth and Wolf, DiMatteo and Associates
8 in support of reclassifying yeast on the
9 National List as an agricultural product.

10 Yeast is a fungus, a living
11 microorganism. Some may believe that fungi,
12 such as yeast and mushrooms, are plants, but
13 fungi are not plants. Now here is the
14 definition of livestock in the Organic Foods
15 Production Act. I am sorry for those people,
16 I know you know this already, but this is for
17 the record. I quote:

18 "The term livestock means any
19 cattle, sheep, goats, swine, poultry, equine
20 animals used for food or in the production of
21 food, fish used for foods, wild or domestic
22 game, or other non-plant life."

1 Other non-plant life means living
2 microorganisms such as yeast. The NOP final
3 rule has the same definition of livestock.

4 Now here is the OFPA definition of
5 agricultural product, and I quote:

6 "The term agricultural product
7 means any agricultural commodity or product,
8 whether raw or processed, including any
9 commodity or product derived from livestock
10 that is marketed in the United States for
11 human or livestock consumption." End of
12 quote.

13 These definitions make it clear
14 that under OFPA yeast is livestock, and the
15 products of yeast are agricultural products.
16 However, there is confusion, understandably
17 so, because the National List has yeast listed
18 on Section 205.605(a) as a non-agricultural
19 substance.

20 The National List is only one part
21 of the final rule. The National List may not
22 make a listing that would conflict with these

1 definitions.

2 The listing of yeast as non-
3 agricultural was a mistake. The National List
4 needs to be amended so that yeast is corrected
5 as an agricultural product and put onto
6 205.606.

7 The Joint Committee recommendation
8 is written as though this definition does not
9 exist in OFPA. At the Board meeting in 2006,
10 the Joint Handling and Materials Committee
11 recommended unanimously, 8-to-0 -- 8-to-0 --
12 to move yeast and dairy cultures to 205.606.
13 The decision was based on OFPA.

14 The Board heard public comment
15 warning that, if yeast was recognized as
16 agricultural, this would require yeast and
17 dairy feed to be organic. The Board said it
18 wanted to review this before it acted,
19 understandably so.

20 This stopped all of the momentum
21 on the Joint Committee to move it to 606.
22 Three years later, the Joint Committee present

1 recommendation does not offer a solution, just
2 a proposal for further study.

3 We recognize that putting yeast on
4 606 could be a problem for the dairy feed.
5 When the NOP wrote the existing standards for
6 205.237(a), it did not anticipate that
7 microorganisms used in feed would someday be
8 recognized as agricultural products. Now that
9 day is here, and an amendment is needed to
10 205.237(a).

11 This amendment should allow non-
12 organic yeast and microorganisms to continue
13 to be used as additives and supplements until
14 organic versions are available.

15 I know that there are some that
16 fear that any change to the feed standard
17 would give the perception of a weakening of
18 the standard. This amendment would not weaken
19 any existing standard. It would simply allow
20 non-organic microorganisms to continue as
21 supplements, as they presently are now, until
22 there are organic versions available.

1 I would like to conclude with a
2 few more points. As long as yeast remains
3 listed on 205.605(a), processors are free to
4 use conventional yeast and are not required to
5 seek out organic yeast.

6 I need to remind you, and it is
7 really important, that presently the reason
8 the Europeans developed organic yeast was
9 because conventional yeast is manufactured
10 using synthetic chemicals, such as ammonia,
11 sulfuric acid, caustic soda lye, synthetic
12 vitamins, synthetic anti-foaming agents. None
13 of these are allowed in organic production;
14 yet, they are being used this way.

15 The wastewater, you have to have
16 special licenses to treat it. In the organic
17 yeast, the wastewater is used for further
18 organic production, and the substrate is 100
19 percent organic grains.

20 I am here on behalf of an organic
21 ingredient, trying to get it recognized. My
22 business and the entire industry grew because

1 of organic preference. I say viva organic
2 preference.

3 (Laughter.)

4 Somebody has some question?

5 CHAIRPERSON MOYER: The Chair
6 recognizes Joe.

7 MEMBER SMILLIE: Grace, I guess I
8 will be retired when you come to your next
9 couple of meetings.

10 (Laughter.)

11 But you know I am an advocate. I
12 truly believe that yeast is an agricultural
13 substance. I truly believe it can be
14 certified, and I think we can create an OSP or
15 organic compliance plan that will fit.

16 I think our recommendation, even
17 though it doesn't wholeheartedly endorse what
18 you want, is another, I hate to say it, but
19 another step toward the final liberation of
20 organic yeast.

21 What is your situation vis-a-vis
22 the petition process, though? At one point in

1 time, you petitioned it.

2 MS. MARROQUIN: The petition is
3 back in. It has been in.

4 MEMBER SMILLIE: Oh.

5 MS. MARROQUIN: It is there. It
6 is in.

7 MEMBER SMILLIE: Do we know about
8 this?

9 MS. MARROQUIN: We mentioned this
10 last time, that it was pulled temporarily --

11 MEMBER SMILLIE: Right.

12 MS. MARROQUIN: -- and put back.
13 It was put back in. We never pulled it --

14 MEMBER SMILLIE: When?

15 MS. MARROQUIN: We never -- that
16 was, what? Dick, do you remember?

17 We pulled it when we thought a
18 vote was going to go down that was really
19 going to shelf this whole thing.

20 MEMBER SMILLIE: Right.

21 MS. MARROQUIN: So we pulled it
22 out temporarily. We just pulled it and put it

1 back.

2 CHAIRPERSON MOYER: Right, that's
3 what happened.

4 The Chair recognizes Katrina.

5 MEMBER HEINZE: We are looking
6 forward to having it back.

7 To elaborate on what Joe said, as
8 we went through the classification of
9 materials and we talked about these nebulous
10 things I am going to call biological stuff,
11 for lack of better terms right now, what we
12 realized is there is a lot of different
13 sources, and we talked a lot about yeast.

14 So there is clearly yeast that we
15 all think can be certified organic and
16 classified as agricultural, but there are
17 production methods that we are not comfortable
18 classifying as agricultural.

19 To be honest, we lack the
20 technical depth to be able to categorically
21 make a decision. So what we want is a
22 petition that will help us do that. Because

1 we do believe that your yeast is certified
2 organic, and we want to make that decision.
3 We need help with the technical, though. So
4 a petition would help us with that.

5 MS. MARROQUIN: So you are talking
6 about submitting another petition?

7 MEMBER HEINZE: Well, we don't
8 have your petition right now.

9 MS. MARROQUIN: Where did it go?

10 MEMBER HEINZE: Because you pulled
11 it.

12 MS. MARROQUIN: But we put it back
13 on the table.

14 MS. FRANCES: Pause. It is
15 available to the Committee. It hasn't gone
16 anywhere. It is a document.

17 MEMBER HEINZE: We can't take
18 action on it.

19 CHAIRPERSON MOYER: We can't take
20 action until it's --

21 MS. FRANCES: They withdrew it.

22 VICE CHAIRPERSON GIACOMINI: It

1 has not been resubmitted to this Board for
2 action from the program.

3 CHAIRPERSON MOYER: Or from the
4 petitioner, because the petitioner pulled it
5 from the table.

6 MS. FRANCES: I have always
7 understood it that it was just within the
8 Handling Committee and they just were not
9 dealing with it until this was resolved.

10 VICE CHAIRPERSON GIACOMINI: It
11 has never been resubmitted to this Board by
12 the program.

13 MS. FRANCES: It is available to
14 everyone. It is not like it went anywhere.

15 MS. MARROQUIN: Exactly.

16 CHAIRPERSON MOYER: But,
17 technically, the petitioner had pulled it, and
18 only the petitioner can put it back into our
19 table.

20 MS. FRANCES: And they did.

21 MS. MARROQUIN: And we did.

22 CHAIRPERSON MOYER: It wasn't

1 notified; I don't know anything about it.

2 MS. FRANCES: It occurred at this
3 meeting.

4 VICE CHAIRPERSON GIACOMINI: We
5 receive petitions through the program, not
6 from petitioners. It was never resubmitted to
7 us from the program.

8 CHAIRPERSON MOYER: The Chair
9 recognizes Dan. You had a comment, Dan?

10 VICE CHAIRPERSON GIACOMINI: Yes,
11 I would like to actually not talk about yeast
12 for a minute because I think I am really
13 excited about the recommendation that you,
14 what you are proposing in amending 237.

15 The way 237 -- I was just trying
16 to find it through OFPA -- the way 237 is
17 written is actually a slight deviation from
18 the way it was originally written in OFPA. I
19 believe OFPA is a far more correct and
20 reasonable writing.

21 The problem is OFPA has subtlety
22 and gray areas. Unfortunately, there are so

1 many times in this industry where we don't
2 want subtleties and gray areas. We want black
3 and white, period. If you don't give me black
4 and white, I don't know how to do anything.
5 I don't even know how to do anything besides
6 the gray. It all becomes gray.

7 I would really like us to sit down
8 and see if there is a way that we can figure
9 out how to craft that language that would be
10 acceptable to the program, that would stay
11 within OFPA. Because, quite frankly, there
12 are a lot of issues that are involved in this,
13 including other issues, things that will be
14 moved around in the classification of material
15 document, recommendation, that we are working
16 on that could face some problems.

17 I think this is an area that we
18 need to look at. Unfortunately, it is
19 subtleties, and they are not always welcome.

20 MS. MARROQUIN: Thank you for
21 saying that.

22 CHAIRPERSON MOYER: The Chair

1 recognizes Katrina.

2 MEMBER HEINZE: No questions.

3 CHAIRPERSON MOYER: Okay. Then
4 Tracy.

5 MEMBER MIEDEMA: This is, Grace,
6 to you and also to Dan. I think we have to
7 wrap our heads around the irony of the fact
8 that the only way we can give preference for
9 organic yeast would be to allow non-organic
10 yeast as a feed additive with some commercial
11 availability stipulation.

12 I think it is hard for us to wrap
13 our head around the irony of that and to take
14 the risk of how that looks in the media, but
15 it's --

16 MS. MARROQUIN: But you already
17 allow it.

18 MEMBER MIEDEMA: Pardon me?

19 MS. MARROQUIN: It's already
20 allowed, non-organic yeast.

21 MEMBER MIEDEMA: Exactly. So,
22 therein lies the irony.

1 MS. MARROQUIN: Yes. Yes. I have
2 to mention that the EU, as of January -- I
3 mean, as we are having these equivalency
4 talks, you have to bear in mind, January 2010,
5 the EU recognizes yeast as organic. They have
6 given the industry four years by saying, in
7 2014, organic yeast is going to be required in
8 feed and in food. The only thing left on the
9 table in discussions right now is the Holy
10 Grail itself, yeast for beer and wine. But,
11 otherwise, it is going to be required in feed.

12 You can be sure, absolutely
13 positive, that all those yeast companies, all
14 the major ones are over in Europe, are all
15 working and developing this already. I mean
16 it is already being done for this purpose.

17 I just want to back up what Bill
18 brought up, which is this industry has grown,
19 and the innovation that has taken place is
20 because of commercial availability, because of
21 organic preference.

22 So I just say one more time, viva

1 organic preference.

2 CHAIRPERSON MOYER: Okay. Any
3 other questions for Grace?

4 (No response.)

5 Thank you, Grace.

6 Gwen, if you could come to the
7 podium, we would appreciate it, and John Ashby
8 is on deck.

9 MS. WYARD: Okay. Well, good
10 afternoon. I made it to the after-5:00 club.
11 Where is the happy hour? Viva la beer.

12 My name is Gwendolyn Wyard. I am
13 the Processing Program Technical Specialist
14 for Oregon Tilth.

15 We are a nonprofit dedicated to
16 promoting biologically-sound agriculture. We
17 accomplish this through research, education,
18 advocacy, and certification of products. I am
19 here representing over 700 members and 1200
20 certified operators.

21 You have our comments in writing.
22 We submitted over 20 pages. I am going to be

1 summarizing portions of the comments on the
2 clarification of materials, retailer
3 certification, and personal body care
4 standards, if I have time.

5 We are generally in favor of the
6 recommendation for the clarification of
7 materials. I came to this Board five years
8 ago, in October of 2004, requesting
9 clarification of the definitions of
10 agricultural and non-agricultural. So I am
11 pleased to be standing here today, and I am
12 pleased to say that I really think the
13 recommendation is good. I think some of the
14 minor points that need to be worked out could
15 very well be worked out in the guidance
16 document that are mentioned in the next steps.

