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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WEDNESDAY

NOVEMBER 4, 2009

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The National Organic Standards
Board convened at 8:00 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:

MILES McEVOY

VALERIE FRANCES

MARK BRADLEY

SHANNON NALLY

RUIHONG GUO

VALERIE SCHMALE

J.D. MELVIN

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 (8:05 a.m.)
- 3 WELCOME AND INTRODUCTION
- 4 CHAIRPERSON MOYER: Good morning,
- 5 everybody. Good morning, board members.
- 6 I'd like to welcome everybody back
- 7 to day two of our session of our November
- 8 meeting. I'd like to call the meeting to
- 9 order, and we don't have for the benefit of
- 10 the gallery, we don't have any speeches lined
- 11 up for this morning. We are going to jump
- 12 right into our business.
- 13 And if you look at the agenda, you
- 14 will see that we are going to start our
- 15 meeting with discussions and presentations by
- 16 committee, starting with the policy committee,
- 17 so Chairman Barry, if you are ready to get
- 18 started with your presentation, or your team's
- 19 presentation, we'd like to jump right into the
- 20 business of the board.
- 21 REPORT OF POLICY COMMITTEE
- 22 MEMBER FLAMM: Thank you. Good

- 1 morning.
- 2 The policy development committee
- 3 has four action items to modify, to strengthen
- 4 the policy and procedure manual.
- 5 Our committee, the policy
- 6 committee, always works as a team. And in
- 7 keeping with that this morning, each of the
- 8 committee members will present one of the
- 9 action items. And Bea James will lead off.
- 10 Bea.
- 11 MEMBER JAMES: Thank you, Barry.
- 12 The first recommendation is on a
- 13 clarification of Section 3 in the Policy and
- 14 Procedure Manual, executive director
- 15 responsibilities. So what we've done here is
- 16 just slightly strengthen the language related
- 17 to the general function of the NOSB executive
- 18 director, aka Valerie.
- 19 And the only change that we made
- 20 is in the first sentence before all of the
- 21 bullet points of those duties, and that is
- 22 that the executive director is to facilitate

- 1 the operation of the board while helping to
- 2 maintain and strengthen its independence,
- 3 other specific functions. And the main reason
- 4 for this was to clarify that the executive
- 5 director's role is to be facilitator and to
- 6 not manage the board per se. And that is
- 7 pretty much it on the executive director, if
- 8 anybody has any questions.
- 9 Okay, going on to the other change
- 10 in Section 3 that I think people will be very
- 11 happy about is the secretary's duties, which
- 12 we lightened up to not include having to take
- 13 minutes at the meetings. Oh, do you have an
- 14 opposition to that, Julie?
- 15 SECRETARY WEISMAN: No. I have
- 16 no opposition. Does that mean that I can stop
- 17 filling in what we're doing right now?
- 18 MEMBER JAMES: Well, you have to
- 19 wait until we vote on it.
- 20 Because we have transcripts that
- 21 are very easy to search now, and because we
- 22 have Valerie, we felt that the secretary

- 1 duties could be lightened so they could pay
- 2 more attention to public speaking, and be more
- 3 engaged and involved. And so that is probably
- 4 the main change in the secretary's duties.
- 5 And those are the updates to
- 6 Section 3.
- 7 MEMBER FLAMM: Thank you, Bea.
- 8 The next action item was the
- 9 review of Section 5 of the Policy and
- 10 Procedures Manual. And Rigo will present our
- 11 recommendations.
- 12 Rigo.
- 13 MEMBER DELGADO: All right, thank
- 14 you, Mr. Chair.
- 15 Again, the purpose of the changes
- 16 is to keep this living document up to date,
- 17 and we've done several things to make it clear
- 18 what was the intent of that Section was, and
- 19 we added some. For example, the main
- 20 introductory section that is we just
- 21 rearranged some of the wording to make it
- 22 clear.

- 1 The next section duties of
- 2 committee chairs has the second bullet, you'll
- 3 see we added the executive committee. This is
- 4 with the intent of making sure that plans at
- 5 the committee level have been reviewed and
- 6 agreed upon with the executive committee. In
- 7 other words we just want to make sure that
- 8 there is communication going back and forth.
- 9 We added let's see this next
- 10 subsection, duties of committee vice chairs,
- 11 we added one more duty, which is the second
- 12 bullet point that you see right there,
- 13 highlighted in light blue, and that is a
- 14 system reviewing the committee meetings for
- 15 accuracy.
- 16 Going on to the following page,
- 17 the changes that you see there are simply made
- 18 to allow for better comprehension and parallel
- 19 form, and in the section called procedures for
- 20 completing committee recommendations, you will
- 21 see at the bottom of that we added the line,
- 22 this time is needed to allow the program to

- 1 publish in ANPR and allow for public comment.
- 2 That was in relation to a 45-day period that
- 3 we are asking the committees to submit their
- 4 recommendations in advance to the program.
- 5 Moving forward we have --
- 6 MS. FRANCES: Could I say one
- 7 thing?
- 8 MEMBER DELGADO: Yes, ma'am.
- 9 MS. FRANCES: I didn't notice
- 10 this before where it says, ANPR. It's not in
- 11 ANPR, it's just a Federal meeting notice.
- 12 It's just a meeting notice.
- 13 MEMBER DELGADO: Okay, so what
- 14 shall we do, and what is the action item?
- 15 MS. FRANCES: Just change the
- 16 wording.
- 17 MEMBER DELGADO: Change the
- 18 wording, will do. Thank you for the
- 19 clarification. It's just the meeting then.
- 20 Moving forward, again, we've just
- 21 made sure that when we eliminate some of those
- 22 words like outline on the following page, if

- 1 you move further down there you go, we just
- 2 wanted to make it consistent and have parallel
- 3 construction flow better. For those of you
- 4 English majors, I'm sure you'll be happy.
- 5 And then I want to point to the
- 6 underlined section there that says,
- 7 recommendations related to materials. Further
- 8 up. The section called writing committee
- 9 recommendations, and we split it in two. We
- 10 had this original section, which is,
- 11 recommendations not related to material
- 12 petitions and sunset reviews, and we've seen
- 13 this, you already approved that.
- 14 Then we added the following
- 15 section, and it's not highlighted as it should
- 16 be, and we'll blame the gods of the Internet
- 17 for that. But it's called Valerie, if you
- 18 bear with me it's called it's right after
- 19 minority discussion, further down, don't go
- 20 too fast, further up, one page up, a little
- 21 more, there. If you highlight that, starting
- 22 with recommendations related to material

- 1 petitions and sunset reviews. And we added
- 2 that section just so we could have some a
- 3 guide of how to present those specific
- 4 recommendations. And I would like to
- 5 highlight the fact that we are adding in the
- 6 committee summary a section that explains how
- 7 we arrived at that recommendation, which goes
- 8 back to one of the comments from the
- 9 presenters yesterday. We had presented a
- 10 description of what was a rationale for a
- 11 specific recommendation, and the public and
- 12 the committee and the board members would
- 13 have been more aware of what we followed, so
- 14 we think that should be fixing that problem.
- 15 And the rest is just again
- 16 following page is trying to make everything
- 17 even and nice looking. And that is it; no
- 18 more changes for Section 5. We were intending
- 19 on working with another section that explains
- 20 how the board works with the program, but we
- 21 decided to wait for that until the next
- 22 meeting.

- 1 Any questions?
- CHAIRPERSON MOYER: Yes, Dan,
- 3 just a note, asking on page three, procedures
- 4 for completing committee recommendations,
- 5 number two, should that be draft
- 6 recommendation or committee recommendation?
- 7 We are not posting the draft; we are posting
- 8 the final committee recommendation, aren't we?
- 9 MEMBER DELGADO: Yes, we are.
- 10 And that's just to follow up that would be
- 11 --
- 12 VICE CHAIRPERSON GIACOMINI:
- 13 Procedures for completing committee
- 14 recommendations.
- 15 MEMBER DELGADO: Correct. Point
- 16 number two, yes, you are absolutely right. So
- 17 we should change that. Middle of page three.
- 18 Where it says the draft there. We need a
- 19 final recommendation. Any other questions?
- 20 CHAIRPERSON MOYER: Any other
- 21 comments? Questions for Rigo?
- Barry, back to you.

- 1 MEMBER FLAMM: Thank you.
- 2 The next section, Section 6,
- 3 involves some updates and changes but has a
- 4 new section, and Steve will present our work
- 5 and recommendations. Steve.
- 6 MEMBER DeMURI: Thank you, Barry.
- 7 As Barry mentioned, this is
- 8 miscellaneous policy, Section 6. There are
- 9 some changes to some existing policies that
- 10 have been in the manual for awhile, and some
- 11 brand new policies in this section. So I'll
- 12 go over the new ones in a little more detail
- 13 than the ones that are just revisions.
- 14 But the first one is NOSB policy
- 15 for presenters invited by committees. And a
- 16 couple of minor changes on this one. On point
- one, the need to invite a presenter to an NOSB
- 18 committee meeting must be determined at the
- 19 committee level. That was a change on that
- 20 point.
- 21 And then on number two we took
- 22 out the 45-day timeline that was detailed on

- 1 that point earlier, and just put it with
- 2 enough notice to allow adequate time to
- 3 accommodate the schedule of the presenting
- 4 party and the NOSB. So rather than have a
- 5 strict timeline in there we left it a little
- 6 bit more open-ended to accommodate different
- 7 situations.
- 8 On the next page, and this is a
- 9 brand new policy, NOSB policy for members of
- 10 the U.S. Congress invited by committees.
- 11 Occasionally some of us on the board may want
- 12 to invite somebody from the Hill to come and
- 13 speak to us for different reasons, and we were
- 14 asked to put together a policy for those
- 15 procedures to invite somebody. So let me go
- 16 through those in a little more detail.
- 17 Point number one, need for the
- 18 presentation established within the
- 19 appropriate committee by the committee
- 20 chairperson.
- Number two would be that the
- 22 committee chairperson should notify the NOSB

- 1 chair with a request to issue an invitation
- 2 with enough notice to allow adequate time
- 3 accommodate the schedules of the presenting
- 4 congressional member and the NOSB. Exceptions
- 5 are at the discretion of the NOSB chair. This
- 6 request should be made before any contact with
- 7 the office of the congressional member is
- 8 made.
- 9 Number three, upon receipt of the
- 10 request from the committee chairperson, the
- 11 NOSB chairperson will notify the NOP
- 12 administrator, and the NOSB executive
- 13 director, and a discussion of the request will
- 14 be scheduled as an agenda item for the next
- 15 regularly scheduled NOSB executive committee
- 16 conference calls.
- 17 If the original requester is not a
- 18 member of the EC, that person may be asked to
- 19 attend the EC conference call to provide
- 20 background information and describe the
- 21 purpose for the invitation at the discretion
- 22 of the chairperson.

- 1 Number four, approval or denial of
- 2 the invitation request will be by the NOSB
- 3 executive committee. When the invitation
- 4 request has either been approved or denied,
- 5 the chairperson of the NOSB will notify the
- 6 original requester of the decision. If denied
- 7 no further action will be taken; if approved,
- 8 the invitation can be delivered to the
- 9 congressional member or staff by either the
- 10 original requester or by the chairperson of
- 11 the NOSB at the chairperson's discretion.
- 12 Number five, the executive
- 13 director of the NOSB will work with the member
- of Congress or staff person to schedule the
- 15 approved NOSB meeting occurrence at a date and
- 16 time mutually agreeable to all parties.
- 17 And the last point: reasons for
- 18 presentation, subject area, and bio-slash-
- 19 resume of presenters to be circulated via
- 20 email to the entire board at least two weeks
- 21 prior to the meeting.
- 22 So a lot of words there. Just to

- 1 try to wrap up procedures for inviting
- 2 congress people to speak to us at meetings.
- 3 The next policy is NOSB policy for
- 4 public comment at NOSB meetings. One change
- 5 in this section in point number six we added
- 6 the proxy request should be submitted in
- 7 writing; this is in regard to proxies, to the
- 8 executive director, and include the name of
- 9 the presenter, presenter's topic, reason for
- 10 need of a proxy, and be limited to the five-
- 11 minute specified timeframe. So we are trying
- 12 to shore up the proxy procedures a little bit
- 13 there.
- 14 So the last section we had changes
- 15 to was actually an addition, and this is NOSB
- 16 policies or surveys conducted on behalf of
- 17 NOSB committees. Occasionally we do need
- 18 surveys to be taken to do our work, and this
- 19 policy was put in place to put some rigor
- 20 around that. An official public survey may be
- 21 required by an NOSB committee in order to
- 22 gather critical data necessary for the

- 1 development of NOSB recommendations. However,
- 2 surveys may be costly and must follow strict
- 3 time consuming review procedures within the
- 4 USDA and the Office of Management and Budget,
- 5 OMB. Any survey carried out by the NOSB is
- 6 considered by the OMB to represent the
- 7 executive branch and falls within the arena of
- 8 an ANPR. The Federal Register notice process
- 9 is the legally recognized method of giving
- 10 notice to the public, and all surveys must
- 11 show that every effort was made to allow the
- 12 public the opportunity to respond with
- 13 comments.
- 14 Therefore the NOSB committee
- 15 should consider carefully all possible
- 16 alternative means for obtaining the needed
- 17 data. If an official survey is concluded to
- 18 be essential to the committee's work, the
- 19 surveys including the electronic versions
- 20 conducted must be approved by the NOSB
- 21 executive committee before they are submitted
- 22 for approval to USDA and OMB, and a written

- 1 report summarizing the results of the survey
- 2 must be submitted to the full board and NOP as
- 3 soon as possible at their completion.
- 4 So that was a brand new
- 5 miscellaneous policy that was added to Section
- 6 6, and that is the of the changes and
- 7 additions to the section. Anyone have any
- 8 questions.
- 9 MEMBER FLAMM: Questions for
- 10 Steven? Yes, Tracy.
- 11 MEMBER MIEDEMA: This is a tiny
- 12 technical correction. On the part where we
- 13 were inviting folks from Congress, I think you
- 14 said NOP administrator, and if we are talking
- 15 about Miles, I think his title is deputy
- 16 administrator.
- 17 MEMBER DeMURI: Let me find that.
- 18 Do you have that Valerie?
- 19 CHAIRPERSON MOYER: Do you know
- 20 what line that's on, Tracy?
- 21 MEMBER FLAMM: Number Three.
- 22 MEMBER DeMURI: Deputy

- 1 administrator. Did you catch that, Val?
- 2 CHAIRPERSON MOYER: Any other
- 3 questions for Steve?
- 4 Barry, back to you.
- 5 MEMBER FLAMM: Thank you, Steve.
- 6 The next and last one involves
- 7 kind of completing the work that we did at the
- 8 May meeting. At the May meeting the
- 9 biodiversity action item was presented, and
- 10 approved, by the board. As part of that
- 11 recommendation it involved making changes in
- 12 our material criteria list which essentially
- 13 included just being more specific that's a
- 14 word I struggled with all my life; I used to
- 15 say "pacific" and cough when I said it. In
- 16 any case our addition is to add the words,
- 17 biodiversity, to category one of the criteria,
- 18 under item three, and again adding category -
- 19 under category three, number two to add
- 20 biodiversity. This like I said was actually
- 21 approved at the May meeting, and we are now to
- 22 a point of formally adding it to the policy

- 1 and procedure manual, and we felt this extra
- 2 step was probably necessary in order to do any
- 3 necessary coordination with the materials
- 4 committee.
- 5 So that concludes our
- 6 presentation. Are there any questions on this
- 7 addition to the criteria, or any other
- 8 questions from the board?
- 9 CHAIRPERSON MOYER: I don't see
- 10 any, Barry, so thank you for your
- 11 presentations. Very well done; appreciate
- 12 that.
- We will now move directly on to
- 14 the Compliance, Accreditation and
- 15 Certification Committee. Joe Smillie,
- 16 chairperson. Joe.
- 17 COMPLIANCE, ACCREDITATION AND
- 18 CERTIFICATION COMMITTEE
- 19 MEMBER SMILLIE: Thank you, Mr.
- 20 Chair.
- The Compliance, Accreditation and
- 22 Certification Committee welcomes the age of

- 1 enforcement. And in responding to that, we
- 2 have two recommendations, one is on retail and
- 3 one is on personal care, and basically I'll
- 4 let the people that were the principal authors
- 5 of these documents conduct the review.
- 6 We will start with Bea, and slight
- 7 clarification: the title of this
- 8 recommendation will be, Clarification of
- 9 Voluntary Retail Certification.
- 10 Bea.
- 11 MEMBER JAMES: Thank you, Joe.
- 12 The CACC recommendation,
- 13 clarification for voluntary retail
- 14 certification, is really a starting point for
- 15 a more complete guidance document that will
- 16 provide direction for retailers. Consistent
- 17 compliance guidelines for inspectors and
- 18 uniform application of the USDA organic seal
- 19 at retail.
- The guidance document was
- 21 developed in a way that introduces the
- 22 complexity of the issues that currently

- 1 surround voluntary retail certification, and
- 2 the recommendation's primary objective is
- 3 really three-pronged: to acknowledge the
- 4 existing issues taking place at retail; to
- 5 clarify by providing answers in the form of a
- 6 final guidance document; and to support
- 7 retailers with strong certification
- 8 clarification, certifiers with consistent
- 9 correction, and consumers with a clear
- 10 message.
- 11 So the guidance if the guidance
- 12 document passes, which we hope it will, the
- 13 hope is that the NOP will provide answers to
- 14 many of the questions posed, or they will
- 15 support continued work on the recommendations
- 16 for the CACC to develop the answers with the
- 17 help fo the industry.
- 18 I'll just summarize some of the
- 19 key issues that need clarification around this
- 20 subject.
- 21 One, products labeled as organic
- 22 in perishable departments that are handling

- 1 and/or processing, so on the first page of the
- 2 recommendation background section, this really
- 3 kind of stems from the Q&A that was posed in
- 4 April 4, 2008, where somebody submitted a
- 5 question, may a retail operation be certified.
- 6 And the NOP responded with the following.
- 7 Under NOP regulations, retail
- 8 operations are generally considered an
- 9 excluded entity, and therefore do not have to
- 10 be certified. However a retailer may
- 11 voluntarily become certified for the products
- 12 which it handles in accordance with NOP
- 13 regulations, and if a retailer has an in-store
- 14 bakery or delicatessen which processes
- 15 products which are sold as certified organic,
- 16 that portion of the retail operation must be
- 17 certified as a handling operation in order to
- 18 sell, label or represent those products as
- 19 certified organic.
- 20 So yesterday we talked a little
- 21 about this with some of the public comment
- 22 that came up, that the problem is that

- 1 retailers really are not in a deli or bakery
- 2 selling a product that says certified organic;
- 3 it just says organic. So there is really not
- 4 a huge difference between a deli that is
- 5 selling a certified salad that is actually
- 6 certified or not certified, but selling an
- 7 organic salad and they are certified, and a
- 8 deli that is not certified, and has the
- 9 ability to sell off a salad as organic. So
- 10 clarification around that.
- 11 Second point is that certification
- 12 of a grocery department where all products are
- 13 pre-packaged and commingling is limited or
- 14 nonexistent. There was a lot of public
- 15 comment from a well, there was one from one
- 16 cert that they felt that the center store
- 17 shouldn't be certified at all because they are
- 18 not processing or handling, and they have
- 19 given some information there about citing the
- 20 rule as to why a grocery department that just
- 21 has prepackaged products would not be. But
- 22 then Oregon Tilth also had comments about the

- 1 fact that it does add extra guarantee for a
- 2 grocery store that wants to track all the
- 3 products that they are putting in the aisle,
- 4 which I can tell you is a lot of work, and I'm
- 5 not so sure that that is realistic.
- 6 And then three, labeling of
- 7 organic cheeses, cut in the cheese department,
- 8 where the department is not certified but is
- 9 being supplied with USDA organic labels from
- 10 the cheese manufacturer for application to
- 11 each cut piece of cheese. So a cheese cutter
- 12 will get a box that has a big wheel of cheese,
- and inside of it it will have the logo and the
- 14 label of that manufacturer, that usually
- includes if they're organic, certified organic
- 16 stickers that go on the sheets. So cutting
- 17 cheese is processing, so if you are not
- 18 certified and you are cutting that cheese in
- 19 the cheese department and you are applying
- 20 those labels, then it implies that it's still
- 21 a certified organic product. So clarification
- 22 around that.

- 1 Clear and consistent compliance expectations
- 2 for the retailers from their certifiers. So
- 3 inclusion of marking plans and programs are
- 4 part of the retailers' OSP. Cross inspections
- 5 of all departments, and not just the one that
- 6 is being certified. So some certifiers might
- 7 be coming in to do an inspection for a produce
- 8 department, and that produce department might
- 9 be cross-merchandising some certified organic
- 10 products in another department, or have a
- 11 scale labeled that says they're certified
- 12 organic. And then they might be cross-
- 13 merchandising as well that scale for somebody
- 14 else to use, and that organic message is
- 15 coming out of the scale, as certified organic
- 16 on products that may not be certified organic.
- 17 And then lastly training and
- 18 education courses for retailers, certified or
- 19 not certified, so that they can be deployment-
- 20 ready for understanding their role and
- 21 supporting voluntary retail certification.
- 22 Right now there is just not a lot of support

- 1 for retailers to continue to be educated, to
- 2 make sure that they understand. I think it
- 3 would be great if the industry OTA I know
- 4 offered to provide an update to their gort
- 5 manual. They hope to do that in 2010. But
- 6 there needs to be more education and materials
- 7 for resources for retailers that are certified
- 8 or not certified to go to so they fully
- 9 understand how they should be marketing the
- 10 message of the USDA organic.
- 11 And then lastly, I just want to
- 12 thank those that provided public comment on
- 13 this subject. There were eight comments, of
- 14 which most offered very thorough and extensive
- answers to many of the questions posed in the
- 16 recommendation. OTA CCOF, OneCert, MOSA,
- 17 Oregon Tilth, the Wedge and Whole Foods all
- 18 provided great insight and expertise to help
- 19 answer many of the questions in the document.
- 20 I think one unified message in all
- 21 the public comment received was the request
- 22 for more clarity around the questions posed by

- 1 the CACC. And that and support for
- 2 education for retailers.
- 3 And additional comments
- 4 acknowledged that the rule provides all the
- 5 necessary regulations fore retailers, but just
- 6 that additional guidance would add more
- 7 clarity which almost everybody supported.
- 8 And Joe, I don't know if you
- 9 wanted to comment on anything about the
- 10 regulation?
- 11 MEMBER SMILLIE: Right. I think
- one of the key messages is that only in retail
- do we have organic and certified organic.
- 14 Everywhere else organic means certified
- 15 organic, but in retail you can have organic
- 16 and certified organic. And I think that can
- 17 lead to public confusion.
- 18 The other important point is that
- 19 retailers, although exempt and excluded in
- 20 certain areas, nevertheless have to be in
- 21 compliance with the regulation. And that is
- 22 sometimes missed. The exclusion exemption

- 1 doesn't exempt them from the regulation. It
- 2 exempts them from certification. So I think
- 3 that this document is really important in
- 4 getting the message out to consumers and
- 5 retailers, and hopefully seeing an increase
- 6 which was the real intent of bringing
- 7 retailers not necessarily into compliance,
- 8 which would be helpful, but also just bringing
- 9 them into the loop so that they understand.
- 10 And with this age of enforcement that is
- 11 beginning, we may see some added stimulus to
- 12 the retail community to get involved with
- 13 certification.
- 14 So I think that this document is
- 15 really important as a step in the beginning,
- 16 and I do believe, unlike some of my colleagues
- in the certification industry, that we do need
- 18 more consistency and clarity in applying the
- 19 processing and handling regulations to the
- 20 retail situation. There are some distinctive
- 21 differences in retail that are different than
- 22 distributors or processors, and I think that

- 1 we probably need not a rule change but
- 2 certainly some guidance for that. And I think
- 3 that is where we are headed with this.
- 4 Bea.
- 5 MEMBER JAMES: Thanks, Joe. And
- 6 then I also want to acknowledge that Oregon
- 7 Tilth really provided a lot of really good
- 8 insight and answers to a lot of the questions
- 9 that we posed. So I would like to recommend
- 10 that that document really be looked at by the
- 11 CACC, and since I'm off the board after this
- 12 meeting I won't be able to push that agenda,
- 13 so I'm saying it now.
- 14 And then in closing I also wanted
- 15 to just read something that the Oregon Tilth
- 16 pointed out, in a second, they said, we also
- 17 urge the NOSB to develop a procedure for the
- 18 approval and posting of guidance documents to
- 19 ensure a conclusive home for your work. It
- 20 would be very beneficial to the industry if
- 21 the NOP website contained a home for
- 22 officially approved NOSB quidance documents.

- 1 We are concerned about the status of several
- 2 other guidance documents that have not to date
- 3 been addressed by the program. Accordingly we
- 4 question the fate of the proposed retailer
- 5 guidance and the worth of everyone's time. We
- 6 are urging the CACC to follow up on the status
- 7 of recommended guidance documents, and for the
- 8 NOP to address the work of the NOSB.
- 9 And then they list some specific
- 10 guidance documents that they are asking about.
- 11 But I think that is a really good point, to
- 12 make sure that we actually have a place where
- 13 people can go and find the resources for
- 14 guidance to get more information since it
- doesn't actually go, not something that is
- 16 officially part of the rule.
- 17 So with that I will take any
- 18 questions, and CACC will take any questions.
- 19 CHAIRPERSON MOYER: Dan.
- 20 VICE CHAIRPERSON GIACOMINI:
- 21 Thanks, Bea.
- 22 A couple of questions just for

- 1 clarity. As I've said before when we go to
- 2 this level I'm as interested in what I for
- 3 lack of a better term call intellectual
- 4 contamination as physical contamination. When
- 5 you talk about cross inspection between
- 6 departments, does that include signage? Or
- 7 looking for inaccurate representation, dairy
- 8 case, cereal aisle, things that are pre-
- 9 packaged?
- 10 MEMBER JAMES: Okay, so when you
- 11 say pre-packaged, are you talking about just
- 12 like cereal on the shelf? Or are you talking
- 13 about things that would be pre-packaged by --
- 14 VICE CHAIRPERSON GIACOMINI:
- 15 Cereal on a shelf, milk in a carton, those
- 16 kind of things that can be there in organic
- 17 form, non-organic form, with inaccurate
- 18 deceptive signage.
- 19 MEMBER JAMES: Yes, I think that
- 20 is a really good point. And I would say that
- 21 that is something that should be acknowledged
- 22 as part of the additional guidance that is

- 1 needed for certifiers to do when they are in
- 2 cross-inspecting a department. For example
- 3 private label products oftentimes don't always
- 4 have accurate labeling, and that's one of the
- 5 things that could by noticed by an inspection
- 6 coming in to do a department.
- 7 VICE CHAIRPERSON GIACOMINI: And
- 8 then the other question I have is regarding
- 9 chains. Are all the stores within a chain if
- 10 one is going to be certified are they all
- 11 going to be required? Or is there going to be
- 12 some, again, intellectual contamination
- 13 concerns regarding how it's used in
- 14 advertising. I can easily see where you have
- 15 anywhere from three in a chain to 500 in a
- 16 chain. You certify one, you put it on all
- 17 your advertising, and you say that you have a
- 18 certified store, but you only did one.
- 19 MEMBER JAMES: I'll let Joe
- 20 answer this, since there were some recent
- 21 changes.
- 22 MEMBER SMILLIE: Yes, one of the

- 1 real points of this document is how to market
- 2 their certification. And that is one of the
- 3 areas we found that there has been abuse;
- 4 there is no question. Not only within a
- 5 store, like one department is certified, and
- 6 then it can sound like the whole store is
- 7 certified. So that's what this document
- 8 addresses.
- 9 And also with chains, I think you
- 10 know we are certainly not going to tie people
- 11 up saying, if you certify one store in chain
- 12 they all have to be certified. We don't want
- 13 to go in that direction. We want chains to
- 14 say, okay, these are the stores that are going
- 15 to get certified, and that will encourage them
- 16 to move along. But they just have to be
- 17 specific in their presentation that this store
- 18 is certified and not other ones.
- 19 VICE CHAIRPERSON GIACOMINI: But
- 20 that advertising and how they are specific in
- 21 that assertion is part of this review?
- 22 MEMBER SMILLIE: Absolutely. And

- 1 actually I think that is one fo the key
- 2 components of this guidance document is after
- 3 you certify a store you've got very little
- 4 control over their marketing, and we are
- 5 recommending that that is part of their
- 6 organic system plan, that the marketing piece
- 7 has to be part of that OSB.
- 8 CHAIRPERSON MOYER: I think
- 9 that's an excellent point, Joe, that that is
- 10 what this does. Bea?
- 11 MEMBER JAMES: No, I was just
- 12 going to point out to Dan on the last page of
- 13 the guidance document under point (b)(c),
- 14 should certifiers require retailers to include
- 15 marketing plans slash programs as part of
- 16 their OSB as Joe stated.
- 17 CHAIRPERSON MOYER: I had one
- 18 question for you, Bea, in terms of I'm not
- 19 too familiar with the retail side of the
- 20 business, but in terms of the training of the
- 21 actual staff that does the cutting of the
- 22 cheese, how much of that goes on today, and

- 1 what kind of training support tools would they
- 2 need to actually make it function better?
- 4 speak for all retailers, but I can say that
- 5 it's just kind of a sliding scale, that it
- 6 varies. There are retailers, and such as the
- 7 one that I work for, a 21-store chain, and we
- 8 only have one department that is certified,
- 9 and we go through extensive annual education
- 10 and training as well as testing that takes
- 11 place four times a year. And those tests go
- 12 into the file, and the certifier looks at
- 13 that.
- 14 I don't know if that is consistent
- 15 with all retailers. I think if there was an
- 16 expectation of making sure that there was
- 17 education in place for certified retailers,
- 18 that that would help the process. So.
- 19 CHAIRPERSON MOYER: Yes, I quess
- 20 my concern stems from what Dan was saying
- 21 about cross-contamination, not only in signage
- 22 but physical cross-contamination from the

- 1 staff that doesn't fully understand the
- 2 regulations. In a farming operation generally
- 3 speaking you've got staff that are working on
- 4 an organic farm, and they understand at least
- 5 the basics of what they are trying to
- 6 accomplish. But in a store you've got such a
- 7 variety of products on that scale. That was
- 8 the reason for my question.
- 9 MEMBER JAMES: Well, I'll let Joe
- 10 take that. But the rule is clear. If you
- 11 certify your department you have to follow
- 12 certain steps as far as cleaning, and
- 13 handling, and tracking.
- 14 MEMBER SMILLIE: Yes, it's been
- 15 my experience, and I think the other
- 16 certification industry would back me up on
- 17 this, is that a lot of times retailers get
- 18 involved in it because they want it for
- 19 marketing purposes. They find out that the
- 20 real value in certification is helping them
- 21 increase their liability as far as compliance,
- 22 and the staff really get into it. I mean it

- 1 really becomes a huge empowerment sort of
- 2 thing with retailers, and it also enables
- 3 retailers and this is not quite understood -
- 4 as retailers understand their liabilities,
- 5 and hence, we see a lot of organic product
- 6 that is in a bag, and it's not produce
- 7 display, it's like in a bag because they are
- 8 really worried about cross-contamination.
- 9 So it makes them it gives them
- 10 an environment, well, we've got to keep the
- 11 organic sort of bagged and separate, and not
- 12 open and bounteous in displays and all that.
- 13 So I think it enables them to with
- 14 certification to get the knowledge and go
- 15 beyond and start to really understand how the
- 16 system works. And it creates benefits to them
- 17 in every area.
- 18 CHAIRPERSON MOYER: Yes, I was
- 19 more concerned about the stores, or the retail
- 20 outlets that are not certified but they are
- 21 still selling the organic product, and without
- 22 going through that certification process. The

- 1 farms don't do that, but they don't understand
- 2 either; that was my point.
- 4 bring it back to some of the suggestions from
- 5 Oregon Tilth in their response to the
- 6 recommendation, is that if we could create
- 7 educational platforms for retailers, that they
- 8 would get some kind of diploma, or
- 9 certificate, that would help them kind of
- 10 train the trainer back at store level whether
- 11 they are certified or not that that would add
- 12 a lot of value.
- 13 CHAIRPERSON MOYER: Katrina.
- 14 MEMBER HEINZE: Help me
- 15 understand a little bit what happens if we
- 16 pass this recommendation. So I look at your
- 17 document in the recommendation section, it's
- 18 a bunch of questions. So I'm trying to
- 19 understand what a yes vote means.
- 20 MEMBER JAMES: Well, as I
- 21 mentioned earlier, the point of this
- 22 recommendation is really to try to get support

- 1 from the NOP to delve into this further. And
- 2 we really also wanted to get public comment
- 3 and insight. We didn't just want to come out
- 4 with a guidance document that answered all
- 5 these questions. We wanted to see how our
- 6 different industry experts would answer the
- 7 questions. So we have a broad spectrum.
- 8 I think one of the things that was
- 9 in several of the responses in the public
- 10 comment was concern about being too over
- 11 regulated. So it's a fine line between making
- 12 sure that we give guidance without being over
- 13 prescriptive. So the next step would be if
- 14 this passes then it would go to the NOP. The
- 15 NOP could choose to answer the questions on
- 16 their own, or they could send it back to the
- 17 CACC and say, we would like you to create an
- 18 actual guidance document that answers all
- 19 these questions.
- 20 MEMBER HEINZE: How is that
- 21 different than a discussion document? Is it
- 22 that you want us to vote so that it goes to

- 1 the NOP to get a decision from them? Is that
- 2 really what you are looking for?
- 3 MEMBER SMILLIE: Yes.
- 4 MEMBER HEINZE: Thank you.
- 5 CHAIRPERSON MOYER: Any other
- 6 questions for Bea or Joe? Thank you, Bea,
- 7 Joe.
- 8 The next document I want to draw
- 9 attention the next recommendation, to the
- 10 title. The title is, solving the problem of
- 11 mislabeled organic personal care products.
- 12 And this deviates slightly from our usual
- 13 titling, and there is a reason behind that,
- 14 and I'll let Tracy explain.
- 15 SOLVING THE PROBLEM OF MISLABLED ORGANIC
- 16 PERSONAL CARE PRODUCTS
- 17 MEMBER MIEDEMA: Good morning,
- 18 everyone. Thanks, Joe.
- 19 Well, I'd like to start out by
- 20 stating the purpose of our recommendation. We
- 21 say the certification, accreditation and
- 22 compliance committee recommends that organic

- 1 personal care products be recognized
- 2 explicitly by the national organic program to
- 3 ensure consumers and businesses alike that the
- 4 products have an unquestioned home in a USDA
- 5 national organic program.
- This sounds pretty simple: we are
- 7 trying to plant the flag within the program so
- 8 that the program stakes claims and regulates
- 9 products that carry the word, organic.
- 10 Seems pretty straightforward, and
- 11 actually we are proposing quite a brief
- 12 recommendation and insertion of language that
- 13 would plant that flag in the regulation.
- 14 But it's a much more complicated
- 15 issue than that, and I want to bring to light
- 16 why this issue is contentious. First of all,
- 17 FDA did not regulate the term, organic, as it
- 18 applies to cosmetics, body care, personal care
- 19 products. But they do regulate that class of
- 20 products.
- 21 USDA regulates the term, organic,
- 22 as it applies to agricultural products.