17 I think the recommendation does
18 lay a good foundation for us to move forward.
19 So we would like to see several portions of
20 this recommendation passed at this meeting.

21 We fully support the first two
22 guiding principles; namely, that the

1 classification of a material is determined by
2 both source and process, and the same material
3 can be agricultural, non-synthetic, and
4 synthetic.

5 We are assuming that the first two
6 guiding principles extend to the third guiding
7 principle, but we would like to see the
8 recommendations specifically address whether
9 an organically-sourced material that undergoes
10 chemical changes during processing or as a
11 function of materials that are allowed on the
12 National List could be organic, if produced in
13 accordance with the regulations. We think the
14 answer is yes, and we think that that has been
15 communicated by past Boards, dating all the
16 way back to the mid-nineties. But it is
17 important that it is clarified.

18 Hot-topic examples of this
19 situation include bleached, de-oiled lecithin
20 in dry form, soy protein isolate, glycerin
21 soap, and products of corn wet milling.

22 We want to note that, with the

1 third guiding principle, if something is
2 sourced from agricultural material, and it is
3 rendered synthetic via a chemical change, we
4 need to take a look at the bleached soy
5 lecithin, the bleached de-oiled soy lecithin
6 that has been recommended for 606. Because if
7 you ask that question first, it needs to stay
8 on 605(b). You are putting it over onto 606
9 to encourage organic production.

10 So, with that third guiding
11 principle, you are going to inhibit the
12 production of organic ingredients that could
13 be organic. So that is something that needs
14 to be dealt with.

15 In terms of NOSB practices, we
16 think they are great. We support the
17 recommendation. We do have some concerns
18 about the increased use of the annotations.
19 They create a lot of work for certifiers, not
20 that we are not up for it, but at the end of
21 the day we don't have authority over these
22 non-organic ingredient manufacturers,

1 regulating enforcement.

2 We receive usually a statement or
3 an affidavit of some sort saying these are the
4 practices we have or haven't used. So we do
5 have some concerns. We see that they are
6 necessary, but we would like to see them be
7 used as a last-resort stop, if and when they
8 are absolutely necessary.

9 We support all of the related
10 definitions proposed in the recommendation to
11 clarify the definition of synthetic. Okay?
12 All of those are fantastic.

13 We do not, unfortunately, support
14 the proposed definition of non-agricultural,
15 primarily because it makes reference to an
16 agricultural system which is not defined. It
17 also contradict's the Committee's proposed
18 third guiding principle as it would relate to
19 handling materials.

20 There might be a slight
21 misunderstanding on our behalf as far as the
22 contradiction that I am going to talk about.

1 Jessica Walden, she may have addressed it in
2 amending the heading of 605. But if you
3 classify something as synthetic and you put it
4 under 605, now you have just classified it as
5 non-agricultural, and your definition of non-
6 agricultural states that it is a product that
7 has not derived from an agricultural system.
8 So it is contradicting itself.

9 And as far as the definition of
10 agricultural system, I believe you pull the
11 definition that was suggested by the Materials
12 Working Group. Only with that definition, the
13 Materials Working Group offered up a couple of
14 definitions to choose from with respect to
15 agricultural system.

16 So we agree with the minority,
17 too, that without a definition of an
18 agricultural system, non-agricultural has not
19 been fully defined, and the true issue of what
20 qualifies to be organic has not been
21 addressed.

22 We support the removal of or the

1 deletion of "or bacterial culture". We
2 recognize that microorganisms can be certified
3 organic. We support their classification as
4 agricultural.

5 And if you have any questions as
6 far as how they could be certified or any
7 questions about personal body care standards
8 or retailer certification, I would be happy to
9 answer those at this time. Thank you.

10 Katrina?

11 MEMBER HEINZE: Thank you for your
12 comments.

13 Does your concern about the
14 definition of non-agricultural and some of the
15 conflicts go away if we just eliminate that
16 definition?

17 MS. WYARD: If you eliminate the
18 definition of non-agricultural, then, as
19 certifiers, we are going to be in a tough spot
20 when we have to evaluate made-with products
21 because we do need criteria for
22 differentiating between agricultural and non-

1 agricultural because, in that 30 percent, non-
2 agricultural will have to be on the list.

3 MEMBER HEINZE: Does that go away
4 if not ag is really not classified as ag?

5 MS. WYARD: If non-ag is not
6 classified as ag? You mean if you just simply
7 call it synthetic and remove distinction as --

8 MEMBER HEINZE: So maybe,
9 actually, hold that thought, and after we talk
10 through the recommendation tomorrow --

11 MS. WYARD: Yes.

12 MEMBER HEINZE: -- if you like
13 that, maybe you could let us know.

14 MS. WYARD: Sure.

15 MEMBER HEINZE: Okay.

16 MS. WYARD: Tomorrow. We will get
17 back to you on that.

18 (Laughter.)

19 CHAIRPERSON MOYER: Any other
20 questions or comments from Board members? I'm
21 sorry, Bea.

22 MEMBER JAMES: Well, I have to

1 thank you for your great comment on the retail
2 recommendation because you really were
3 thorough. I appreciate everything that you
4 had in your comments.

5 The one question I have for you
6 is, how do we educate non-certified deli and
7 bakery departments that are selling their
8 products as organic because they know that
9 they can? You know, as you mentioned, they
10 are exempt. So they can sell these products
11 as an organic even though they are not
12 certified.

13 You also made comment that, you
14 know, if the world of retail was truly
15 educated, a lot of this would be happening a
16 lot more.

17 But what I see happening is the
18 advantage of a store knowing how to certify
19 one department brings them the knowledge to
20 know how to market organic or not market it in
21 other departments. So, then, that is the
22 proliferation of a lot of incorrect marketing

1 of the organic term on products that may not
2 be fully organic or coming from a non-
3 certified department.

4 So how do we get to that point
5 where we can be more clear for the consumer?

6 MS. WYARD: I don't know; maybe
7 the program wants to send out an announcement
8 to all exempt and excluded operations
9 reminding them that they are exempt and
10 excluded from certification, but not from
11 following the Act and the regulations.

12 So these retailers should be
13 following the regulations. That was our
14 comment: that if they were, if they really
15 understood that, then they are just a stone's
16 throw from certification, and they would want
17 to get certified because they would be better
18 educated and they would be able to market to
19 their consumers that extra layer that they go
20 through.

21 But I think, once retailers
22 recognize and really, truly understand that

1 they are just exempt and excluded from
2 certification, and if there were to be some
3 enforcement, going in and doing surprise
4 inspections for retailers that are making
5 organic claims and aren't certified, that
6 might get at the problem. That is an idea.

7 MEMBER SMILLIE: And that civil
8 penalty would serve notice to the retailer
9 community.

10 MEMBER JAMES: But, currently, I
11 mean a deli department doesn't have to be
12 certified to call their salad "organic". They
13 just can't call it "certified organic".

14 MS. WYARD: No, they don't have to
15 be certified to call it "organic", but they
16 need to have records to support the use of all
17 those ingredients going into it, not only the
18 certification, but the quantities used. They
19 need to be able to demonstrate the commingling
20 and contamination preventions that were used,
21 and la-de-da-de-da --

22 MEMBER JAMES: Right.

1 MS. WYARD: -- and the
2 recordkeeping. All of the requirements that
3 certifieds are held to, they are, too.

4 MEMBER JAMES: And how many
5 retailers do you think are actually doing
6 that?

7 MS. WYARD: I get the feeling
8 that, well, shoot, by numbers, I think some do
9 a very good job at it, but I also hear
10 retailers say, "Well, we don't really want to
11 get certified because we don't want to have to
12 do all that recordkeeping."

13 MEMBER JAMES: Yes. And I don't
14 want to take up any more time because I know
15 there is a dinner appointment. But I would
16 like to talk to you, maybe outside of this,
17 about your ideas on the deli and the bakeries
18 with the three tiers, 100 percent, 95 percent,
19 and 70 percent. I have questions about that.

20 MS. WYARD: Yes. Yes, I would
21 love to. I have put together several
22 presentations for retailers on how they can go

1 about marketing and labeling their products.

2 It is an area I really enjoy. So I would be
3 happy to.

4 CHAIRPERSON MOYER: Thank you.

5 MS. WYARD: Thank you very much.
6 Thank you so much for all your work.

7 CHAIRPERSON MOYER: You bring up
8 some excellent points that we need to address,
9 and I appreciate it.

10 Next will be John Ashby, and
11 Alexis Baden-Mayer is on deck.

12 MR. ASHBY: Hi. I'm John Ashby,
13 General Manager of California Natural
14 Products.

15 I am really rather scared because
16 I am fully aware I am one of the very few left
17 standing between everybody and their first
18 beer. So I am going to try to be brief.

19 I want to comment, actually, on
20 three separate things. One is on
21 nanotechnology. It is a lot of scary stuff
22 that shouldn't be in regular food, much less

1 shouldn't be in organic food. However, you
2 have got to be real careful what definition
3 you decide to apply.

4 The definition in the proposal is
5 you just change a few words around, substitute
6 "homogenization" for a couple of words in the
7 definition. If I were lecturing at a food
8 product development class at UC Davis, where
9 I talk a lot, you would get a "B". It is that
10 close to homogenization.

11 So you are really putting
12 homogenization at risk. And it is not just me
13 saying this. I think it was two months ago,
14 an article in Institute of Food Technology
15 magazine, they talk about how homogenization
16 and fine milling results in nanoparticle
17 formation.

18 So you have got to be careful that
19 you are not throwing out dairy's ability to
20 homogenize things with the definition. The
21 definition as it stands, as I say, I would
22 give a student a "B" if we just substitute a

1 couple of words. It is close enough to
2 homogenization. Very, very risky.

3 I am not particularly happy with
4 the minority position, either. I think we
5 need to put a lot more care into the
6 definition of the term.

7 Regarding boiler chemicals, boy,
8 do we use a lot of boiler steam. We not only
9 don't use any of the volatile means, but when
10 I was talking with my plant engineer about it,
11 it looked like he had migraine, the way he
12 grabbed his head, he dislikes it so much.

13 However, the fact that I don't
14 need to use them doesn't mean that a lot of
15 people don't need them. Whereas some people
16 are able to get away without them, a lot,
17 particularly in the jarring and canning, when
18 you are putting on some kind of a lid, some
19 kind of a hot pack, it is used, and there
20 aren't a lot of substitutes.

21 I am afraid you are going to
22 really just be kicking a lot of people out of

1 the program, and a lot of potential people who
2 are maybe looking at putting some organic
3 products into the processing facility. They
4 go to go the engineer, and they say, "We've
5 got to take this out." You will run it, and
6 that will just be the end of it.

7 So, basically, I am just
8 concurring with pretty much everything Kim
9 said, except adding a little more to it. I
10 think there are a lot of people that are going
11 to have trouble with this. I think it is
12 going to deter a lot of people in the future.

13 We don't have enough technology
14 that everybody can just easily get around this
15 right now. We just don't have it.

16 And third, I am going to add the
17 thought that the bifenthrin compost problem in
18 California is a bigger deal. Because I talked
19 to one of the environmental scientists who has
20 been working on this before we found it -- and
21 I'm on the COPAC Committee in California --
22 before we found it in the wheatgrass. It is

1 starting to show up everywhere. It is in
2 water. It is in dirt, everywhere.

3 If you end up with a really,
4 really restrictive definition on the compost,
5 you could end up wiping out everything fast.
6 So I would just encourage some attention to
7 moving in that direction.

8 None of us want to see this stuff
9 there. The problem is it is like DDT; it is
10 there now. So how do we deal with it?

11 Any questions? Any answers?

12 CHAIRPERSON MOYER: Any questions
13 for John? Steve?

14 MEMBER DeMURI: Yes. Thanks for
15 your comments, John.

16 Has your company ever used any of
17 those three boiler chemicals?

18 MR. ASHBY: Gosh, you know, we
19 have been making organic stuff since before
20 the California rule. My history doesn't go
21 back that far.

22 This plant engineer hates them.

1 We are so specific about it that we have a
2 process that requires roughly 10 people to
3 approve changing anything.

4 In fact, today, via an email, I
5 had to approve the use of a chemical in a
6 piece of equipment that doesn't touch food
7 ever. That is how rigid we are about it at
8 this time.