- 1 Now allow me for a moment here to
- 2 brief you on the history over the last few
- 3 years in 2005 on how NOP has tried to bridge
- 4 that divide, and the divide I'm talking about
- 5 is not having regulatory purview necessarily
- 6 over this category of products, but needing to
- 7 regulate the word organic.
- 8 So in 2005 NOP produced a
- 9 memorandum and by the way the three
- 10 documents I'm going to refer to that came from
- 11 USDA are from the NOP were never put through
- 12 the federal rulemaking process. They were
- 13 published online, and became a tacit rulebook.
- 14 These are not part of 7 CFR 205. NOP can
- 15 change their mind. But in 2005 the key aspect
- 16 of this memo was that and I'm going to quote
- 17 again NOP said there are agricultural
- 18 products, including personal care products,
- 19 that by virtue of their organic agricultural
- 20 product content may meet the NOP standards and
- 21 be labeled as 100 percent organic, quote
- 22 organic, or may be made organic pursuant to

- 1 the NOP regulations.
- Now what this did was it pulls
- 3 personal care products that were being labeled
- 4 organic out of sort of criminal status, and it
- 5 leads into the world of being allowed to carry
- 6 the label. And I use that term, criminal,
- 7 pejoratively here. There was a lawsuit. The
- 8 NOP needed to bring some clarity to the fact
- 9 that hey, if you are producing an agricultural
- 10 organic product that complies with 7 CFR 205,
- 11 you are not going to get in trouble, ACAs, if
- 12 you go ahead and certify that operation.
- So we are going along, the
- 14 industry is starting to develop. Now let me
- 15 just branch off here and take you back to
- 16 yesterday's conversation with a parallel
- industry that grew up where there was some
- 18 limbo in regulation. And I'm going to refer
- 19 to the animal welfare and to poultry
- 20 specifically.
- 21 These poultry farmers were toeing
- 22 the line as they knew it. The regulation

- 1 meanwhile was sort of silently developing in
- 2 the background where we think things were
- 3 really going to go someday. And the
- 4 producers, and the folks investing in animal
- 5 welfare for poultry, were continuing to invest
- 6 their life savings, hire 35 people, build
- 7 farms, toeing the line as they knew it. Nine
- 8 years elapsed, and then we and the program
- 9 were sort of coming to the fact that we needed
- 10 to actually be explicit in what the rules are.
- 11 Meanwhile where people thought they should be
- 12 following the rule, and where the program and
- 13 possibly the board thought we needed to be -
- 14 the gap has grown. And we are where we are
- today with a great big gap between where some
- 16 people are and where some people think the
- 17 industry needs to be.
- 18 That gap is starting to form now
- 19 in personal care products. So what I just
- 20 referred to, the NOP memorandum stating that,
- 21 go ahead and use the seal on organic personal
- 22 care products so long as they meet 7 CFR 205,

- 1 that was a little over four years ago. 2008
- 2 so a little over a year ago a document showed
- 3 up on the web, on the NOP site, that expanded
- 4 the use of organic on personal care products
- 5 to be okay if you use a foreign certifier or
- 6 a private certifier. You can't say USDA
- 7 organic. You can't say the word, certified
- 8 organic. You can't use the seal. But you can
- 9 say the word, organic. Essentially the NOP
- 10 was saying, listen, we don't have a body of
- 11 regulations in this category. We don't really
- 12 have regulatory purview, because that is FDA's
- 13 stuff over there.
- So private and foreign certifiers
- 15 for the time being are okay. Now we've had
- 16 another year of that gap widening. Products
- 17 being developed. Investment happening against
- 18 private and foreign certifiers.
- 19 Let's go to the consumers here
- 20 now, and ask ourselves honestly, do consumers
- 21 really parse the difference between organic
- 22 and organic? A moment ago we were asking the

- 1 question, do they know the difference between
- 2 certified organic and organic. Well, when it
- 3 came to personal care products, you may have
- 4 two products side by side that both say
- 5 organic. Because you don't have to use the
- 6 seal. If you read the fine print, a certified
- 7 organic product will list the name of the
- 8 certifier. That might be the only different.
- 9 So these products that appear side
- 10 by side could have completely different you
- 11 know secret decoder rings if you will behind
- 12 what the word organic means on the product.
- 13 Now this is no criticism of these businesses
- 14 taking giant strides to create better, safer
- 15 products for the marketplace. They are toeing
- 16 the line. They are doing what the program says
- is okay, and they are doing wonderful things.
- 18 It's just that these very businesses that are
- 19 doing great things are at a tremendous risk
- 20 right now. Because we don't know what the
- 21 next guidance document could be. It could be,
- 22 well, say, foreign and private certifications,

- 1 that is not working for us anymore. In fact
- 2 we are going to make a rule change. We're in
- 3 a limbo land that is not safe for business.
- I haven't spent much time talking
- 5 about consumer confusion, mainly because it
- 6 feels like stating the obvious. When you walk
- 7 into a grocery aisle, and you see products
- 8 carrying the word, organic, and it doesn't
- 9 actually have a regulation behind it, this is
- 10 such a clear case of consumer confusion.
- 11 Hopefully that is really self-evident.
- 12 So what we are recommending is
- 13 simply that the NOP explicitly recognize these
- 14 personal care products in the regulation. And
- 15 to do that some definitions will need to be
- 16 added. So you would be talking about a real
- 17 rule change, and moving out of the realm of
- 18 web-based guidance documents published and to
- 19 real rulemaking.
- 20 There is precedence for these
- 21 different branches of government not
- 22 branches, departments of government to work

- 1 together. USDA has gained memorandums of
- 2 understanding before, such as when we produced
- 3 organic alcohol, under ATF. So also with the
- 4 livestock medicines as well. We have
- 5 precedent for working with other departments.
- 6 We know that's possible. We can bring that
- 7 forward in this recommendation if folks need
- 8 us to note that what we think NOP should do is
- 9 gain an memorandum of understanding with FDA.
- 10 That is kind of how they will need to make
- 11 sausage. But we have heard some feedback that
- 12 that would be a good thing to have in our
- 13 recommendation that we don't have in there
- 14 currently, kind of what the process is going
- 15 to need to be for NOP.
- 16 But we feel that by inserting
- 17 these definitions, we would bring clarity for
- 18 consumers, if the word organic has a
- 19 regulatory underpinning that is consistent
- 20 every time it's used, and we would help
- 21 businesses have a solid foundation to work
- 22 from instead of the really shaky foundations

- 1 that is in place right now.
- 2 Any questions?
- 3 CHAIRPERSON MOYER: Thank you,
- 4 Tracy. I have one comment that I will make as
- 5 I look around the room for more questions.
- 6 I wish Miles was here, because I think
- 7 yesterday we saw his priority list, and this
- 8 was not on his priority list. I believe as
- 9 you clearly stated, Tracy, that consumer
- 10 confusion could easily be the downfall of this
- 11 industry. We heard Barbara Robinson say, we
- 12 own the word. We've heard Kathleen Merrigan
- 13 say, this is a food document, not a personal
- 14 care document; we are not interested in going
- 15 there. So we've heard both sides of the tale
- 16 from the program. And I really think that we
- 17 need to get on Miles' priority list, because
- 18 it is extremely important. It's not a food
- 19 issue; it's not a food item. But we got to
- 20 get it there that's my opinion. It's
- 21 incredibly important because consumer
- 22 confusion, as I said in my opening comments,

- 1 we are on a thin line here. We heard from
- 2 Katrina yesterday that the word, natural, is
- 3 gaining momentum, because people don't
- 4 understand what is happening in organic. And
- 5 as you put it, organic products that are
- 6 organic sitting on the shelf with products
- 7 that are not organic, and they say the same
- 8 things. And consumers don't understand that.
- 9 It's very scary. Just a comment, not
- 10 necessarily a question, Joe.
- 11 MEMBER SMILLIE: Yes, it's a very
- 12 complex issue. Let me be very clear about
- 13 that. And there are a lot of dangers. There
- 14 are downsides to the document too. For the
- 15 NOSB and anyone I would strongly recommend the
- 16 OTA white paper. They have pulled together a
- 17 lot of people. There are a lot of different
- 18 sources of information of how we can make the
- 19 organic regulation more personal care
- 20 friendly, and that is one of the downsides.
- 21 One of the downsides is that if we move
- 22 through this process and NOP does take stand

- 1 up and take some kind of ownership of the
- 2 word, organic, there will have to be some
- 3 compromises down the road, and one of those I
- 4 think one of the best routes to follow will be
- 5 slowly petitioning for the addition of more
- 6 synthetic materials on the list, which is the
- 7 downside. Right? Everybody is oh, no, no, we
- 8 are diluting the rule and you are adding more
- 9 synthetics. But to make it more personal care
- 10 friendly and enabling the industry to grow
- 11 that will be one of the downsides; let me be
- 12 very clear about that.
- I personally believe that if we
- 14 have a section rather than annotations but a
- 15 section for personal care use only, and since
- 16 some that terrible word again -synthetics
- 17 are added, I don't think that's a bad thing.
- 18 I think that's a good thing. But some people
- 19 don't.
- The other direction, there are
- 21 other possible directions we could go, I think
- 22 that is the best direction to take: slow but

- 1 steady, bring it into the house, is part of
- 2 it. Because I still go back, we have
- 3 disagreements on this, but OFPA is about
- 4 agricultural commodities. It's about
- 5 agriculture. It's not about necessarily food.
- 6 It's just as much about cotton and hemp,
- 7 there's the Washington hempsters here, it's
- 8 about cotton and hemp and it's about all
- 9 agriculture commodities. And personal care
- 10 products are based on agricultural
- 11 commodities. It's not like these things are
- 12 made in a vat which is chemicals. We can
- 13 encourage the growth of organic agriculture by
- 14 allowing personal care companies to support
- 15 that organic growth, and they've got money.
- 16 They have margins on these products. They can
- 17 pay good prices for lavender and all of the
- 18 things, aloe vera and all of the things that
- 19 they need. So we would be behooving the
- 20 growth of organic agriculture, which as far as
- 21 I'm concerned is what we are about. So I
- 22 think it's a step in the right direction to

- 1 bring personal care products into the house,
- 2 and again hopefully in our prioritization
- 3 meeting, Mr. Chair, with the NOP, which is
- 4 projected to happen, I think we can work with
- 5 them. So Tracy, the CACC recommendation is
- 6 the first step toward bringing this large
- 7 group of products and industry into the house,
- 8 and I think it's a step we need to take.
- 9 CHAIRPERSON MOYER: Dan, then
- 10 Katrina.
- 11 VICE CHAIRPERSON GIACOMINI: Yes,
- 12 either Joe or Tracy. Is there a reason why
- 13 you went the route in this document of
- 14 exclusively personal care versus following
- 15 theme of whatever document from the NOP was of
- 16 non-food use. Which would then include
- 17 linens, textiles, whatever.
- 18 MEMBER MIEDEMA: It was really
- 19 based on the depth of expertise on this
- 20 category that was available, and the fact that
- 21 NOP had issued guidance documents that were
- 22 starting to I guess get rolling. This was

- 1 developed and that has a discrete category
- 2 that we addressed it discretely.
- 3 MEMBER SMILLIE: Just to add to
- 4 that, like the soap, the recent NOP directive
- 5 on soap. That is you know, I don't know if
- 6 you are familiar with that document, but they
- 7 came out and asked some questions about how do
- 8 we classify soapmaking. You are right in the
- 9 wheel house right there of personal care.
- 10 Specifically.
- 11 MEMBER MIEDEMA: And I'll add one
- 12 thing. It's really not fair to the folks who
- 13 are producing cleaning products and want us or
- 14 others, want the NOP to weigh in on their
- 15 organic products. We're just not there yet.
- 16 CHAIRPERSON MOYER: Katrina.
- 17 MEMBER HEINZE: When I look at
- 18 public comment, we had kind of a split in the
- 19 public comment. There were a number of folks
- 20 who either didn't support the document or
- 21 asked that it be deferred or withdrawn. Could
- 22 you kind of summarize why people are against?

- 1 MEMBER MIEDEMA: Excellent
- 2 question, Katrina, I apologize for not
- 3 shedding light on some of that. Okay, a lot
- 4 of the comments referred to what they believe
- 5 an outcome would be of planting this flag and
- 6 the regulation. And for those companies who
- 7 are using synthetics that are not right now
- 8 allowed, and they are not on the national list
- 9 anywhere, there would be reformulation yes,
- 10 if what happened is that there was a swift
- 11 rulemaking, and no and no allowances made
- 12 for this class of products to develop with a
- 13 list of synthetics. Now there's a precedent
- 14 for category-specific synthetics. We made
- 15 that recommendation anyhow with pet food.
- 16 And there are some things that we
- 17 carved out and want to allow in organic pet
- 18 food that we are not saying that we want to
- 19 start entering the stream of organic human
- 20 food. So we knew there was a precedent for
- 21 that. That is probably the biggest problem
- 22 people have with it is the disruption of

- 1 business. Folks have started really
- 2 developing this category. They've had four or
- 3 five years, and they have invested a lot of
- 4 money, and it feels like getting cut off at
- 5 the knees. And we empathize, and that's what
- 6 I try to bring forward is that planting this
- 7 flag in the regulation helps rebuild a solid
- 8 foundation or build one where there isn't one.
- 9 A couple of other issues that were
- 10 brought up: equivalency in the future, again
- 11 if we were to have a separate list of
- 12 synthetics that got built into 7 CFR 205, the
- 13 EU carves off its personal care, organic
- 14 personal care products into a little bit
- 15 different regulation, as a stand alone. So
- 16 would we have an equivalency issues. That's
- 17 another problem.
- The fact that we've got this
- 19 problem with oversight by USDA, what business
- 20 does USDA have getting into personal care
- 21 products. That's not what they do. They
- 22 don't have the chemists. They don't have the

- 1 expertise. They don't understand
- 2 esterfication, saponification, all these
- 3 chemical processes that are necessary to
- 4 create all these products, and they should
- 5 just stay out, stick to their knitting, and
- 6 let FDA have it later on as appropriate.
- 7 And there was also just sort of,
- 8 this is happening too fast. Give it time.
- 9 Okay we are starting the discussion here, but
- 10 let's kind of see where this goes. Let's not
- 11 be too hasty. I think those were the main
- 12 arguments.
- 13 CHAIRPERSON MOYER: Katrina,
- 14 follow up?
- 15 MEMBER HEINZE: So as a consumer
- 16 who has tried to make decisions in this aisle,
- 17 it is perplexing. Thank goodness I know the
- 18 regulation, right. So I am very sympathetic
- 19 with the impact that that consumer confusion
- 20 has for us.
- 21 Did you consider so it seems
- 22 like the purpose of your recommendation is to

- 1 try to move this up on the priority list for
- 2 NOP, get some action out of them. Did you
- 3 consider an alternate option of asking them to
- 4 come back in the spring and tell us what they
- 5 are going to do about this, rather than
- 6 passing this recommendation? Was that a
- 7 different option?
- 8 MEMBER MIEDEMA: We are
- 9 essentially doing what you just asked by
- 10 making this recommendation and saying, we
- 11 recommend that you claim this category in
- 12 which your word and your seal appears on, we
- 13 are asking that question. And when we do this
- 14 sort of thing, NOP can still tell us to take
- 15 a hike, and they can still do nothing. There
- 16 are all kinds of paths that could go forward,
- 17 but we wanted to make a clear statement that
- 18 is it not sustainable where it's at, and I
- 19 think that is one thing we can all agree on
- 20 that we are on a path right now that doesn't
- 21 have it's not headed in the right direction.
- 22 CHAIRPERSON MOYER: Exactly, we

- 1 have a program decision that needs to be made.
- 2 I have Julie and then Kevin and Bea.
- 3 SECRETARY WEISMAN: Yes, I just
- 4 wanted to I think that the path that we are
- 5 headed down is the issue, and the risk of
- 6 losing what we have now. And the ownership of
- 7 the term, organic, I won't take up more time.
- 8 I just walked down what is that over there,
- 9 you walk to Whole Foods, I pass at least two
- 10 dry cleaners that say organic dry cleaning.
- 11 Now I am not recommending that the USDA try
- 12 and encompass that in the regulation, although
- 13 it is problematic. I know lawyers who
- 14 recommend that a suit be filed, but the fact
- 15 that that happens the fact that that happens
- 16 is why sorry, I'm a little slow the fact
- 17 that that happens is why Tina's point I
- 18 forget if it was Tina or Katrina about the
- 19 word, natural, starting to have more meaning
- 20 for consumers even though it is completely
- 21 unregulated. That is a problem.
- 22 CHAIRPERSON MOYER: Thank you,

- 1 Julie. I have Kevin.
- 2 MEMBER ENGELBERT: Yes, two
- 3 things. One, I like the recommendation. I
- 4 like your analogy of the first step and that
- 5 we are trying to protect organic. I am
- 6 obviously concerned, Joe, about your approach,
- 7 what will happen with putting more synthetics
- 8 on, and that to me is not is would be a
- 9 wrong turn, but I'll be long gone by the time
- 10 those decisions are made, so there is no point
- 11 belaboring it right now.
- But the one question I do have,
- 13 I'd be very interested to know under your
- 14 definitions why you chose the word, under one,
- 15 an article intended to be rubbed. Why you
- 16 settled on article. There must be a reason
- 17 why it's not substance or material. It is
- 18 just curious.
- 19 MEMBER MIEDEMA: To the degree
- 20 possible we really tied to FDA definitions, so
- 21 that when memorandum of understanding time
- 22 came around we didn't have as big a bridge to

- 1 build.
- 2 MEMBER ENGELBERT: There must be
- 3 a reason, but I just wondered what it was.
- 4 CHAIRPERSON MOYER: Let's save
- 5 the humor for 4:00 o'clock when we need it.
- 6 I think that is an excellent point though. I
- 7 think tying this to FDA and recognizing that
- 8 we are going to have to partner with FDA
- 9 whatever the program decides to do is
- 10 extremely important.
- 11 MEMBER SMILLIE: One of the
- 12 people that was supposed to speak yesterday
- and I can't pronounce her name, Farah from the
- 14 personal care counsel, her submission is on
- 15 the record, and I really recommend everyone to
- 16 read it, because she represents that industry,
- 17 the trade association for personal care
- 18 industry. And her comments were very pointed.
- 19 Stay out of our industry.
- 20 And I think we should take that
- 21 comment. I was disappointed that she wasn't
- 22 here to give the oral presentation. Oh, she

- 1 is here today? Wonderful. Well, perhaps you
- 2 can re-up and get back on the list, because we
- 3 do want to understand where your industry is
- 4 coming from on this issue. Thanks.
- 5 CHAIRPERSON MOYER: Okay, the
- 6 chair recognizes Bea.
- 7 MEMBER JAMES: I just wanted to
- 8 kind of add to the discussion by saying from
- 9 the retailer perspective that consumers are
- 10 looking for preventative solutions, and
- 11 organic and natural foods have kind of created
- 12 this natural progression of people who want
- 13 healthy choices for prevention, and they
- 14 oftentimes migrate outside of the food area
- 15 into the HBC department for those concentrated
- 16 added you know Nutriceutical solutions for
- 17 being healthy. And the FDA I think that their
- 18 roots in cosmetics and personal care really
- 19 lean more towards the conventional side of
- 20 things, and that over the years the natural
- 21 industry has just started has tried to
- 22 develop these better than products that are

- 1 very similar to everything else that sold in
- 2 a natural food store. So to not have the USDA
- 3 recognize that this is an area that consumers
- 4 are wanting an alternative to what has
- 5 traditionally been seen as a conventional type
- 6 of product that is regulated by FDA, wanting
- 7 to move it towards, I'll say, not always but
- 8 food for the skin, and if it ends up having
- 9 synthetics to create more of that healthy
- 10 alternative, that that provides a solution for
- 11 that consumer that we are trying to help make
- 12 regulations for, and to ignore personal care
- 13 could be a misstep on our part, because if you
- 14 go to any natural food store that is I'll say
- 15 Whole Foods, their HBC department is huge, and
- 16 it's well staffed, and it's obviously a stake
- in the ground that these consumers are looking
- 18 for these types of choices, so that we should
- 19 be involved and help make sure that we can
- 20 provide them with those alternatives.
- 21 CHAIRPERSON MOYER: I agree, Bea.
- 22 I mean I think that we are this whole

- 1 process is a logical conclusion of our own
- 2 success. So it's that's what's driving us.
- 3 And certainly it is going to require some
- 4 training of FDA folks just like we're doing
- 5 with EPA or like we're doing with science and
- 6 tech and trying to get them to understand what
- 7 are the expectations of our consuming public
- 8 so that we can drive that train in education.
- 9 Any other questions for Bea or Joe
- 10 ? Thank you, Mr. Chairman, and your team, for
- 11 great work on some difficult topics.
- Moving right along we will move to
- 13 the Materials Committee. Dan Giacomini,
- 14 chairperson. Dan.
- 15 MATERIALS COMMITTEE
- 16 VICE CHAIRPERSON GIACOMINI:
- 17 Thank you, Mr. Chairman.
- 18 The materials committee has one
- 19 document for consideration at this meeting
- 20 regarding nanotechnology.
- There was a significant amount of
- 22 well, let me go back. The as a follow up

- 1 to our discussion document, at the main
- 2 meeting this document was presented, written
- 3 as a prohibition of the products of
- 4 nanotechnology in organic production and
- 5 handling. We also wrote the document to
- 6 include packaging which some commenters and
- 7 some people feel may be outside of our
- 8 jurisdiction. The reason that we included
- 9 that is because of the extremely high
- 10 possibility that this products of this
- 11 technology through general packaging of what
- 12 we have in normal processed food and materials
- is a potential source of contamination of the
- 14 product.
- But we include packaging on there,
- 16 and we are very comfortable, most of the
- 17 committee is very comfortable that we have
- 18 that right to make that point.
- 19 Public comment was fairly
- 20 significant from Organic Consumers
- 21 Association, the Center for Food SaFety, and
- 22 Friends of the Earth. It was impossible to be

- 1 absolutely in counting them all; it would
- 2 have taken all the time that I took in
- 3 reviewing the materials, and it would have
- 4 been even further impossible to check for any
- 5 possible overlaps. But the Organic Consumers
- 6 Association, a compilation of letters which
- 7 were I'm estimating were somewhere in the
- 8 number around 1,500 of specific fairly
- 9 detailed in some cases. I'm sure it may have
- 10 started with a boilerplate, but they were in
- 11 some cases they were fairly elaborate in their
- 12 comments.
- 13 Also a spreadsheet database of
- 14 6,817 I believe names of people opposing -
- 15 supporting the document, opposing
- 16 nanotechnology in organic production.
- 17 Center for Food Safety submitted
- 18 somewhere around 9,000 public comments
- 19 supporting the recommendation.
- 20 And Friends of the Earth also
- 21 supported that. I'm certainly not avoiding
- 22 anyone else here.

- 1 OCA had a further one of 4,800;
- 2 that was including a number of different
- 3 issues not specifically limited to
- 4 nanotechnology.
- 5 There were comments from
- 6 certifiers, which the majority of them
- 7 supported the document. There were some that
- 8 supported the minority recommendation. There
- 9 were a fair amount of commenters that
- 10 suggested that we increased the number, the
- 11 size limits in the definition to 300, and
- 12 there was some concern in those opposing the
- documents, the majority of the opposition was
- 14 a concern not to get in the same situation
- 15 we're in right now in dealing with vaccines on
- 16 the GMO issue.
- 17 That the track taken by the
- 18 minority opinion was a safer track in that
- 19 regard.
- 20 But overall the majority of public
- 21 comment supported for the most part the
- 22 opposition of nanotechnology in organic

- 1 productions and handling. We realized that
- 2 from particularly from public comment that
- 3 there are some questions over the definitions,
- 4 and we are trying to decide within committee,
- 5 and we would be open to any comments from the
- 6 rest of the board regarding modification of
- 7 that definition.
- 8 The main statement as I said
- 9 regarding packaging was a concern over
- 10 contamination. While some people would like
- 11 the organic industry to save the world and the
- 12 planet, our concern was not necessarily
- 13 regarding the bag that people carry home their
- 14 products from the store in, nor was it a piece
- of paper that is stapled to a palette that you
- 16 transport material. We even had a box up
- 17 here, a little four-pack that someone used to
- 18 bring coffee in this morning. We didn't write
- 19 this as a concern for that box, but as a
- 20 concern more for the cup that the coffee was
- 21 actually in.
- 22 And we are looking at the

- 1 possibility of adding language to clarify that
- 2 point.
- 3 The again the two tracks between
- 4 the majority opinion and the minority opinion
- 5 is whether we stay with a complete prohibition
- 6 or we go through a track of classifying all
- 7 products of nanotechnology with a very
- 8 specific definition as synthetic and allowing
- 9 them to proceed through the case by case
- 10 review process to eliminate the situation we
- 11 have with the GMO vaccines.
- 12 So with that I'd like to open
- 13 debate from the rest of the board.
- 14 CHAIRPERSON MOYER: Discussion
- 15 from the board. I have Barry and then Steve
- 16 and then Joe.
- 17 MEMBER FLAMM: Dan, my question
- 18 involves the comments regarding the size of
- 19 the nanoparticles. I think that's what struck
- 20 me the most in going through the comments that
- 21 were supporting the recommendation. What do
- 22 you and the committee think about increasing

- 1 the size range to 300?
- 2 VICE CHAIRPERSON GIACOMINI: We
- 3 have not had a chance to deal with the real
- 4 specifics, but I don't think there would be a
- 5 tremendous objection to that.
- 6 CHAIRPERSON MOYER: Steve.
- 7 MEMBER DeMURI: Barry touched on
- 8 something I was going to, but I have another
- 9 comment too. You answered my question, I had
- 10 a question on packaging, Dan, in this
- 11 document. I'm glad to hear that you are not
- 12 considering RFID tags stuck to a palette to be
- 13 a problem. So to fix that you can probably
- 14 just insert the word, primary, in front of
- 15 packaging where you have it listed, and that
- 16 should take care of that.
- 17 CHAIRPERSON MOYER: Good
- 18 suggestion.
- 19 VICE CHAIRPERSON GIACOMINI:
- 20 Thank you. Also going back to we were aware
- 21 of going back to the size issue, we were
- 22 aware of the possibility and I think I think

- 1 it's reasonable to say that I have studied
- 2 this issue and the more we study the more
- 3 this issue is studied and researched, the
- 4 larger particles we will find that carry these
- 5 characteristics. I would not be surprised in
- 6 the years ahead that we get at least into the
- 7 500 range of size items. That is why when we
- 8 did this definition we included the word,
- 9 typically, in the size scale of approximately
- 10 to allow for a certain amount of wiggle and
- 11 wobble.
- So it gives us a good idea, but
- 13 without absolutely nailing this to the wall.
- 14 CHAIRPERSON MOYER: Anything
- 15 else, Steve?
- 16 Chair recognizes Joe.
- 17 MEMBER SMILLIE: Steve made the
- 18 exact point I was going to make.
- 19 CHAIRPERSON MOYER: Thank you,
- 20 Joe.
- 21 Chair recognizes Rigo.
- 22 MEMBER DELGADO: Yes, Dan, I

- 1 think in your terms you define it, you talk
- 2 about the intent of nanotechnology. However
- 3 in the minority opinion it appears that the
- 4 intent of the committee was to include or
- 5 prohibit naturally occurring nanoparticles
- 6 that come from milk and grain mill and so
- 7 forth. Is that the case, or am I failing to
- 8 see something here?
- 9 VICE CHAIRPERSON GIACOMINI: I
- 10 would say that intent is intent is only as
- 11 good as the words in the final result. I
- 12 think intent is great, but if it's not what
- 13 the regulation says, the regulation is what's
- 14 the regulation and not the intent. The intent
- of the committee was to not include those.
- 16 It's the feeling I believe, and that person
- 17 can address that, that we did not
- 18 satisfactorily eliminate those substances.
- 19 That's part of the situation of
- 20 dealing with the definition. To a large
- 21 extent the nanotechnology research community
- 22 itself seems to be having just struggling

- 1 with the definition. A majority of the
- 2 committee was concerned that the longer we
- 3 wait for them to decide on what their
- 4 definition of nanotechnology really is, as
- 5 they say the horse is farther and farther out
- 6 of the barn. We have more situations like we
- 7 have with animal welfare and poultry where you
- 8 can't change us now as oppose to the deputy
- 9 administrator telling us a few years ago that
- 10 if we didn't include animal welfare in OFPA,
- 11 but now is the time to add it.
- So we have those problem -
- 13 timeline problems that are always going to
- 14 exist. The majority fo the committee felt
- 15 that we wanted to be as out in front of this
- 16 as we possibly could, but no, homogenization
- in milk, grinding of flour, were not the
- 18 substances that we were looking to include,
- 19 and we tried as well as we could to not
- 20 include them. Maybe we were not as successful
- 21 as we should have been.
- 22 CHAIRPERSON MOYER: The chair

- 1 recognizes Julie.
- 2 SECRETARY WEISMAN: Well, that's
- 3 actually a good lead in for my question. And
- 4 it's again going back to the definition. I
- 5 recall that there was a lot of comment
- 6 yesterday, and you've already spoken to that
- 7 a little bit, about objection to the
- 8 definition being that specific, you know, one
- 9 to 100 nanomicrons as the particle size. And
- 10 I think that I remember a thread that covered
- 11 a lot of different comments. I can't say for
- 12 sure that it was the majority, but it seems to
- 13 be a consistent theme to me that the
- 14 definition suggesting that the definition be
- 15 not so much focused on particle size, because
- 16 that it should be focusing more on
- 17 engineering to a particular particle size to
- 18 achieve a certain function, something like
- 19 that, and so I guess my question is, is this
- 20 recommendation, are we thinking of crafting
- 21 some alternative language for the definition?
- 22 VICE CHAIRPERSON GIACOMINI: Most

- 1 of the definitions of nanotechnology that I
- 2 have seen actually lead with the size issue.
- 3 We did somewhat in an attempt to deflate that
- 4 emphasis by putting it at the end, and trying
- 5 to start with the engineering and the intended
- 6 use.
- We did receive after our request
- 8 from one of the commenters yesterday, and
- 9 alternative definition. Is it okay if I read
- 10 this? Product engineered to be in the
- 11 nanoscale because of specific unique
- 12 properties that result only in that nanoscale.
- 13 I don't know where that would sit
- 14 with all those other official public, I forget
- 15 what the agencies were that we could look up.
- 16 But I like this simply because it's so far out
- 17 of the box. Which is where I like to start
- 18 thinking from.
- 19 CHAIRPERSON MOYER: Chair
- 20 recognizes Hugh.
- 21 MEMBER KARREMAN: Kind of outside
- 22 of that box, but you are talking RFID on some

- 1 things, right? There is our RFID tags that
- 2 are put in cattle, correct? Is this part of
- 3 that or just a totally different question? Is
- 4 that nanotechnology? I don't know, I heard
- 5 RFID.
- 6 VICE CHAIRPERSON GIACOMINI: Good
- 7 question.
- 8 CHAIRPERSON MOYER: Not a good
- 9 answer, I guess.
- 10 (Laughter.)
- 11 CHAIRPERSON MOYER: No, no, it's
- 12 difficult. I was just being a smart ass.
- 13 VICE CHAIRPERSON GIACOMINI:
- 14 That's on the record.
- 15 (Laughter.)
- 16 CHAIRPERSON MOYER: It's the
- 17 truth.
- 18 VICE CHAIRPERSON GIACOMINI: So
- 19 if this recommendation were passed the way it
- 20 is, and that is a nanotechnology, it wouldn't
- 21 be allowed except in situations where it's
- 22 required by law. If that is part of the

- 1 animal ID issue, the debate of whether that is
- 2 going to be required or not is still under
- 3 discussion.
- 4 CHAIRPERSON MOYER: Julie has a
- 5 clarification on the RFID.
- 6 SECRETARY WEISMAN: Yes, I just
- 7 want to clarify that not all RFID is
- 8 nanotechnology. That is a very new
- 9 development, and I doubt very seriously
- 10 whether the RFID that's being used on herds
- 11 now is that. But it could happen, and that's
- 12 why we have to have a discussion.
- 13 CHAIRPERSON MOYER: The board
- 14 recognizes Katrina.
- 15 MEMBER HEINZE: Kevin, I yield to
- 16 you if your comment is about size. Okay. I
- 17 did not vote for this recommendation, and
- 18 drafted the minority opinion, and I wanted to
- 19 explain that a little bit, and maybe expand on
- 20 that after all the public comment we've heard.
- 21 It is clear to me, and I do not
- 22 disagree, that our stakeholders do not today

- 1 want nanotech in the organic foods that they
- 2 are purchasing. My concern with the
- 3 recommendation was not that we prohibit that
- 4 use today but how we do it.
- 5 What I worry about is that we
- 6 create a situation where organic is known as
- 7 no-nanotechnology forever, and that in the
- 8 future, because science evolves, and science
- 9 is not bad; good things come from science,
- 10 lots of good things. Like laptops, that we
- 11 all have sitting here that we all adjust to,
- 12 right? And science can develop things that
- 13 are good for the earth, that help with the
- 14 safety, deliver features that consumers desire
- 15 in their products. And I don't want to create
- 16 a situation where in the future those
- 17 advantages are not available to our organic
- 18 consumers.
- 19 So clearly we don't know enough
- 20 about the science today, and we should
- 21 prohibit the use of nanotechnology today while
- 22 we better understand the science. But I want

- 1 to create a situation where in the future this
- 2 board is not seen as weakening the standards
- 3 because all of a sudden we are letting
- 4 nanotechnology, that evil thing that we
- 5 excluded, into organic. The way we are
- 6 talking this week about GMO vaccines. We've
- 7 branded GMO as evil forever, and now we are
- 8 putting our farmers in a bind. And it's a
- 9 tough decision, and I want to avoid that in
- 10 the future, because we don't know what's going
- 11 to evolve.
- 12 So that was my original concern.
- 13 So what I proposed as an alternative is that
- 14 we say all nanotech is synthetic, because it's
- 15 synthetic, it is prohibited unless this board
- 16 in whom I have great faith, reviews it,
- 17 understands the science, understands the
- 18 benefits and the risks, and approves it.
- 19 So the effect would be the same.
- 20 It would be prohibited, but it creates a path
- 21 forward for flexibility. So that was my
- 22 minority opinion.

- 1 I will say after having heard all
- 2 the discussion this week I am more concerned
- 3 about the definition than I was when I
- 4 started. I had concerns originally about how
- 5 these natural processes would be included, but
- 6 I kind of thought we could work through that.
- 7 But having heard all the discussion, I do
- 8 think that the committee needs to spend some
- 9 time, and hopefully in the next day and a
- 10 half, coming up with the definition that more
- 11 closely matches internationally recognized
- 12 standards.
- 13 CHAIRPERSON MOYER: Thank you,
- 14 Katrina.
- 15 Chair recognizes Kevin.
- 16 MEMBER ENGELBERT: Yes, I was
- 17 going to respond to Julie, but since she is
- 18 gone I will postpone that and respond a little
- 19 bit to Katrina and what the majority of the
- 20 board had the opinion we did.
- 21 Like you said it's obvious the
- 22 public does not nanotechnology in organics.

- 1 They want an alternative. Leave
- 2 nanotechnology to conventional food and
- 3 agricultural production. By a strict ban in
- 4 the future that could be overturned, but it
- 5 will be harder to do than if it's just simply
- 6 looked at if nanotechnology is simply looked
- 7 at as a synthetic.
- 8 So either way we are banning it,
- 9 but I am in favor of the approach that is a
- 10 stricter ban that makes it harder for it ever
- 11 to come in, because I don't believe that
- 12 humans will ever be able to know exactly or
- 13 as much as they think they do about these
- 14 nanoparticles, and how they will interact with
- other nanoparticles and other chemicals in all
- 16 these different types of situations.
- 17 So that's the reason that at least
- 18 I myself was more in favor of it, and still
- 19 abide by that line.
- 20 And to address Julie's point about
- 21 homogenization in flour, we don't believe we
- 22 excluded those methods right now, because it's

- 1 simply part of the process. It's already been
- 2 acknowledged and going on. If you were to
- 3 take the nanoparticles that were created by
- 4 milling, separate them out and try to apply
- 5 them to something else, or the few
- 6 nanoparticles of fat that become available by
- 7 homogenizing, it's something separate, then we
- 8 think you are crossing the line. But just
- 9 simply those processes right now we don't
- 10 think crosses it. We do have to work on the
- 11 definition and we will, but that was our
- 12 logic; that's where we were coming from with
- 13 our recommendation.
- 14 CHAIRPERSON MOYER: I had myself
- on the list to comment and follow up on what
- 16 Kevin was saying, then I'll turn it over to
- 17 Katrina.
- 18 I agree with what Kevin was
- 19 saying, and if you look at the science of
- 20 genetic engineering or cloning, clearly there
- 21 are probably some things that could be
- 22 considered positive in the future. By

- 1 eliminating them as we did, as a total
- 2 process, we have removed from the discussion
- 3 99.9 percent of the conversation. Yes, we are
- 4 discussing it in the context of vaccines, but
- 5 we are not discussing it in the context of
- 6 seed or animals in the system.
- 7 I think the same thing would
- 8 clearly happen here, if we discussed the
- 9 issues on the periphery that affect packaging,
- 10 or that affect animal tracking, or some of the
- 11 other tools, we certainly discuss that, but we
- 12 would not be needing to discuss every point of
- 13 process that comes along because it's an
- 14 excluded method. Does that make sense to you,
- 15 and I'll turn it back to you.
- 16 MEMBER HEINZE: It does; I just
- 17 don't agree with it. I think either way it's
- 18 going to come to the board. And I think it's
- 19 clear that the hurdle for a nanotech synthetic
- 20 to be approved by the board is remarkably
- 21 high. So I don't think we are going to be
- 22 reviewing every XYZ nanotech because I think

- 1 people know: our consumers don't want it. So
- 2 it would have to be something that was
- 3 incredibly compelling for it even to come
- 4 before the board. So I just think that
- 5 creates a path that allows us to educate our
- 6 consumers and engage them in the process.
- With regard to your comment,
- 8 Kevin, about what we intended to do, I know in
- 9 committee discussion we did not intend to
- 10 exclude the naturally occurring particles, I
- 11 just don't think our recommendation does that.
- 12 If you look at the definition, there are lots
- 13 of different examples. The favorite one, and
- 14 I'm sorry this is from conventional, but it
- 15 could be from organic as well, is Edy's Slow
- 16 Churned Ice Cream. If anyone has had this,
- 17 it's 50 percent plus fat standard ice cream.
- 18 It is created with a perfectly nice process,
- 19 a slow cooled process that's churned. It
- 20 creates very much smaller particle size than
- 21 normal churned ice cream, so it feels in the
- 22 mouth like a high fat product, even though it

- 1 doesn't have the fat. That is, it's
- 2 engineered to create a different function, and
- 3 it's what consumers want.
- 4 And by the way consumers should be
- 5 eating less fat and that's a great way to
- 6 deliver that. And our definition would in my
- 7 mind clearly capture that. So I just think we
- 8 have to be very careful of the definition.
- 9 CHAIRPERSON MOYER: Thank you,
- 10 Katrina. I certainly agree that we have to
- 11 clarify that definition. I guess going back
- 12 to my previous comment, I think one of the
- 13 fears that I have, as we look at
- 14 nanotechnology, because it is so complex, and
- inherent in some processes, we could end up in
- 16 a situation unlike we do with GE where it
- 17 would be a don't-tell-if-they-don't-ask. It
- 18 could be very difficult to determine whether
- 19 or not the process involved in producing a
- 20 particular product involved nanotechnology.
- 21 If they don't have to put it on a
- 22 label, it's not going to be labeled, so how do

- 1 you know if it's even in there as a process?
- 2 Let me get Tracy, and then you may comment on
- 3 both of those. Tracy.
- 4 MEMBER MIEDEMA: Just quickly to
- 5 connect the dots to the recommendation we are
- 6 talking about earlier, on personal care
- 7 products, this is one of the categories where
- 8 there is some well developed use of engineered
- 9 nanoparticles, in products like sunscreen and
- 10 as long as we allow organic to be used with
- 11 other certifications, schemas, we're
- 12 potentially allowing nanoparticles in that
- 13 category of organic products.
- 14 CHAIRPERSON MOYER: Very good
- 15 point, Tracy. Thank you.
- 16 Katrina.
- 17 MEMBER HEINZE: To your point, I
- 18 think our certifiers are pretty good. They
- 19 have to look at the formula for every product,
- 20 and that is true across the board. I think
- 21 they are going to know.
- 22 CHAIRPERSON MOYER: Good thank

- 1 you. Joe.
- 2 MEMBER SMILLIE: Formulas and
- 3 process we look at.
- 4 CHAIRPERSON MOYER: Thank you,
- 5 Joe.
- 6 Any further discussion on this
- 7 particular item? I think we all had an
- 8 opportunity to get our opinion out there.
- 9 There was a lot of discussion, good points.
- 10 Thank you Dan. Does that complete
- 11 your report?
- 12 VICE CHAIRPERSON GIACOMINI: That
- 13 completes the report from the Materials
- 14 Committee.
- 15 CHAIRPERSON MOYER: Thank you
- 16 very much.
- 17 At this point in time I would like
- 18 to take an adjournment, a bit of a break here.
- 19 We will take 15 minutes and be back here -
- 20 well, we'll start promptly at 10:00. Thank
- 21 you.
- 22 (Whereupon, at 9:43 a.m., the

- 1 above-entitled matter went off the record and
- 2 resumed at 10:03 a.m.)
- 3 CHAIRPERSON MOYER: Okay, next order
- 4 of business is to move on to the Crops
- 5 Committee, Tina Ellor, chairperson. Tina, if
- 6 you are ready.
- 7 CROPS COMMITTEE
- 8 MEMBER ELLOR: Thank you, Jeff.
- 9 The first thing we have on the
- 10 agenda is manganese sulfate monohydrate, and
- 11 we decided unanimously as a committee that
- 12 this is already on the list under -
- 13 unfortunately we didn't put the proper
- 14 identification in there. A plant or soil
- 15 amendment, sulfate, carbonates, oxides or
- 16 silicates of zinc, copper, iron, manganese,
- 17 molybdenum, selenium and cobalt; it does not
- 18 specify the form. And looking it up on the
- 19 Internet and doing more research they are used
- 20 interchangeably. So that one is fairly
- 21 simple. Any questions?
- 22 CHAIRPERSON MOYER: Chair

- 1 recognizes Julie.
- 2 SECRETARY WEISMAN: Which one are
- 3 we talking about? The manganese?
- 4 MEMBER ELLOR: Manganese sulfate
- 5 monohydrate.
- 6 SECRETARY WEISMAN: Okay.
- 7 CHAIRPERSON MOYER: Any other
- 8 questions for Tina?
- 9 Tina, your next item? Oh, I'm
- 10 sorry, I apologize, Katrina.
- 11 MEMBER HEINZE: Sorry. Any
- 12 public comment?
- 13 MEMBER ELLOR: We did have I
- 14 think one public comment saying that the CAS
- 15 number is different. But since it doesn't
- 16 specify a CAS number in the body of the rule,
- 17 and they are used interchangeably.
- 18 CHAIRPERSON MOYER: Any further
- 19 questions for Tina?
- 20 Tina, next item, please.
- 21 MEMBER ELLOR: The next one is a
- 22 much more complicated one, and one that we

- 1 discussed a lot. A little history behind
- 2 this, and I'm really sorry Gerry is not here
- 3 because he did so much research and work on
- 4 this. And there was one point that we were
- 5 all a little bit unsure of how he had arrived
- 6 at that number. But we accepted that he had
- 7 done a lot of research and arrived at this 5
- 8 percent number.
- 9 We had a lot of public comment on
- 10 this. And what I want people to understand is
- 11 that the petition was to expand the uses of
- 12 peracetic acid and remove all the annotations,
- 13 so it would be allowed in any application in
- 14 organic agriculture applied to the soil. We
- 15 want to keep peracetic acid as a part of
- 16 hydrogen peroxide formulations, and the two
- 17 don't exist without the other. And I think
- 18 where he came up with the 5 percent
- 19 formulation as opposed to the and what
- 20 happened is that peracetic acid was classified
- 21 as an inert in hydrogen peroxide formulations.
- 22 That classification changed. We didn't want

- 1 to lose the hydrogen peroxide formulations,
- 2 but we didn't feel comfortable expanding the
- 3 use of peracetic acid throughout all organic
- 4 agriculture. It's a strong oxidizer, and I
- 5 think the whole committee really didn't buy
- 6 that you could just kill the bad things and
- 7 leave the good things alone. We thought it
- 8 had a pretty big impact on soil ecology.
- 9 So I think where the 5 percent
- 10 came from is that he somehow ascertained
- 11 talking to people in the industry.
- 12 Unfortunately I tried to get hold of him, and
- 13 I couldn't, who he talked to or where he got
- 14 that number, that that was the most common
- 15 formulation in hydrogen peroxide was 5 percent
- 16 peracetic acid.
- 17 If it's not on the label as an
- 18 active, which I guess from now on it will have
- 19 to be, then you can see how much peracetic
- 20 acid there is in any formulation and do a
- 21 calculation to 200 parts per million. I'm not
- 22 sure, and hopefully we will hear more public

- 1 comment about that later, what might be a good
- 2 solution for that issue.
- 3 So the first document that we have
- 4 on the table is directly to the petition to
- 5 expand the use of peracetic acid, going to the
- 6 checklist, we filled in three categories -
- 7 impact on the environment, essential
- 8 unavailability criteria, compatibility and
- 9 consistency, and the comment is, criteria
- 10 failures all based on the prospect of
- 11 expanding use of the material to unrestricted
- 12 crop disease control. It would still be
- 13 available for fire blight as part of hydrogen
- 14 peroxide formulation. See attached companion
- 15 recommendation for peracetic acid in hydrogen
- 16 peroxide formulations.
- 17 So this first document, the motion
- 18 was to remove the annotation from the listing
- 19 for peraetic acid on national list
- 20 20.061(a)(6), and 205.601(I)(7). We voted as
- 21 a committee, yes, zero, six no.
- 22 And moving on to the next

- 1 recommendation, which was our what we came
- 2 up to keep peracetic acid so that we could
- 3 keep hydrogen peroxide. This is peracetic
- 4 acid annotation change, and our comments on
- 5 this were the material fails criteria based on
- 6 the prospect of expanding use of the material
- 7 to unrestricted crop disease control. And
- 8 then we reference category one, six, and
- 9 category three, number two and three. The EPA
- 10 has changed its regulation whereby small
- 11 concentrations of peracetic acid formally
- 12 allowed as an inert ingredient in hydrogen
- 13 peroxide formulations must now be designated
- 14 as part of the active ingredients. The Crops
- 15 Committee does not wish to jeopardize the
- 16 availability of hydrogen peroxide formulations
- 17 currently used by many growers it is very
- 18 commonly used, and people do want to keep it -
- 19 knowing that these formulations all contain
- 20 small formally allowed as inert concentrations
- 21 of peracetic acid.
- The Crops Committee recommendation

- 1 pertains to allowing peracetic acid in
- 2 hydrogen peroxide formulations limited to no
- 3 more than 5 percent. And where he came up
- 4 with the 5 percent was from industry people
- 5 that he talked to that he said that was the
- 6 most common formulation, to keep these
- 7 hydrogen peroxide formulations available to
- 8 growers or users.
- 9 So the motion is to amend the
- 10 annotation from the listing for peracetic acid
- 11 from the national list, 205.601(a)(6) and
- 12 205.601(I)(7), to add to the words in each
- 13 section, permitted in hydrogen peroxide
- 14 formulations at concentrations no more than 5
- 15 percent. And once again, the committee vote
- 16 was unanimous to accept these annotations.
- 17 And I'm not sure if I've
- 18 articulated that clearly, and we had many
- 19 public comments on this, sort of objecting to
- 20 the 5 percent formulation rule, but that is a
- 21 5 percent of the hydrogen peroxide
- 22 formulation. And I think what our concern is

- 1 if we make it 200 parts per million peracetic
- 2 acid in a hydrogen peroxide formulation that
- 3 that is going to be hard to do, as an end
- 4 user. And that was I think the rationale
- 5 behind that.
- 6 We had I think that I know, and
- 7 you can correct me if I'm wrong, we read
- 8 through all the comments very carefully. One
- 9 comment that would and I think it was from
- 10 PCO that would like to see the usage
- 11 expanded on this. Otherwise we didn't really
- 12 hear any comments asking us to expand the
- 13 usage on peracetic acid.
- 14 The petitioner made a point that
- 15 had we anticipated that this could have been
- 16 used again late blight, which was a real
- 17 problem in the northeast. So we might want to
- 18 consider that as well.
- 19 So if you have questions, and I'm
- 20 going to ask, since Gerry really was the point
- 21 man on this but we all talked about it a lot,
- 22 that the rest of the Crops Committee jump in

- 1 and answer these questions too.
- 2 Thank you.
- 3 CHAIRPERSON MOYER: Points of
- 4 discussion. Dan.
- 5 VICE CHAIRPERSON GIOACOMINI: A
- 6 couple of points. First of all, what is the
- 7 basis for the difference answers in your
- 8 evaluation criteria in the two formats?
- 9 MEMBER ELLOR: Based on the the
- 10 petition was to expand the usage. The
- 11 annotation is to keep the uses that we have
- 12 already in hydrogen formulations. So I think
- 13 that is what we were what the --
- 14 VICE CHAIRPERSON GIOACOMINI: So
- 15 the things we are looking at then use the use
- 16 of a 5 percent product at unlimited
- 17 limitations for a single problem, versus what
- 18 was it, 200 parts per million application rate
- 19 at a wide use. Is that essentially it?
- 20 MEMBER ELLOR: Essentially we as
- 21 a committee did not want to see the usage
- 22 expanded to cover the you know it would be

- 1 an option I guess to allow expanded usage and
- 2 limit the concentration. But still at 200
- 3 parts per million it's a very broad sanitizer
- 4 fungicide bug killer. So 200 parts per
- 5 million in the soil would have quite a big
- 6 impact. It's not allowed in hydrogen
- 7 peroxide formulations it's not allowed for
- 8 that use as it stands now.
- 9 VICE CHAIRPERSON GIOACOMINI:
- 10 When the TAP report was done on this, was it
- 11 a general review of peracetic acid for crops,
- 12 or was it limited to the petitioned use at
- 13 that time?
- 14 MEMBER ELLOR: It was limited to
- 15 the petitioned use at that time.
- 16 VICE CHAIRPERSON GIOACOMINI: We
- don't have a new TR for expanded use.
- 18 MEMBER ELLOR: Right. The
- 19 original TAP was very very thorough. It is
- 20 one of our good examples of really great TAP
- 21 reviews, but it was only for use on fire
- 22 blight and sanitizing equipment and any other

- 1 uses that are in the rule now.
- 2 CHAIRPERSON MOYER: The chair
- 3 recognizes Joe.
- 4 MEMBER SMILLIE: Conventional
- 5 use, is it used in say late blight
- 6 conventionally? Is it licensed for use
- 7 conventionally?
- 8 MEMBER ELLOR: That we would have
- 9 to ask the petitioner. I do not know.
- 10 MEMBER SMILLIE: Could we do
- 11 that?
- 12 MEMBER ELLOR: Yes. Is anyone
- 13 from BioSafe here?
- 14 CHAIRPERSON MOYER: If someone
- 15 from the petitioner is present in the room and
- 16 wants to come forward and address that answer,
- 17 we would agree to entertain it.
- 18 Please introduce yourself.
- 19 MS. KNOX: Kristin Knox with
- 20 BioSafe systems. Yes, our labels do include
- 21 late blight among many other it's a broad
- 22 spectrum, algaecide fungicide bactericide, but

- 1 not an insecticide.
- 2 CHAIRPERSON MOYER: Thank you
- 3 very much. Appreciate that.
- 4 Any other questions from board
- 5 members? Katrina?
- 6 MEMBER HEINZE: Could you help me
- 7 better understand the committee's concern with
- 8 changing the concentration annotation?
- 9 MEMBER ELLOR: We were actually
- 10 adding a limitation on the concentration.
- 11 Otherwise, what our fear was, and I think Jeff
- 12 might be able to articulate this better, is
- 13 that we would end up with a 95 percent
- 14 peracetic acid and 5 percent hydrogen peroxide
- 15 I don't even know if it's possible that it
- 16 would happen in nature. So that it wouldn't
- 17 be coming at it from the side, I suppose.
- 18 CHAIRPERSON MOYER: Katrina.
- 19 MEMBER HEINZE: I didn't ask my
- 20 question properly, I'm sorry. So I get why
- 21 you made the recommendation to add an
- 22 annotation for concentration. But we heard

- 1 public comment that that annotation was not
- 2 clear. And so but what I heard when you
- 3 talked was that the committee is not sure
- 4 about whether they should react to the public
- 5 comment or not. So I'm trying to understand
- 6 that piece better.
- 7 MEMBER ELLOR: Okay. We always
- 8 try to react to public comment, or at least
- 9 take it in. And unfortunately Gerry did the
- 10 research on this. And I think what his
- 11 concern was is that since this was considered
- 12 an inert in hydrogen peroxide formulations,
- 13 how is the end user going to figure out, if
- 14 they are working off peroxide concentrations,
- 15 are they going to be able to figure out what
- 16 the peracetic acid parts per million is.
- 17 So if we are limiting it to 5
- 18 peracetic acid within a hydrogen peroxide
- 19 formulation, then asking for parts per million
- 20 of the peracetic acid seems like it would be
- 21 a difficult thing to do. That was the
- 22 thinking, and that kind of makes sense to me.

- 1 And if I'm not articulating it so it makes
- 2 sense to everybody then I'll have to say it a
- 3 different way or have Jeff try it.
- 4 CHAIRPERSON MOYER: Any other
- 5 questions? Dan.
- 6 VICE CHAIRPERSON GIOACOMINI: The
- 7 5 percent is essentially the concentration
- 8 rate of the marketed product, the packaged
- 9 product, correct?
- 10 MEMBER ELLOR: Yes.
- 11 VICE CHAIRPERSON GIOACOMINI: So
- 12 if and then it's diluted into an irrigation
- 13 system; correct?
- 14 MEMBER ELLOR: As a sanitizer, it
- 15 can be. But it's based on the hydrogen
- 16 peroxide concentration, not the peracetic acid
- 17 concentration. The two don't really exist one
- 18 without the other. We don't want to lose
- 19 hydrogen peroxide, but we didn't --
- 20 VICE CHAIRPERSON GIOACOMINI: If
- 21 we are using it in the crop situation, on the
- 22 fire blight type of thing, that's in the water

- 1 system?
- 2 CHAIRPERSON MOYER: It could be,
- 3 but not necessarily.
- 4 VICE CHAIRPERSON GIOACOMINI:
- 5 Okay. I'm just wondering if it's diluted out
- 6 on application why are we tying the producers'
- 7 hands at what package he can buy, what form he
- 8 has to buy the packaging. I don't understand
- 9 it.
- 10 MEMBER ELLOR: It's mostly
- 11 because this was considered an inert; it's
- 12 classification was changed. The way it's
- 13 being used in the industry now is that part of
- 14 hydrogen peroxide formulation is at 5 percent,
- 15 so they would be using the same packaging they
- 16 used all along.
- 17 VICE CHAIRPERSON GIOACOMINI:
- 18 Less than 12 percent packaging as an inert?
- 19 CHAIRPERSON MOYER: No, because
- 20 the goal was not to have the peracetic acid be
- 21 the main ingredient. It was just an inert .
- 22 It was for hydrogen peroxide, in order to have

- 1 hydrogen peroxide function you have to have
- 2 a minimal amount of peracetic acid, and 5
- 3 percent seems to be what really makes that
- 4 work in the industry. Does that make sense?
- 5 I'm probably not explaining it well either.
- 6 VICE CHAIRPERSON GIOACOMINI:
- 7 Application is what makes sense to me, and I
- 8 don't understand why if we are dealing with -
- 9 if we are concerned with application of how
- 10 much is used in the environment on the plant
- 11 that we are trying the hands of the producer
- 12 of what form of a package he buys.
- 13 CHAIRPERSON MOYER: What we are
- 14 trying to do, Dan, is to basically maintain
- 15 the status quo. We have to make a change and
- 16 an adjustment because the rules have changed.
- 17 It is no longer viewed as an inert. So what
- 18 we are trying to do is to protect hydrogen
- 19 peroxide, the way it's being used in the
- 20 industry today, and thus protect peracetic
- 21 acid the way it's being used in the industry
- 22 today but not to expand the use. So that you

- 1 would not be able to create a formulation, as
- 2 Tina said, that was predominantly geared to
- 3 using peracetic acid instead of the hydrogen
- 4 peroxide. Does that make sense?
- 5 MEMBER HEINZE: Okay, so what I
- 6 heard was that the concern was that the end
- 7 user if they limit the concentration to 200
- 8 parts per million at end use, the concern by
- 9 the committee is that the end user isn't going
- 10 to know if they're in compliance with that or
- 11 not, because the amount of peracetic acid is
- 12 not listed on the package. Did I hear that
- 13 properly?
- 14 CHAIRPERSON MOYER: I believe
- 15 that is part of it, yes.
- 16 MEMBER ELLOR: And since it's
- 17 been reclassified as an active, I imagine what
- 18 it's going to be now is probably two active
- 19 ingredients. So I suppose that active
- 20 ingredient now could go to and this is in
- 21 the tab the proportion of active ingredient
- 22 to now active ingredient could change. It

- 1 could be a whole lot more peracetic acid. We
- 2 are not comfortable with that. So that's why
- 3 we we are trying to maintain the status quo
- 4 to say it's 5 percent peracetic acid, which is
- 5 now an active ingredient. But it could come
- 6 in a package that's 50-50. Then do you base
- 7 your application rate on the hydrogen peroxide
- 8 active ingredient, or the peracetic acid
- 9 active ingredient. And I don't really I
- 10 think that causes much more confusion, anyway,
- 11 depending on what you are doing.
- 12 CHAIRPERSON MOYER: Follow up,
- 13 Katrina?
- MEMBER HEINZE: No.
- 15 CHAIRPERSON MOYER: Okay, thank
- 16 you.
- 17 The chair recognizes Barry.
- 18 MEMBER FLAMM: I'm probably
- 19 saying the same thing over again. But the
- 20 focus was we didn't want to expand the use of
- 21 peracetic acid. And it came to our attention
- 22 then that peracetic acid was this component of

- 1 hydrogen peroxide which we wanted to continue
- 2 to use. So simply the second part of the
- 3 recommendation was to allow the continued use
- 4 of hydrogen peroxide, but the focus was not to
- 5 expand the peracetic acid use. I'm repeating
- 6 what's been said in a different way.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 Barry.
- 9 Any other different discussions?
- 10 Chair recognizes Julie.
- 11 SECRETARY WEISMAN: I just wanted
- 12 to make sure of my understanding that these
- 13 were actually either you are for one or the
- 14 other of these no, they go together? Okay,
- 15 they are a package deal. Okay.
- 16 CHAIRPERSON MOYER: For those who
- 17 couldn't see or hear may head nodding, yes,
- 18 you are correct, Julie. They are to be a
- 19 package deal.
- 20 MEMBER HEINZE: I'm sorry, I'm
- 21 getting confused again. So are they are a
- 22 package deal? So the first one expands the

- 1 use. So if I thought the use should be
- 2 expanded, I should vote yes for that, and if
- 3 I didn't I would vote no. And the second has
- 4 to deal with hydrogen peroxide concentrations.
- 5 So I don't have to vote yes for both or no for
- 6 both; I can make independent decisions, right?
- 7 They're solving different problems.
- 8 CHAIRPERSON MOYER: I'll let the
- 9 chairperson answer that one.
- 10 MEMBER ELLOR: You could, but if
- 11 you voted no on the first one and no on the
- 12 second one, we would lose hydrogen peroxide as
- 13 a tool. That's why they go together.
- 14 CHAIRPERSON MOYER: Thank you,
- 15 everybody.
- Tina, back to you.
- 17 MEMBER ELLOR: Next on the list
- is hydrogen chloride for delinting cotton
- 19 seed. I'm going to turn this one over to
- 20 Rigo.
- 21 MEMBER DELGADO: Thank you, Madam
- 22 Chair.