9 To my knowledge, no, but I have
10 only worked there for six years. So I don't
11 have any skin in the game other than the rest
12 of the organic industry. That is my concern
13 here.

14 CHAIRPERSON MOYER: Any other
15 questions? Dan?

16 VICE CHAIRPERSON GIACOMINI: Yes.
17 Hi, John.

18 I forget where he was from, the
19 scientist this morning. Were you here then?

20 MR. ASHBY: Yes. Yes.

21 VICE CHAIRPERSON GIACOMINI: He
22 talked about including terminology of

1 "engineered" into the definition of nanotech.
2 I mean this is very close to NNI and the
3 Canadian regs.

4 MR. ASHBY: And I think they are
5 both huge mistakes --

6 VICE CHAIRPERSON GIACOMINI: Okay.

7 MR. ASHBY: -- and going to lead
8 to problems.

9 I spoke with him about it
10 afterwards. I don't want to be putting words
11 into his mouth, but -- how to put this gently?
12 -- he was not disagreeing with me that the
13 definition needs to be changed.

14 Maybe I can help by giving you
15 like what I would think would be the "A"
16 answer in a food product development class
17 about homogenization.

18 Homogenization would be using
19 technology to intentionally reduce the
20 particle size, yes, down into the nano range,
21 so that the product behaves differently than
22 it did before homogenization. That is real,

1 real close to what is in that definition.

2 VICE CHAIRPERSON GIACOMINI:

3 Almost.

4 MR. ASHBY: Pardon me?

5 VICE CHAIRPERSON GIACOMINI:

6 Close. Yes, close.

7 MR. ASHBY: Yes, that is really,
8 really, very, very close. In fact, the
9 article talks about how you create some freaky
10 stuff, freaky nano-scale stuff, by
11 homogenization.

12 VICE CHAIRPERSON GIACOMINI: Could
13 you give us, even just on a piece of paper,
14 possibly your recommended improvement for
15 this?

16 MR. ASHBY: I will make an offer
17 to do that. I am not sure there is a simple
18 solution to it because it is more complicated.
19 You know, once you have heard the definition
20 of what homogenization -- it is intentional;
21 the size happens.

22 VICE CHAIRPERSON GIACOMINI:

1 Control of the small size is --

2 MR. ASHBY: Oh, the whole purpose
3 of homogenizing is to control the small size.

4 VICE CHAIRPERSON GIACOMINI:

5 Right.

6 MR. ASHBY: I mean that is the
7 whole purpose of it.

8 VICE CHAIRPERSON GIACOMINI: But
9 the inadvertent things that are created are
10 the small size, though, not --

11 MR. ASHBY: No. No. You are
12 purposefully creating small sizes when you
13 homogenize because the particles react
14 differently in the liquid.

15 VICE CHAIRPERSON GIACOMINI: But
16 the maximum amount that you are trying -- the
17 maximum size you are trying to reach is not a
18 nanoparticle.

19 MR. ASHBY: That is not always
20 true, no. No, it is not. Sometimes you do --
21 and remember, when you are homogenizing, you
22 are not creating one size of a particle.

1 VICE CHAIRPERSON GIACOMINI:

2 Correct.

3 MR. ASHBY: You are creating a
4 bell-shaped curve.

5 VICE CHAIRPERSON GIACOMINI:

6 Right.

7 MR. ASHBY: And you've got plenty
8 of nanoparticles. In fact, in the first few
9 microseconds, after the first stage of
10 homogenization, you have got a whole bunch of
11 little nanoparticles. Then some of them
12 recombine. That is why most really precise
13 homogenization systems do it again, so it
14 blasts those things apart again. You've got
15 lots of really little particles, and you've
16 got nanoparticles remaining.

17 CHAIRPERSON MOYER: Are there any
18 other questions from the Board for John?

19 MR. ASHBY: I will try to do
20 something. I'm not --

21 CHAIRPERSON MOYER: Rigo?

22 MEMBER DELGADO: I have a

1 technical question. When you are trying to
2 reduce the size of those molecules or
3 particles --

4 MR. ASHBY: Particles.

5 MEMBER DELGADO: -- you are trying
6 to change some of the behavior of that milk or
7 that product.

8 MR. ASHBY: Whatever it is, yes.

9 MEMBER DELGADO: What if you keep
10 decreasing the size of those? Would it
11 eventually turn into something completely
12 different that you did not expect?

13 I am going back to what you said,
14 the intent of --

15 MR. ASHBY: Okay.

16 MEMBER DELGADO: -- bringing down
17 the size of those particles.

18 MR. ASHBY: Eventually, yes, and
19 especially as we are learning more about
20 nanoparticles, we are getting more and more
21 surprised by what happens when you make some
22 of these things small.

1 But what you are really doing in a
2 traditional milk homogenization, which is not
3 the only way homogenization is used in foods
4 right now, but what you are really trying to
5 do is what -- what was his name? -- Michael
6 this morning talked about. Remember the
7 things? It is theoretically nanotechnology
8 manipulation.

9 You are trying to manipulate the
10 surface area relative to the volume. Because
11 when you change the surface area relative to
12 the volume, the charges on the surface become
13 stronger than the charges inside the big
14 particle that causes it to break apart, and
15 the cream flows to the surface. That is the
16 simplest way to describe it.

17 So the scientific answer to your
18 question is, yes, you keep going smaller; you
19 get all sorts of different responses. There
20 are limits to standard homogenization
21 equipment and processes. It is hard to
22 average one nanometer coming out, but there

1 are homogenizers that can get it down there,
2 not in the quantity that you can run milk, and
3 they are very difficult to run, but there are
4 homogenizers that can do that.

5 CHAIRPERSON MOYER: The Chair
6 recognizes Dan.

7 VICE CHAIRPERSON GIACOMINI: Here
8 again, if we were to allow, within the
9 definition of nanotechnology, specifically
10 state that nano-sized particles created from
11 process allowed in organic production are not
12 included, would that --

13 MR. ASHBY: I am going to give you
14 this because --

15 VICE CHAIRPERSON GIACOMINI: Okay.

16 MR. ASHBY: -- that is how they
17 create some of these freaky particles, too.

18 VICE CHAIRPERSON GIACOMINI: Okay.

19 MR. ASHBY: That is why I am
20 having trouble thinking I can -- I can't think
21 I can come up with an easy solution. I will
22 try to help you in thinking it through.

1 VICE CHAIRPERSON GIACOMINI: I
2 mean I've got this here, and it is dealing
3 with the all other really high-end stuff.

4 MR. ASHBY: Right.

5 VICE CHAIRPERSON GIACOMINI: This
6 is the freaky stuff we are trying to make sure
7 that we deal with.

8 MR. ASHBY: Exactly. You know,
9 that brings us closer, but then it does allow,
10 it will allow some freaky things.

11 Some of these really small
12 particles that you create through homogenizing
13 do go across cell walls in weird ways. So it
14 doesn't completely solve the problem, but it
15 better solves it, yes.

16 CHAIRPERSON MOYER: The Chair
17 recognizes Kevin.

18 MEMBER ENGELBERT: What size does
19 the homogenization take most of these
20 nanoparticles down to, and is there any other
21 techniques besides homogenization that concern
22 you with this recommendation?

1 We heard earlier 300 nanometers
2 and lower.

3 MR. ASHBY: Right.

4 MEMBER ENGELBERT: Where does milk
5 fall? Homogenization of milk?

6 MR. ASHBY: On average, much
7 bigger than that, but it is picking up a big
8 end of the tail in that, in the distribution
9 of size; there is a significant number of
10 particles in the nano range.

11 MEMBER ENGELBERT: There are?

12 MR. ASHBY: Yes. Depending on how
13 you define it.

14 CHAIRPERSON MOYER: The Chair
15 recognizes Rigo. You had another question?

16 MEMBER DELGADO: Well, I was just
17 thinking. Are you still talking about milk at
18 that level, below the 300 nanos, or not?

19 MR. ASHBY: The homogenization
20 creates a distribution of particle sizes.

21 MEMBER DELGADO: Okay.

22 MR. ASHBY: And so, yes,

1 absolutely.

2 MEMBER DELGADO: So we are not
3 talking about a completely different product,
4 are we? Or if it changes its properties, you
5 can probably identify those to a certain
6 extent, correct?

7 MR. ASHBY: Well, you see, as a
8 scientist --

9 MEMBER DELGADO: I am not getting
10 oil out of this or gasoline or something like
11 that?

12 MR. ASHBY: As a scientist, I am
13 looking at what the definition of
14 homogenization is relative to how we are
15 trying to define nanotechnology. You are
16 meeting all the criteria of this definition.
17 You are purposefully applying a technology in
18 order to control the particle size, in order
19 that the product acts differently than it does
20 if you don't apply that technology.

21 It is not causing quantum effects,
22 which is one of the freaky things that happens

1 with some of these particles. They become
2 waves instead of particles, act like waves
3 instead of particles. You are not doing that,
4 that I know of. But, yes, it is acting
5 differently.

6 CHAIRPERSON MOYER: John, are you
7 going to be around tomorrow?

8 MR. ASHBY: Yes, I am.

9 CHAIRPERSON MOYER: Okay. Maybe
10 what we can do is bring John or at least be
11 available to come to the podium for some
12 questions when we discuss this tomorrow in
13 greater detail.

14 MR. ASHBY: I will let you pick
15 my brain to whatever degree there is anything
16 left to pick.

17 CHAIRPERSON MOYER: We appreciate
18 that greatly.

19 MR. ASHBY: Thank you.

20 CHAIRPERSON MOYER: Thank you.

21 Okay, Alexis Baden-Mayer, and
22 Steve Froggett on deck.

1 MS. BADEN-MAYER: Hello. Thank
2 you for allowing me to present testimony
3 today.

4 I am Alexis Baden-Mayer. I
5 represent the Organic Consumers Association.
6 Nearly 25,000 of our members have sent
7 comments on the issues that are before you
8 this week. Two thousand of those people
9 personalized their letters. So I will try to
10 summarize for you the points that they raised.

11 Our members strongly support the
12 recommendation for solving the problem of
13 mislabeled organic personal care products. We
14 know it isn't easy to regulate the organic
15 industry. It has grown very fast, and the
16 resources for enforcement have not been
17 adequate.

18 There have been some tough choices
19 made about where to focus the program's
20 efforts, but if USDA organic certification is
21 going to be meaningful to consumers, it is
22 important to get ahead of the growth in new

1 sectors and make sure that the law is
2 enforced.

3 As a consumer, it is still very
4 difficult to make the commitment to buy
5 organic. You have to go out of your way to
6 find organic products. There is less
7 selection, and you have to pay more often.

8 Consumers who go to the trouble of
9 buying organic are going to be very angry and
10 disillusioned if they find that something they
11 thought was organic isn't actually organic.
12 It doesn't really matter what that product,
13 shampoo or dog food or produce.

14 Our members' comments described
15 the way they felt about this. They described
16 mislabeled organic personal care as fraud,
17 false advertising, and grand larceny. Many of
18 our members were particularly annoyed by non-
19 certified brands that put "organic" into their
20 name.

21 So the Committee recommendation is
22 a very simple and elegant way of addressing

1 this problem. It is not necessary to decide
2 here what the standards ideally for personal
3 care should be, but it is essential that the
4 USDA announce that this is one of their
5 sectors that they are regulating and that they
6 will enforce the law in this category. That
7 is what the recommendation proposes.

8 On the subject of animal welfare
9 standards, our members strongly support this
10 recommendation for the humane treatment of
11 animals. Our members raise moral and ethical
12 reasons, food safety, and food quality
13 reasons, and also environmental reasons for
14 improving animal welfare.

15 Our members commonly say that they
16 buy organic for their own health as well as
17 the health of the planet. So, as consumers
18 become more aware of the environmental impact
19 of confinement animal farming, they are
20 looking for alternatives.

21 Pastures and restorative grazing
22 techniques have great potential to build soil,

1 reverse erosion, improve water quality, and
2 sequester global greenhouse gas emissions.
3 But we can't assume that the industry is going
4 to take the high road here without explicit
5 guidance.

6 The joke in the organic movement
7 used to be the idea of the organic Twinkie.
8 We are getting really close to that. Today,
9 listening to comments, I started to get
10 concerned about organic Kentucky Fried
11 Chicken.

12 Will the organic industry evolve
13 to produce animal products on the same scale
14 and in the same manner of modern industrial
15 dairy, egg, and meat production? We need to
16 have environmental and animal welfare measures
17 in place to ensure that organic offers a true
18 alternative.

19 Adopting this animal welfare
20 recommendation is an important first step to
21 upholding organic as the ethical and
22 environmental gold standard.

1 You have heard some really good
2 feedback on the recommendation today. If you
3 all were to adopt the recommendation as is, I
4 am confident that that feedback could be
5 incorporated through the regulatory process.

6 On the subject of nanotechnology,
7 the Organic Consumers Association strongly
8 supports the recommendation to keep nanotech
9 out of organic. The organic standards have
10 become for many consumers the regulation of
11 last resort. In the absence of precautionary
12 investigations into the safety of new
13 technologies, and in the absence of labeling
14 that would inform consumers of the presence of
15 these new, untested technologies, consumers
16 rely on organic certification.

17 Consumers don't want to be guinea
18 pigs. They want to have a choice. And right
19 now, the only place they are finding it is in
20 organic.

21 As one of our members wrote, "I
22 think in 100 years humanity will look back at

1 today's rampant use of chemicals, genetic
2 engineering, and nanotechnology in the food
3 industry and wonder how we could have ever
4 been so shortsighted. One of the few safe
5 havens people have for these unsafe methods is
6 in choosing organic foods." End quote.

7 So we are also very much opposed
8 to the idea of deregulating genetically-
9 modified vaccines.

10 To respond to the question that
11 was given earlier about what to do in a
12 disease outbreak, in a disease outbreak, if
13 the only way you can handle it is through a
14 vaccine, then farmers are going to save their
15 animals and they are going to give those
16 animals the vaccines. At that point, it won't
17 be organic if that vaccine hasn't been
18 approved for use. But that is the same
19 situation that farmers are in with
20 antibiotics. We are looking at public safety
21 and the health of one's animals, and I just
22 can't imagine a farmer not making the choice

1 to use that necessary vaccine, even if it were
2 not approved in organic use and it meant not
3 be certified for those animals.

4 CHAIRPERSON MOYER: Thank you,
5 Alexis.

6 Joe and then Hue.

7 MEMBER SMILLIE: Thanks for
8 bringing up the personal care issue. Since
9 Miles has been valiant enough to stick to the
10 end, and since he seems to be the last person
11 standing to represent the program -- I would
12 like to ask the program what their current
13 take on the personal care issue is. Not
14 whether they believe it should be part of the
15 regulation, but in this age of enforcement,
16 what the program intends to do about all the
17 products out there labeled "organic" that are
18 on natural food store shelves and everywhere
19 else.

20 MR. McEVOY: Yes, I think it is a
21 very important issue. It is important to
22 protect the organic label. It is a very

1 complex issue, and it has some jurisdictional
2 issues that we need to work out.

3 It is something that I have not
4 had time to study over the last month. So it
5 is something that we need to look into. It is
6 not on the top 10 in terms of our priority
7 list, but it is certainly really important.
8 We will certainly get around to addressing it
9 sometime. After we hire 15 more people,
10 right, exactly.

11 (Laughter.)

12 CHAIRPERSON MOYER: I think we are
13 working, Joe, to move it up on their priority
14 list.

15 Hue?

16 MEMBER KARREMAN: Thank you,
17 Alexis, for the first broad blessing of the
18 animal welfare document that we have
19 submitted.

20 (Laughter.)

21 It will go under some revision;
22 that's for sure. But thank you for that.

1 And actually, also, thank you for
2 saying that about the vaccines, as far as what
3 you would do in an emergency, because that is
4 the correct answer; you win.

5 Someone ducked it earlier. You
6 have to do what is right for the animals,
7 regardless if they retain their organic
8 certification. So thank you.

9 CHAIRPERSON MOYER: Than you, Hue.

10 Thank you, Alexis.

11 Any other questions from the
12 Board?

13 (No response.)

14 Thank you.

15 MS. BADEN-MAYER: Thank you.

16 CHAIRPERSON MOYER: We appreciate
17 your time.

18 Steve Froggett to the podium, if
19 you would, and Jaydee Hanson on deck.

20 MS. FRANCES: Can I comment?

21 Steve Froggett had to leave. He is with the
22 Foreign Ag Service. He will come back

1 tomorrow and listen to your presentation, but
2 he wanted to give comment from the Foreign Ag
3 Service's point of view, along with Codex. He
4 will submit them electronically, and I will
5 get them to you. We will post them later.

6 CHAIRPERSON MOYER: Thank you,
7 Valerie. We appreciate that.

8 Jaydee Hanson? Diana Kaye? Oh,
9 I'm sorry, I didn't see you. Diana Kaye will
10 be on deck.

11 MR. HANSON: Good evening.

12 I recognize that I am standing
13 between people and beer, and I will not
14 prolong my comments.

15 You have our written comments.
16 Let me also note that you are going to save
17 some time because I am also representing my
18 colleague, George Kimbrell. George is having
19 to deal with a legal matter and can't be here.
20 So I am representing both he and I.

21 I want to say that the Center for
22 Food Safety and the International Center for

1 Technology Assessment both have worked on the
2 issue of nanotechnology for some time.

3 The International Center for
4 Technology Assessment is dedicated to
5 providing the public with full assessments and
6 analyses of technological impacts on society.
7 However, and this is where I think the organic
8 program comes in, even the best risk
9 assessments cannot deal with unanticipated
10 consequences.

11 I think one of the reasons that
12 consumers do go to organic is because they are
13 worried about the unanticipated consequences
14 of some of the ways we have of producing food.

15 So I want to say we applaud the
16 majority that says that nanotechnology is not
17 one of those technologies that should be in
18 organic. We could go on that longer, but you
19 have got our comments, and we appreciate where
20 the majority is.

21 We think the Committee definition
22 should be changed a little bit because there

1 are a number of chemicals that change their
2 properties at a size higher than 100
3 nanometers. I have challenged Mike Roco on
4 this at the National Science Foundation. He
5 heads the National Nanotechnology Initiative.

6 I said, "Mike, your statement of
7 100 nanometers is the least scientific
8 statement the National Science Foundation
9 makes."

10 This is a faith-based statement,
11 not a science-based statement. You believe
12 that magically chemicals change at 100
13 nanometers. Well, they don't.

14 Some chemicals are below that, are
15 well below that before they get the properties
16 you are looking for for nano. A number are
17 well above that.

18 One that is already used in food
19 products as coloring, titanium dioxide, in the
20 200- and 300-nanometer range, it gets new
21 properties, not down at 100.

22 So, if you want a science-based

1 definition that includes 99 percent of what is
2 nano, I would kick it up to 300. The UK Soil
3 Association has 200. I believe the Canadians
4 have 200.

5 Let me, because you have all the
6 other things there, let me raise the question
7 of the minority report. I think it is very
8 dangerous to believe all the hype there is out
9 there in nano. There's two reasons why it is
10 dangerous.

11 One, there are claims of nano that
12 aren't nano. I mean people using it as a
13 marketing tool. So that is their problem. If
14 you decide nano can't be in organic, then they
15 are out of that market right away.

16 There's an agricultural economist,
17 though -- excuse me -- agricultural ethicist
18 that is going around talking to food safety
19 people and food technologists and saying,
20 "Learn from the GMO people. Just don't tell
21 them it's got nano in it."

22 If you want Paul Thompson to

1 testify before you, he will tell you that he
2 has done that. Paul and I are friends; we
3 just disagree on that.

4 One of my professors was the man
5 who learned to isolate plutonium. I can't
6 imagine him going before a group saying,
7 "Radiation, no real problem with radiation.
8 It's just natural."

9 What was unique about plutonium
10 was it was an engineered product. What is
11 really unique about this kind of nano is that
12 it is engineered.

13 We are not talking about smoke.
14 Smoke changes. You burn it. You can use it
15 to cure hams, and it's got nanoparticles in
16 it. We are not talking about that.

17 We are talking about things that
18 are deliberately engineered for their nano
19 principles. We are not talking about
20 homogenization, unless they have got a better
21 process than I know of that would get it all
22 down in the nano scale.

1 CHAIRPERSON MOYER: Okay. Thank
2 you. Thank you very much, Jaydee. We
3 appreciate those comments.

4 I see we do have a few questions.
5 Dan and then Katrina.

6 VICE CHAIRPERSON GIACOMINI: When
7 you were talking about the change in size, you
8 said that there were things in the 200 and 300
9 range. Is 300 the right line, though? I
10 mean, on the one hand, we tried to write the
11 definition so that size was part of it, but
12 size isn't all of it. I mean I have heard
13 people make claims up to 500.

14 MR. HANSON: Yes. Yes. I would
15 say that there are things that will still have
16 changes in their toxicity, changes in their
17 solubility, changes in their quantum things,
18 if you went up that high.

19 I think you would get 99 percent
20 if you went up to 300. You've got some that
21 are out there. That would be the kind of
22 thing that, at 500 nanometers, that would be

1 okay under your recommendation. So I wouldn't
2 worry about that.

3 And if you saw those principles in
4 that remaining 1 percent, you can deal with
5 that under your synthetics. That is where the
6 approach of the minority might be right. But
7 I think if you went to 300, you are going to
8 get most.

9 CHAIRPERSON MOYER: The Chair
10 recognizes Katrina.

11 MEMBER HEINZE: So I think we can
12 all agree that today any perceived benefits of
13 nanotechnology, clearly, do not outweigh the
14 unknown risks of nanotechnology.

15 So my first question is, do you
16 agree with that statement? And my second
17 question is, can you envision a future where
18 that would not be true, where there is some
19 benefit of nanotechnology that is critical in
20 organic? And we know the risks.

21 MR. HANSON: I can't imagine a
22 future in organics, you know, unless you think

1 the nano encapsulation of caffeine in chewing
2 gum, as the military has done, is a great
3 idea, and you want to have nano gum that can
4 deliver five times the level of caffeine of
5 NoDoz now.

6 But, no. I mean I am being flip,
7 and you don't have time for me to be flip

8 I can't at this point, with all
9 the products I have looked at, see one that
10 adds something to the organic brand.

11 CHAIRPERSON MOYER: Okay. Thank
12 you.

13 The Chair recognizes Rigo.

14 MEMBER DELGADO: Can you give us a
15 nice definition of engineered nanotechnology,
16 and how do you compare that to homogenization?

17 MR. HANSON: I would say
18 engineered to be at the nano scale. I mean,
19 you know, some of these properties are very
20 specific. We are not talking about gold here,
21 but I think it is 40 nanometers, it glows red.
22 If you have it 50, it doesn't. So some of

1 these properties are very particular in size.
2 Others aren't; it is everything below that
3 level.

4 So, basically, if you can't
5 engineer it to get the property that you claim
6 it has at the nano scale, then I think you are
7 committing fraud. I think there are some
8 products out there that are.

9 CHAIRPERSON MOYER: I'm sorry,
10 Rigo.

11 MEMBER DELGADO: A followup: how
12 is that compared to homogenization of milk,
13 for example?

14 MR. HANSON: Well, homogenization,
15 you know, the last two people before was an
16 expert on that. But homogenization doesn't
17 put everything in the nano scale. It is not
18 intended to put everything in the nano scale.

19 What we are talking about are
20 things that are engineered to be in the nano
21 scale because of the unique properties you get
22 at the nano scale. Some of these properties

1 are quite powerful and they do work. I am
2 just saying, like some other things that work,
3 you know, genetic engineering works, but you
4 don't put it into organic food.

5 CHAIRPERSON MOYER: Thank you,
6 Jaydee. We appreciate your comments and your
7 time.

8 MR. HANSON: Okay. Thank you.

9 CHAIRPERSON MOYER: You're
10 welcome.

11 MR. HANSON: I will leave copies
12 for other people out there. I think the
13 Committee has already got copies of our
14 testimony, but I will leave them out at the
15 table.

16 Also, I have left some copies of
17 the principles of that. If anybody wants it
18 in Spanish, German, French, or Chinese, or
19 Japanese, we've got that, too.

20 Thank you.

21 CHAIRPERSON MOYER: Thank you very
22 much, Jaydee. We appreciate it.

1 MR. HANSON: Have a good night.

2 Have a good beer.

3 (Laughter.)