- 1 We are talking about a sunset
- 2 product. It's used for delinting. It was
- 3 first linted in 205.601 (n) back in April
- 4 2004, and last what was it a year ago we
- 5 started receiving public input, a lot of
- 6 public input especially from the area of
- 7 Texas, supporting the relisting of this
- 8 product.
- 9 Being that it sunset, our approach
- 10 was very simple. We just wanted to know two
- 11 things: one, are there any is there any new
- 12 information that tells the committee that this
- 13 product is too dangerous that it should not be
- 14 used any longer; and the second point was are
- 15 there any other technologies or products that
- 16 could replace this hydrogen chloride.
- 17 And we did our homework as
- 18 follows. We consulted several experts in the
- 19 university areas, as well as current users of
- 20 delinting plants, and found that there
- 21 basically are no alternatives, both mechanical
- 22 and chemical, that can replace this product,

- 1 and the actual use of this HCl is actually a
- 2 better substitute for what industry is using.
- 3 They're currently using sulfuric acid. So the
- 4 committee at that point felt that it was -
- 5 that we had enough information to recommend
- 6 relisting this product. It coincides with
- 7 numerous suggestions that we got from the
- 8 public input.
- 9 The vote was as follows: six in
- 10 favor, no abstentions, no absences, and no
- 11 negatives.
- 12 So I'm open for questions. Before
- 13 I continue I should mention that we even went
- 14 to the extent of contacting manufacturing
- 15 companies of mechanical delinting processes to
- 16 see if there was any alternative. And the
- 17 answer was no. We did check several patents.
- 18 There seems to be several products in the
- 19 pipeline, but they are not ready or available
- 20 in the marketplace. Currently the mechanical
- 21 procedures tend to break a great deal of the
- 22 seed, creating a great deal of damage through

- 1 heat, and so the mechanical alternative is
- 2 nonexistent at the moment.
- 3 That is my report.
- 4 CHAIRPERSON MOYER: Thank you,
- 5 Rigo. Points of discussion, anybody?
- 6 Chair recognizes Dan.
- 7 VICE CHAIRPERSON GIOACOMINI: Not
- 8 a point of discussion, but just a statement.
- 9 As an animal nutritionist working with organic
- 10 dairy farmers I can't tell you how many times
- in the last year I've been contacted wanting
- 12 to know if I have any producers that would be
- interested in feeding delinted cotton to their
- 14 cows, because there wasn't enough of a demand
- 15 for planting that product within the industry.
- 16 They all seemed extremely surprised when I
- 17 told them it wasn't allowed if it was HCl
- 18 delinted. So just maybe a notice to the
- 19 program and the certifiers that this is a
- 20 listing for HCl delinted cotton on the crops
- 21 side. As I understand the regulation and the
- 22 national list, that doesn't qualify it

- 1 necessarily to cover for the feed issue.
- 2 MEMBER DELGADO: Mr. Chairman?
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Rigo.
- 5 MEMBER DELGADO: To that it is
- 6 listed on the 601(n), and states clearly that
- 7 it is only for delinting cotton.
- 8 CHAIRPERSON MOYER: Thank you for
- 9 that clarification, Rigo.
- 10 Any other questions on this
- 11 particular material? Joe?
- 12 Hearing none, Tina, I turn the
- 13 floor back over to you.
- 14 MEMBER ELLOR: The next one on
- 15 the list is ferric phosphate, and the petition
- 16 to remove it, and the trouble with this is I
- don't think we've seen the petition to remove
- 18 it. So I think as a discussion document, we
- 19 are just going to jump over that one for now
- 20 unless Kevin wants to add something.
- 21 CHAIRPERSON MOYER: Kevin.
- MEMBER ENGELBERT: Well, there

- 1 was a petition to remove. I think we have
- 2 seen it. But the problem with it is when
- 3 ferric phosphate was put on the list it
- 4 contained a substance that wasn't made known
- 5 to the committee, Crops Committee at that
- 6 time, EDTA. So we don't know whether this is
- 7 a political business move by another company
- 8 or what. But someone has petitioned to
- 9 removed it. We have sent it out for another
- 10 TAP, and hopefully this will be more thorough,
- 11 so we can understand the way it is actually
- 12 formulated.
- We are hoping to solicit public
- 14 comment. We've gotten some on this product,
- and we will hopefully deal with this in the
- 16 spring of 2010.
- 17 CHAIRPERSON MOYER: Joe, you had
- 18 your hand up.
- 19 MEMBER SMILLIE: Yes, I'm sorry,
- 20 maybe I'm confused. Did we miss manganese
- 21 sulfate monohydrate?
- 22 CHAIRPERSON MOYER: That was the

- 1 first material that we covered.
- 2 MEMBER SMILLIE: Sorry.
- 3 CHAIRPERSON MOYER: The board
- 4 recognizes Hugh.
- 5 MEMBER KARREMAN: On the ferric
- 6 phosphate, being a good I guess mollusckicide
- 7 for snails, I don't know if I'll be here at
- 8 the next meeting for public comment. But
- 9 being able to use ferric phosphate just for
- 10 the record as a boundary type thing to keep
- 11 snails away is very, very, very good. For
- 12 cattle on pastures to reduce liver fluke,
- 13 because the liver fluke goes through the
- 14 snail, as a vector, and the cows eat them up
- in wet pasture where there's little dikes or
- 16 canals and whatnot. So just keep it in mind,
- 17 Kevin, for next year, okay.
- 18 CHAIRPERSON MOYER: Chair
- 19 recognizes Steve.
- 20 MEMBER DeMURI: I have a question
- 21 for the committee. So ferric phosphate is
- 22 supposed to sunset in 2011? But there is a

- 1 petition to remove it in the meantime?
- 2 MEMBER ENGELBERT: Yes.
- 3 MEMBER DeMURI: What happens if
- 4 you don't get the petitioner removed before
- 5 2011?
- 6 MEMBER ENGELBERT: I'm not sure,
- 7 to be honest with you. I'm not going to try
- 8 to bluff an answer. We are hoping that we can
- 9 get through it and decide and then see.
- 10 MEMBER DeMURI: How long ago did
- 11 you put in for a TAP review?
- 12 MEMBER ENGELBERT: I think we put
- in for a TAP review in January.
- 14 CHAIRPERSON MOYER: Chair
- 15 recognizes Valerie from the program for a
- 16 comment.
- 17 MS. FRANCES: I just wanted to
- 18 remind you that you did look at the petition
- 19 on ferric phosphate, and you did ask
- 20 questions, and you did send it for TAP, and it
- 21 was in question somewhat because it wasn't
- 22 posted online, and it is now there, and so

- 1 anyone can review that too. So if there is
- 2 anyone that wants to provide any other
- 3 reviewing comments to that, they can.
- 4 CHAIRPERSON MOYER: Does that
- 5 address your point?
- 6 MEMBER DeMURI: Well, so we do
- 7 run the risk possibly that it could go off the
- 8 risk if the petition to remove isn't
- 9 completed?
- 10 MEMBER ENGELBERT: I think so.
- 11 This is new ground, having someone renew a
- 12 petition on an item that sunsets. It's
- 13 uncharted waters so to speak.
- 14 CHAIRPERSON MOYER: Chair
- 15 recognizes Dan.
- 16 VICE CHAIRPERSON GIOACOMINI:
- 17 Anything in the petition to renew that would
- 18 be considered new material would be material
- 19 valid for consideration during sunset. So it
- 20 can be processed one way or the other, and
- 21 still reach the same conclusion.
- 22 CHAIRPERSON MOYER: Thank you,

- 1 Dan, I believe that is correct.
- 2 Tiny.
- 3 MEMBER ELLOR: And I think the
- 4 issue was because we had a petition to add
- 5 ferric phosphate sodium EDTA or something
- 6 which we rejected because of the status of
- 7 EDTA, is it an active, why is it part of the
- 8 formulation, and what that gentleman said and
- 9 I think that petitioner is the one who filed
- 10 a petition to renew, is that it it's in all
- 11 ferric phosphate, that it's stable and should
- 12 sunset. But we've since heard that there are
- 13 formulations of ferric phosphate that don't
- 14 have it. So these are the issues we've be
- 15 hashing out in Crops Committee calls.
- 16 Hopefully we can present it next meeting.
- 17 CHAIRPERSON MOYER: Thank you,
- 18 Madam Chairperson.
- 19 Any other comments on ferric
- 20 phosphate?
- 21 Back to you, Tina.
- 22 MEMBER ELLOR: Okay. And the

- 1 next item on our list, and we've had a
- 2 tremendous amount of comment on this, and I'm
- 3 going to turn it over to Jeff, because he was
- 4 the main architect of that document, is List
- 5 4 inerts.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Madam Chairperson. I'm sure we'll have no
- 8 discussion on this item.
- 9 Let me start by saying that in
- 10 many ways the attention of the committee by
- 11 posting this document have already been met,
- 12 and that was to stimulate the conversation and
- 13 discussion and get it front and center on
- 14 people's radar screen and we have done that.
- 15 In review of the document I'd like
- 16 to draw everybody's attention to page two of
- 17 our recommendation. We talk about the
- 18 definitions, and we have an EPA definition for
- 19 what an active ingredient is and what an inert
- 20 ingredient is. And I won't take the time to
- 21 read that now, but I suggest that everybody
- 22 take a quick look at that and read it, because

- 1 it really pertains to where we are heading
- 2 with our particular document.
- In looking at the problem that we
- 4 have in front of us, which was the changing -
- 5 and if you look at the history and background
- 6 we put it in there is EPA's changing of the
- 7 List 4 status, it became very clear to our
- 8 committee at least that we were not inclined
- 9 to take all the materials previously listed on
- 10 EPA List 4 list, and that is attached as an
- 11 appendix to our document and I don't know how
- 12 many hundreds there are there; I didn't go
- 13 through and count them all. Actually, I
- 14 started to count them all, then I got
- 15 sidetracked. There are hundreds and hundreds
- 16 of them.
- 17 It is not the intent or the
- 18 inclination of this committee to list all 700
- 19 800 of those materials on the national list
- 20 in lieu of the List 4 being there as a one-
- 21 line item and then it's going to appear that
- 22 we put 800 new materials on the list. So our

- 1 committee is not inclined to do that.
- 2 By the same token our committee
- 3 recognizes the limitation of time in reviewing
- 4 a large portion of this list through the
- 5 petition process and having TRs done, and that
- 6 was brought up through the public comment that
- 7 even if we pair that list down to I've heard
- 8 different numbers but say 258 materials,
- 9 clearly more work than the board, science and
- 10 technology, all the money that we've got
- 11 allocated from Congress would go into TRs, and
- 12 so we had a problem there.
- 13 What we were looking for was some
- 14 middle ground. That is what we attempted to
- do in this document we pulled together. We
- 16 tried to take a very complex and complicated
- 17 issue and make it fairly simple.
- 18 And so what we said was the
- 19 question we are really asking in this
- 20 recommendation is, is there a process that
- 21 could be in place that would bring the
- 22 manufacturers of these products into the

- 1 equation clearly they know what they are
- 2 using is there a tool or mechanism in place
- 3 that would allow them to make in a
- 4 confidential format, bring those materials
- 5 forward in front of this committee and this
- 6 board, so that and we chose the word,
- 7 review, and that's been a very complicated
- 8 word, because I understand we do have a review
- 9 process, which is the TAP review process. We
- 10 were looking at a way to short-circuit that,
- 11 and really review the products to see some
- 12 of them for example could be natural, and
- 13 already theoretically on the list, just the
- 14 way they are now. So this is a real
- 15 simplified way that we could get to at least
- 16 80 percent of the materials with 20 percent of
- 17 the work, and try to maintain a little bit of
- 18 the status quo.
- 19 We certainly are not as a
- 20 committee inclined to remove all the tools
- 21 from the toolbox that growers and farmers are
- 22 currently using. That would not be in the

- 1 industry's best interests either. So we are
- 2 attempting to, again, bring the manufacturers
- 3 into the puzzle and say, give us a list of
- 4 what you are actually using today. Is there
- 5 a way we can get those on the list through the
- 6 creation of a subset list which is either
- 7 housed by USDA NOP, or by EPA, so that we are
- 8 going to put one new list, we are going to
- 9 create that list, put it on as one item, so in
- 10 effect what we are doing is shrinking the
- 11 current list of 800 materials down to 250, but
- 12 listing it as one item.
- 13 That was our goal. Whether we
- 14 achieved it or not is what we are going to
- 15 discuss now. And I think at this point I
- 16 would like to turn it over for questions. And
- 17 I can moderate those questions if people don't
- 18 find that a conflict of interest.
- 19 The chair recognizes Tina.
- 20 MEMBER ELLOR: We've had a lot of
- 21 comments about working with the NOP and the
- 22 EPA to find a solution to this. And I think

- 1 that Chris Pfeifer was in the gallery?
- 2 CHAIRPERSON MOYER: Yes, the
- 3 chair was going to call Chris to the podium,
- 4 and this might be an opportune time to do
- 5 that. Chris, if you would, if you'd come up
- 6 and maybe fill us in on where the EPA is.
- 7 Again, like I said, we've already had much of
- 8 our desired effect, because shortly after we
- 9 posted this document EPA got engaged in the
- 10 conversation, program got more engaged, the
- 11 general public got more engaged, and that's
- 12 really what we wanted to do.
- 13 MR. PFEIFER: Good morning. Let
- 14 me start with my normal disclaimer. The ACC
- 15 has no stated position with regard to --
- 16 CHAIRPERSON MOYER: Chris, if you
- don't mind, if you could state your name and
- 18 your affiliation for the recorder.
- 19 MR. PFEIFER: Yes, sorry about
- 20 that. My name is Chris Pfeifer. I am a
- 21 regulatory agent with the biopesticides
- 22 division. I'm also a liaison to the organic

- 1 program.
- 2 CHAIRPERSON MOYER: Thank you.
- 3 MR. PFEIFER: Well, I think the
- 4 most helpful thing to do, and where the agency
- 5 can help as you are starting to develop this
- 6 process, is kind of give you an idea of where
- 7 List 4 is sufficient. As a practical matter
- 8 I see a lot of handwringing over how it got
- 9 formed and what List 4 was all about. But it
- 10 was a very expedient and I think good way to
- 11 get the program started. That said, List 4
- 12 was never a product of any assessment. Rather
- 13 it was a wish list or a prioritization list
- 14 for our reassessment or assessment. Because
- 15 there is no data to back List 4.
- 16 Now you can say for the most part
- in reassessments what you had was essentially
- 18 some nontoxic inerts. However in the decision
- 19 making process to reassess there was never any
- 20 consideration for either eco-toxicity or
- 21 persistence. So the deal that you have in
- 22 doing an inert assessment for List 4, you are

- 1 starting from scratch on essentially what are
- 2 the values that you want to put into this. We
- 3 don't know, but we are willing to help to the
- 4 degree we can.
- 5 It's I would have to say that
- 6 when you look at List 4 you will note that
- 7 there are a lot of naturals and that it is
- 8 relatively safe, but there are a fair amount
- 9 of industrial chemicals on there. Somewhere
- 10 it talks about picking the lowest hanging
- 11 fruit. And that will be easy enough. But you
- 12 really need to have a programmatic lens, I
- 13 think, on what you are going to do, what are
- 14 your interests in seeing the inerts out there?
- 15 And that's I guess our take on it.
- 16 CHAIRPERSON MOYER: Questions or
- 17 comments directed to Chris.
- 18 Tina.
- 19 MEMBER ELLOR: I would say what
- 20 our first question is that we don't even
- 21 really know what the inerts are in the
- 22 products we're using. It would help for

- 1 someone to have that information, and for us
- 2 to somehow you know take a look at that and
- 3 see what we actually need or is being used.
- 4 And then we could begin to see what we can
- 5 take off the list to start with.
- 6 MR. PFEIFER: I think you will
- 7 find that the majority of the inerts are
- 8 probably in the various formulations. I think
- 9 that is a good starting point. We have been
- 10 through several reassessment programs with our
- 11 inerts, and with our active ingredients. And
- 12 what we discover is that people come out of
- 13 the woodwork all the time with various
- 14 ingredients that were in formulations, or were
- 15 not initially supported. But again I think
- 16 that is why it's a good place to start.
- 17 CHAIRPERSON MOYER: Yes, our goal
- 18 was to bring those materials out of the
- 19 woodwork so we could look at what's currently
- 20 being used, evaluate them for whether they are
- 21 naturals or whether they are synthetics, and
- 22 needed create a list that we could use to

- 1 keep the industry moving forward, and from
- 2 that point on, any new materials that would be
- 3 suggested to be used in formulations would
- 4 have to go through the standard petition
- 5 process with TAP reviews.
- 6 We have to start somewhere. We
- 7 have to prioritize the work. And I think
- 8 working with EPA maybe we can do that.
- 9 MR. PFEIFER: Our inerts branch
- 10 has offered to help to the degree that they
- 11 can. I think depending on how this is
- 12 structured, there might be some there might
- 13 be the necessity for some additional manpower.
- 14 I'm not sure how that would work out, or to
- 15 the degree EPA can involve itself. But we are
- 16 very happy to be part of that dialogue.
- 17 CHAIRPERSON MOYER: Chair
- 18 recognizes Valerie from the program.
- 19 MS. FRANCES: Hi, Chris. I
- 20 wanted to make sure that you had looked at the
- 21 evaluation criteria checklist that the NRC
- 22 currently uses to review materials, and

- 1 whether there was anything that you would -
- 2 when you look at that, add to that or change
- 3 it or whatever input you could provide.
- 4 MR. PFEIFER: You know, I haven't
- 5 looked at it really closely. But I would say
- 6 that if you applied that lens to the inerts,
- 7 you would lose a lot of the inerts. And I
- 8 think that's what I'm talking about is finding
- 9 that fine balance between your process for
- 10 accepting synthetic inerts, and reassessing
- 11 inerts that are presently in formulations so
- 12 that there can be some kind of comparison
- 13 between the two.
- 14 CHAIRPERSON MOYER: And that
- 15 certainly was at least my position, and that
- 16 is my fear, that we will lose too many of
- 17 those materials that have been on the list
- 18 since its inception, that as Tracy mentioned
- 19 earlier, they are almost they should be
- 20 grandfathered in, because they are being used.
- 21 How we present that to the public is quite
- 22 challenging for this board, because the

- 1 perception could be certainly, and most likely
- 2 would be taken in many cases, in the wrong
- 3 way. So it's a fine line that we are going to
- 4 have to walk to keep the industry moving
- 5 forward, to allow growers to have the tools
- 6 that they have become accustomed to using
- 7 that are very much needed. But then moving
- 8 forward we would be using that lens for all
- 9 new materials coming in. It may seem unfair,
- 10 but I learned when I was about 10 years old
- 11 that life isn't fair. And so maybe that is
- 12 the best place for us to jump off, and that is
- 13 what we were thinking in presenting this
- 14 document. And I know there are many who
- 15 disagree with that course of action.
- MR. PFEIFER: Well, just in
- 17 conversation with staff, I have heard some
- 18 very interesting ideas about approaching this
- in a number of ways in terms of identifying
- 20 kind of a hit list of industrial chemicals
- 21 that are suspect or that have known
- 22 environmental persistence. Also there is an

- 1 intriguing idea of kind of structuring a
- 2 filter process where you say, okay, with these
- 3 inerts, these synthetic inerts have no known
- 4 human toxicity, and if provided you can
- 5 demonstrate a lack of ecological concern
- 6 relative to them then you might be able to
- 7 kind of formulate a tiered process for
- 8 determinations.
- 9 CHAIRPERSON MOYER: And our goal
- 10 was to as quickly as we could, almost
- 11 immediately, shrink the list from 800
- 12 materials that I have on my pages here down to
- 13 258 or whatever that number is, so that you
- 14 could then take that sublist, evaluate it
- 15 against that criteria that you just mentioned,
- 16 and get a list of which I think is going to
- 17 be a relatively small list, I hope of things
- 18 that we really might want to go out and create
- 19 a hit list and get them out of the system.
- 20 But in the short term keep the industry moving
- 21 forward. So that was the goal of this
- 22 document as we wrote it.

- 1 Any other questions or comments
- 2 for Chris? Kevin?
- 3 MEMBER ENGELBERT: Just a quick
- 4 one, Chris. You touched on it earlier. One
- 5 of the concerns of our committee is the actual
- 6 definition of inert. If a substance is
- 7 included, and as you say it's necessary or
- 8 the definition says it's necessary for the
- 9 effectiveness or to penetrate, in our minds
- 10 that is not inert. And we are concerned about
- 11 these substances that actually do play a role
- 12 in the effectiveness of a product or its
- 13 ability to do what is intended. To me an
- 14 inert would be if you have a 50 percent
- 15 hydrogen peroxide solution, that other 50
- 16 percent is still water. It's not impacting
- 17 the effectiveness or what that does. But when
- 18 you take something and add it to it that it
- 19 has to have to be effective, to me that's not
- 20 inert. And that is one of the things we want
- 21 to look at, even though we can't do all 800
- 22 like Ken said. That is going to be important

- 1 to what we look at.
- 2 MR. PFEIFER: I hear you. Let's
- 3 just start off by saying, you see the
- 4 definition of inerts. But inerts is just kind
- 5 of a shorthand. The agency actually is
- 6 supposed to call those other ingredients,
- 7 because inerts, one might not necessarily be
- 8 entirely inert in the formulation. It might
- 9 just not act against the task that they are
- 10 intended to act against. Oftentimes the
- 11 devil is more in the inert. Inert makes it
- 12 sound like a benign term. So the preferred
- 13 term is other ingredients.
- 14 But with regards to what you are
- 15 talking about, defining inerts relative to
- 16 active ingredients, the deal with that is any
- inert that has a synergistic effect should be
- 18 considered an active ingredient and we do. If
- 19 the ingredient is active the way we do the
- 20 reviews, the onus is on the applicant to
- 21 demonstrate that it is indeed not an active
- 22 part of the formulation.

- 1 That said, a lot of that is missed
- 2 in some of the reviews, because frankly that
- 3 can be an academic exercise. So you will
- 4 probably see some more of that. I've heard
- 5 several mentions of ingredients, and we
- 6 struggled there, EPA, peracetic acid. I've
- 7 been involved in the conversations going back
- 8 and forth with those. It's very complicated.
- 9 So we do look at it, but there are misses.
- 10 CHAIRPERSON MOYER: Kevin, that's
- 11 why I specifically drew people's attention to
- 12 the existing definitions that EPA has, because
- 13 clearly in our conversations at the committee
- 14 level we recognized that inerts are not inert
- in the formulation; and again, that's another
- 16 reason why we tried to bring in the
- 17 manufacturers, because until we know the
- 18 formulation that it's in, or the way it's
- 19 being used, or whether we know it as a board
- 20 or whether because of confidential business
- 21 information it stays at the EPA or the
- 22 program, we are comfortable with that

- 1 relationship. But somehow we need to know how
- 2 it's being used in the formulation to
- 3 determine whether or not it really is active
- 4 or inert. Because that makes all the devil
- 5 is in the detail for sure. And only the
- 6 manufacturers know that detail. To unravel
- 7 that puzzle for all these materials would be
- 8 just impossible.
- 9 Chair recognizes Barry.
- 10 MEMBER FLAMM: Chris, I may be
- 11 mistaken, but I thought I heard somebody
- 12 mention yesterday that EPA planned to list all
- 13 the ingredients on the label. Is that
- 14 correct?
- 15 MR. PFEIFER: Well, that is not
- 16 entirely correct, as I understand it. The
- 17 notice that is referred to was all
- 18 ingredients, inert ingredients of
- 19 toxicological concern, which I really don't
- 20 think would apply to most of the things that
- 21 we are dealing with. And I think there was a
- 22 list of examples on there, I'm not absolutely

- 1 sure. But I will try and inform staff about
- 2 it. But I'm almost positive it is only those
- 3 of toxicological concern, and how that is
- 4 defined I don't think has been developed yet.
- 5 CHAIRPERSON MOYER: Chair
- 6 recognizes Dan.
- 7 VICE CHAIRPERSON GIOACOMINI:
- 8 Yes, I would just like to remind the board
- 9 that most of the work on this has been done by
- 10 the Crops Committee. I think we all certainly
- 11 appreciate that. But to remind us, and
- 12 especially in livestock, this is essentially
- 13 the exact same listing on 603 as it is on 601.
- 14 It is for List 4 inerts with pesticides. So
- 15 livestock is also going to have to participate
- 16 in this. And any relisting that is done is
- 17 going to have to be done on 603 as well as
- 18 601.
- 19 CHAIRPERSON MOYER: And the Crops
- 20 Committee did discuss that as we moved forward
- 21 in the process that the Livestock Committee
- 22 would have to be brought in. We were

- 1 fortunate that there are several members that
- 2 cross over both teams, or both committees, and
- 3 we did recognize that the process would have
- 4 to be expanded to include livestock.
- 5 Any other questions or comments
- 6 for Chris? Any other points of discussion?
- 7 Thank you, Chris, we appreciate
- 8 your time and energy.
- 9 MR. PFEIFER: Thank you. I just
- 10 had one more comment that I thought might be
- 11 helpful in developing this process. In the
- 12 national list you have some broad defining
- 13 criteria for what you expect out of your
- 14 pesticidal formulations or your inputs. I
- 15 believe that probably some kind of general
- 16 selection criteria relative to this process
- 17 would also aid in developing the requirements
- 18 that ultimately you are going to make of these
- 19 ingredients.
- 20 CHAIRPERSON MOYER: Thank you,
- 21 Chris. Tina.
- 22 MEMBER ELLOR: So is what you're

- 1 saying that we should have a different set or
- 2 slightly adjust the set of criteria to look at
- 3 inerts?
- 4 MR. PFEIFER: Well, I would say
- 5 that it would need to be slightly adjusted so
- 6 that you maintain some of these tools in the
- 7 arsenal. So yes, that would be my take, it
- 8 would be too perhaps restrictive.
- 9 CHAIRPERSON MOYER: Chair
- 10 recognizes Valerie Francis from the program.
- 11 MS. FRANCES: This is why I ask
- 12 about, have you looked at the evaluation
- 13 criteria checklist. That would really help to
- 14 get specifics back on that form.
- 15 MR. PFEIFER: Okay, but I think
- 16 what I'm referring to is more the criteria
- 17 that would set out for the active ingredients.
- 18 So but yes, I will.
- 19 CHAIRPERSON MOYER: Thank you,
- 20 Chris, we appreciate your time.
- 21 If there are no other questions or
- 22 discussion on inerts, I'd turn the program

- 1 back over to Tina.
- 2 MEMBER ELLOR: I believe the last
- 3 thing we have to discuss, and I'm not going to
- 4 say too much about this because we got a lot
- 5 of great comments, and very detailed comments,
- 6 so I think what we will be doing with this
- 7 discussion document is taking it back to
- 8 committee, looking at all the comments, and
- 9 please keep in touch, those people who had
- 10 comments and we'll keep in touch with you, and
- 11 rework the document to take some of those
- 12 concerns into account.
- 13 And of course I should say what we
- 14 are talking about is production standards for
- 15 terrestrial plants and containers and
- 16 enclosures. And unless someone else would
- 17 like to say more about that. Jeff?
- 18 CHAIRPERSON MOYER: I would just
- 19 like to mention that we heard particularly
- 20 from PCO yesterday in their public comment,
- 21 the idea of a need for better definitions.
- 22 And I would ask that if people from the

- 1 general public or the ACAs or someone who has
- 2 specific language that might help us in that
- 3 regard, we would certainly entertain those
- 4 submissions in helping us define specifically
- 5 what makes sense in your own particular
- 6 operations. I think that would be helpful,
- 7 because our goal is to not come back in spring
- 8 and discuss it again. We want to have a
- 9 voting document, so don't wait until you see
- 10 the next posting to say you don't like
- 11 something, if you can be a little pro-active
- 12 in getting us some information, not just you,
- 13 but you brought it up, and we are very
- 14 receptive to that on this committee. Thanks,
- 15 Tina.
- 16 MEMBER ELLOR: That's a very good
- 17 point. And Gerry, once again, was the major
- 18 architect on this document. And he did a
- 19 tremendous amount of work, and we talked about
- 20 this for many hours on the phone. And I
- 21 really appreciate everybody's input on it.
- We had quite a lot of pressure

- 1 from above. Barbara is not here, so I can't
- 2 look at her, to get this out because of the
- 3 Canadian equivalency was a big part of that.
- 4 So I think, unless there are more
- 5 questions or discussion about that, then we
- 6 are done.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 Madam Chairperson.
- 9 We will be moving on to our next
- 10 committee which is Livestock Committee,
- 11 chairperson Hue Karreman. Hue. Oh, if you
- 12 could wait just one second I have a question
- 13 from the floor. Chair recognizes Bob Pooler
- 14 to the podium.
- MR. POOLER: I'm Bob Pooler,
- 16 National Organic Program. I do want to remind
- 17 you the Crops Committee that do have here on
- 18 the agenda item sunset for 2012, and I kinda
- 19 wish that you would discuss that a little bit.
- 20 It is an important item.
- 21 MEMBER ELLOR: Okay, I'm sorry,
- 22 and Kevin just pointed that out as well. Yes,

- 1 that has been on our radar and on our workplan
- 2 for several months now, and getting busy
- 3 prepared for this meeting I think where we
- 4 left it last is we are all going to take a
- 5 look at that sunset list, and the next step we
- 6 are going to take is decide which ones we want
- 7 to get new tabs on, and move forward from
- 8 there. But you can bet it's on our radar, and
- 9 on our work plan, and we have been working on
- 10 it. I don't know if you want more details on
- 11 that.
- 12 CHAIRPERSON MOYER: Hue, if we
- 13 could hold off on your report for just one
- 14 moment, following up on the inerts evaluation
- 15 and assessments, I understand that someone
- 16 else is here from EPA, Kerry Leifer. If Kerry
- 17 could come to the podium and explain a little
- 18 bit about where the EPA is in inerts
- 19 reassessment, I believe that would be useful
- 20 to us. Yes, please, to the podium, and state
- 21 your name and your affiliation for the record.
- MR. LEIFER: Good morning, my

- 1 name is Kerry Leifer. I'm with the EPA's
- 2 Office of Pesticide's programs, registration
- 3 division. Specific to the inert ingredient
- 4 reassessments, we as part of our
- 5 responsibilities for the Food Quality
- 6 Protection Act we reassess the tolerance -
- 7 well not only the tolerance exemptions for all
- 8 inert ingredients for which tolerance
- 9 exemptions were established post-1996. That
- 10 was basically our mandate under the Food
- 11 Quality Protection Act. And basically what we
- 12 were doing was evaluating the data to
- 13 determine if we could make the reasonable
- 14 certainty of no harm safety standard related
- 15 to potential residues of these inert
- 16 ingredients in food. This is done under our
- 17 Food Drug & Cosmetic Act authority.
- 18 So essentially what we did was
- 19 kind of a human health risk assessments to
- 20 make determinations as to whether or not these
- 21 tolerance exemptions could remain in place, or
- 22 if they needed to be revoked, or somehow

- 1 revised.
- We basically finished up in 2006,
- 3 although there were a number of substances
- 4 which we identified as having an insufficient
- 5 database, and we basically we revoked those
- 6 tolerance exemptions with an expiration date
- 7 that was two years out, August, 2008. And
- 8 this was to provide interested parties the
- 9 opportunity to develop or obtain data. We
- 10 weren't saying that these things were
- 11 problematic, just that we didn't have
- 12 sufficient data to make the finding. So to
- 13 that end a consortium was formed of both
- 14 pesticide registrants and inert ingredient
- 15 manufacturers to support a number of those
- 16 substances. There were about 132 tolerance
- 17 exemptions that were on that revocation list,
- and over half of them were supported with
- 19 data, either newly generated data or
- 20 identified data that hadn't previously been
- 21 made available to EPA. So we used that data,
- 22 and in August 2009 we ended up extending the