4 CHAIRPERSON MOYER: Thank you.

5 The Board recognizes Diana Kaye to
6 the podium, and Farah Ahmed is on deck.

7 MS. KAYE: Hi. Thanks for all you
8 folks hanging out here so late.

9 Would you like some 100 percent
10 certified organic cocoa butter to go with
11 those nuts and chews that you've been eating?
12 Because I've got it.

13 Really, I need to stop eating my
14 products to prove that a person can be organic
15 because, as I told Bea earlier, I have gained
16 35 pounds from eating my products.

17 So can we wrap this up?

18 I want to start with a quote, if
19 that is okay with you all. This is quote from
20 the September 1998 issue of the Natural Foods
21 Merchandiser. Valerie has the actual copy of
22 that article.

1 This is the quote: "`Ninety-five
2 percent of a product's ingredients should be
3 organic if the whole product is labeled
4 organic,' says Catherine D'Amadio, Executive
5 Director of OTA. Most natural cosmetics
6 manufacturers agree that the industry should
7 be guided by the proposed national standards
8 for organic foods." Again, that was 1998.

9 So, if somebody over there on that
10 side of the room might be saying -- I guess I
11 am addressing this to you, Joe, because you
12 brought up the subject and kind of took the
13 wind out of my sails a little earlier, where
14 we were saying that perhaps this might be
15 addressed sometime. Twelve years. We have
16 been waiting 12 years and beyond, okay, for
17 this to be fixed.

18 We are a little company, and we
19 are getting creamed. Is that right? And I am
20 going to give you some examples. Because, if
21 you notice, in the packet you all have -- this
22 is really punchy -- ingredients for some of

1 these products.

2 Are you sure you all don't want a
3 bite? I've got two different products here.
4 One is really great. Both are 100 percent
5 organic. This is cocoa butter and cocoa
6 butter body cream.

7 This is a product that is on your
8 list. This one says, "organic" and "fair
9 trade certified", and it says, "cocoa butter
10 cream". Wow, it competes with my product.
11 Please take a look at the ingredients on
12 there. The interesting thing is that, at
13 least in this one product, there is an
14 ingredient that is organic.

15 Then we have this product, cocoa
16 butter. Cocoa butter, okay? Cocoa butter.
17 Oh, I forgot. It says, "Pure, natural and
18 organic cocoa butter" and this says, "cocoa
19 butter", except it's got a whole bunch of
20 other stuff in it. And it says, "Keep out of
21 reach of children."

22 That is what we are competing

1 against. We can't wait another minute. This
2 needs to be fixed because people are buying
3 this. "Keep out of reach of children." Why?
4 It says, "cocoa butter". This is cocoa
5 butter.

6 Okay, this is a really interesting
7 product. This says, "cocoa butter". However,
8 now it also says, and this is a really nice
9 company, "raw white cacao butter", same thing.
10 That is the Latin name, Theobroma cacao.

11 On the back -- this is sold in all
12 the food aisles of health food stores across
13 this country -- but it also has instructions
14 for body care use. So tell me, guys, is this
15 a body care product or a food? Is the USDA --
16 well, I wish there was somebody here. Is
17 somebody going to protect this product?
18 Because we have been abandoned. So which
19 product is it? Food? Body care? Food? Body
20 care?

21 Sorry. I am so fried with all
22 this.

1 And, yes, I'm still not done.

2 Okay, I love this one because this one says,
3 "Pure, natural and organic cocoa butter". And
4 again, we've got cocoa butter. There is no
5 cocoa butter in this cocoa butter. Okay?

6 Are you all content to sit and let
7 this happen? I know you're not because you
8 guys wrote that great document, and we love
9 it, and we thank you very much for that.

10 But can you help us work on
11 Valerie and the empty table here? Because we
12 need them to like get the bat and start
13 swinging.

14 So, really, I would like to end up
15 with one additional quote. This one I really
16 like, too. This is from the Whole Foods
17 magazine, July 2003 issue.

18 It says, "`Going certified organic
19 is now possible because there are rules. In
20 the past many companies had their own
21 interpretation of what organic was and were
22 not competing fairly in the personal care

1 natural marketplace,' said Jeffrey Light,
2 Jason's founder and chairman."

3 And again, that was July 2003. So
4 hooray, there are organic rules.

5 Thanks, guys. I appreciate your
6 patience with me and all this popping.

7 (Laughter.)

8 CHAIRPERSON MOYER: Thank you,
9 Diana.

10 MS. KAYE: Are you sure you don't
11 want a bite?

12 (Laughter.)

13 CHAIRPERSON MOYER: Any questions
14 from Board members for Diana?

15 (No response.)

16 Okay. Thank you very much. We
17 appreciate your time in coming to speak with
18 us.

19 MS. KAYE: You're very welcome.
20 Thanks.

21 CHAIRPERSON MOYER: The Board
22 would now recognize Farah Ahmed to the podium.

1 (No response.)

2 Jeff Anshus? Thank you. I

3 apologize.

4 MR. ANSHUS: Thank you.

5 My name is Jeff Anshus. I work at

6 Intelligent Nutrients in Minneapolis,

7 Minnesota.

8 We are a small personal care

9 company. We were founded by Horst

10 Rechelbacher, who founded and sold Aveda to

11 Estee Lauder 10 years ago. So this is his

12 project. It is his vision to move the

13 industry, the cosmetics industry, away from

14 the current paradigm that there is and move it

15 to something good, something that is

16 sustainable, and something that is more real.

17 I am here representing all of that.

18 I will be brief because I want to

19 go, too.

20 (Laughter.)

21 We have over 30 products. They

22 are all certified to the NOP standards. We

1 have the seal, and we are very proud of it.
2 We use it as a competitive advantage in the
3 marketplace.

4 So there are a lot of products out
5 there that you can make. You can't make
6 everything. We get that. You can't compete
7 in the things that you can't compete with, but
8 for the things that are out there, we are very
9 proud of it.

10 I wanted to thank you guys for
11 your time, energy, and effort, and the
12 opportunity for comment. I think it is very
13 important. I also thank you very much for
14 solving the problem of mislabeled organic
15 personal care products.

16 I am a chemist and I am a consumer
17 of these goods. I just want to reiterate the
18 problem that a consumer has when they are
19 shopping at a store and they go down an aisle
20 and, suddenly, they enter this mysterious
21 world where organic does not mean organic.
22 That is what is happening. They are shopping

1 at -- it is in my written comments -- they are
2 shopping at Whole Foods. They are buying
3 their apples, and then they turn the corner
4 and they buy their organic shampoo and there
5 is nothing organic about it.

6 The NOSB, the vision statement
7 called for consistent and sustainable
8 standards. Rayne mentioned protecting the
9 integrity of the word "organic". That is
10 really what we are talking about, the
11 protection of that word.

12 We wholeheartedly support the
13 position statement that you guys have. The
14 NOP and consumers are harmed every time a
15 consumer, as she mentioned, every time a
16 consumer purchases products which are
17 mislabeled.

18 And that's all I've got.

19 CHAIRPERSON MOYER: Thank you,
20 Jeff.

21 Any questions or comments? Joe?

22 MEMBER SMILLIE: Ah, a chemist.

1 MR. ANSHUS: I am a chemist.

2 MEMBER SMILLIE: Okay. You've
3 admitted it. So how is the efficacy of your
4 product, the product line that will require
5 surfactants, emollients, and what is your
6 shelf life, stability, in lieu of even the
7 most benign, under the NOP, preservatives,
8 surfactants, emollients, et cetera?

9 MR. ANSHUS: Sure. Well, we have
10 had to be really smart about it. What we have
11 done personally is we use air-free packaging,
12 so that you are not inoculating the substance
13 over and over again with a preservative system
14 that can't take it.

15 We have proprietary -- you know,
16 we have worked very, very hard to use -- we've
17 spent, I don't know, well over \$200,000 just
18 on testing our goods for preservative testing
19 on them. We came up with the right
20 combination of what we use to preserve our
21 products.

22 So we have shelf life that is

1 comparable to anything that is on the market.
2 When we have European, the can on there, we
3 put 12 months, which is in line with what
4 other cosmetic goods are.

5 What else did you ask?

6 Surfactants, emollients? Of course, we would
7 like more emulsifiers. We would love more
8 surfactant.

9 There's a consumer perception in
10 the world of what a shampoo should be or what
11 a lotion should feel like, and we are
12 constantly telling people that those are
13 chemicals which are created for that specific
14 thing. You know, foaming in shampoo, there
15 are for connecting those things, the oil and
16 the water together, but you have to be smart
17 about how you use energy, how you mix it
18 together, and getting it to emulsify.

19 So we are in business. We are
20 selling the stuff. We are not taking them all
21 back. We have a lot of really happy customers
22 out there.

1 I have done the consumer testing
2 myself and had a really -- you know, people
3 who want the organic products want the
4 implicit message behind what is the certified
5 organic. It is good for the environment, good
6 for them, good for people.

7 Horst is very fond of saying,
8 "What goes on us goes in us." There is no
9 difference between those.

10 CHAIRPERSON MOYER: Any other
11 questions for Jeff from Board members?

12 (No response.)

13 MR. ANSHUS: Can I just say one
14 other thing, since I had extra time?

15 CHAIRPERSON MOYER: Certainly.

16 MR. ANSHUS: I don't know a thing
17 about nanotechnology. I don't. But I do know
18 about aerosol hairsprays, and I know that that
19 sounds really weird. But when you guys are
20 talking about the bell curve, it is exactly
21 what they have debated at length in what makes
22 hairspray safe, or really any aerosol. If you

1 have WD-40 or aerosol hairspray, or whatever,
2 the bell curve that they were talking about
3 earlier, granted there's only a couple of
4 aerosol manufacturers in the United States
5 because they keep blowing up, and they won't
6 let them make any more. It's true.

7 (Laughter.)

8 CHAIRPERSON MOYER: That was worth
9 it.

10 (Laughter.)

11 Yes, we never would have asked
12 that.

13 MR. ANSHUS: But they do keep
14 blowing up accidentally, and then they don't
15 let them fill any more.

16 But what they are talking about
17 there is that bell curve about the intent of
18 what the particle size is. Sometimes aerosol
19 hairsprays have particles which would lodge in
20 your lungs and actually choke you to death,
21 but it is at such an innocuous level that,
22 while it may be present -- and I think that is

1 what you guys are talking about when you are
2 talking about the nano stuff. It is about
3 what the intent of the molecule is, if it is
4 a certain size, if that helps.

5 I can talk about aerosol
6 hairsprays a lot, but that's not the point.

7 (Laughter.)

8 I can also tell you I saw an
9 explosion.

10 (Laughter.)

11 CHAIRPERSON MOYER: I was just
12 wondering how he was getting WD-40 and
13 hairspray in the same sentence, but --

14 (Laughter.)

15 MR. ANSHUS: Well, WD-40 and
16 hairsprays are made in the exact same
17 facilities, the same propellant.

18 (Laughter.)

19 CHAIRPERSON MOYER: Thank you very
20 much, Jeff. I appreciate that.

21 We needed that.

22 If Lynn Betz would come to the

1 podium, we would appreciate it.

2 MR. ANSHUS: Oh, Lynn, I have
3 Lynn's five minutes, too.

4 (Laughter.)

5 CHAIRPERSON MOYER: Thank you.

6 MR. ANSHUS: In fact, she has the
7 flu and she didn't want to infect you all.

8 CHAIRPERSON MOYER: Thank you. We
9 appreciate that from her and from you. Thank
10 you. Thank you, Jeff.

11 David Bronner to the podium. Is
12 David here? Yes. And then John DiLoreto on
13 deck.

14 MR. BRONNER: Hello. I think I
15 may have to start with what Jeff was talking
16 about. I think people are used to, say, a
17 feel of a synthetic silicone oil in a lotion,
18 but synthetic silicone has a certain feel, and
19 people are used to that, but it has nothing to
20 do with agricultural oil, period, let alone
21 organic agricultural oil.

22 So like there's an educational

1 process of like, you know, this is what an
2 organic jojoba oil feels like; it works. You
3 are not going to get that what is basically
4 motor oil feel, but it is organic.

5 It is just like the education
6 process -- we all go through like, oh, brown
7 rice is better than white, and whole wheat
8 versus, you know, Wonder bread. So there is
9 that hole, and then once that kind of shift
10 happens, people come around, and they embrace
11 it; this is good, you know, and it is not the
12 bad silicone-feeling stuff, right? So there
13 is a perceptual shift.