- 1 effective date another year. In August 2009
- 2 we completed the reassessments for both
- 3 substances as well.
- 4 So basically we made the human
- 5 health finding under FFDCA and FQPA to
- 6 establish those. So those are now codified.
- 7 A number of the tolerance exemption
- 8 descriptors changed. Some substances got kind
- 9 of read in or read out. Because a lot of the
- 10 descriptors were kind of grouping, class
- 11 oriented. We have modified some of those. We
- 12 have also included CAS registering numbers
- 13 with all these reassessments that we've done.
- 14 So that's now codified in the code of federal
- 15 regulations under 40 CFR Part 180, where we
- 16 have our tolerance exemptions.
- 17 CHAIRPERSON MOYER: Thank you,
- 18 Kerry.
- 19 Are there any questions or points
- 20 of comments? Chair recognizes Rigo.
- 21 MEMBER DELGADO: So I'm trying to
- 22 understand. You did this analysis on the 600-

- 1 odd items that were previously recognized as
- 2 inert; is that correct?
- 3 MR. LEIFER: No, these were we
- 4 basically reassessed chemicals that were
- 5 already in use, that were already listed as
- 6 food use ingredients for which there were
- 7 tolerance exemptions, basically an exemption
- 8 means there was no established maximum
- 9 permitted level. This is similar to what we
- 10 do with active ingredients where we establish
- 11 typically a tolerance with a maximum permitted
- 12 level, 5 ppm on tomatoes, something of that
- 13 nature. Most inert ingredients with a few
- 14 exemptions, most inert ingredients have
- 15 exemptions from the requirement, but that has
- 16 to be in place for that material to be used in
- 17 a food use pesticide formulation. We won't
- 18 register a product that contains an inert
- ingredient that doesn't have the appropriate
- 20 tolerances.
- Now these chemicals were already
- 22 under -- we were evaluating some things which

- 1 we had initially established those tolerance
- 2 exemptions prior to 1996.
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Tina.
- 5 MEMBER ELLOR: How does this list
- 6 slot in with List 4, or is it something
- 7 completely different? And how many did you
- 8 look at?
- 9 MR. LEIFER: It's not completely
- 10 different. There is a fair degree of overlap,
- 11 but they are not one and the same, because
- 12 some of the when we put together the initial
- 13 List 4 there was no consideration to food use
- 14 versus non-food use. There are some
- 15 substances on this board that don't have
- 16 tolerance exemptions for whatever reasons. No
- one had an interest in using them, they were
- 18 never petitioned for, therefore a tolerance
- 19 exemption was never established. And
- 20 conversely, there were substances that had
- 21 tolerance exemptions that weren't part of List
- 22 4. They were something in the neighborhood of

- 1 about 870 line item tolerance exemptions which
- 2 probably corresponds to maybe 1,000 chemicals.
- 3 Again, some of these tolerance exemptions
- 4 cover more than one chemical entity. But I
- 5 can't remember the actual numbers there -
- 6 there is a high degree of overlap, but not
- 7 complete overlap.
- 8 CHAIRPERSON MOYER: Follow up,
- 9 Tina.
- 10 MEMBER ELLOR: If I wanted to
- 11 take a look at this list, what would I look
- 12 for? What is this list called?
- MR. LEIFER: Well, the substances
- 14 that have undergone the reassessment would
- 15 appear in the current version of the Code of
- 16 Federal Regulations. So 40 CFR Part 180.910,
- 17 920, 930, 940, 950.
- 18 MEMBER ELLOR: Okay, got it.
- 19 MR. LEIFER: The ECFR site has
- 20 the most up to date information, because some
- 21 of these regulations, the final rules were
- 22 just published in September of this year. So

- 1 if you are using a dog-eared version of a
- 2 printed Code of Federal Regulations, it may
- 3 not appear there. It does appear on the
- 4 electronic set. So all those substances that
- 5 are on there have either undergone
- 6 reassessments or were established post-1996,
- 7 which meant that the FQPA requirements were in
- 8 place. We had to make the same findings
- 9 related to so special sensitivities to
- 10 infants and children, aggregate exposure, all
- of what FQPA had put forth in terms of what we
- 12 needed to look at.
- 13 CHAIRPERSON MOYER: Any other
- 14 points? Yes, Tracy, Chair recognizes Tracy.
- 15 MEMBER MIEDEMA: And this
- 16 question is for Tina and for the speaker. Do
- 17 we think that we will be able to take our list
- 18 of what we have called List 4 inert and
- 19 determine whether there is eco-toxicity or
- 20 persistent based on the analysis that EPA has
- 21 done so far when they come back to the board?
- MR. LEIFER: I want to make it

- 1 clear that when we did the tolerance
- 2 reassessment we were focusing on the human
- 3 health implications of these substances used
- 4 in food use pesticide formulations. So we
- 5 didn't explicitly, because it wasn't part of
- 6 the mandate under FQPA, consider environmental
- 7 effects. That is typically under our FIFRA
- 8 authority. We don't have the authority to
- 9 consider eco effects when we are making a
- 10 tolerance exemption type determination. So it
- 11 wasn't really part of that exercise.
- Now there are some chemicals on
- 13 which we have information. We haven't had a
- 14 program analogous to tolerance reassessment
- 15 where we've gone through in a systematic
- 16 fashion and evaluated chemical by chemical
- 17 basis potential eco hazards. And ultimately
- 18 typically when we do these things in the
- 19 pesticide program, under FIFRA, the risk-
- 20 benefit based statute, we would have to
- 21 consider risks on a product-by-product basis.
- 22 So for example a chemical may be have

- 1 concerns for aquatic organisms. However the
- 2 use patterns of the product is such that it's
- 3 indoor only, or in some sort of commercial
- 4 applications that would never find its way to
- 5 aquatic exposures that might be acceptable.
- 6 Obviously if that produce were rice herbicide
- 7 or something like that where it's applied to
- 8 water may be a concern.
- 9 MEMBER ELLOR: And I think that
- 10 was the point Chris was making about somehow
- 11 having assessment, working with EPA, having a
- 12 separate assessment for inerts that is related
- 13 to the assessment that we use for actives.
- 14 Somehow I think that is a vague idea still,
- it's something we are going to have to take a
- 16 look at also with the program.
- 17 CHAIRPERSON MOYER: Yes, I think
- 18 Tracy it's one screen that we would certainly
- 19 look at, but formulation has a huge impact on
- 20 that, particularly on the environmental
- 21 impacts that we need to look at.
- 22 Any other questions for Kerry?

- 1 MR. LEIFER: Actually I have one
- 2 comment that was made yesterday, and I just
- 3 wanted to clarify a little bit related to the
- 4 agency's inert degree disclosure initiatives
- 5 if you will. We are preparing to issue what's
- 6 known as an advanced notice of proposed
- 7 rulemaking, an ANPRN, related to inert
- 8 ingredient disclosure. That does not commit
- 9 us to any particular regulatory action. In
- 10 fact there could be some nonregulatory
- 11 actions. So we are when that goes out, it
- 12 should be by the end of the year, the calendar
- 13 year, we will talk about disclosing hazardous
- 14 inert ingredients because we have received a
- 15 petition, a rulemaking petition, on that. And
- 16 that's something to address that aspect as
- 17 well as a broader disclosure. The ANPRN has
- 18 a number of questions that are posed to
- 19 solicit comments specific to the various
- 20 issues related to disclosure of all inert
- 21 ingredients, disclosure of some subset of
- 22 inert ingredients, labeling issues, et cetera,

- 1 et cetera. So I want to be clear that we
- 2 haven't committee to any particular course of
- 3 action at this point.
- 4 CHAIRPERSON MOYER: So
- 5 collectively we won't hold our breath waiting
- 6 to see that on the label? I got it.
- 7 Okay, anything else from the
- 8 board?
- 9 Thank you, Kerry. We appreciate
- 10 your time in coming to visit us.
- 11 Katrina?
- 12 MEMBER HEINZE: So what happens
- 13 next is you guys are taking this back to
- 14 committee to discuss, and we'll get it in the
- 15 spring?
- 16 CHAIRPERSON MOYER: This is a
- 17 discussion document and not a voting document.
- 18 We will be taking it back. But the goal will
- 19 be to bring it forward by spring with some
- 20 kind of resolution, certainly.
- 21 MEMBER HEINZE: Would you be
- 22 doing that with the livestock committee, or

- 1 crops go first?
- 2 CHAIRPERSON MOYER: I think the
- 3 process will be the same, so we will be doing
- 4 it jointly, and of course working with the
- 5 program and with obviously EPA. That is our
- 6 plan.
- 7 Dr. Karreman, back to you. I
- 8 appreciate your patience.
- 9 LIVESTOCK COMMITTEE
- 10 MEMBER KARREMAN: You are going
- 11 to have to have some patience for this.
- 12 All right, Livestock Committee.
- 13 We've been pretty busy this past half year, or
- 14 this whole year actually. Probably has the
- 15 most things on a livestock docket in a few
- 16 meetings. Our first one we looked at, the
- 17 only petitioned material we had, was
- 18 Eprinomectin for a parasiticide. And it was -
- 19 the petitioner wanted it to be allowed for
- 20 livestock health care. And we went through
- 21 the checklist sheet as a committee, and
- 22 yesterday we heard some public testimony from

- 1 the petitioner that actually showed some nice
- 2 comparisons between Eprinomectin versus
- 3 moxidectin versus ivermectin, and if you were
- 4 here in the room listening to that, and then
- 5 I commented that it looks good for
- 6 Eprinomectin except that we don't want to be
- 7 expanding the list in that particular family
- 8 of parasiticides.
- 9 So basically the petition was to
- 10 add eprinomectin to the list on six of the
- 11 three. And the Livestock Committee voted
- 12 unanimously to not allow it on, and that's
- 13 eprinomectin.
- Jeff is gone. Yes, sir. So that
- 15 is it for eprinomectin. Any questions?
- 16 SECRETARY WEISMAN: I see the
- 17 evaluation criteria checklist, but I was just
- 18 looking to see what categories it failed that
- 19 led to the no vote.
- 20 MEMBER KARREMAN: Well, essential
- 21 and availability criteria I think should have
- 22 been a no. Sorry about that. Because other

- 1 very close relatives to that are already on.
- 2 Thank you.
- 3 VICE CHAIRPERSON GIOACOMINI: I
- 4 think Item B is correct up there, but the
- 5 check box was missed.
- 6 MEMBER KARREMAN: Yep, right.
- 7 Okay? All right, moving along to oops,
- 8 sorry.
- 9 CHAIRPERSON MOYER: Did Steve
- 10 have a question?
- 11 MEMBER DeMURI: My question was
- 12 actually the same as Julie's. Great minds
- 13 think alike.
- 14 CHAIRPERSON MOYER: I saw that
- 15 happening. Katrina.
- 16 MEMBER HEINZE: Could you give me
- 17 a layman's explanation for why we don't let
- 18 this class of things --
- 19 MEMBER KARREMAN: A layman's
- 20 explanation? Actually there is a technical
- 21 explanation as to the one that we have been
- 22 using. Ivermectin is on the list already.

- 1 The board already also approved moxidectin to
- 2 be on the list, which is not yet; somewhere in
- 3 the hurdles and whatnot of rulemaking. And
- 4 eprinomectin is also just like moxidectin in
- 5 a sense and ivermectin in that they are all
- 6 avermectins, and they are all macrocyclic
- 7 lactones, which are technically a class of
- 8 antibiotics, and that kind of put a little bit
- 9 of sand in the gears, and so while moxidectin
- 10 was going through rulemaking it's still not
- 11 out yet fenbendazole was petitioned as a
- 12 parasiticide. And that had a full TAP review
- 13 back in 1999 with ivermectin levamisole. For
- 14 whatever reason back then in 1999 they went
- 15 with ivermectin. Fenbendazole, I think all of
- 16 us were on the board when it went through, I'm
- 17 not certain. But we are hoping that once the
- 18 fenbendazole comes on it's not at all any
- 19 kind of antibiotic that the ivermectin comes
- 20 off and the moxidectin won't be there and the
- 21 eprinomectin won't be getting on base.
- Is that layman enough?

- 1 MEMBER HEINZE: Not layman, but I
- 2 followed it.
- 3 MEMBER KARREMAN: Okay, I can
- 4 speak rationally, good.
- 5 CHAIRPERSON MOYER: If there is
- 6 no further discussion, it's still in your
- 7 court, Hue.
- 8 MEMBER KARREMAN: So the next one
- 9 is vaccines, which we have heard a fair amount
- 10 about in public comment, actually on both
- 11 sides of the issue if I may say. Certifiers
- 12 have commented that they want to see our
- 13 recommended changes happen for the most part,
- 14 and then there have been folks who say no,
- 15 don't do that.
- So a little background on this.
- 17 This vaccine recommendation is not a
- 18 discussion of should we use vaccines in
- 19 certified organic agriculture. Some of the
- 20 public comment definitely said that, which is,
- 21 shouldn't be using vaccines at all, and that's
- 22 not this discussion.

- 1 The reason this came about
- 2 basically was actually a farmer of mine called
- 3 me first thing this year, first call I had,
- 4 and he said, hey Karreman, my certifier won't
- 5 let me use a certain vaccine any more. What
- 6 should I do? And he told me why, because it's
- 7 genetically engineered. And he's been using
- 8 it for the last five years, been certified
- 9 five years out of the seven that the program
- 10 has been going. So it was kind of like a
- 11 change in midstream from what the guy was used
- 12 to. So all of a sudden I was like made aware
- 13 of that.
- I can tell you right now that my
- own personal views on vaccines that I don't
- 16 hardly recommend them to my farmers. There's
- 17 like maybe one or two. I truly don't. I've
- 18 always had very very low vaccine sales. I
- 19 don't even bring it up, because it is an
- 20 issue. But this is not the discussion whether
- 21 we should vaccinate our animals or kids or
- 22 not. It's specific to the one of five,

- 1 205.105(e) section.
- 2 But we do need to have
- 3 preventatives. So even though I don't even
- 4 recommend vaccines all that much, I realize we
- 5 have to have prevention here in organics. And
- 6 there are times when unfortunately and I
- 7 will list these vaccines here shortly that
- 8 only one the only vaccine is actually
- 9 genetically engineered. There is no
- 10 conventional. And it's going to be used maybe
- 11 one to two times a year at most; it's not like
- 12 GMO crops where they are in the ground
- 13 pollinating and all that with massive acreage.
- 14 It's a prevention. It's used extremely
- 15 rarely.
- 16 The review paper that we have
- 17 attached to the document is that, it's exactly
- 18 that. It's a review paper. And review papers
- 19 and science are basically, they state what the
- 20 history of the problem is, whatever it is, or
- 21 the issue, the topic, what's happening now,
- 22 and future directions. So it's a review

- 1 paper, it's actually a pretty good review
- 2 paper, although it's only one, but it kind of
- 3 summates what's happening.
- 4 It should be stated that
- 5 genetically engineered vaccines are allowed in
- 6 the European Union certified organic system.
- 7 Some of the swine flu vaccine that
- 8 is being produced right now in our country is
- 9 genetically engineered, and that should be
- 10 kept in mind.
- 11 And then there were questions on -
- 12 for a TAP, and then the question would be on
- 13 what exactly. Because most TAPs are one
- 14 specific compound like ferric phosphate or
- 15 peracetic acid or eprinomectin. These
- 16 genetically engineered vaccines are kind of an
- 17 umbrella of different production methods, not
- 18 just one production method by any means. And
- 19 there could be more in the future.
- 20 This whole document is more almost
- 21 of a legal interpretation of what already
- 22 exists than something new because honestly,

- 1 the horse, the cow, the chicken on this issue
- 2 they are all out of the barn. These vaccines
- 3 have been used since 2002, not exclusively by
- 4 any means, but they certainly have. That's
- 5 all fact, and I don't know if I need to the
- 6 apologize to the organic consumers, but if
- 7 they didn't know that that's not my problem.
- 8 They've been being used, so it's not like,
- 9 hey, don't even start this.
- 10 And the ACAs have generally all
- 11 been allowing them in the Northeast, Upper
- 12 Midwest, West Coast. And we have some written
- 13 comments, and they agree with our
- 14 recommendation.
- So let's see, so I want to give
- 16 some examples of the vaccines that are out
- 17 there and their availability, if you don't
- 18 mind, so there was a written comment asking,
- 19 or saying that we didn't state what the
- 20 vaccines are. This is a listing from the USDA
- 21 animal plant health inspection service, Center
- 22 for Veterinary Biologics, publicly available,

- 1 transparent, anyone can click on it and see
- 2 it.
- I can tell you this, that in
- 4 March, 2001 there were 47 recombinant vaccines
- 5 listed on this particular agency site of which
- 6 32 are for agriculture, agricultural species.
- 7 And then in June of 2009, now there are like
- 8 100 manufacturers, licensed manufacturers of
- 9 vaccines in general, and I think it's 38 for
- 10 agriculture. In 2001 there were 21
- 11 genetically engineered vaccines being used for
- 12 poultry. There were three for bovine, cow,
- 13 seven for swine, pigs, three for horses, and
- 14 horses can be certified organic, just so you
- 15 all know that, and then canine twelve, and
- 16 feline, seven, and the rabies vaccine, which
- 17 there is none for large animals but people do
- 18 use it for large animals, there were four.
- 19 They use it off-label for rabies.
- 20 I know up in Vermont they have a pretty big
- 21 rabies vaccination type not program, but a
- 22 lot of farmers do it up there.

- 1 Some of these, I mentioned a few
- 2 yesterday, but there is only one for avian
- 3 encephalomyelitis-fowl pox-laryngotracheitis.
- 4 There is only one, and these are all
- 5 genetically engineered, so if the poultry
- 6 house has this problem there is no
- 7 conventional one to look to. Avian
- 8 encephalomyelitis-fowl pox-gallisepticum,
- 9 avian influenza H9N2, avian influenza-fowl
- 10 pox.
- 11 Equine, there is an influence,
- 12 equine influenza vaccine. For E.coli two of
- 13 the three available are recombinant.
- 14 There is more for poultry.
- 15 Laryngotracheitis, Merrick's Disease, two for
- 16 two, the only two, they are both genetically
- 17 engineered. Fowl pox, laryngotracheitis, pox-
- 18 mycoplasma gallisepticum, Merrick's Type 1 and
- 19 3, Merrick's Newcastle, three for three are
- 20 genetically engineered. Newcastle Fowl Pox,
- 21 one for one, and cercovirus in pigs, two for
- 22 two are genetically engineered.

- 1 Salmonella dublin, the only
- 2 Salmonella dublin vaccine there is, and it
- 3 affects people, it affects all mammals, it
- 4 affects poultry; the only one is genetically
- 5 engineered.
- 6 So anyway our recommendation,
- 7 having all that in mind, is to truncate the
- 8 205.105(e), which I am trying to find, which
- 9 is up on the screen, and our logical
- 10 progression, since I kind of mentioned it is
- 11 a legal reading of this, and these vaccines
- 12 are already being used, folks, okay, it's not
- 13 like it's just starting.
- 14 Relevant areas in the rule,
- 15 Section 6509(d)(1)(C) of the Organic Food
- 16 Production Act of 1990 authorizes the use of
- 17 vaccinations as an allowed health care
- 18 practice in the production of organic
- 19 livestock. This authorization was implemented
- 20 for regulation at 205.238 (a)(6) of the
- 21 National Organic Program Standards. Those
- 22 standards were published in the Federal

- 1 Register on December 21, 2000. 205.238(a)(6)
- 2 provides that producers must establish and
- 3 maintain preventive livestock health care
- 4 practices, including the administration of
- 5 vaccines and other veterinary biologics.
- 6 Further vaccines are approved by NOSB as a
- 7 group at 205.603(a)(4) and ultimately put on
- 8 the list without annotation where some other
- 9 materials listed do specify or limit the
- 10 amounts of production. It is clear that
- 11 6509(d)(1)(C), 205.238(a)(6), and
- 12 205.603(a)(4) don't mention about vaccines
- 13 produced by excluded methods needing to be
- 14 individually petitioned.
- 15 And we do acknowledge that
- 16 205.105(a)(6) does provide that organic
- 17 products must be produced and handled without
- 18 the use of excluded methods except for
- 19 vaccines; provided that the vaccines are
- approved in accordance with 205.600(a).
- 21 But even if even by reading
- 22 Section 205.105(e) as it is currently written,

- 1 the logical progression of reading the
- 2 regulation shows that 205.105 allow the
- 3 prohibited substances, methods and ingredients
- 4 in organic production or handling to be sold
- 5 or labeled as 100 percent organic, organic, or
- 6 made with organic, the product must be
- 7 produced and handled without the use of (e)
- 8 excluded methods, except for vaccines,
- 9 provided that the vaccines are approved in
- 10 accordance with 205.600(a). So we'll go to
- 11 205.600.
- 12 Evaluation criteria for allowed
- 13 and prohibited substances, methods and
- 14 ingredients: the following criteria will be
- 15 utilized in the evaluation of substances or
- 16 ingredients for the organic production and
- 17 handling sections of the National List.
- 18 Synthetic and non-synthetic substances
- 19 considered for inclusion on or deletion from
- 20 the National List. Allowed and prohibited
- 21 substances will be evaluated using the
- 22 criteria specified in the act.

- 1 And then on 603 synthetic
- 2 substances allowed for use in organic
- 3 livestock production in accordance with the
- 4 restrictions specified in the section, the
- 5 following synthetic substances may be used in
- 6 organic livestock production, A, as
- 7 disinfectants, sanitizers, medical treatments
- 8 as applicable for biologics and vaccines.
- 9 So in conclusion for the special
- 10 situation with vaccines and vaccines only, the
- 11 Livestock Committee would like to permanently
- 12 clarify that the situation on vaccines, by
- 13 truncating 105(e) to no longer make reference
- 14 to excluded methods.
- 15 That is our recommendation.
- 16 Discussion?
- 17 CHAIRPERSON MOYER: Thank you,
- 18 Mr. Chairperson.
- 19 Points of discussion? I see Dan.
- 20 VICE CHAIRPERSON GIOACOMINI: I
- 21 first of all I feel for the court reporter
- 22 over there trying to get through the names of

- 1 all those vaccines.
- 2 MEMBER KARREMAN: I will help you
- 3 later.
- 4 (Laughter.)
- 5 VICE CHAIRPERSON GIOACOMINI: I
- 6 completely support this recommendation. The
- 7 problem that I have with it is that the origin
- 8 of the problem came from a change of
- 9 interpretation from what the vast majority of
- 10 the industry seemed to have been reading the
- 11 rule and upon further review a reading of the
- 12 preamble, where there seems to be some
- 13 discrepancy.
- I fully respect intent, and I
- 15 believe that is what the preamble was doing.
- 16 But the letter of the law to me seems to be
- 17 the letter of the law. And if the law does
- 18 not support the intent, I think a better
- 19 action would have been for portions of the
- 20 community to come to the board and ask us to
- 21 clarify that issue and to resolve the
- 22 discrepancy, rather than changing the

- 1 interpretation to try and make what the letter
- 2 of the law was saying match the intent, which
- 3 it does not seem to do.
- 4 So I'm a little bit disappointed
- 5 with the way we had to go about doing this.
- 6 I completely support what the committee is
- 7 doing. I completely support what this
- 8 document is doing to meet the goal of allowing
- 9 these products to still be used, which they
- 10 have been used all through the past, and to
- 11 maintain the ultimate concern for the animal,
- 12 for the welfare and the health of the animal.
- 13 That all being said, I wish we
- 14 didn't have to make this change, because I
- 15 think the first connection from Section 105
- 16 through Section 603 the continuity is held
- 17 together much better with this language kept
- 18 in. But if this is the way we have to go
- 19 about making sure that these tools are
- 20 available to keep the animals healthy so they
- 21 don't get sick so we don't need to use all
- 22 these antibiotics that nobody wants us to use,

- 1 and the animals would be disqualified from
- 2 production, then I'm more than happy in
- 3 supporting this document to do it.
- But I wish we had not had to go
- 5 this route.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Dan. Chair recognizes Barry.
- 8 MEMBER FLAMM: Thank you.
- 9 I think the committee has done a
- 10 lot of work and made some very persuasive
- 11 arguments for allowing GMO vaccines on the
- 12 market. And I know there has been a very
- 13 passionate exchange. But it probably this
- 14 troubles me more than anything on the agenda.
- 15 For one thing it seems to me we've kind of
- 16 failed. GMO vaccines are widely used, so
- we're saying we're in a corner; we ought to
- 18 let it continue. It seems like we as an
- 19 organic community that we are surrendering to
- 20 GMOs. And this is a problem in other areas,
- 21 in growing, we've discussed that when we
- 22 worked on the seed document. If we don't do

- 1 something there won't be an independent seed
- 2 industry.
- 3 And I just wondered, whatever
- 4 happened that we allowed the regular vaccines
- 5 to be taken over by GMOs.
- 6 MEMBER KARREMAN: Yes, may I
- 7 answer?
- 8 MEMBER FLAMM: And I'm sorry, I'm
- 9 making more of a comment than a question.
- 10 Please answer. I hate to raise issues and
- 11 raise criticisms without having an answer I
- 12 can propose. But I'm just very troubled with
- 13 the blanket allowance. And you made credible
- 14 arguments for doing it and a very logical one.
- 15 I'm through.
- 16 CHAIRPERSON MOYER: Thank you,
- 17 Barry. Chair recognizes Hue for rebuttal.
- 18 MEMBER KARREMAN: Yes. Basically
- 19 you are kind of likening it to the seed
- 20 availability thing, where if you don't force
- 21 that, to have organic seeds. The vaccine
- 22 industry, not that I know that much about it,

- 1 but I really don't think they are going to
- 2 bend to the organic industry on this. The
- 3 vaccine industry is geared to large
- 4 populations of animals and people. The
- 5 organic industry is a smidge. I don't think
- 6 they are going to specifically say, ooh, let's
- 7 go only make vaccines because then we can get
- 8 the organic market. That is just my feeling,
- 9 my understanding. It's just not quite the
- 10 same as like, well, if we say there can't be
- 11 any then they are going to start making them
- 12 for us in the organic industry.
- 13 CHAIRPERSON MOYER: Chair
- 14 recognizes Julie.
- 15 SECRETARY WEISMAN: I'm going to
- 16 remind everyone, there's something that came
- 17 up in a comment yesterday about this issue.
- 18 And if there is a legacy I would like to be
- 19 remembered for as I leave the board, it's
- 20 going to be as a champion of commercial
- 21 availability. And I think that what you say
- 22 is true, though vaccine producers are big boys

- 1 and girls in the conventional world, and they
- 2 have no incentive whatsoever to go out of
- 3 their way to make anything that we need, but
- 4 creating an incentive to use non-GMO vaccines
- 5 if they are made available creates an
- 6 entrepreneurial opportunity for folks, and I
- 7 think that we should give that concept serious
- 8 consideration for adding to this
- 9 recommendation some kind of language.
- 10 CHAIRPERSON MOYER: Thank you,
- 11 Julie. Board recognizes Bea.
- 12 MEMBER JAMES: Thank you. And
- 13 also, thank you, Hue, and the Livestock
- 14 Committee for all your work on this
- 15 recommendation. I know it wasn't easy to put
- 16 the thoughts together around this topic.
- I guess I would just echo what
- 18 Barry and Julie are saying. Because if
- 19 repetition of an act creates status quo does
- 20 that then all of a sudden justify status quo
- 21 as being acceptable and right. And that's one
- 22 of the questions that I think was maybe missed

- 1 in the recommendation was addressing that
- 2 particular issue. And I don't know if there
- 3 is anyway to backtrack the pervasive use of
- 4 GMO vaccines now. And from what I'm hearing
- 5 you say, Hue, it sounds like we are kind of in
- 6 a corner to do something that we don't have a
- 7 choice. And if as Julie suggests that we try
- 8 to get into the recommendation something that
- 9 would create a demand or a need for an
- 10 alternative, can we do that?
- 11 CHAIRPERSON MOYER: Chair
- 12 recognizes Hue to respond. Can you talk about
- 13 that?
- 14 MEMBER KARREMAN: Yep, I think we
- 15 can, and I already have it in my head and
- 16 written down on paper. But also even if we go
- 17 to the middle ground I would call it, and
- 18 that's fine with me, I mean what I have,
- 19 thinking here. You know, I hate to put the
- 20 dark specter up there, but if there was a foot
- 21 and mouth disease outbreak here in this
- 22 country, and if we are allowed to use vaccine

- 1 for it, which traditionally USDA has not
- 2 allowed, but they have actually discussed it
- 3 in background papers and whatnot, I can nearly
- 4 guarantee you that that foot and mouth vaccine
- 5 is going to be genetically engineered. I
- 6 don't think there is going to be a company
- 7 saying, hm, the organic folks need a
- 8 conventional foot in mouth vaccine, let's make
- 9 it right now. And foot and mouth, just to use
- 10 that one particular one, and there has been an
- 11 outbreak in Britain twice, and that got onto
- 12 the continent in Holland, and it's real, that
- is a highly just like the flu, it changes
- 14 it's antigenicity all the time. So these
- 15 vaccines that are produced, basically are
- 16 constantly being produced kind of new all the
- 17 time. It's not like some kind of set formula
- 18 to make flunixin or ferric phosphate or
- 19 whatever. I mean it's a constantly kind of
- 20 changing thing. And the way the industry is
- 21 going, there is going to be conventional;
- 22 there will be. But there is more and more of

- 1 this genetic engineered type vaccine. That is
- 2 all there is to it.
- We can stick our heads in the sand
- 4 but that's the way it is. So just keep that
- 5 in mind. So even if we do okay, the middle
- 6 ground would be this. Oh, you want some more
- 7 questions?
- 8 CHAIRPERSON MOYER: There are
- 9 some other points of discussion if you want to
- 10 hold off until you get done.
- 11 MEMBER KARREMAN: All right,
- 12 then, I'm not sure if the wording would be
- 13 quite right or not, but let's see, so on the
- 14 recommendation it would say, excluded methods
- 15 except for vaccines something to the point
- 16 that conventional vaccines must be used unless
- 17 none exist. I mean that you must use
- 18 conventional vaccines if there are two out
- 19 of five right now for whatever the vaccines,
- 20 you got to find those three that are not
- 21 genetically engineered. But there are other
- 22 ones like I listed here, one out of one is

- 1 genetically engineered; two out of two are
- 2 genetically engineered for swine circovirus.
- 3 So the middle ground, I don't know
- 4 we'd want to we can do that tomorrow. But
- 5 you have to use conventional vaccine, if you
- 6 are going to use vaccine, if it's available.
- 7 Otherwise you can use the genetically
- 8 engineered.
- 9 SECRETARY WEISMAN: Hue, would it
- 10 be more appropriate to say non-GMO vaccines
- 11 instead of conventional?
- 12 CHAIRPERSON MOYER: Yes, the
- 13 question is conventional and GMO. People
- don't understand what you mean by
- 15 conventional.
- 16 MEMBER KARREMAN: Sorry. All
- 17 right.
- 18 CHAIRPERSON MOYER: In this case
- 19 conventional is good.
- 20 MEMBER KARREMAN: So non-GMO
- 21 vaccines must be used unless none exist. I
- 22 can live with that.

- 1 CHAIRPERSON MOYER: Or vaccines
- 2 made without excluded methods.
- 3 MEMBER KARREMAN: Do you want to
- 4 do this now or tomorrow as an amendment?
- 5 CHAIRPERSON MOYER: You can write
- 6 it tomorrow. I think we know where you are
- 7 going.
- 8 The chair recognizes Joe.
- 9 MEMBER SMILLIE: Just use
- 10 commercially available to be consistent with
- 11 our usual format, rather than none exists.
- 12 CHAIRPERSON MOYER: Chair
- 13 recognizes Dan.
- 14 VICE CHAIRPERSON GIOACOMINI: Two
- 15 things. One, commercial availability has
- 16 certain things that means to the program and
- 17 the regulation, and we have always been
- 18 limited to 606 on that before of agricultural.
- 19 If using that term, I want to make sure we get
- 20 it cleared with the program first.
- 21 CHAIRPERSON MOYER: It's always
- 22 been Julie's and my intention to get

- 1 commercial availability into everything.
- 2 VICE CHAIRPERSON GIOACOMINI: But
- 3 the other point I wanted to make in response
- 4 is to Barry's question of why is GMO, in this
- 5 instance, why is GE in this instance, so
- 6 prevalent? The nature of a vaccine is to get
- 7 something into the body usually into a cell
- 8 that the body then recognizes as foreign. So
- 9 that it can mount an immune response to it.
- 10 In the general historical sense of the
- 11 conventional vaccines, we used the virus, or
- 12 a modified virus, or we used the killed virus,
- 13 or we used the bacteria. Those are can be
- 14 very successful vaccines, but at the same time
- 15 they also can carry a tremendous amount of
- 16 risk that with a mutation that modified the
- 17 transferred back to inactive, or that with the
- 18 transferring of genetic material that dead is
- 19 even transferred into an active bacteria.
- 20 And the value of the GMO vaccines,
- 21 and one of the reasons they are taking off is
- 22 that they are able to use smaller and smaller

- 1 portions of the genetic material from the
- 2 diseased microbe or whatever you are talking
- 3 about to initiate that immune response without
- 4 the risk of it creating an outbreak of the
- 5 disease at the same time.
- 6 CHAIRPERSON MOYER: Response by
- 7 Hue?
- 8 MEMBER KARREMAN: Can I add to
- 9 that? A lot of the genetic vaccines now,
- 10 let's say, you'd be able to differentiate a
- 11 vaccinated bison near Montana, Wyoming, the
- 12 national park there I can't think of right
- 13 away, from the real disease if you vaccinate
- 14 them with a subunit vaccine. I'm just
- 15 thinking conventional, okay; nothing organic
- 16 here. You could tell that that animal
- 17 actually had the real Brucella to infect all
- 18 those cow herds in Montana, or was it
- 19 vaccinated by Brucella, when you are looking
- 20 at the blood test for the antibodies in it.
- 21 So there is a way to differentiate between hot
- 22 virus carrying animal versus one that has been

- 1 vaccinated. That is going to happen more and
- 2 more. And that is what they can do with foot
- 3 and mouth as well. Say, that one has really
- 4 got it. Oh, this one by its bloodwork was
- 5 vaccinated.
- 6 CHAIRPERSON MOYER: Barry, chair
- 7 recognizes Barry. Would you use your
- 8 microphone, Barry?
- 9 MEMBER FLAMM: Are you saying
- 10 that you can only do that with the GE vaccine,
- 11 that recognition? You cannot recognize a
- 12 vaccine agent in a buffalo with a conventional
- 13 non-GMO vaccine?
- 14 MEMBER KARREMAN: Some you can.
- 15 Actually Brucella has an RB 17 and you can,
- 16 okay, so I shouldn't have mentioned Brucella.
- 17 I'm just trying to say that most of them are
- 18 deletion unit vaccines where they are taking
- 19 out the hot part that would confuse an
- 20 antibody test if you are testing two animals,
- 21 which one had the real disease, versus which
- 22 one got the vaccine. Most of them are being

- 1 actually genetically engineered now, and these
- 2 regular vaccines you couldn't tell.
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Bea for a comment or question.
- 5 MEMBER JAMES: It's a question.
- 6 I'm kind of actually, I'm going to wait
- 7 until this topic is done.
- 8 CHAIRPERSON MOYER: Thank you,
- 9 Bea. Any other questions on this particular
- 10 topic? Chair recognizes Kevin.
- 11 MEMBER ENGELBERT: I think it
- 12 goes without saying, but I'm going to say it
- 13 anyway: this is a no-win situation for us. If
- 14 we vote to approve this vaccine then the
- 15 headlines are going to be that the scumbags on
- 16 the livestock committee convinced the rest of
- 17 the NOSB to allow GMO vaccines in organic
- 18 production. If we vote it down and there is
- 19 an outbreak of a serious disease in any region
- 20 of the country then we are going to be
- 21 condemned for our poor position on animal
- 22 welfare in allowing these farmers to keep

- 1 their animals from being treated. They will
- 2 have to leave organic production and be
- 3 replaced by conventional animals that
- 4 transition in that did receive the vaccine to
- 5 protect their animals. It's an extremely
- 6 troubling issue. It's an unfortunate one.
- 7 It's what we're faced with.
- 8 CHAIRPERSON MOYER: That's why
- 9 you get paid the big bucks.
- 10 (Laughter.)
- 11 CHAIRPERSON MOYER: Follow up by
- 12 Barry.
- 13 MEMBER FLAMM: Kevin, does the
- 14 so-called middle ground solve that problem?
- 15 MEMBER ENGELBERT: Hue and I
- 16 talked yesterday. I think that is our best
- 17 option, is to put that clause in there. If a
- 18 non-GMO vaccine is available, it must be used.
- 19 And a GMO vaccine can only be used in an
- 20 emergency situation. Or if they don't.
- 21 CHAIRPERSON MOYER: Question by
- 22 Tina.

- 1 MEMBER ELLOR: I guess I'd like
- 2 to side with the commercial availability
- 3 people. Because there might be some
- 4 available; there might not be enough
- 5 available. So I'd like to cover that
- 6 contingency as well.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 Tina.
- 9 Okay, Mr. Chairman, back to you -
- 10 and that was some of the easy stuff we went
- 11 through, right? We didn't get to the good
- 12 stuff right? I believe you are at excipients?
- 13 MEMBER KARREMAN: Excipients,
- 14 let's see. All right, so the next thing we
- 15 are recommending is I guess a clarification.
- 16 I'm not sure how it's mentioned in the agenda,
- 17 but a clarification to 603(f), F like Frank,
- that came into being on December 12th, 2007
- 19 when the medicines came in. And basically and
- 20 they talked a little bit about this yesterday
- 21 that there are two terms in here that simply -
- 22 not simply, maybe but need to be looked at.

- 1 And essentially what we are recommending is,
- 2 the current one reads, excipients only for use
- 3 in the manufacture of drugs, used to treat
- 4 organic livestock, when the excipient is
- 5 identified by the FDA as generally recognized
- 6 as safe, approved by the FDA as a food
- 7 additive, or included in the FDA review and
- 8 approval of a new animal drug application or
- 9 a new drug application.
- 10 And so, and I mentioned this
- 11 yesterday to one of the commenters, there is
- 12 a lot of stuff out there in barns that I've
- 13 seen, I mean lots of stuff, that you know they
- 14 are not for like a sick cow or sick calf.
- 15 They are to enhance the digestion of a calf.
- 16 They are to enhance the suppleness of a cow's
- 17 udder; whatever. The animal is not sick, so
- 18 technically they can't use these things,
- 19 technically, on these animals. And they're
- 20 animal health care products. Now animal
- 21 health care products, their excipients are not
- 22 specifically stated in what I just read. So

- 1 that's why we want to change the word from
- 2 drug to animal health care products. And then
- 3 it's highly unfortunate that during that whole
- 4 process of the six years of the medicines
- 5 coming through the pipeline that we since the
- 6 raw FDA in that realm didn't think about the
- 7 animal plant health inspection service Center
- 8 for Veterinary Biologic Vaccines, normal
- 9 vaccines folks, with their excipients for
- 10 preservatives and all that, that wasn't added
- 11 in. So we would like to add that in at the
- 12 very end, semicolon at the end, or approved by
- 13 APHIS, the excipients. So excipients only for
- 14 use in the manufacture of animal health care
- 15 products, used to treat organic livestock when
- 16 the excipient is blah blah, or approved
- 17 by APHIS.
- 18 That is the reasoning. That is
- 19 what we are proposing.
- 20 CHAIRPERSON MOYER: Thank you,
- 21 Mr. Chairman. Other points of discussion?
- 22 Chair recognizes Dan.

- 1 VICE CHAIRPERSON GIOACOMINI: The
- 2 way you went through that discussion, just for
- 3 clarification, the way you went through that
- 4 discussion, you created in my mind anyway you
- 5 created a separation between drugs and animal
- 6 health care products. Are we covering drugs
- 7 with animal health care products, or should we
- 8 say animal?
- 9 MEMBER KARREMAN: I would I
- 10 would say that animal health care products is
- 11 the more universal term. I would say you
- 12 don't have to have an "and." If you want an
- 13 "and" in there, fine. But I would think it
- 14 would cover or. I mean maybe because we do
- 15 specifically refer to FDA-type nomenclature
- 16 after that, so maybe we should keep the drugs
- in there and animal health care products so -
- 18 okay, or animal health care products.
- 19 CHAIRPERSON MOYER: Thank you,
- 20 Dan, thank you, Hue. Any other comments or
- 21 questions for the Livestock Committee on
- 22 excipients?

- 1 Seeing no hands or hearing none,
- 2 Mr. Chairman, your next item please.
- 3 MEMBER KARREMAN: All right, the
- 4 next one in my stack of paper here is
- 5 annotation change for chlorhexidine, which is
- 6 already on the list at 603(a)(6). The current
- 7 reading is that chlorhexidine is allowed for
- 8 surgical procedures conducted by a
- 9 veterinarian, allowed for use as a teat dip
- 10 when alternative germicidal agents and/or
- 11 physical barriers have lost their
- 12 effectiveness.
- 13 Chlorhexidine is a very common
- 14 disinfectant. It's already allowed for teat
- 15 dips in surgical procedures. Farmers do use
- 16 it to cleanse cuts and wounds on animals from
- 17 barbed wire or whatever. So the thinking is,
- 18 as it reads now, it can only be used for
- 19 surgical procedures by a vet or as a teat dip.
- 20 So what we are thinking of doing is to
- 21 recommend this change to say then, allowed as
- 22 a germicide for medical and procedures. So we

- 1 are just putting the medical on top of not
- 2 only surgical. Okay? That is the annotation
- 3 change.
- 4 CHAIRPERSON MOYER: Thank you,
- 5 Mr. Chairman.
- 6 Questions for Hue on
- 7 chlorhexidine? Seeing or hearing none, Mr.
- 8 Chairman, your next item?
- 9 MEMBER KARREMAN: Okay, next one
- 10 on the list here is xylazine. This is also an
- 11 annotation change to xylazine which is already
- 12 listed at 603(a)(23). Xylazine is the way
- 13 it's listed here with the annotations, the -
- 14 it basically the annotation is, use by or on
- 15 the lawful written order of a licensed
- 16 veterinarian; or two, the existence of an
- 17 emergency, and three, it goes through the
- 18 withholding times. What this recommendation
- 19 seeks to do is to delete the term, the
- 20 existence of an emergency. Why is that? That
- 21 is because Xylazine is actually used, first of
- 22 all, it's infrequently used, but when it's

- 1 used it's not always for emergency. Such as,
- 2 if some farmer gets 10 new heifers in that are
- 3 a year old and they are not dehorned, and all
- 4 his cows are dehorned or foaled or whatever,
- 5 and those animals start using their horns on
- 6 the animals and really making a problem,
- 7 chances are someone is going to get called to
- 8 come in and take those horns off. Standard
- 9 procedure would be to sedate the animal with
- 10 xylazine, and then use a lidocaine, which we
- 11 have on the list already, and a local
- 12 anaesthetic block, and take the horns off.
- 13 That is not an emergency. That can be done
- 14 next week; that could be done in three weeks.
- 15 So that is kind of why we want to take off
- only in the existence of an emergency.
- I mean there are other things too.
- 18 There are emergencies of course where it is
- 19 used to sedate an animal, like with cut milk
- 20 vein where you don't want to get kicked in the
- 21 head when you are stitching it. But also
- 22 let's say a calf with a navel infection or an

- 1 umbilical hernia, you want to sedate it to
- 2 turn it upside down to do the surgery. That
- 3 is not an emergency. There are other examples
- 4 like that.
- 5 CHAIRPERSON MOYER: Thank you,
- 6 Mr. Chairman.
- 7 Any questions for Hue? Steve?
- 8 MEMBER DeMURI: Any idea why the
- 9 original listing said it was only for
- 10 emergencies?
- 11 MEMBER KARREMAN: Well, you
- 12 should read the background that was written.
- 13 I wrote the background. It's actually,
- 14 someone commented in a written comment where
- 15 it was really well spelled out. Because
- 16 basically I look back at the 2002 September
- 17 and October transcripts. They actually had
- 18 two meetings a month apart, and that was right
- 19 before implementation. And all those
- 20 medicines were just getting into the pipeline
- 21 that, eventually, six years later, got
- 22 approved. And the board did its best I'll

- 1 just say to understand how these pain
- 2 relievers and sedatives would work in a
- 3 regulatory setting like we sit at. And
- 4 butorphanol got on, that's synthetic morphine.
- 5 That is not under an emergency clause.
- 6 Because one of the board members said, you
- 7 know, we should let the vets do what they do.
- 8 They know what they are doing with these
- 9 prescriptive things. With xylazine they first
- 10 said only once in a lifetime. Then they said,
- 11 well we'll make it just for emergencies.
- 12 So it's an interesting transcript
- 13 to read. Anyway that is how it got on that
- 14 list.
- 15 CHAIRPERSON MOYER: Any other
- 16 questions or comments for Hue on the issue of
- 17 zylazine? Bea.
- 18 MEMBER JAMES: Just a quick
- 19 question, because I have no idea. The
- 20 withdraw period, does that seem right to you?
- 21 I'm just curious.
- 22 MEMBER KARREMAN: Yes, the

- 1 withdrawal period on zylazine and butorphanol,
- 2 that came on in totlazoline and flunixin and
- 3 some other long syllable words that are used
- 4 to relieve pain and suffering. All are twice
- 5 as long as the legal requirement for
- 6 conventional.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 everybody.
- 9 Mr. Chairman, we will turn the
- 10 program back over to you again for your next
- 11 item, keeping in mind that we may not get
- 12 through this item before we need to take a
- 13 lunch break, I'm not sure. So let's get
- 14 started, and see where we end up. I know we
- 15 are going to get off schedule here probably,
- 16 but your next item.
- 17 MEMBER KARREMAN: All right.
- 18 Animal welfare.
- 19 A passion not of only mine, but of
- 20 all the Livestock Committee members that I
- 21 know of, and also one that is not here. And
- 22 Jennifer is not here, and at some point I want

- 1 to read a little snippet she said for me to
- 2 read if I remember how to do it.
- 3 Okay, animal welfare. First of
- 4 all, there was some comment, I forget if it
- 5 was written or verbal, that we are
- 6 overstretching ourselves as a livestock
- 7 committee to look into animal welfare and
- 8 everything. And it should be reminded, and
- 9 Deputy Secretary Merrigan did say this either
- 10 two years ago or this past spring that they
- 11 did not work on the animal welfare at that
- 12 point because crops and retail type things
- 13 were really the main things in organic, and
- 14 they kind of left this door kind of be open,
- 15 and now we have been walking through it.
- 16 But in OFPA 2110(d)(2) it says the
- 17 NOSB shall recommend to the Secretary
- 18 standards in addition to those in paragraph
- 19 one for the care of livestock to ensure that
- 20 such livestock is organically produced.
- 21 So we do have in the statute some
- 22 backing for going in that literally animal

- 1 welfare.
- We've been working on this for a
- 3 full year with the discussion document in May
- 4 and a recommendation now. And it was brought
- 5 up originally in November of 2007 when
- 6 Margaret Wittenberg and Kathleen Merrigan and
- 7 Willie Lockeretz gave a formal presentation.
- 8 So what two years at this point.
- 9 The Livestock Committee, from
- 10 comment, a lot of people are saying, hey, pull
- 11 back, make it a discussion document. And we
- 12 have been talking over the last day, and we do
- 13 not feel we will pull back and make it a
- 14 discussion document. We want to act on it at
- 15 this meeting, at least as a first step. It
- 16 doesn't have to be the whole shebang, but we
- 17 want to we have been working on this, and I
- 18 agree 35 days or whatever it is, 40 days, is
- 19 not a whole lot of time to comment. But it's
- 20 also we do a lot of work before that posting
- 21 time, so then the commenters have to do a lot
- 22 of work in that time they have.

- 2 and sometimes we take too long and it's got
- 3 to be faster.
- 4 Anyway, okay, due to the public
- 5 comment, those written and oral, last night I
- 6 reworked the document to take into account a -
- 7 I think a majority of the public comment that
- 8 has been presented, both written and oral.
- 9 And I might have one that last night just for
- 10 this meeting, just to help us go along. But
- 11 I want to stress that the entire Livestock
- 12 Committee really truly worked together as a
- 13 team very cohesively on this through many
- 14 Tuesday afternoons starting at 3:00 o'clock to
- 15 4:00, 4:30, every week.
- 16 And I want to also thank Rigo for
- 17 writing the introductory parts to what we are
- 18 having. That is not going to change at all.
- 19 Okay, Rigo? Okay.
- 20 So let's see, so one of the things
- 21 so basically we want to make sure that there
- 22 is a bright line in the everyday lives of

- 1 organic livestock so we can hopefully say and
- 2 back up with regulations that organic
- 3 livestock do enjoy a good life while they are
- 4 alive on our certified organic farms and under
- 5 our care. And we need to ensure and maintain
- 6 the consumer confidence; that is a primary
- 7 thing as far as this board goes, I believe.
- 8 I guess I don't have to read
- 9 Jennifer's comment, but that's okay. How
- 10 about we get into it, since we got a lot to
- 11 get into to, okay.
- 12 So if we look at the
- 13 recommendation as posted, and sorry, I got
- 14 to draw that up --
- 15 MEMBER JAMES: Hue, would you
- 16 mind Jennifer's comment around just to the
- 17 board at least so we can read it?
- 18 MEMBER KARREMAN: It's
- 19 electronic. It's just an email exchange.
- 20 Okay, I'll read it.
- 21 CHAIRPERSON MOYER: Yes, please,
- 22 because Jennifer can't be here, and she was

- 1 invaluable in the discussion. If you can get
- 2 her comments on the record it would be useful.
- 3 MEMBER KARREMAN: Okay. She
- 4 says, hi, how are you doing, all that. I so
- 5 wish I could be there for the cause and to
- 6 thank you personally for so much great
- 7 progress on the animal issues. I am stunned
- 8 by the significantly negative response, and I
- 9 admit that I haven't sifted through all of it
- 10 but I've sifted through a lot.
- 11 My first response is that
- 12 improvements must happen in farm animal care.
- 13 For those calling for a gutting of this, what
- 14 is it that they want to achieve? If there is
- 15 a real difference in animal treatment and
- 16 health, starting from scratch right now will
- 17 cause unthinkable delay. It has taken this
- 18 long for group to attempt to address the
- 19 issues. We started from a well vetted place -
- 20 the new Canadian rice crafted the rec in
- 21 such a way as to minimize controversial rule
- 22 change, and with the benefit of four daily

- 1 hands-on livestock professionals on the
- 2 committee, granted weighted on bovines, but my
- 3 response is, why not do all the very basic -
- 4 why not do all these very basic things now.
- 5 Get improvements in the lives of these animals
- 6 and respect for life now, particularly one
- 7 raised and taken purely for our benefit, and
- 8 I'm not a vegetarian.
- 9 If there are legitimate issues
- 10 remaining, it won't be difficult to find the
- 11 support to overhaul later, but that will take
- 12 years. Of concern, what is most important to
- 13 the consumer? I represent a growing tide of
- 14 omnivores who based on the questionable
- 15 practices of the farm animal agriculture,
- 16 prefer to purchase locally. It's not just a
- 17 buy local movement, I can promise you. It's
- 18 the assurance that I know, and I extend that
- 19 comfort to my friends and my customers, the
- 20 farmer, the animals, the conditions, et
- 21 cetera, and that minimal or no suffering or
- 22 undue harm, knocking, clipping, et cetera,

- 1 what nature gave them to survive, was a part
- 2 of their life; or withholding treatment that
- 3 would quickly cure something they do get. I
- 4 seriously don't think that most people would
- 5 mind if a farm animal raised for meat or
- 6 producing eggs or milk got treated once or
- 7 twice in their life for legitimate illness.
- 8 It's the insanity of prolonged prophylactic
- 9 treatment that got people so sensitized on the
- 10 issue, and so desensitized hermetically to
- 11 human antibodies. Treating them for things
- 12 that they do not have purely because the
- 13 conditions they live in are so subpar. I
- 14 wouldn't change this about the rule, don't get
- 15 me wrong. But pooling antibiotics acts as a
- 16 backdoor and weak attempt to improve living
- 17 conditions without taking it head on. We were
- 18 finally taking it head on.
- I believe that humane care matters
- 20 more to people than whether the hay they eat
- 21 is organic. Clearly whether they eat other
- 22 animals or an all-grain diet for forging

- 1 animals matter. The slightly fertilized
- 2 forage seems a little lesser harm than many
- 3 things that occur and still carry the organic
- 4 label.
- 5 Not to minimize the requirements
- 6 of organic inputs, but it so marginalizes the
- 7 many other life factors of a living animal.
- 8 There are plenty of films out there rapidly
- 9 educating the public about living conditions
- 10 and treatment of farm animals raised for food.
- 11 It discourages me greatly that I cannot share
- 12 with people any comfort that purchasing
- 13 organic meats necessarily means they are
- 14 directing their dollars to a higher bar of
- 15 production when it comes to living conditions.
- 16 They are required 100 percent organic food,
- 17 which is great. But that food need not be the
- 18 diet nature intended, nor does it quarantee
- 19 living conditions or physical treatment of a
- 20 higher caliber. Not enough that it seems
- 21 enforceable, and not nearly enough to right
- 22 the wrongs that can happen. I recognize

- 1 maltreatment may not be rampant, but I believe
- 2 the percentage is likely consistent across
- 3 organic and conventional if you take the sheer
- 4 volume of animals. I believe a higher
- 5 percentage of individual farmers in organic
- 6 likely have higher standards on average. But
- 7 it's still the big corporate outfits even in
- 8 organic, that literally pump livestock of all
- 9 kinds through their systems at unreasonable
- 10 rates with low oversight or real care for the
- 11 living animal.
- 12 I would very much last paragraph
- 13 I would very much like to have minimum
- 14 standards of care for organic livestock that
- 15 are far superior to conventional, and that
- 16 make a difference in pain and suffering and
- 17 the quality of life the animal leads. That
- 18 would justify a doubling of price, not the
- 19 fact that organic feed just happens to be so
- 20 hard to come by and inflates the price of a
- 21 still potentially miserable existence.
- I need a better guarantee. I need

- 1 more respect for life. I am not alone.
- 2 CHAIRPERSON MOYER: Thank you
- 3 very much, Hue. I think that is extremely
- 4 well written by Jennifer, and just an
- 5 indication of the type of valuable
- 6 contribution that all the committee members
- 7 made during those seemingly endless hours of
- 8 discussion to get to this point; certainly not
- 9 made in a vacuum.
- Joe, you also had a question?
- 11 MEMBER SMILLIE: The rewrite, has
- 12 this been run through the committee yet? The
- 13 rewrite that we are about to see?
- 14 MEMBER KARREMAN: No, but it's
- 15 from public comment. I mean we are going to
- 16 have to have a committee meeting I would think
- 17 for this.
- 18 CHAIRPERSON MOYER: Chair
- 19 recognizes Kevin and then Tina.
- 20 MEMBER ENGELBERT: No, just to
- 21 answer, it hasn't, but it will. In the
- 22 interests of time we want to get through it

- 1 right now with everybody, and then the
- 2 committee will reevaluate it.
- 3 CHAIRPERSON MOYER: All right,
- 4 Tina had a question.
- 5 MEMBER ELLOR: Pretty much the
- 6 same thing. We all have it in our email and
- 7 have had a chance to look at it.
- 8 CHAIRPERSON MOYER: Thank you.
- 9 Chair recognizes Dan.
- 10 VICE CHAIRPERSON GIOACOMINI: We
- 11 haven't seen the result of this, but we have
- 12 had conversations that led to this. So it's
- 13 not that it has been outside of the rest of
- 14 the committee just by the chair.
- 15 CHAIRPERSON MOYER: Thank you for
- 16 that clarification, that's correct.
- 17 MEMBER KARREMAN: I'm trying to
- 18 find that.
- 19 CHAIRPERSON MOYER: That's fine,
- 20 take your time.
- 21 MEMBER KARREMAN: And actually I
- 22 think that the public will like this a whole

- 1 lot better, than what they did. So if you go
- 2 down to the livestock health care practice
- 3 standard, 238, page four.
- 4 CHAIRPERSON MOYER: You didn't do
- 5 anything with terms defined?
- 6 MEMBER KARREMAN: No, I didn't do
- 7 anything with terms defined. Someone did say
- 8 they wanted a definition for carrying
- 9 capacity. I figured we had the group
- 10 together, we could get one out today, although
- 11 there are standard definitions for that in
- 12 ecology type books.
- Okay, so on 238(a) where it said
- 14 that the producer must have a valid veterinary
- 15 client-patient relationship with a licensed
- 16 vet, I as a veterinarian, gutted that, okay,
- 17 because people didn't like that. But the
- 18 producer must have a working relationship with
- 19 a veterinarian or nutritionist, all right.
- 20 That would be new. So that for those areas
- 21 that you can't get a vet in easily, hopefully
- 22 you are feeding your animals correctly, and

- 1 it's not just totally by the seat of your
- 2 pants. Hopefully there is some professional
- 3 oversight.
- 4 In (a)(2) the Humane Society
- 5 wanted in blue that's the new additions.
- 6 They want the feed rations sufficient
- 7 basically to have resulting in appropriate
- 8 body conditions. So that is where we
- 9 addressed body condition, folks, and guidance
- 10 can come up later. We can figure that out.
- 11 The food farmers didn't like the
- word, crowding, because possibly that would
- impinge mob grazing and other intensive
- 14 grazing that is actually very good. So I
- 15 added the word, indoor crowding, so that mob
- 16 grazing could be done.
- Okay, anything in red here, folks,
- is still what the committee put in earlier.
- 19 The Human Society here in blue on five, once
- 20 that procedure is undertaken employed best
- 21 management practices and there were a few
- 22 public comments saying that we should add in

- 1 the word, analgesics, to not leave them out.
- 2 That doesn't come up as well on my
- 3 screen here. Are you guys looking at that at
- 4 all on your computers? All right.
- 5 Physical alterations, number six,
- 6 I added in blue, among the sheep tail docking
- 7 and pig teeth trimming and castration, I added
- 8 in beak tipping. And in number (6)(I) I
- 9 struck beak trimming and, I struck those
- 10 words, but we kept the de-toeing of birds is
- 11 prohibited.
- 12 So the beak tipping is in for
- 13 everybody that was talking about that, writing
- 14 and verbally talking about it.
- 15 Someone mentioned in public
- 16 comment yesterday that sheep museling, which
- is something I've never seen, but essentially
- 18 you cut out the flesh on either side of the
- 19 tail, I believe, for I don't know what ungodly
- 20 reason. But they do it; I don't know why.
- 21 But anyway, that should be prohibited; that is
- 22 now in there. Someone knows why they do it,

- 1 let me know.
- 2 MEMBER KARREMAN: For a fly
- 3 strike, okay.
- 4 CHAIRPERSON MOYER: Just a
- 5 minute. If there is a comment from the floor,
- 6 Hue, and you want to hear it, if they would
- 7 please approach the podium, state their name
- 8 for the record, and what the comment would be,
- 9 we'll entertain that.
- 10 MEMBER KARREMAN: Okay.
- 11 CHAIRPERSON MOYER: Do you want
- 12 them to come up?
- 13 MEMBER KARREMAN: No, that's
- 14 okay, museling is for fly strike. But so is
- 15 tail docking, and we are allowing tail
- 16 docking.
- Go back to (I) up there, Valerie,
- 18 (6)(I), where we now allow beak tipping that
- 19 is the correct word, right, poultry folks,
- 20 beak tipping. On (6)(I) then we want to still
- 21 actually keep beak de-beaking is prohibited.
- 22 So we could put in de-beaking and de-toeing is

- 1 prohibited.
- Okay, so we had a V for museling
- 3 of sheep is prohibited. Number seven stays
- 4 the same. Number eight, added in from the
- 5 Humane Society, monitoring of lameness, so we
- 6 are talking about lameness, but not exactly
- 7 how, just monitoring of lameness and keeping
- 8 records of the percent of the herd or flock
- 9 suffering from lameness and the cause.
- We are not saying how much is the
- 11 limit. We are not saying how you go about
- 12 looking at it. We are just saying you better
- 13 be monitoring lameness.
- 14 There was a small beef producer
- 15 from Southern California I believe --
- 16 CHAIRPERSON MOYER: Hue, if I can
- interrupt you for a moment, I think we are
- 18 getting ahead of --
- 19 MEMBER KARREMAN: All right, I'm
- 20 just going down the page.
- 21 MEMBER HEINZE: You got ahead of
- 22 Valerie.

- 1 MEMBER KARREMAN: I'm sorry.
- 2 MEMBER HEINZE: And apparently
- 3 I'm the only person looking on this screen.
- 4 MEMBER KARREMAN: How far ahead
- 5 am I?
- 6 MEMBER HEINZE: Did you catch
- 7 that de-beaking? Okay.
- 8 CHAIRPERSON MOYER: It was just
- 9 hard for folks to see what was going on on the
- 10 screen while you were reading one thing, and
- 11 something different was on the screen. We are
- 12 caught up. Thank you, Hue.
- 13 MEMBER KARREMAN: Okay, so now we
- 14 are on (b)(1) talking about phytotherapeutic.
- 15 We struck the words, excluding antibiotics,
- 16 because it was confusing from written and
- 17 verbal comment. And the person in Southern
- 18 California with some beef cattle mentioned,
- 19 the same word, shall use the alternative
- 20 products, really shouldn't be, but we put in,
- 21 are encouraged to, so it's not like you must
- 22 use the alternative treatments, but you are

- 1 encouraged to do that.
- 2 And then I think the AVMA
- 3 mentioned something about these treatments as
- 4 well. They are not proven or anything, so how
- 5 can you say they are working. So I struck the
- 6 word, working, and I put so that provided
- 7 that their therapeutic effect for the
- 8 condition for which the treatment is intended
- 9 is improving, clinically, and the farmer can
- 10 see that.
- 11 Someone also again took issue that
- 12 phytotherapeutic homeopathic are similar
- 13 products, really are not proven to be
- 14 effective. So I struck the effectively
- 15 treating and put in promptly alleviating.
- 16 Someone else wanted to strike that
- 17 the vet has to be there again, so me as a vet,
- 18 I gutted, under veterinary supervision. So
- 19 the farmers can just use things however they
- 20 want.
- Let's see, nothing has changed
- 22 from our oh, okay, number three, organic

- 1 livestock operations shall have a
- 2 comprehensive plan to minimize internal
- 3 parasite problems in livestock. Plan will
- 4 include preventive measures such as pasture
- 5 management, fecal monitoring and emergency
- 6 measures in the event of a parasite outbreak.
- 7 Parasite control plans shall be approved by
- 8 the certification body.
- 9 We think, as the Livestock
- 10 Committee, that is good. We think it was a
- 11 certifier or some comments that shouldn't be
- 12 in there. And I can tell you as a vet out in
- 13 the field, the weakest link in the chain for
- 14 organic livestock production with cattle is
- 15 parasites, hands down, nothing else. So we're
- 16 taking into account a lot of public comment,
- 17 but some things do stay.
- 18 If you go down, Valerie, to
- 19 (c)(1), the food farmers were asking in red
- 20 there. It did say milk and meat from sick
- 21 animals. They were asking, and probably
- 22 rightfully so, what is a sick animal exactly?