14 Our soaps, we are the leading
15 brand of body wash in natural soap, and we
16 beat all those synthetic, detergent-based
17 products that are calling themselves organic.

18 I believe Tracy last time shared
19 that I guess the impetus behind the current
20 recommendation was that the soaps in the hotel
21 said, "certified organic soap" and "made in
22 China", and they actually had nothing organic.

1 So I don't know if this is the brand. You
2 know, there's hundreds out there. It says,
3 "made in China". This has "organic" in the
4 brand name, and it says, "certified organic".
5 It is just a pure petroleum-driven, petroleum
6 surfactant-driven product.

7 I think to the NOP statement, I
8 mean I think the idea is that, like if you
9 came here and a cup said it was certified
10 organic and it wasn't, or the chair you're on
11 said it was certified organic and it wasn't,
12 ideally, NOP would just say, "Look, we have a
13 standard for organic agricultural products
14 across product sectors."

15 You could say in this product it
16 is made with certified organic aloe vera, or
17 whatever it actually organic about it. Or if
18 the chair is made with some sort of an organic
19 wood, but if it is using lacquer, that is
20 prohibited; don't call it a certified organic
21 chair.

22 I think in my written comments I

1 talk a lot of the opposition to opening up the
2 NOP list to a bunch of allowances for personal
3 care. Well, I think that the NOP approach
4 with textile is that, if you say, "organic
5 T-shirt", then it has to be USDA organic, but
6 if it is made with organic cotton, leave it
7 alone. You know, it's a made-with -- we are
8 not getting into and open the NOP list to all
9 the textile stuff. We are just going to let
10 it alone. But if you are going to call it an
11 "organic T-shirt", then it's got to be 095.

12 So I feel like the same approach
13 should be taken with personal care. Okay,
14 let's not worry about trying -- you know,
15 don't let the perfect be the enemy of the
16 good. Let's not worry about made-with
17 organic. It is not so injurious. If this
18 product says, "made with organic aloe vera",
19 that is not so bad. I mean it is a totally
20 lame product, but at least it is not calling
21 itself a certified organic product. It is
22 just saying what is actually organic in it.

1 And I think Oregon Tilth,
2 actually, I want to just mention that,
3 similarly, to not let the perfect be the enemy
4 of the good, I know there is like this ongoing
5 debate of synthetic and non-ag, and whatever,
6 and how that all shakes out. I think Oregon
7 Tilth's written comments are like we have got
8 to deal with that first before we can apply
9 the program to personal care and other product
10 sectors. I think that can go in parallel.

11 I personally am fine if soap falls
12 out of 095 and it is in 070, I mean fine.
13 However that whole ag/synthetic thing works
14 out, you know, I don't think that should hold
15 up the move to regulate the personal care
16 space.

17 That's it.

18 CHAIRPERSON MOYER: Thank you,
19 David. We appreciate those comments.

20 Are there any questions for David
21 from the Board members?

22 (No response.)

1 Thank you very much. We
2 appreciate your time.

3 MR. BRONNER: Yes.

4 CHAIRPERSON MOYER: John DiLoreto,
5 and Betty Bugusu is on deck.

6 MR. DiLORETO: Well, I was going
7 to say good afternoon, but it is good evening.

8 I will try to make my comments
9 brief because I really don't want to stand
10 between you and dinner.

11 My name is John DiLoreto.

12 First, let me thank you for the
13 opportunity to provide my insight and comments
14 today. Because I have significant
15 professional experience in both the organic
16 foods industry and the field of technology,
17 nanotechnology, I feel that I am really
18 uniquely positioned in that respect, after
19 hearing all the comments today. I have heard
20 folks from both sides of the aisle, but I
21 haven't heard very many people who really have
22 experience in both areas. So, hopefully, I

1 can provide some insight.

2 I am a chemical engineer by
3 training, but in 1991 I founded a certified
4 organic bakery in the State of Maryland, and
5 I had the pleasure of serving on the State of
6 Maryland's Organic Certification Advisory
7 Committee for six years. So I have had the
8 opportunity to sit in your shoes at the State
9 level as a certifier.

10 And the organic foods industry was
11 fairly young at that time. I know you are
12 dealing with a lot of questions today, but I
13 can reflect back to those days, and we dealt
14 with a lot more questions than we had today.
15 At least you have had some time to flesh many
16 of the issues out.

17 But in my current position, I am
18 the owner of NanoReg, a professional services
19 firm that specializes in nanotechnology
20 regulatory policy and environmental health and
21 safety.

22 So we have this crossover between

1 organics and nanotechnology, environmental
2 health and safety, and what nanotechnology
3 really is. And it doesn't hurt that I stayed
4 at a Holiday Inn Express last night.

5 So under consideration by the
6 Board is a prohibition for nanotechnology, to
7 keep it out of organic foods, 100 percent
8 organic foods. I find this a bit troublesome
9 from the standpoint that you are using the
10 term "nanotechnology". Nanotechnology is not
11 a product. It is not an ingredient. It is
12 not a food substance. In fact, it's
13 chemistry, and chemistry is something that you
14 deal with on a daily basis.

15 You have lists of substances that
16 are allowed, lists of substances that are not
17 allowed. You have dealt with them as
18 individual chemical substances on a case-by-
19 case basis, and nanotechnology is no
20 different.

21 Products in nanotechnology are a
22 broad range of chemical substances. Some have

1 unique properties at the nano scale, but all
2 are separate and distinct substances.

3 And I want to make a real
4 important point here because I have heard
5 nanotechnology demonized to a fairly large
6 extent today, about how bad it is. I heard
7 the term "freaky", which I am not sure is a
8 regulatory term.

9 But nanotechnology has created
10 some unique circumstances, but not all of the
11 properties that are created through creating
12 nano-scale materials are very different, and
13 they are not very substantive.

14 The example that I heard before
15 was very interesting because I heard it
16 described as, well, at one size,
17 nanomaterials, they glow, and the other size,
18 they don't. That is false. They do not glow.
19 The difference is that different size
20 particles reflect light differently. So, when
21 you have a smaller particle, you see it as one
22 color. When you see a different size

1 nanoparticle, you see it as a completely
2 different color. Now those are optical
3 reflective properties. Nothing freaky about
4 that.

5 Anybody that has seen a glacier
6 and seen where it meets the water and seen
7 that blue glow, that is light reflection.
8 That is just a characteristic of physics.

9 So I would like to recommend that
10 the Board consider them as distinct materials
11 and deal with them on a case-by-case basis, as
12 you have done with other substances, such as
13 ingredients, additives, pesticides, and
14 herbicides.

15 I would also like to recommend the
16 Board consider adopting a policy of using
17 internationally-accepted terminology and
18 accepted standards that have already been
19 developed by several standard-setting
20 organizations. The NNI is not such an
21 organization.

22 I work with them fairly regularly

1 and they have done a great job of promoting
2 the use, the benefits, and the development of
3 applications of nanotechnology. That is what
4 they do.

5 So it is important to understand
6 where some of these terms are being used and
7 how they are being thrown around.

8 And let's look for a moment at
9 what nanomaterials are. That generally-
10 accepted standard of 100 nanometers is
11 really -- I am trying to remember the
12 terminology that was used before -- a
13 definition of faith. It really was meant to
14 be a starting point because nanomaterials,
15 properties of nanomaterials change, some at
16 100, some at 500, some at 300, which is why it
17 is important they are dealt with as individual
18 substances.

19 I have never liked the concept of
20 including packaging as an element of food
21 processing, particularly when I was a
22 certifier. They are very different. As a

1 chemical engineer, I have seen hundreds of
2 processes that are the sum total of a variety
3 of specific unit operations. It is difficult
4 for me to compare what goes on a distillation
5 column with what goes on a paper bag. I think
6 that, if you lump them together, you really
7 create an issue that is difficult to resolve.

8 One point I would like to make has
9 to do with packaging. There are many
10 applications -- I think I have heard the
11 question about nanotechnology: do we ever see
12 a moment when nanotechnology can play a part
13 in organics? It can play a part, and does
14 play a part today. Active packaging, there's
15 a lot of nanomaterials being used on
16 packaging.

17 If you use this definition where
18 you prohibit nanotechnology, you prohibit the
19 use of RFID devices printed with nano-scale
20 materials that are used for tracking of
21 inventory; you prohibit active displays on
22 paper bags; you prohibit many things beyond

1 the use of nanomaterials within the processes.

2 So I think that is my key point.

3 It is important to look at the fact that we've
4 got different nanomaterials, different uses,
5 and I think they need to be dealt with in a
6 scientific way on a case-by-case basis.

7 Thank you.

8 CHAIRPERSON MOYER: Thank you.

9 Thank you, John.

10 Are there any questions from Board
11 members for John? Katrina, please, and then
12 Joe.

13 MEMBER HEINZE: You mentioned
14 using existing standards. I know something we
15 have heard a lot about today is this struggle
16 of the Committee to come up with a definition.
17 Do you have a standard that we should look at
18 that would be helpful to us?

19 MR. DiLORETO: ISO and ASTM both
20 have published standards for nanomaterials,
21 nanoparticles. Those definitions exist. They
22 are published. They are on the web.

1 MEMBER HEINZE: Great. Thanks.

2 CHAIRPERSON MOYER: The Chair
3 recognizes Joe.

4 MEMBER SMILLIE: Explain the RFID
5 example. I was going to ask you which
6 benefits of nanotechnology would you like to
7 see petitioned. Are you familiar with the
8 minority report on --

9 MR. DiLORETO: Yes, I am.

10 MEMBER SMILLIE: Okay. So I take
11 it you support the minority report on this?

12 MR. DiLORETO: Yes.

13 MEMBER SMILLIE: So, if you were
14 petitioning, just as an example, how would you
15 petition the RFID nano -- the use of
16 nanotechnology in RFID?

17 MR. DiLORETO: Well, you know, a
18 radio frequency identification tag is put on
19 packages, put on pallets. It is meant to be
20 able to track products throughout the
21 manufacturing, delivery. In fact, Walmart has
22 been requiring it even on the pallets that are

1 being delivered.

2 Nano-scale materials are being
3 used to print, to literally print the
4 nanomaterials on paper that will create an
5 electronic circuit where the electronic
6 circuit can be active and act as an RFID tag
7 just by printing the circuit on the package.

8 It is a case where nanomaterials
9 can be used without impacting the integrity of
10 the organic product. And there are other
11 examples of that, but I highlight that one
12 because it is really easy to see how the
13 integrity of the product is not impacted at
14 all.

15 I haven't even gotten into active
16 displays or active or intelligent packaging
17 that can tell you when a package has gone bad,
18 where the nanomaterials never come into
19 contact with the organic food.

20 So it is important to understand
21 that, certainly from a packaging aspect, an
22 argument can be made that nanomaterials have

1 a place in the industry and can be used
2 without impacting the integrity of the organic
3 standards.

4 CHAIRPERSON MOYER: The Chair
5 recognizes Kevin.

6 MEMBER ENGELBERT: So you speak of
7 these nanoparticles that are used to track
8 packages. Have any studies been done to what
9 the impact is when these packages are
10 discarded and where those nanoparticles end
11 up, what they interact with, and how they are
12 dealt with, whether they are recycled,
13 composted, put into a solid waste disposal
14 facility, whether they are incinerated? Has
15 anything been done to track these particles,
16 regardless of whether or not they come in
17 contact with food, but where they end up when
18 the packaging is no longer used?

19 MR. DiLORETO: That kind of work
20 is underway at several different facilities,
21 particularly the academic side, USC,
22 University of California Santa Barbara,

1 Arizona State. Those kinds of studies are
2 underway, where they are now not only tracking
3 where the nanomaterials are ending up in terms
4 of migration pathways, but also what the
5 potential impact is of any of the
6 nanomaterials that make it into the
7 environment and what happens to them.

8 Some of the studies have already
9 been completed. There are some nanomaterials
10 where they have already been able to see, and
11 I know that the aspect of agglomeration and
12 aggregation was discounted this morning by a
13 speaker. It is important to understand that,
14 for instance, carbon nanotubes, that when they
15 enter the environment, they get into
16 sediments, sludges. They immediately
17 agglomerate into a much larger particle.

18 They have found that this
19 agglomeration actually acts to make it
20 innocuous because it is no longer small enough
21 to pass through cells. It is no longer small
22 enough to pass through the blood/brain

1 barrier.