- 1 Is it a Johne's cow, or is it a high somatic
- 2 cell count cow? So they suggested just simply
- 3 milk from animals undergoing treatment with
- 4 prohibited substances cannot be sold as
- 5 organic or fed to livestock organic
- 6 livestock. Makes sense.
- 7 On two, again we added the word,
- 8 analgesics, because we hadn't done that, and
- 9 they should be in there along with anesthetics
- 10 and sedatives for surgical procedures.
- 11 Am I doing this okay, guys?
- 12 CHAIRPERSON MOYER: You are doing
- 13 fine, thank you.
- 14 MEMBER KARREMAN: We jump down to
- 15 number eight, and that stays like we posted
- 16 it, that you cannot withhold individual
- 17 treatment designed to minimize pain and
- 18 suffering for injured, diseased or sick
- 19 animals, which may include forms of euthanasia
- 20 as recommended by the APMA.
- Number nine, someone commented
- 22 that, you know, the government already makes

- 1 sure that diseased livestock are not
- 2 slaughtered so we struck that, and we are
- 3 keeping sick or injured animals must be
- 4 identified and treatment recorded in animal
- 5 health records.
- 6 And then number 10, practice
- 7 forced molting or withdrawal of feed to induce
- 8 molting; that was a public written comment I
- 9 believe.
- 10 And then from the minority opinion
- I brought up that essentially (d)(I), (ii) and
- 12 (iii), basically keeping track of why animals
- 13 had left the operation, keeping a list, you
- 14 know, why have animals left? What has been
- 15 wrong?
- 16 MEMBER MIEDEMA: Hue, what is the
- 17 number of that?
- 18 MEMBER KARREMAN: Ten, 10 then
- 19 goes to D. Okay? Are we all good? This will
- 20 be presented again tomorrow, folks, in the
- 21 gallery. So this is mainly for our discussion
- 22 here, so we're all on the same basis.

- 1 CHAIRPERSON MOYER: Dan has a
- 2 comment.
- 3 VICE CHAIRPERSON GIOACOMINI:
- 4 Hue, on number nine, that's under (c) which
- 5 ends in must not, so you are saying you must
- 6 not must identify. We are going to have to
- 7 reword that one.
- 8 MEMBER KARREMAN: Thank you.
- 9 That's simple. That is simple. Can you make
- 10 a note of that?
- 11 So then that is the health care
- 12 live 238 section, okay. Now what I did --
- 13 CHAIRPERSON MOYER: Hue, would
- 14 you like to stop there maybe and get comments
- 15 on those particular pieces?
- 16 MEMBER KARREMAN: Sure.
- 17 CHAIRPERSON MOYER: Rather than
- 18 take the document in whole, because it is a
- 19 rather lengthy document.
- 20 MEMBER KARREMAN: Yes, not a
- 21 problem.
- 22 CHAIRPERSON MOYER: We covered a

- 1 lot of ground there. Just to see if there is
- 2 any comment from the board.
- 3 Okay, so hearing none.
- 4 MEMBER JAMES: You guys are going
- 5 so fast.
- 6 MEMBER KARREMAN: I apologize.
- 7 CHAIRPERSON MOYER: Question by
- 8 Bea.
- 9 MEMBER JAMES: I just want,
- 10 because you went fast, Hue, and it's in the
- one that you emailed us, under 6(I) you did
- 12 put in there that debeaking is prohibited,
- 13 correct?
- 14 MEMBER KARREMAN: Yes, that is
- 15 the intent. I think I asked Valerie to put
- 16 that back in.
- 17 MEMBER JAMES: Okay.
- 18 MEMBER KARREMAN: But we allow
- 19 tipping, which is the more common practice
- 20 apparently, the beak tipping.
- 21 MEMBER JAMES: Right, okay.
- 22 MEMBER KARREMAN: But not the --

- 1 MEMBER JAMES: Okay, I was just
- 2 confirming that. And then on (b)(2) you took
- 3 out synthetic medications may be administered,
- 4 period. And you took out under veterinary
- 5 supervision because?
- 6 MEMBER KARREMAN: Someone
- 7 objected to that.
- 8 MEMBER JAMES: And all of the
- 9 Livestock Committee agreed with that?
- 10 MEMBER KARREMAN: Well, let's put
- 11 it this way. Like with the excipients,
- 12 farmers use things for animal health care that
- 13 are in their cabinet. They got some jug of
- 14 blue juice stuff. They're going to use stuff
- 15 without the vet being there. That's
- 16 acknowledged.
- 17 MEMBER JAMES: The only reason I
- 18 bring it up is because as we add more things
- 19 to the list, like we are looking at doing
- 20 tomorrow, I just want to make sure that that
- 21 is the right direction; that it might --
- 22 MEMBER KARREMAN: (b)(2), you

- 1 said, Bea? Oh, there. Well, actually that's
- 2 in direct reference to phytotherapeutic or
- 3 botanical herbal medicines, and homeopathics.
- 4 Oh, no, that's actually with synthetic
- 5 medications may be administered.
- I don't mind keeping that in. I
- 7 was just responding to public comment.
- 8 CHAIRPERSON MOYER: Comment by
- 9 Dan on the same subject, I assume.
- 10 VICE CHAIRPERSON GIOACOMINI:
- 11 Yes. I think there are a lot of cases where
- 12 an animal has gone down, or an animal is
- 13 injured, or has an illness. The veterinarian
- 14 gives the farmer one of these types of
- 15 treatments. It works on that animal. Next
- 16 time the farmer has a similar type animal, he
- 17 is just going to go try that treatment, and he
- 18 is probably not going to call the veterinarian
- 19 before he does that. So I think in that case
- 20 that is not under his administration and
- 21 supervision, but it was under, you know, under
- 22 that relationship that we sort of already we

- 1 already had to pull out.
- 2 MEMBER KARREMAN: If you want to
- 3 put a word in there like initially under
- 4 veterinary supervision. Because you will
- 5 always have some medicine left over, and
- 6 that's exactly what they do. That's reality.
- 7 CHAIRPERSON MOYER: I think we
- 8 heard yesterday that some folks don't have the
- 9 luxury of having a veterinarian that
- 10 understands the organic process nearly as much
- 11 as some other folks may have access to. And
- 12 our response was, our reaction was in response
- 13 to the general public that made those
- 14 comments.
- 15 Chair recognizes Kevin.
- 16 MEMBER ENGELBERT: Bea, I want to
- 17 clarify, these are items that are on 603. And
- 18 every farmer has to have a list of medications
- 19 that they use. And there are instances and
- 20 times when farmers are perfectly capable of
- 21 making a decision on what an animal needs.
- 22 And the time elapsed between trying to get a

- 1 vet there to confirm it and the time that it
- 2 is administered can make the difference in
- 3 whether the animal recovers or not. But it's
- 4 just simply giving the farmer the ability to
- 5 treat their animals on their own when they
- 6 know they have the ability to do so; that's
- 7 all it is.
- 8 I know your concern is about
- 9 abuse, but I don't see that.
- 10 CHAIRPERSON MOYER: And it's all
- 11 part of the organic system plan, materials are
- 12 all listed.
- Okay, hearing no other comments,
- 14 let's move on to Section 205.239.
- 15 MEMBER KARREMAN: All right. So
- 16 for the livestock living conditions. What I
- 17 essentially did, you guys, was separate out a
- 18 mammal section from an avian section, okay.
- 19 I don't think it would behoove us to do every
- 20 species. We have aquaculture coming in, and
- 21 it's aquaculture. And they got their
- 22 sections. So I just called it mammal. And

- 1 then another section down later, avian, for
- 2 living conditions.
- Someone objected to 239(a)(1),
- 4 rotational pasture, because the pasture rule
- 5 is coming out; don't even touch that word. So
- 6 it got struck. Also, and I renumbered these
- 7 as I went down, because I took out the
- 8 poultry, which would have been right below
- 9 that number one. So anyway, the next one
- 10 down, number two, is access to pasture for
- 11 ruminants. I struck everything as far as the
- 12 what is it, animals per acre, stocking rate.
- 13 Struck it all because of the pasture rule
- 14 coming out. Everybody happy?
- 15 Let's see, number three, animals
- 16 must be kept clean during all stages of life.
- 17 I think that is a fair statement. They don't
- 18 say how to do it. You guys can figure it out.
- 19 Building areas for bedding and resting are
- 20 sufficiently large, solidly built, and
- 21 comfortable so the animals are kept clean, dry
- 22 and free of lesions.

- 1 If bedding is an agricultural
- 2 product it's got to be in compliance with 237.
- 3 Number four, exercise areas for
- 4 swine shall permit rooting. We haven't head
- 5 from any swine people, so everything for swine
- 6 stayed in. So. Let's see, (b)(1), shelter
- 7 design to allow for, one, (I), basically I
- 8 added in from the Humane Society the terms, to
- 9 turn around, to fully stretch their limbs
- 10 without touching other animals or the sides of
- 11 the enclosure. So they're not cramped.
- 12 On going down to number two there,
- 13 I added in, housing pens, runs, equipment,
- 14 utensils, shall be properly cleaned and
- 15 disinfected as needed with approved materials.
- 16 So it's not, when you clean out
- 17 house every time or whatever, and that's why
- 18 number three got struck. And so that is too
- 19 prescriptive. And number four should become
- 20 number three, thank you, Kevin. Okay,
- 21 Valerie, everyone?
- Number four it says, calves may be

- 1 housed in individual pens under the following
- 2 conditions it should be number three. Okay,
- 3 so people objected to the "until six months of
- 4 age." And I think the reason we were at the
- 5 six months of age, because that is a legal
- 6 time where right now the rule, they have to be
- 7 allowed to go outside. And in all reality
- 8 most people use the individual pens or housing
- 9 until weaning; that is really the way it is,
- 10 either two months or three months or whatever.
- 11 But then they start bringing them together, if
- 12 they haven't already had them in groups. But
- 13 it's that weaning that the hutch-raised
- 14 animals usually go to a group.
- So that is why six months of age
- 16 was struck, and weaning was put in, which will
- 17 mean two or three months for most people; and
- 18 again, struck at (I) and (ii).
- 19 Nothing else has changed from the
- 20 posted document down through there except the
- 21 numbering.
- 22 C, on page nine, the producer of

- 1 an organic livestock operation may provide
- 2 temporary confinement for an animal new
- 3 wording here from the Humane Society for the
- 4 following reasons: temporary confinement may
- 5 last no longer than necessary to safely
- 6 perform the procedure or address the
- 7 condition, as opposed to, we had in there,
- 8 milking, shearing, breeding, hoof trimming or
- 9 health care procedures, and I added in, and
- 10 recuperation from an illness. They would
- 11 allowed to be temporarily confined.
- 12 Someone wanted to have us define
- 13 the term, dangerous, for dangerous weather.
- 14 Gosh, I don't know, but someone did want us to
- 15 define dangerous.
- And then we go down to number
- 17 five, (I), and we are looking at that table
- 18 from the Canadians. And you can see that all
- 19 the avian stuff has been struck out, because
- 20 there was a lot of comment about that. But
- 21 the mammal stuff is still in there. And we
- 22 didn't hear much comment, or read about it,

- 1 about the mammalian space requirements. So
- 2 the rabbit people weren't here yesterday to
- 3 talk about their space requirements, they are
- 4 down there.
- 5 Okay, that's the mammalian
- 6 livestock section. What do you want to do?
- 7 CHAIRPERSON MOYER: We are going
- 8 to take some comments here, and then we might
- 9 break for lunch.
- 10 Comments on 205.239, Dan?
- 11 VICE CHAIRPERSON GIOACOMINI: One
- of the issues that was brought up yesterday,
- 13 and we'll have to wait and see how you handled
- 14 it entirely through the poultry, is a factor
- of investment versus the required change that
- 16 this would institute, that these things would
- 17 institute.
- 18 In I'm trying to find it here, I
- 19 apologize (d)(1) in 239(b)(1) we add
- 20 additional language to the ability to lie
- 21 down. That would be included in what we can
- 22 do the housing of calves in number four, in

- 1 what is now (b)(3). The language that we
- 2 added I would certainly like the producers and
- 3 producer groups and certifiers to look at what
- 4 we did there and I know we are not looking at
- 5 costs; we are looking at animal welfare and
- 6 all those things; but the impact of what that
- 7 would allow for the size of a calf hutch
- 8 concerns me, and I would like I would
- 9 encourage the people coming up to give
- 10 comments on this today to include that
- 11 consideration.
- 12 CHAIRPERSON MOYER: Any other
- 13 questions or comments on 205.239? Chair
- 14 recognizes Bea.
- 15 MEMBER JAMES: The removal of -
- 16 under livestock living conditions,
- 17 205.239(a)(1) and (2), removal of reference to
- 18 pasture, pasture is coming but it's not here.
- 19 So we really don't know, it's a pretty big
- 20 leap of faith that we are assuming it's going
- 21 to be right around the corner.
- 22 MEMBER KARREMAN: I fully agree,

- 1 Bea, and that is why we originally put it in.
- 2 But there was very strong public comment to
- 3 get that out of there; very strong. And I
- 4 have to trust our new leader he's gone -
- 5 Miles, that this will happen.
- 6 CHAIRPERSON MOYER: Hue, I might
- 7 suggest that what we do is put the word,
- 8 pasture, back in, not necessarily using the
- 9 word, rotational, put the word, pasture, in.
- 10 Put brackets around it, and say, pending the
- 11 NOP recommendations. So at least we have it
- 12 as a placeholder so we are not ignoring the
- 13 fact that it's critical to the conversation.
- 14 So if we could just bracket it and put the
- word, pending, in there, we can move forward
- 16 as a solid placeholder knowing that it's
- 17 coming.
- 18 Chair recognizes Kevin.
- 19 MEMBER ENGELBERT: This is going
- 20 to be a major rewrite. So there is going to
- 21 be an ANPR and then public comment, et cetera,
- 22 et cetera. And I would hope the pasture rule

- 1 is out long before this ever gets written as
- 2 a final rule.
- 3 CHAIRPERSON MOYER: You would
- 4 hope.
- 5 Follow up by Bea.
- 6 MEMBER JAMES: All the more
- 7 reason to make sure that we have it in there
- 8 with brackets. So you would put that under
- 9 one and two?
- 10 MEMBER KARREMAN: It's already in
- 11 two as access to pasture. And that's a
- 12 lot of people say, ah, you know, the rule
- 13 could already be enforced, site two. So it's
- 14 already there. You know that whole stocking
- 15 rate thing essentially drove people nuts, and
- 16 that's why I took it out. To be honest.
- 17 CHAIRPERSON MOYER: Chair
- 18 recognizes Tracy.
- 19 MEMBER MIEDEMA: This is a
- 20 question for Hue, and a corollary to
- 21 Jennifer's impassioned advocacy on behalf of
- 22 the animals. On behalf of the farmers in this

- 1 new area, age of enforcement, we might see
- 2 rulemaking happen a little faster. And I
- 3 wondered if this recommendation had proposed
- 4 generous timelines for farmers?
- 5 MEMBER KARREMAN: Okay, that's an
- 6 interesting point. It brings up something we
- 7 had talked about in the hall a little bit
- 8 yesterday, some of us on the committee, is
- 9 that and we are thinking mainly of the
- 10 poultry folks that perhaps a middle ground -
- 11 again, I like middle ground would be that
- 12 you know, I don't know how you would word it,
- 13 but basically how you have been being
- 14 certified up to this point with your existing
- 15 house as it is would be grandfathered. But
- 16 you build any more new houses, or let's say
- 17 you do a major new renovation, it's going to
- 18 be done with the new rules.
- 19 So I don't know if grandfathering
- 20 can be done, but that is something some of us
- 21 have talked about as a middle ground. Because
- 22 a fellow from Ohio who was here who told us

- 1 really a compelling story, and we don't want
- 2 to put anybody out of business. But we also
- 3 want to raise the bar, so that if he does get
- 4 another new house, then he would have to do it
- 5 according to this. But he can still have
- 6 however many houses he has and being certified
- 7 the way he is.
- 8 Does that help any?
- 9 CHAIRPERSON MOYER: That is
- 10 something we discussed.
- 11 Tracy, follow up?
- 12 MEMBER MIEDEMA: Yes, and I guess
- 13 this sort of argues against the point I was
- 14 just making, but I think we would create some
- 15 barriers to entry and we would create some
- 16 pretty serious competitiveness issues with
- 17 farms wanted to enter the market if the
- 18 established farmers had such a significant
- 19 advantage. I'd be more in favor of the kinds
- 20 of changes you are making, extremely generous
- 21 timelines to implement any changes; and also
- 22 just that we very careful to avoid

- 1 anthropomorphizing chickens, and that we don't
- 2 you know, the fact that we like sunshine and
- 3 fresh air that we don't immediately assume
- 4 that chickens want to feel the sun on their
- 5 faces. Maybe they like their shadows, I don't
- 6 know. But I do really like the idea of the
- 7 outcome base matrix.
- 8 CHAIRPERSON MOYER: Joe, and then
- 9 Barry.
- 10 MEMBER SMILLIE: Yes, in adopting
- 11 a lot of your material from the Canadian
- 12 regulations, I think that was a very
- 13 interesting move. And I just want to report
- 14 that that regulation is being now implemented
- in Canada, and it's going through bumps in the
- 16 road. And I was at regulatory meetings in
- 17 Canada when we had the same kind of
- 18 impassioned speeches from Canadian livestock,
- 19 including swine people I might add, quite a
- 20 few people who raised swine, and like the
- 21 dislocation of the actual facilities is having
- 22 a major impact. So I wouldn't be surprised to

- 1 see them have to take some actions like what
- 2 is being talked about under the word,
- 3 grandfathering, to allow for some sort of
- 4 orderly change.
- 5 So they have hit the bumps in the
- 6 road in terms of how they are going to deal
- 7 with them. I think the Livestock Committee
- 8 should keep track of it also, because you seem
- 9 to have hitched your wagon to their
- 10 interpretation of this.
- 11 CHAIRPERSON MOYER: Follow up by
- 12 Hue.
- 13 MEMBER KARREMAN: Just a quick
- 14 point on that . We have hitched our wagon to
- 15 it. We were encouraged to look at the
- 16 Canadian regs.
- 17 MEMBER SMILLIE: Just for general
- 18 information, just so everyone knows, all
- 19 certification agents are charged by the NOP
- 20 with reporting their current certification of
- 21 livestock and reporting on the stocking rates
- 22 for all U.S. certified entities, and that is

- 1 like part of the commitment from the U.S. to
- 2 Canada on the equivalency deal.
- 3 So we are reporting on our
- 4 stocking rates for future use.
- 5 CHAIRPERSON MOYER: The chair
- 6 recognizes Barry, and then we will break for
- 7 lunch. Barry.
- 8 MEMBER FLAMM: Although I may be
- 9 sympathetic to the dilemma of the people you
- 10 refer to in proposing a middle ground. But I
- 11 think to add on to what Tracy said, there is
- 12 already a competitive disadvantage of so-
- 13 called factory poultry producing and egg
- 14 producers have over the people that are
- 15 actually following or closely following what
- 16 we are proposing right now.
- 17 And I see it right in the market
- 18 place how you can get organic eggs for maybe
- 19 \$1.50, \$1.75 a dozen, and the local organic
- 20 producer has to sell it at a considerably
- 21 higher price. So there is already an
- 22 advantage, and I hate to see that continued,

- 1 even though I'm sympathetic. But you also
- 2 have to think that those decisions were made
- 3 with some judgment of what they were getting
- 4 into.
- 5 I like I kind of lean towards
- 6 what Tracy said in terms of maybe having a
- 7 liberal timeline towards enforcement, but not
- 8 a grandfather; I don't think that's right.
- 9 CHAIRPERSON MOYER: Very good
- 10 discussion, and good points, Barry and Tracy,
- 11 appreciate that.
- 12 At this point in time the board is
- 13 going to adjourn for a one hour lunch,
- 14 roughly. Let's try to be back here at 1:30 if
- 15 we can. We are adjourned until then.
- 16 Oh, I apologize, I have one more
- 17 message I am supposed to read here. Katrina
- 18 needs the Joint Handling and Materials
- 19 Committee for one to two minutes before you
- 20 run out to lunch. One to two minutes. Thank
- 21 you. We are adjourned.
- 22 (Whereupon, at 12:39 p.m., the

- 1 above-entitled matter went off the record and
- 2 resumed at 1:41 p.m.)
- 3 CHAIRPERSON MOYER: This meeting
- 4 is back in session. We will continue our
- 5 conversations with livestock.
- 6 Hue, if you want to carry on the
- 7 conversation, I think we are still taking
- 8 comments and questions on Section 205.239,
- 9 that's where we left off. If you want to
- 10 continue that conversation Hue.
- 11 Are there any further question or
- 12 comments from board members on Section 205.239
- 13 as presented by Hue just before we broke for
- 14 lunch. If there isn't any conversation on
- 15 that, I would suggest we move on to the
- 16 minority opinion on the back. Oh, you still
- 17 have more?
- 18 MEMBER KARREMAN: We have poultry
- 19 to do.
- 20 CHAIRPERSON MOYER: I apologize.
- 21 Let's move on to poultry.
- 22 MEMBER KARREMAN: So the chart

- 1 has all the mammal space and outdoor run and
- 2 pen space requirements. We struck out all the
- 3 poultry again, the avian, and yep, now we are
- 4 on okay, the avian section on page 10 of 17
- 5 here, this was the part that was proposed and
- 6 posted by the Livestock Committee, kind of
- 7 short, but it's also been highly contentious
- 8 as recognized by public comment both verbal
- 9 and written.
- I didn't do too much with it --
- 11 VICE CHAIRPERSON GIOACOMINI:
- 12 Point of clarification. You said page 10. Is
- that a new page that you have added?
- 14 MEMBER KARREMAN: Well, page 10
- 15 of 17 in mine here.
- 16 VICE CHAIRPERSON GIOACOMINI: You
- 17 put it after the minority reports?
- 18 MEMBER KARREMAN: Oh, you want
- 19 the minority reports --
- 20 CHAIRPERSON MOYER: No, no, we're
- 21 just trying to find out where you are on our
- 22 documents.

- 1 VICE CHAIRPERSON GIOACOMINI:
- 2 Where is it? You put it after minority
- 3 opinions?
- 4 MEMBER KARREMAN: Yes. You want
- 5 minority opinions right now?
- 6 CHAIRPERSON MOYER: No, no.
- 7 MEMBER KARREMAN: It's on page
- 8 15.
- 9 CHAIRPERSON MOYER: No, we're
- 10 just trying to find out where you are at.
- 11 MEMBER KARREMAN: But we are not
- 12 doing the minority opinion now.
- 13 CHAIRPERSON MOYER: No, we're
- 14 not.
- 15 MEMBER KARREMAN: We are on page
- 16 10 out of 17.
- 17 CHAIRPERSON MOYER: Thank you.
- 18 MEMBER KARREMAN: Does that work?
- 19 Is everyone there?
- 20 So I didn't do much with the
- 21 Livestock Committee proposal as such since
- 22 there was a lot of comment. I did strike on

- 1 (d)(I), or on wire flooring, I struck that.
- 2 I added some blue written stuff from the
- 3 Humane Society in (ii) and (iii).
- 4 But the main thing I want to get
- 5 at, folks, is this. I came to the realization
- 6 that the ACA group did a whole lot of homework
- 7 on this poultry issue, and I had read their
- 8 public comment before at home, and I read it
- 9 again last night or this morning, I don't know
- 10 what it was, and I said, you know, why don't
- 11 we look at that, because the ACAs as a group
- 12 interacted with the poultry producers from
- 13 what I think, if they are certifiers, interact
- 14 with farmers and all that; then as a group,
- 15 there are like seven of them, I don't know off
- 16 the top of my head, that came up with really
- 17 I think probably reasonable standards. So I
- 18 did the smartest thing to do, I just copied
- 19 and pasted the whole thing, okay. So that the
- 20 on page 10 below where we had some
- 21 contentious things about outdoor access as
- 22 proposed by the Livestock Committee, and the

- 1 grass re-growing and all that, below there is
- 2 the alternative from the ACAs. And we can go
- 3 right all through that, but it is really
- 4 copied and pasted from the public comment that
- 5 was written, submitted; and the square footage
- 6 for the pullets, the layers, the broilers, the
- 7 turkeys and large birds are the numbers from
- 8 that. And there are citations to the Canadian
- 9 standards of humane farm animal care and the
- 10 soil association. They also go into some
- 11 detail about access to outdoors. Did you want
- 12 me to go through every single one of these
- 13 steps? I mean it is submitted written public
- 14 comment, and it's been inserted.
- What would you like?
- 16 CHAIRPERSON MOYER: I think a
- 17 little more detail than you just did, but
- 18 maybe not everything.
- 19 MEMBER KARREMAN: Okay, no
- 20 problem.
- 21 So under (d), the operator of an
- 22 organic poultry operation shall establish and

- 1 maintain poultry living conditions that
- 2 accommodate the health and natural behavior,
- 3 and then one, access to materials for dust
- 4 bathing, adequate floor space areas, outdoor
- 5 run areas to escape from predators, perches,
- 6 and then they go and talk about they kind of
- 7 describe the perches somewhat, and that there
- 8 shall be at least 55 percent of the birds at
- 9 any one time on perches. Access to the
- 10 outdoors, number two, they talk very nicely in
- 11 number three about, ventilation must be
- 12 adequate to prevent buildup of ammonia. We
- 13 had nothing on that in our proposal.
- 14 CHAIRPERSON MOYER: Could you
- 15 discuss outdoor access, because that was an
- 16 issue yesterday.
- 17 MEMBER KARREMAN: It says access
- 18 to the outdoors, shade, shelter, exercise
- 19 areas, fresh air, direct sunlight suitable to
- 20 the age of the poultry, climate and
- 21 environment.
- 22 I think there is more on that, and

- 1 we can take questions of course.
- 2 For layers and mature birds
- 3 artificial light may be used to prolong the
- 4 day length up to 16 hours. Light intensity
- 5 should be lowered gradually to encourage hens
- 6 to move to perches or settle for the night.
- 7 Natural light should be sufficient indoors on
- 8 sunny days so that any inspector can read and
- 9 write with the lights turned off. So that the
- 10 lighting issue, which is nice.
- 11 Suitable flooring: mesh or slatted
- 12 flooring under drinking areas to provide
- 13 drainage. That's it; we didn't have that.
- 14 That makes sense. Houses with slatted cores
- 15 must have minimum of 30 percent of solid core
- 16 area available with sufficient litter for dust
- 17 baths. That's good.
- 18 Litter must be provided and
- 19 maintained in a dry manner. Birds must have
- 20 sufficient exit areas appropriately
- 21 distributed around the building to ensure that
- 22 all birds have ready access to the outdoors.

- 1 Exit areas must allow the passage
- 2 of not just one but more than one bird at a
- 3 time, so it can't be these tiny little like
- 4 cat doors where they can go in and out.
- 5 Complete cleanout of poultry
- 6 house, we were trying to get that as well in
- 7 ours. It was required if there's been adverse
- 8 health issues from a previous flock.
- 9 Otherwise it's got to be changed to maintain
- 10 a sanitary environment, and then the table
- 11 with the space allowance is shown. That was
- 12 on page 11 of 17.
- 13 Access to the outdoors, under
- 14 letter it, and I sequenced these letters in
- 15 the form so we went from D to E to F to G
- 16 to H to K to L, whatever the alphabet is.
- 17 Okay, so access to outdoors. Outside access
- 18 and door spacing must be designed to promote
- 19 and encourage outside access to all birds on
- 20 a daily basis weather permitting. Producers
- 21 must provide access to the outdoors at an
- 22 early age, in order to encourage and train

- 1 birds to go outdoors.
- We talked about pullets. Once
- 3 layers are accustomed to going outdoors, a
- 4 brief confinement period to allow for nest box
- 5 training is permitted. Okay, this one I
- 6 really liked, number two. Birds must not be
- 7 confined to the house due to the quote unquote
- 8 threat of an outbreak of disease. There must
- 9 be a documented occurrence of an outbreak in
- 10 the region or a relevant migratory pathway or
- 11 state or federal advisory in order to confine
- 12 birds. And I like that because there is not
- 13 this perpetual threat out there that, oh, we
- 14 got to keep the birds in all the time because
- 15 there is AI, and there are some pigeons, and
- 16 sorry, that don't fly for organic. But if a
- 17 state's department of agriculture or federal
- 18 officials say, we have a declared emergency in
- 19 Delaware, in Maryland, fine. Then in those
- 20 areas the birds can stay in. Makes total
- 21 sense; but not continuously, because we know
- 22 that's been a problem for some time.

- 1 Certifiers have mentioned that.
- 2 Producers must maintain record
- 3 stock documenting periods of confinement, and
- 4 identify in the organic system plan how they
- 5 plan to protect the birds from disease and
- 6 predators. Pasture-based type birds must be
- 7 provided with access to a variety of
- 8 vegetation, management must be pasture areas
- 9 must be compliance with 203 through 206. And
- 10 they must be protected from natural predators.
- 11 Health care basically refers back
- 12 to 238, letter J, health care, refers back to
- 13 238. Minimal trimming is allowed for
- 14 protection of the flock, and must be done in
- 15 a manner that minimizes pain and stress, not
- 16 later than 10 days old. De-beaking and severe
- 17 beak trimming is prohibited, which we wanted.
- 18 Toe clipping or other surgical alterations are
- 19 prohibited. And I do believe there will
- 20 probably be some public comment or there was
- 21 that some toe clipping is needed I think with
- 22 older birds or breeding birds or something.

- 1 But we can revisit that again.
- 2 And here forced molting in poultry
- 3 is prohibited. Withdrawal of feed to induce
- 4 molting is prohibited.
- 5 This is nice, the next section as
- 6 well. K, with the euthanasia, basically goes
- 7 through allowed methods of euthanasia, and
- 8 unallowed methods. I don't have to get too
- 9 graphic on them, but they are all right there.
- 10 And then also carcass disposal,
- 11 what do you do with dead birds which of course
- 12 do happen?
- So basically that is the ACA's
- 14 239, inserted right there, and it actually, I
- 15 think it pretty well speaks to what we were
- 16 trying to get at as a committee. There may be
- 17 some modifications minorly so that we might
- 18 want to do. But I think that really does
- 19 raise the bar in the way we want to go in a
- 20 way that I know that certifiers were talking
- 21 with the producers, at least that's my
- 22 assumption. And therefore hopefully there is

- 1 public feedback on this one.
- 2 And then the final letter, N, the
- 3 producers in organic livestock operations must
- 4 manage manure in a manner that does not
- 5 contribute to the contamination of crops, soil
- 6 or water, under plant nutrients, heavy metals
- 7 or pathogenic organisms, and optimizes
- 8 recycling of nutrients. And that is in the
- 9 rule already.
- 10 That's it, folks. Any questions?
- 11 CHAIRPERSON MOYER: Questions
- 12 from the board, particularly on the poultry
- 13 portion of this. Chair recognizes Bea.
- 14 MEMBER JAMES: I just want to
- 15 compliment the Livestock Committee period for
- 16 doing this. I think it's great, and it's a
- 17 really excellent starting point for something
- 18 that should have been implemented a long time
- 19 ago.
- 20 CHAIRPERSON MOYER: Thank you,
- 21 Bea.
- 22 MEMBER KARREMAN: Thanks, Bea.