2 So they are finding that some of
3 these materials can be recycled just with
4 other materials, and there really is no
5 negative effect at all. Now I don't want to
6 make that a blanket statement because it is
7 important that we understand that all
8 nanomaterials are not created equal, and that
9 not all of them are going to behave in that
10 way.

11 Even the definition of what is
12 engineered and what is not is an important
13 distinction because I own a bakery. I use a
14 lot of flour. And I've got to tell you all
15 that milled flour and a lot of dust flying
16 around created a lot of nano-scale flour that
17 was in the air in my bakery.

18 Now did they intentionally create
19 nanomaterials? No, not really, but it is
20 engineered.

21 So it is important that we
22 understand that the definition that is being

1 used in this recommendation is so broad that,
2 from a regulatory perspective, not only is it
3 going to be difficult to enforce, it is going
4 to be difficult to really allow the
5 appropriate uses of nanotechnology in the
6 organic arena.

7 CHAIRPERSON MOYER: Thank you,
8 John. We appreciate your comments very much.

9 MR. DiLORETO: Thank you.

10 CHAIRPERSON MOYER: Thank you.

11 The Board would recognize Betty
12 Bugusu at the podium, and Marcelo Secco is on
13 deck.

14 MS. BUGUSU: Good afternoon.

15 Thank you very much for your
16 patience and for your diligence this evening,
17 actually.

18 My name is Betty Bugusu. I am a
19 research scientist with the Institute of Food
20 Technologists, otherwise IFT.

21 First of all, I would like to
22 thank the Board for this opportunity or for

1 giving IFT the opportunity to comment on the
2 standards and the recommendations that they
3 are putting forward on nanotechnology.

4 I would like to start by thanking
5 the speaker who just left the podium, and
6 potentially for making my work easier here.
7 I think that, before he came on, I was really
8 a little worried about how to address some of
9 the scary words that I had heard earlier on
10 today. But I think I have been in a better
11 position, and I couldn't agree more with his
12 comments, as I give more additional comments
13 from the IFT perspective.

14 So I will take a minute to tell
15 you about IFT, for those of you who don't know
16 us. We are a nonprofit organization,
17 scientific organization, with about 20,000
18 individual members working in the area of food
19 science, food technology, and other related
20 professions like nutrition. Our members are
21 drawn from industry, academia, and also from
22 government.

1 IFT was founded in 1939. Our
2 mission, IFT's mission is to advance the
3 science of food, and our long-range vision is
4 to ensure a safe and abundant food supply,
5 contributing to healthier people everywhere.

6 And my comments are generic, so I
7 will try to kind of put a little bit of flavor
8 as regards to nanotechnology.

9 So IFT champions the use of
10 science-based solutions across the food chain
11 through knowledge-sharing, education,
12 advocacy, and furthering the advancement of
13 the food science profession.

14 With regard to nanotechnology, IFT
15 has taken a leadership role in terms of us
16 looking at how nanotechnology can be used in
17 food. This has been done through the
18 establishment of a Food Nanoscience Advisory
19 Panel that consists of members drawn from
20 across our membership categorization.

21 IFT further recognizes the
22 importance of nano-scale science, engineering,

1 and technology to positively impact the food
2 and agricultural sector. Therefore, we
3 support objective and well-designed research
4 and development efforts in that sector.

5 I will just take another minute to
6 kind of enlighten you on some of the potential
7 benefits of nanotechnology in food.

8 As John already alluded to, food
9 packaging is one of the areas that
10 nanotechnology has great potential for
11 applications. He talked about RFID. I would
12 add other technologies like nano-composite
13 materials. These are materials that are
14 incorporated in our food contact materials for
15 packaging, and they have high quality like
16 increased strength and also they have high
17 barrier properties, which are important in
18 packaging. Definitely he mentioned smarter
19 intelligent packaging, as he discussed.

20 Another potential area for
21 application is in the area of food quality,
22 safety, and defense. Here we are talking

1 things like nanosensors, things that would
2 tell you when the food is bad or if the food
3 has expired, or something like that.

4 Then, of course, we have heard
5 antimicrobial, things that will deal with the
6 food microorganisms that are important to the
7 human health.

8 Another special area is in the
9 area of food ingredients delivery systems. We
10 have heard about the availability of some of
11 micronutrients; particularly those of plant
12 source is very low. We know people around the
13 world who are suffering from malnutrition.

14 Nanotechnology has the potential
15 to make those materials readily available,
16 bioavailable, to those consumers and,
17 therefore, help alleviate malnutrition in
18 various parts of the world.

19 Other systems are nano-emulsions.
20 People have talked here about homogenization.
21 I would like to add to the fact that
22 homogenization intent is never to come up with

1 nanoparticles. However, those are the
2 unintentional result of homogenization.

3 What this tells us is that we, as
4 humans, have consumed some nanoparticles to
5 some extent following this unintentional
6 production of the materials.

7 Further, nanotechnology also
8 appears in nature, in products like milk, like
9 has been discussed. The milk proteins,
10 caseins, and what have you, have
11 nanotechnology in them.

12 And finally, food processing, and
13 this is kind of an enabling technology where
14 you use nanotechnology to produce your
15 materials, but the end products do not consist
16 of nanoparticles.

17 So I see that my time is up. I
18 have one minute.

19 The next thing, I want to say that
20 we also recognize that there are challenges
21 and issues that face this technology that need
22 to be addressed. And as I said, IFT is very

1 active in championing responsible research, so
2 that all these areas of environment, health,
3 and safety are addressed.

4 To that extent, you know, we
5 advocate for further finding in that area. At
6 this moment, as we speak, IFT is in the
7 process of compiling a report to give us the
8 state of the science in terms of safety of
9 nanomaterials in food use. That report will
10 be available the end of this year, and we can
11 share it with the Board, if necessary.

12 Finally, I would like to just say
13 that IFT strongly encourages the Board to
14 reject the conclusion of the Materials
15 Committee, and I quote, "exclude and prohibit
16 the use of nanotechnology and products of
17 nanotechnology in certified organic
18 production, processing, handling, and
19 packaging." End of quote.

20 Instead, IFT supports the adoption
21 of our petition that allows for consideration
22 of each potential application of

1 nanotechnology on a case-by-case basis. So,
2 ideally, our recommendations are keeping in
3 the minority opinion, submitted by some of the
4 members of the Board.

5 And finally, as I said, IFT
6 advocates and supports science-based
7 solutions, public policy and legislation
8 initiatives, and especially as they relate to
9 production, processing, and packing of food.
10 So we encourage the Board to consider science-
11 based policy decisions when it regards the use
12 of nanotechnology in organic foods.

13 CHAIRPERSON MOYER: Thank you.

14 MS. BUGUSU: And finally, IFT's
15 idea is to enhance collaborative efforts with
16 other stakeholders, both domestically and
17 internationally.

18 And finally, IFT is happy to work
19 with you to provide background information to
20 help inform your decisionmaking.

21 CHAIRPERSON MOYER: Thank you.

22 MS. BUGUSU: Thank you.

1 CHAIRPERSON MOYER: Thank you,
2 Betty. We appreciate your comments and your
3 time.

4 Are there any questions from the
5 Board for Betty?

6 (No response.)

7 Thank you very much. We
8 appreciate your time in coming to speak with
9 us.

10 MS. BUGUSU: Okay. We didn't
11 submit the comments, but I will pass copies
12 around and we are happy to send them
13 electronically.

14 Thank you.

15 CHAIRPERSON MOYER: We did get
16 those. Thank you very much.

17 Next up will be Marcelo Secco, and
18 then last on our list is George Lockwood on
19 deck.

20 MR. SECCO: Good evening, ladies
21 and gentlemen.

22 CHAIRPERSON MOYER: Good evening.

1 MR. SECCO: First of all, I would
2 like to thank the Committee to give an
3 opportunity to let us know what is happening
4 with the organic beef production in Uruguay.

5 Thanks to Valerie, for she is
6 trying to help me in my presentation.

7 Uruguay is a very small country,
8 so far from here, between Argentina and Brazil
9 and the Atlantic Ocean, with only 3 million
10 people. Mainly, it is an agricultural
11 country, and it is not there, but we have 11
12 million beef animals and 8 million sheep and
13 lambs. So we are overexposed in that for our
14 history.

15 Concerning the situation of the
16 vaccination, also exporting into the U.S.,
17 BSE-free, and also it has been very well-
18 recognized. It is a collaborating center on
19 animal welfare for the whole Latin America.

20 Considering environmental, we are
21 in the first place concerning it. This is one
22 of the studies that Yale University and

1 Columbia are performing in our country, in 146
2 countries.

3 And also, we have certain specific
4 characteristics of our grass-fed beef.

5 PULSA and Tacuarembo are two
6 groups that develop -- they are the only group
7 performing organic beef production in Uruguay,
8 and the way to offer this product all over the
9 world, we were working on that for more than
10 10 years.

11 Also, I am one of the farmers of
12 that program involving more than 250 farmers
13 and a lot of services. Also, INIA, it is a
14 national entity of research, that it is
15 involved in supporting the project. And it
16 was, of course, quite a challenge for us.

17 We are approved for the European
18 Union since the beginning of 2001, and
19 approved by NOP since 2003.

20 SKAL and, after that, the Control
21 Union is a company that it is a witness of all
22 the effort that the farmers are doing.

1 Just to show you the charge, the
2 farmers are the ones who really support the
3 program, and all the structure concerning
4 researching, controlling, of course, all
5 affecting that in terms of the U.S., USDA,
6 FSIS; this controls all the activities in
7 Uruguay concerning organic or not, and also
8 supporting that program.

9 Our production system, in
10 Uruguay's free-range grass-fed is extensive,
11 like biodiversity that we still promote and
12 keep.

13 In Uruguay, it is very common to
14 combine beef and lamb in terms of production
15 with a long production cycle. And some other
16 characteristic is that we are, in Uruguay,
17 traceback since 2006, and hormones are
18 prohibited by law and controlled by law, and
19 also antibiotics in feed.

20 Just to give a figure that here in
21 America is more common, we have two separate
22 fields that each beef animal can enjoy over

1 the year.

2 But we have some limitations. Our
3 pastures are quite different between the
4 systems, with low production in winter. We
5 don't have as strong a winter as yours, but we
6 have quite a strong winter. Low native
7 pasture quality, mainly in winter and in
8 spring and summer; we were exposed in all the
9 climate changes to some adverse effects like
10 drought in the last two years. Of course,
11 animals in that, it lowers the conditions for
12 consuming grass and strong climate. Animals
13 were really affected concerning their welfare.

14 So we ask for the National
15 Institute of Regulatory Research to analyze
16 this for you. This is the paper that we have
17 already sent to you two weeks ago. We have
18 some recommendations to be considered here in
19 three areas: sanity, supplementing, and calf
20 supplying.

21 Sanity, mainly, we have non-
22 allopathic treatment up to now with good

1 success in Uruguay. We are still developing
2 this since more than five years ago, but up to
3 now we cannot reach the target we need.

4 The recommendations are on the
5 restriction to use some allopathic treatment
6 in the first beginning of the calf's
7 production, previous to any research, just to
8 check with an official lab the copro-
9 parasites, and increasing, of course, the
10 waiting time, as time is necessary, supported
11 by our long production cycle.

12 On supplementation, it is mainly
13 non-organic, we don't have a non-organic
14 market.

15 Just for to finish, concerning the
16 calving, just to consider that in the way of
17 our production some weaning calves of nature
18 production can go inside an organic farming
19 production.

20 That is, of course, mainly the
21 suggestions that we would like to make.

22 CHAIRPERSON MOYER: Okay. Thank

1 you, Marcelo.

2 Are there some questions for
3 Marcelo? Kevin and then Hue. Oh, no, I'm
4 sorry. Hue? Hue, please.

5 MEMBER KARREMAN: Just a quick
6 question then: what are you saying to us or
7 asking or commenting on, our animal welfare
8 proposal, or are you letting us know what is
9 happening in Uruguay? It looks really good.

10 MR. SECCO: I'm sorry.

11 MEMBER KARREMAN: Your
12 presentation --

13 MR. SECCO: Yes.

14 MEMBER KARREMAN: -- you are
15 commenting to the Board here about what
16 specifically? Maybe I am really thick. I'm
17 sorry.

18 MR. SECCO: No, no, no.

19 MEMBER KARREMAN: I apologize, but
20 are you commenting on the animal welfare
21 document we have proposed and how it affects
22 your production down there?

1 MR. SECCO: No. Mainly, on the
2 way of the Committee to consider that,
3 concerning all the situations that we have in
4 climate, system of production, an organic
5 farming situation in Uruguay, just to consider
6 if any of these three recommendations
7 concerning sanity, supplementation, and
8 calving replacement should be considered in
9 the future.

10 It is not a question -- it is a
11 question of animal welfare, the consequences,
12 but it is not a question of the animal
13 welfare, because we were, since 1993, we are,
14 for example, all rated, and whatever, every
15 year. It is not a question of specific
16 welfare. It is just a question of the organic
17 standards, NOP standards for our production.

18 MEMBER KARREMAN: Okay.

19 CHAIRPERSON MOYER: Thank you,
20 Marcelo.

21 MR. SECCO: Thank you.

22 CHAIRPERSON MOYER: We appreciate

1 your coming. We know you came a long way to
2 comment to us, and we appreciate that.

3 Before you jump up, just one
4 second.

5 Valerie, do we have somebody else
6 on the list that I don't have? Bonnie --

7 MS. FRANCES: No, it is for
8 tomorrow.

9 CHAIRPERSON MOYER: Thank you.

10 The next page?

11 MS. FRANCES: There is no more
12 signup today out there.

13 CHAIRPERSON MOYER: George, the
14 podium is yours. Thank you very much.

15 MR. LOCKWOOD: Thank you, Mr.
16 Chair, and thank you for the opportunity to
17 testify.

18 I am George Lockwood, Chair of
19 your Aquaculture Working Group. I am also the
20 invited proxy for the Monterey Bay Aquarium to
21 read a comment that they have.

22 Tomorrow the National Organic

1 Standards Board will consider the Aquaculture
2 Working Group proposal that is also the
3 recommendation of the Livestock Committee for
4 bivalve mollusks.

5 I would call to your attention in
6 the report of the Livestock Committee, on page
7 13, there begins four pages of how our
8 proposal is substantially differentiated from
9 conventional bivalve production. I will
10 comment on three of those differentiations.

11 First of all, we require a rather
12 sophisticated modeling of the hydraulic zone
13 of influence, which is where in the area where
14 the phytoplankton, which feeds oysters, clams,
15 and other bivalves, grows. We look at the
16 exchange of water, all the different sources
17 of potential contamination, and require that
18 this all be sophisticatedly documented.

19 We also substantially increased
20 the monitoring that is now going on or is
21 required under the National Shellfish
22 Sanitation Program for coliform indicators of

1 contamination. These are indicator organisms
2 of a wide range of contamination, not just
3 coliforms themselves.

4 We have placed on the grower
5 substantially new activities that they must
6 carry out, and have developed what we think is
7 a high management system.

8 But we have also added one rather
9 novel feature. That is, we have adopted from
10 the National Oceanic and Atmospheric
11 Administration's Mussel Watch Program the
12 requirement to monitor some 230 different
13 compounds that are contaminants in the ocean.

14 The Mussel Watch Program has 300
15 locations around the United States where
16 periodically the tissue of mussels or oysters
17 are monitored for these 230 different
18 compounds that include metals and metalloids,
19 PCBs, other industrial chemicals, pesticides,
20 and, most recently, flame retardants.

21 This program has been very
22 effective in locating the areas where the

1 waters are highly contaminated and areas where
2 there is very, very little contamination. It
3 is also a very effective program to monitor
4 any changes that are occurring in those areas.

5 Basically, there are two sources
6 of contamination of this long list of
7 compounds. One is from human activities.
8 Where there is a great deal of human activity
9 in high population areas, like New York
10 Harbor, contamination is very great. Where
11 there is very little human activity, such as
12 off coastal Maine, there is very little, if
13 any, detectable contamination.

14 The other source is from aerosols.
15 Geographically, there is no limitation to
16 where or no concentration of where that might
17 be. It is the same aerosols that contaminate
18 our fields and streams in terrestrial
19 agriculture that are contributing to
20 aquaculture in the ocean.

21 New in our discussions is the
22 positive environmental effects that having a

1 healthy bivalve population will have in the
2 ecosystem. What happens is the bivalves,
3 being filter feeders, are cleaning out the
4 particulate matter which prevents sunlight
5 from reaching to the bottom, for the growing
6 healthy seagrass colonies, for instance. And
7 when you have healthy seagrass, you also have
8 a healthy diversity of other organisms. This
9 is well-documented.

10 In the case of the Chesapeake Bay,
11 I can remember when the waters were very
12 clear; you could see the bottom a long time
13 ago. What was happening then is the water was
14 being turned over by a healthy bivalve
15 population every 3.3 days, is the estimate.
16 Now that the oysters have been killed off by
17 diseases and other factors to a very, very
18 large extent, it is not 3.3 days; it is over
19 300 days. As a result, we have a very turbid
20 environment in the Chesapeake Bay with much
21 less biological activity than existed before.

22 Three weeks ago, the Monterey Bay

1 Aquarium introduced -- and that is an
2 organization well-known to the Organic
3 Standards Board -- introduced a new rating of
4 super-green for farmed aquatic animals. They
5 picked eight aquatic animals they believe are
6 rated deserving of the super-green rating.
7 These included farmed mussels and farmed
8 oysters.

9 They have three major criteria for
10 super-green determinations. One is that these
11 organisms are sustainably harvested and grown.
12 Secondly, that they do not contribute
13 substantially or significantly to
14 contamination in the human food chain, and
15 that they have high levels of human health
16 sources such as omega-3 fatty acids.

17 Monterey Bay Aquarium has asked me
18 to read a statement, and I have handed it out.
19 Did it get around to everybody?

20 And can I do that, sir?

21 CHAIRPERSON MOYER: Yes, you have
22 whatever time limit we have. You have four

1 minutes and 45 seconds.

2 MR. LOCKWOOD: It won't take very
3 long.

4 CHAIRPERSON MOYER: It's your four
5 minutes.

6 MR. LOCKWOOD: This is the
7 Monterey Bay Aquarium's comments on proposed
8 National Organic Standards recommendation on
9 molluscan shellfish standards by the Monterey
10 Bay Aquarium, dated October 30, 2009.

11 "To whom it may concern:"

12 And incidentally, the person
13 writing this, Peter Bridgson, until about six
14 months ago, worked for the Soil Association in
15 the United Kingdom as the Aquaculture Program
16 Manager, which developed their aquaculture
17 standards. He is very knowledgeable on a wide
18 range of aquaculture programs and standards
19 throughout Europe and the world.

20 And here is what their comments
21 are:

22 "The Monterey Bay Aquarium

1 recently published a report on seafood
2 sustainability titled, 'Turning the Tide: the
3 State of Seafood'. Of particular interest to
4 the NOSB hearing is a new analysis and set of
5 recommendations for a super-green seafood
6 list; that is, seafood that has been
7 sustainably produced, has significant levels
8 of marine omega-3 fatty acids, and is low in
9 environmental contaminants.

10 "Of the eight items of this list,
11 produced in conjunction with the Environmental
12 Defense Fund and the Harvard School of Public
13 Health, two are farmed bivalve shellfish,
14 mussels and oysters. The report is publicly
15 available on the Aquarium's website.

16 "The Monterey Bay Aquarium's
17 Seafood Watch Program has also published three
18 reports on farmed shellfish covering mussels,
19 oysters, and clams that is also available on
20 the Aquarium's website.

21 "After a detailed assessment of
22 the available science on the environmental

1 impacts of shellfish culture and the
2 regulatory structure overseeing production,
3 all three shellfish groups are recommended as
4 best choices for consumers.

5 "The clear conclusion from these
6 reports is that farmed molluscan shellfish are
7 a healthy and sustainably produced source of
8 food.

9 "The super-green list focuses on
10 contamination by mercury and PCBs, both of
11 which are typically of concern for human
12 health and organisms higher in the food chain
13 due to bioaccumulation. Despite being
14 selective filter feeders, that is, having the
15 ability to selectively ingest and discard
16 particles filtered from the water column near
17 the bottom of the food chain, we recognize
18 that in polluted or contaminated water bodies
19 shellfish are able to accumulate potential
20 harmful levels of a variety of bacterial or
21 chemical pollutants and toxins.

22 "Close control of the location of

1 shellfish farms and robust monitoring of both
2 water quality and food safety are, therefore,
3 essential and now integral parts of modern
4 shellfish production. The additional
5 contaminant-monitoring requirements specified
6 in the proposed standards for organic bivalve
7 mollusk places a significant burden on the
8 organic shellfish producer, but presents
9 considerable additional protection for organic
10 consumers and for their trust in the safety of
11 organic products.

12 "Clearly, the challenge in the
13 case of filter-feeding organic shellfish is in
14 determining the source and heritage of these
15 planktonic and, therefore, mobile feedstuffs.
16 In this respect, we recognize the length with
17 which the proposed molluscan shellfish
18 standards have gone to establishing a highly-
19 managed production system, and specifically,
20 for the inclusion of a protective hydrodynamic
21 zone of influence around the shellfish farm.

22 "We consider these developments to

1 be far beyond any other farmed shellfish
2 production standards that the Monterey Bay
3 Aquarium is aware of. The requirements
4 relating to the ACI also place considerable
5 additional demands on organic shellfish
6 producers, but provide a unique solution to
7 address concerns over the source of feed for
8 organic shellfish stocks.

9 "We consider that, in addition to
10 the locational guidelines for food safety
11 monitoring requirements of the National
12 Shellfish Sanitation Program, the requirements
13 of the draft molluscan shellfish standards
14 will produce a safe, sustainable, and
15 nutritious product that closely aligns with
16 the principles and philosophies on which the
17 organic movement is found."

18 Signed Peter Bridgson, Aquaculture
19 Research Manager, Monterey Bay Aquarium.

20 And in closing, Mr. Chair, I
21 simply want to ask tomorrow that you do
22 carefully consider and adopt the Livestock

1 Committee's recommendations.

2 I want to thank you, the Livestock
3 Committee, and the National Organic Standards
4 Board for your patience over the last five
5 years as we have gone through a whole suite of
6 aquaculture standards. Some of you are
7 graduating. We, too, are graduating, the
8 Aquaculture Working Group, but we go on to the
9 joy of the final rulemaking program with the
10 National Organic Program, and we look forward
11 to that.

12 Thank you for your patience, your
13 perseverance. It has been a great privilege
14 working with you.

15 CHAIRPERSON MOYER: Thank you,
16 George. The same goes for us; it has been a
17 privilege.

18 I assume you are going to be here
19 tomorrow to address questions.

20 MR. LOCKWOOD: I will be here if
21 there are any questions.

22 CHAIRPERSON MOYER: I am sure

1 there will be.

2 We can entertain a few brief
3 questions. I am going to make an announcement
4 that our taxi is going to be out front in 10
5 minutes.

6 (Laughter.)

7 We will be there or I will be
8 there; I don't know where you are going to be.

9 So, if you have a few questions,
10 it has got to be extremely brief. I saw
11 Tina's hand first, and then Kevin.

12 MEMBER ELLOR: I just want to say
13 I want to reverse everything you just said.
14 I am so grateful for the work and the
15 persistence that you guys put into this. It
16 is amazing. I want everyone to know that.

17 MR. LOCKWOOD: Thank you.

18 CHAIRPERSON MOYER: Thank you,
19 Tina. I appreciate that.

20 Kevin?

21 MEMBER ENGELBERT: Ditto. The
22 questions will be tomorrow.

1 CHAIRPERSON MOYER: Thank you,
2 Kevin. I appreciate that comment.

3 Hue?

4 MEMBER KARREMAN: Yes, ditto,
5 George. Just there's light at the end of the
6 tunnel on this one.

7 (Laughter.)

8 This issue was here when I first
9 came on the Board, and it is actually going to
10 be done when I leave the Board, unlike
11 pasture.

12 (Laughter.)

13 But I am glad we could complete it
14 together. Thanks.

15 MR. LOCKWOOD: Thank you, Hue.

16 CHAIRPERSON MOYER: Thank you,
17 Hue.

18 Thank you, George.

19 This Board now stands adjourned
20 until eight o'clock tomorrow morning.

21 (Whereupon, at 7:33 p.m., the
22 above-entitled matter went off the record.)

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