- 1 Talking about starting points long time ago,
- 2 when we were talking about grandfathering,
- 3 when we were walking as a group for lunch,
- 4 probably the grandfathering would not be the
- 5 way to go. It would be more like a long lead-
- 6 in period. Otherwise if you grandfather, you
- 7 keep doing the same thing over and over
- 8 repeatedly forever, and we really want to see
- 9 the betterment. So somewhere we will put in
- 10 some time frame to get there..
- 11 CHAIRPERSON MOYER: Chair
- 12 recognizes Joe.
- 13 VICE CHAIRPERSON GIOACOMINI:
- 14 This is difficult. I really like in general
- 15 the recommendation. I think it's good. I
- 16 think we've got to go there. I'm a little
- 17 concerned about the process of rewriting it,
- 18 with dropping in whole alternatives at the
- 19 last minute. I think the process, I'd like to
- 20 see a little more input from the community on
- 21 this, especially as you guys are rewriting it
- 22 on the fly. We do that too, but this is some

- 1 big chunks of rewrite here, and they would
- 2 affect other comments that have been made.
- I know you have taken into
- 4 consideration all the comments, but obviously
- 5 they don't always agree with each other. And
- 6 I'm a little nervous on some of the
- 7 prescriptive stocking rates also. I know
- 8 that's caused consternation in the area. I
- 9 think the straight up animal well, how do I
- 10 describe it? Some of the things in the
- 11 document I think are good and ready to go, the
- 12 de-beaking, I think that has been thought
- 13 through. But the stocking rates really don't
- 14 have that much experience with them, and I'm
- 15 a little bit hesitant to see the whole thing
- 16 go through as a recommendation without some
- 17 further discussion on it.
- 18 Again, while I do think that the
- 19 ACA proposal is an excellent one, that hasn't
- 20 had a chance to be commented on, and I just
- 21 don't know how much that was created in
- 22 conference with poultry growers. I know they

- 1 all were here yesterday, and their testimony
- 2 was, you know, very interesting, and I just
- 3 think we need a bit more time and thought on
- 4 this one. I'm hesitant to push it through as
- 5 the whole package right now because of the
- 6 last minute writing of it.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 Joe. Do you have a comment on that, Hue, at
- 9 all?
- 10 MEMBER KARREMAN: Should we ask
- 11 if there are any poultry people here to ask
- 12 what they might think about the ACA?
- 13 CHAIRPERSON MOYER: I'm hesitant
- 14 to open the door for too much public comment.
- 15 But I did paint that maybe what we'd like to
- 16 do if we can do it rather briefly, I believe
- 17 Howard Magwire is still in the back of the
- 18 room. If you could come to the podium and
- 19 just answer one or two brief questions, and we
- 20 do want to keep it brief.
- 21 I'm hesitant to have anybody speak
- 22 for the entire industry.

- 1 MR. MAGWIRE: Yes, I am too.
- 2 CHAIRPERSON MOYER: But I know
- 3 you do represent the United Egg Producers and
- 4 so maybe you can address some of the issues
- 5 that Hue, you have a question.
- 6 MEMBER KARREMAN: The question
- 7 would be, did you work at all, or do you know
- 8 what the ACA has proposed, I guess.
- 9 MR. MAGWIRE: We also had this
- 10 discussion at lunch. And again, not speaking
- 11 for the entire industry, we still have a few
- 12 companies here, not as many as yesterday, and
- 13 some are very familiar with the ACA
- 14 requirements or proposals, and we do think
- 15 that going that way, I certainly want to echo
- 16 what Joe said over here about the spacing
- 17 thing. But we think that you've made
- 18 tremendous good changes as opposed to I don't
- 19 want to belittle what you did, but I think
- 20 these are some good changes you've got in
- 21 here. And at least when you first started
- 22 this morning, we oh my god, they're just

- 1 going to move forward with it and no further
- 2 discussion. But you have made it very clear
- 3 that there can be further discussions through
- 4 an advanced notice of proposed rulemaking, and
- 5 I think now that there is a document with the
- 6 changes you are talking about, is a document
- 7 that we can discuss and that's a good place to
- 8 go. And it's recognizing comments from both
- 9 the activists which I don't very often agree
- 10 with, but you very well heard from the people
- 11 who are actually involved in animal
- 12 agriculture, and we respect that.
- 13 CHAIRPERSON MOYER: Thank you.
- MR. MAGWIRE: Did that make any
- 15 sense to you?
- 16 CHAIRPERSON MOYER: It did. If
- 17 there are any other questions for Howard,
- 18 again, I don't want to open the door for a
- 19 great deal of discussion with the public at
- 20 this time, but Rigo, if you had a question.
- 21 MEMBER DELGADO: Did you have any
- 22 input into the stocking rates table?

- 1 MR. MAGWIRE: No. May I ask for
- 2 one correction?
- 3 CHAIRPERSON MOYER: Yes.
- 4 MR. MAGWIRE: It's contradictory
- 5 in there, I know you didn't mean it, where it
- 6 talks about induced molting or forced molting.
- 7 And the second part of the wording is right,
- 8 induced molting should only be used if there
- 9 is not feed withdrawal. That is something
- 10 that the industry is probably 100 percent of
- 11 them are there now or they should be.
- 12 CHAIRPERSON MOYER: Okay, we can
- 13 take a look at that particular line item. I
- 14 think as you sort of indicated, as this
- 15 process moves forward there will be other
- 16 opportunities to make adjustments to things,
- 17 as we present things, even if we vote on it
- 18 today and it goes to the program, that point
- 19 it's not carved in stone. They are going to
- 20 work on it, rewrite it, put it out for more
- 21 public comment. So there is opportunities for
- 22 people to have input into the details of the

- 1 document once it comes off our table and goes
- 2 onto theirs. So I would encourage you to stay
- 3 engaged and your industry to stay engaged as
- 4 this moves forward, and not to wait and sit
- 5 back and wait for things to happen but to be
- 6 a little more pro-active at this point,
- 7 because it's obvious that it is the intention
- 8 of this board to move that segment of the
- 9 organic industry in line with the other
- 10 segments as well, and we've been encouraged by
- 11 the community to do that, and it is important
- 12 to stay engaged from your side.
- 13 The chair recognizes Joe. Oh,
- 14 just a minute, Hue, do you have another
- 15 question?
- 16 MEMBER KARREMAN: Yes, on the
- 17 wording on that, that was under (j)(4), health
- 18 care, so it says, forced molting of poultry is
- 19 prohibited, withdrawal of feed to induce
- 20 molting is prohibited. So the second sentence
- 21 you liked?
- MR. MAGWIRE: Second sentence,

- 1 yes. So you induce molting but you don't
- 2 withdraw feed which is a common practice until
- 3 probably just a couple of years ago.
- 4 MEMBER KARREMAN: Is that
- 5 different than the conventional egg producers
- 6 if we have that in there?
- 7 MR. MAGWIRE: Conventional egg
- 8 producers, if they are not on an animal
- 9 welfare program, which is very few, they could
- 10 still use feed withdrawal. The conventional
- 11 egg producers must do it without withdrawing
- 12 feed, to more emulate what happens naturally.
- 13 And basically what you are doing, induce
- 14 molting, as you know, doctor, you cause it all
- 15 to happen at the same time rather than here or
- 16 there. And the poultry experts out there,
- 17 eating as much food, we just cause it to
- 18 happen at one time. Whereas you can do it a
- 19 lot quicker if you withdraw feed. But we know
- 20 that is not the right way to do it.
- 21 CHAIRPERSON MOYER: Okay, thank
- 22 you very much for coming to the podium. If

- 1 you could just restate your name and
- 2 affiliation for the transcriber.
- 3 MR. MAGWIRE: Sure, Howard
- 4 Magwire with United Egg Producers.
- 5 CHAIRPERSON MOYER: Thank you
- 6 very much.
- 7 MR. MAGWIRE: And like I said
- 8 yesterday, you have our attention. We will be
- 9 engaged. Thank you.
- 10 CHAIRPERSON MOYER: Good. Yes,
- 11 Joe?
- 12 MEMBER SMILLIE: Just for clarity
- 13 I'd like to ask Pat Kane if she would to give
- 14 us some background on the ACA alternative. I
- don't know if you have talked directly with
- 16 her or not, Hue, but she can clarify how many
- 17 people were engaged in that.
- 18 CHAIRPERSON MOYER: Thank you,
- 19 Pat, if you could come to the podium, state
- 20 your name and affiliation for the transcriber.
- 21 And then if you could keep this brief, I'd
- 22 appreciate it. Thank you.

- 1 MS. KANE: I'm Pat Kane. I'm
- 2 the coordinator of ACA. We did try to engage
- 3 as many people as possible. I believe we had
- 4 about 10 clients that actively submitted
- 5 comments. We also had comments from animal
- 6 husbandry specialists that worked with organic
- 7 producers. We did receive comments from the
- 8 United Egg Producers, from IOIA folks, and
- 9 some other inspectors.
- 10 CHAIRPERSON MOYER: Okay,
- 11 questions in specific, Hue?
- 12 MEMBER KARREMAN: Specifically to
- 13 that about how many egg producers or chickens
- 14 or whatever would that represent? With your
- 15 ACAs that were signed on to that, there were
- 16 like seven or eight of them, can you give us
- 17 a guess, estimate?
- 18 MS. KANE: I believe it was about
- 19 2 million birds we figured.
- 20 MEMBER KARREMAN: How many
- 21 organic birds in the U.S.? What percent is
- 22 that, roughly? I have no idea.

- 1 MS. KANE: I don't know.
- 2 MEMBER KARREMAN: Six million
- 3 birds? So you got about 2 million, 30
- 4 percent, that's significant. Thank you.
- 5 MS. KANE: Any other questions?
- 6 CHAIRPERSON MOYER: Rigo?
- 7 MEMBER DELGADO: Yes, can I ask
- 8 you a question.
- 9 CHAIRPERSON MOYER: Pat, if you
- 10 could return to the podium, we have one more
- 11 question from a board member.
- 12 Rigo, if you have your question
- 13 for Pat.
- 14 MEMBER DELGADO: Yes, you did
- 15 have input into the stocking rates table,
- 16 correct?
- 17 MS. KANE: I'm sorry?
- 18 MEMBER DELGADO: The table here
- 19 with the stocking rates, can you give us more
- 20 background on how you came up with those
- 21 numbers?
- 22 MS. KANE: Yes, our stocking

- 1 rates, we looked at EU figures, we looked at
- 2 the Canadian figures, and some figures from
- 3 the Soil Association. Initially our rates
- 4 were our outdoor rates were as they are in
- 5 the table now I'm sorry, the indoor rates
- 6 were as they are in the table now. Our
- 7 outdoor rates were considerably larger. And
- 8 based on the comments, we did reduce it to
- 9 equal the indoor rate, because most of the
- 10 producers said that not all of the birds go
- 11 outdoors at the same time. So we did adjust
- 12 it back towards the same rate as indoors. And
- 13 I believe those are the same requirements as
- 14 the Canadians.
- 15 MEMBER DELGADO: They are
- 16 somewhat smaller. I'm looking at the
- 17 chickens, for example. Canadian is two, and
- 18 you came up with 1.8 for layers. If my
- 19 numbers are correct.
- MS. KANE: We didn't think they
- 21 were two; we thought they were 1.8.
- 22 MEMBER DELGADO: Nonetheless you

- 1 were able to compare different standards from
- 2 different countries and come up with an
- 3 estimate?
- 4 MS. KANE: Yes.
- 5 CHAIRPERSON MOYER: Rebuttal from
- 6 Hue?
- 7 MEMBER KARREMAN: Rigo, there was
- 8 a comment somewhere, written or verbal, it's
- 9 all mashed in my head here, but someone said
- 10 they thought we pretty just rounded up the 1.8
- 11 to 2 square feet that we had, and that would
- 12 make a significant difference on a gazillion
- 13 birds. So even though we thought it was like
- 14 1.8 to 2 ain't that much, let's just round up,
- 15 it makes a difference.
- 16 CHAIRPERSON MOYER: Thank you,
- 17 Pat, the board appreciates your time.
- 18 Any other questions for Hue?
- 19 Katrina?
- 20 MEMBER HEINZE: I just wanted to
- 21 concur with what Joe said, that given all the
- 22 public comment it is a little bit hard to

- 1 digest. So I support the idea of moving
- 2 forward. But I'm just wondering if like there
- 3 is some sections that had less comment and
- 4 some had more comment, if maybe we could move
- 5 forward, if we desire to do something, to move
- 6 forward with some, and then table other parts
- 7 might be an option.
- 8 My real question that was a
- 9 comment my real question had to do with
- 10 milking times per day. I know that was
- 11 brought up in the minority opinion, and I
- 12 believe we had some public comment on it. Did
- 13 you make any changes in reaction to that?
- 14 CHAIRPERSON MOYER: If we could
- 15 finish the poultry piece before we move on to
- 16 that, I'd appreciate it. But then we will get
- 17 to the minority opinion. Dan did you have a
- 18 comment?
- 19 VICE CHAIRPERSON GIOACOMINI: I'm
- 20 very comfortable with the vast majority of
- 21 what we did. Moving forward, I am a little -
- 22 not quite sure where I stand on this stocking

- 1 density. I'm wondering if that may be a part
- 2 that we can just pull back and rework and work
- 3 with industry. But we still get the majority
- 4 of things outside of crowding, the majority of
- 5 the issues of animal welfare into it. That
- 6 seems to be a big part of it. I don't know
- 7 how that goes over with the rest of the group.
- 8 CHAIRPERSON MOYER: I would
- 9 suggest that the Livestock Committee is going
- 10 to meet this evening, I know that, and we'll
- 11 regroup and make our presentation to the full
- 12 board tomorrow.
- 13 Hue?
- 14 MEMBER KARREMAN: Well, on that,
- 15 so you are saying basically that table with
- 16 the square footage out for now, let it be
- 17 worked on, but everything else seems okay to
- 18 you? Just so the public knows that that might
- 19 be what we are doing.
- 20 CHAIRPERSON MOYER: Now, I
- 21 believe the next order of business for Hue
- 22 would be the minority opinion on that document

- 1 and addresses what Katrina was leading into.
- 2 MEMBER KARREMAN: The minority
- 3 opinion is on page 15 of 17. And basically
- 4 the minority opinion agreed with the original
- 5 opinion that we had written, but it didn't go
- 6 far enough with regard to ensuring the health
- 7 and well being of animals on organic dairy
- 8 farms to exceed that on conventional farms.
- 9 I'm going to cede the floor to
- 10 Kevin, since he was the author of the majority
- 11 opinion.
- 12 MEMBER ENGELBERT: I don't want
- 13 to read the whole minority opinion; just some
- 14 key points.
- The minority opinion believes that
- 16 measurable numbers exist that can be used to
- 17 monitor the progress an organic dairy farm
- 18 makes for providing their animals with a
- 19 stress free and healthy life. These numbers
- 20 are tied together, and they are also
- 21 influenced with each other. I believe that
- 22 certifiers should provide their animals with

- 1 a list or the dairy should provide their
- 2 certifiers a list of animals every year, and
- 3 also list what animals that have left the
- 4 farm. Right now there are some current
- 5 certifiers, if I understand it correctly,
- 6 don't even have to provide a list of animals.
- 7 If you are going to monitor the herd health in
- 8 a dairy farm, you need to have an image of the
- 9 animals that are on the farm in any given year
- 10 and the ones that leave the farm, the reasons
- 11 why they left the farm, and how those animals
- 12 are replaced.
- 13 It's been my experience that the
- 14 longer a farm remains organic, the healthier
- 15 the soils of that farm, and healthy soils lead
- 16 to healthy animals. So you should be very
- 17 easily be able to see the improvements in the
- 18 health of the animals and a lessening of the
- 19 amount of medicines that are used, and a
- 20 lessening of the amount of veterinary care
- 21 that is required. If these aren't being
- 22 observed, then it's my opinion from experience

- 1 that there are serious problems with the
- 2 operation; that too many times the welfare of
- 3 an animal isn't being monitored closely enough
- 4 by these figures.
- 5 It's also my opinion that a three-
- 6 times-a-day milking schedule, or a schedule
- 7 that is more than two times a day, is more
- 8 stressful on an animal, and it shouldn't be
- 9 allowed. There are implications to
- 10 reproductive health, to the overall health and
- 11 well-being of an animal; that the three times
- 12 a day, or a milking of more than twice in a
- 13 24-hour period is just too stressful for these
- 14 animals. They have to be healthy to milk
- 15 three times a day, that's true; but in the
- 16 overall picture they have a shorter life span;
- 17 they have more health issues; they don't breed
- 18 back as well; and they just simply don't leave
- 19 we aren't maximizing their welfare or their
- 20 health and minimizing the amount of stress on
- 21 their lives. To milk more than twice a day
- 22 requires an increase in grain feeding, and

- 1 cows are ruminants, they are not meant to eat
- 2 seeds, i.e. grain. And the more grain they
- 3 eat the more stress they are under, the more
- 4 likely they are to have health problems, to be
- 5 constantly fighting acidosis, and the whole
- 6 production mode just doesn't jibe with organic
- 7 agriculture, and what consumers expect when
- 8 they purchase organic diary products.
- 9 Lastly, we all know that providing
- 10 proper veterinary care is an important part of
- 11 animal welfare, but an even more important
- 12 indicator of the concern for animal welfare
- 13 are management practices that lessen the need
- 14 for veterinary care. As a safeguard the
- 15 consumers may purchase organic dairy products
- 16 knowing that organic dairy animals are indeed
- 17 treated with respect, and a true caring for
- 18 their well-being. The minority opinion
- 19 suggests the following additions to the
- 20 Livestock Committee's recommendation.
- 21 In 205.238, livestock health care
- 22 practice standard, (c) the producer of an

- 1 organic livestock operation must not, 11, milk
- 2 dairy animals more than twice in any given 24-
- 3 hour period; (d) organic livestock producers
- 4 must provide their certifier with the
- 5 following list each year; (I) all animals on
- 6 the operation during the current year,
- 7 including a separate list of all purchased
- 8 animals; (ii), all animals that have left the
- 9 operation during the past year and the reason
- 10 for their departure; (iii) all animals that
- 11 have had a health issue, including hoof care,
- 12 and the treatments that the animal received.
- 13 And then I offered a guidance
- 14 document for certifiers, which states: the
- 15 numbers provided to certifiers in the proposal
- to add 238(d)(I), (ii) and (iii) should be
- 17 monitored, to determine the ongoing welfare
- 18 status of the animals. If animals must be
- 19 purchased and maintained in overall numbers,
- 20 if animals continue to leave an operation for
- 21 the same reasons, or if the same number of
- 22 animals continue to require treatments or hoof

- 1 trimming each year, then there is reason to
- 2 believe that the care of those animals is not
- 3 up to organic standards.
- 4 Organic livestock operations that
- 5 are following the letter and spirit of the law
- 6 should show gradual improvement in these areas
- 7 over time. Given the diverse nature of
- 8 livestock operations, the differing health of
- 9 their soils, and the different types and
- 10 breeds of animals on individual farms, no set
- 11 timeline can be established, but each
- 12 operation should show real improvement.
- 13 The one area that I didn't address
- 14 with this minority opinion is robotic milkers,
- 15 which are not prohibited under organic
- 16 livestock operations. And if this was to be
- 17 adopted the two times a day milking, there
- 18 might be something along those lines added
- 19 that says, cows can't be forced to be milked
- 20 more than two times a day, which under a
- 21 robotic milking system that would still be
- 22 allowed to be more than twice a day, because

- 1 they enter the robotic system on their own.
- 2 Or if we wanted to keep this, then the robots
- 3 can be set up so that the cows aren't allowed
- 4 to be milked more than two times a day, they
- 5 come into the milking stall, and if it's too
- 6 soon they are simply pushed on through without
- 7 being milked or without being given any grain.
- 8 Grain is used as an enticement to
- 9 bring these animals into these robotic
- 10 milkers, and that therefore would also cut
- 11 down on the amount of grain fat and therefore
- 12 also lead to an improvement in the animal's -
- 13 the health of the animal and their stress free
- 14 more of a street-free life.
- 15 CHAIRPERSON MOYER: Okay, that is
- 16 the minority opinion to this livestock welfare
- 17 document. Questions and comments? I see Bea
- 18 and then Barry and Katrina and Hue. Bea.
- 19 MEMBER JAMES: I was hoping to
- 20 hear from maybe Hue or other members of the
- 21 Livestock Committee as to why you did not
- 22 adopt (d) (I), (ii) and (iii).

- 1 MEMBER KARREMAN: We did. That's
- 2 what I wanted to I raised my hand for Jeff.
- 3 We copied that right up into I'll find the
- 4 page in a minute, but that was taken right
- 5 into the majority opinion.
- 6 CHAIRPERSON MOYER: In our
- 7 rewrite we pulled those three items out. We
- 8 did not pull the two times a day milking out.
- 9 MEMBER KARREMAN: If I may
- 10 respond, the food farmers did not mention
- 11 anything on the two times a day milking. I
- 12 understand Kevin's viewpoint. I personally
- 13 don't agree with it, but it's controversial -
- 14 it's not controversial, but I mean I
- 15 understand it, but I don't I don't agree
- 16 with it. But the others, the (d)(I), the (ii)
- 17 or (iii) are right in there.
- 18 CHAIRPERSON MOYER: Chair
- 19 recognizes Barry.
- 20 MEMBER FLAMM: Thank you. This
- 21 will be brief. Kevin, you really already
- 22 covered what I was going to raise, but kind of

- 1 reinforces it. I have a European colleague,
- 2 an organic farmer from Norway, and he raised
- 3 the he liked what you did. In fact he
- 4 understood why you were recommending two times
- 5 a day and thought that was a good idea. But
- 6 he did point out the robotic milkers and how
- 7 they may duplicate natural calf feeding and so
- 8 forth. So he suggested to me that we ought
- 9 to allow for that possibility and not rule it
- 10 out, and you have already discussed that. So
- 11 I wanted to reinforce that point.
- But I generally support what you
- 13 have done in that minority report.
- 14 CHAIRPERSON MOYER: Chair
- 15 recognizes Katrina? Hue? Any other questions
- or comments regarding the minority opinion?
- 17 Okay, thank you. I guess at this
- 18 point we would like to ask Miles McEvoy to
- 19 come to the podium.
- 20 MR. McEVOY: Good afternoon.
- 21 Nice to here. I have the pleasure to welcome
- 22 Undersecretary Ed Avalos to the board. Ed has

- 1 been with the department now for I think two
- 2 weeks now? So I'm actually more experienced
- 3 than he is at this point. So he really wanted
- 4 to have a chance to meet the National Organic
- 5 Standards Board. And Ed, this is a really
- 6 amazing board that does an amazing amount of
- 7 work for the Department of Agriculture and the
- 8 organic community. They dedicate countless
- 9 hours to working on these issues of organic
- 10 agriculture, and come from all over the
- 11 country to devote their time to it.
- 12 Thanks for coming, and look
- 13 forward to hearing your remarks.
- 14 REMARKS BY UNDERSECRETARY EDWARD AVALOS
- 15 UNDERSECRETARY AVALOS: So
- 16 anyway, I'm Edward Avalos. And it is day
- 17 eight, and I'm excited to be on board. And I
- 18 have heard good things about this board. I
- 19 have some friends in the organic business.
- 20 They said really good things about the board,
- 21 and really pleased to be here.
- 22 You probably want to know that

- 1 today I did sign up on the Pasture Rule.
- 2 (Applause.)
- Where it goes from my desk I'm not
- 4 really sure yet, but it's progress anyway.
- 5 It's moving forward.
- 6 And I just wanted to emphasize
- 7 that this administration is really focused on
- 8 organics, the National Organic Program. We
- 9 have tremendous support from Secretary Vilsack
- 10 and Deputy Secretary Merrigan. And I want to
- 11 assure the board that I also am very much in
- 12 support of this program, and I work with Miles
- 13 I like that name, don't you like the name,
- 14 Miles? It reminds me of somebody that should
- 15 be out West.
- 16 But anyway, I pledge to work with
- 17 him and move forward. And I think it's really
- 18 great that the National Organic Program stands
- 19 alone. In fact I was touring the offices
- 20 yesterday trying to meet the personnel. You
- 21 know USDA is huge. I didn't realize how large
- 22 USDA was. And I was over at AMS, and I was

- 1 just kind of meet and greet with the
- 2 employees, I wanted to introduce myself as a
- 3 new undersecretary. And I saw the new
- 4 facilities for your facility housing; it's
- 5 very nice. It's nicer than my office.
- 6 But anyway I just wanted to
- 7 introduce myself, and the door is open if you
- 8 have any questions any time, any of you who
- 9 have concerns, call me, come see me.
- 10 Thank you very much.
- 11 CHAIRPERSON MOYER: Thank you. A
- 12 pleasure to have you here today.
- 13 (Applause.)
- 14 CHAIRPERSON MOYER: Okay, Hue,
- 15 the floor is back to you for your next item.
- 16 MEMBER KARREMAN: Okay, well,
- 17 that was great news to hears.
- 18 CHAIRPERSON MOYER: Yes, it was,
- 19 wasn't it? Since the livestock is still on
- 20 the table.
- 21 MEMBER KARREMAN: Yes, wow.
- Let's see, we are on to

- 1 agriculture. I'm trying to draw this up here,
- 2 sorry. I had it. There it is. Is that me?
- 3 That all right? Okay. So we have
- 4 finally come to the end of the agricultural
- 5 saga, something like that. After many long
- 6 years of the AWG working with various
- 7 renditions of this board, we are pleased to
- 8 present the recommendation for the bivalves or
- 9 molluscan shellfish standards. The committee
- 10 basically has accepted the agriculture working
- 11 group's latest document submitted to us, which
- 12 included them answering five very important
- 13 questions which we posed to them last April I
- 14 think it was. And you heard George Lockwood
- 15 yesterday also mentioning the Monterrey Bay
- 16 Aquarium's embracing the sustainability and
- 17 the greenness of bivalves. Granted, that is
- 18 not certified organic, but it lends good
- 19 credence to their document.
- I should mention, and I can go
- 21 through this, but basically we had a split
- 22 opinion on this document. And it left our

- 1 committee four to three; real split. And why
- 2 was that split? That was due to a
- 3 philosophical issue that basically just got
- 4 played out in the vote. And it is that the
- 5 majority, or what we are presenting as the
- 6 majority from committee is saying that
- 7 bivalves can be grown in very monitored
- 8 protected as much as possible open water, like
- 9 in bays and estuaries. Whereas the minority
- 10 opinion or the other philosophy was
- 11 essentially saying, hey, look we need a strict
- 12 a management as possible for all inputs as
- 13 well, because that is where organics is is the
- input to make a final product, and so the
- 15 minority opinion generally was saying,
- 16 shellfish are okay if they are on land or in
- 17 ponds and containment tanks, that kind of
- 18 thing.
- 19 Did that sum it up pretty good,
- 20 Jeff?
- 21 CHAIRPERSON MOYER: Well, yes and
- 22 no. We also included them in the minority

- 1 opinion as grown as part of a polyculture
- 2 system in open waters where they are feeding
- 3 mainly on the excess feed material from the
- 4 fin fish operation or whatever other
- 5 aquaculture crop is being grown with them in
- 6 that polyculture situation.
- 7 MEMBER KARREMAN: Actually, to be
- 8 honest, I apologize, I thought that was in the
- 9 majority document.
- 10 CHAIRPERSON MOYER: It's in the
- 11 minority as well. The main point of the
- 12 minority opinion was that bivalves are filter
- 13 feeders. They take whatever comes by in terms
- of the flow of water and are generally
- 15 produced in tidal waters for the most part
- 16 where you have tides moving in and out so you
- 17 have water moving through the system. Very
- 18 difficult to control, you can monitor but very
- 19 difficult to control what passes through that
- 20 system. Because it's not a highly managed
- 21 system in terms of feeding the bivalves; they
- 22 eat what comes by, and therein lies the

- 1 consummation with the committee.
- 2 MEMBER KARREMAN: But in the
- 3 majority opinion people wanted to see the
- 4 bivalves in their natural environment more
- 5 than just on land and in tanks. So it was
- 6 kind of like bivalves are technically
- 7 livestock; they got to graze. They got to be
- 8 out there. That kind of thing.
- 9 And also in the document on page
- 10 13 of the 24 pages, which we are not going to
- 11 go all through if that's okay for time, but
- 12 there is a very nice table of how conventional
- 13 agriculture, all these different factors in
- 14 management. And it shows a comparison
- 15 contrast between conventional agriculture in
- one column and the proposed organic standard
- in the other. And that pretty much brought it
- 18 home to the committee like this is truly very
- 19 much different than conventional shellfish,
- 20 bivalve aquaculture, and so that was a good
- 21 addition that the AWG put in.
- 22 CHAIRPERSON MOYER: Thank you,

- 1 Hue.
- 2 Any questions or comments or
- 3 points of discussion on this topic? Tina?
- 4 MEMBER ELLOR: I'd just like to
- 5 say that Jennifer and I, and I'm just talking
- 6 with Jennifer here on the email, were very
- 7 strongly in favor of the AWG working group
- 8 recommendation, as it was written. We were
- 9 really happy and satisfied with the answers
- 10 they gave us to the questions, and we thought
- 11 that going to a containment system with all
- 12 controlled inputs was just headed in the wrong
- 13 direction for organic. We felt like it was
- 14 stockyard agriculture for clams.
- 15 CHAIRPERSON MOYER: Chair
- 16 recognizes Dan.
- 17 VICE CHAIRPERSON GIOACOMINI:
- 18 Yes, we had a number of different options,
- 19 even --
- 20 MS. FRANCES: I've asked for
- 21 help.
- 22 VICE CHAIRPERSON GIOACOMINI:

- 1 Okay. Even within the one minority report we
- 2 had plans for possibly carving out two or
- 3 three different versions of that. Yes, Dan
- 4 Gioacomini, NOSB. Even I think a significant
- 5 factor was public comment. We had only two
- 6 public comments on the entire recommendation;
- 7 both of them were strongly in favor. And we
- 8 haven't heard a single sound of anyone
- 9 objecting to this. In many ways it's a bit of
- 10 a surprise, but it's substantial.
- 11 CHAIRPERSON MOYER: Any other
- 12 questions? Chair recognizes Joe.
- 13 MEMBER SMILLIE: Yes, the comment
- 14 yesterday that really talked about the
- 15 turbidity of Chesapeake Bay and how creating
- 16 an organic aquaculture bivalve system was like
- 17 not only producing organic product in bays and
- 18 estuaries, but also helping clean them up.
- 19 And I really agree with Jennifer and Tina's
- 20 comments, that put them into a CAFO operations
- 21 is the wrong way to go. And I think we want
- 22 to bring organic agriculture to the open bays

- 1 and estuaries like Chesapeake Bay, and this
- one, good lord, we are not being picketed on
- 3 this one? You have a lot of support on it, so
- 4 I think it's really wonderful to be able to
- 5 move forward on this one.
- And I just wanted to quote Winston
- 7 Churchill in opposition to Hue there, it may
- 8 not be the beginning of the end, but it is the
- 9 end of the beginning.
- 10 CHAIRPERSON MOYER: Okay, I'll
- 11 just comment a little bit on the minority
- 12 opinion and what our thought process was. It
- 13 wasn't to create bivalve CAFOs. No matter how
- 14 they are produced or where they are produced
- 15 they live in the same type environment. Our
- 16 goal was to include them in polyculture
- 17 systems where they are produced with fish. If
- 18 you look at what we said with net pens and fin
- 19 fish we indicated strongly that we felt
- 20 polycultures as a mechanism for cleaning up
- 21 and maintaining the environmental integrity of
- 22 those systems, bivalves could serve a very

- 1 integral part, so we saw them being in there.
- 2 The whole idea and the concept
- 3 that we were discussing was that in
- 4 conventional terrestrial livestock production
- 5 we feed our animals 100 percent organic feed.
- 6 When you are feeding fish we determined that
- 7 they had to be fed 100 percent organic feed
- 8 with the oil and fish meal concentration
- 9 allowances that we made in our recommendation.
- 10 In the other parts of the
- 11 aquaculture system again, all of them had to
- 12 be fed 100 percent organic feed. If you are
- 13 not feeding these animals, and we are not just
- 14 talking about clams, we are talking about
- 15 Dewey ducks and all sorts of things that can
- 16 burrow deep into the tidal pools, several
- 17 feet, how do we determine what they are
- 18 eating? We can monitor what is passing by.
- 19 We can tell what kind of contamination is
- 20 there. We can't stop it. We can't change it;
- 21 we can only determine that an event happened
- 22 if we monitored the right point in time. But

- 1 knowing that tidal waters can move very
- 2 quickly it's very difficult to say that they
- 3 are eating, certainly not eating anything that
- 4 is organic, they are eating whatever passes
- 5 by. It could be construed as wild harvest in
- 6 a way, that they are harvesting wild. And so
- 7 in the context of that we thought that we
- 8 wanted to bring forward the minority opinion
- 9 to discuss and put on the table that point of
- 10 discussion. You don't just turn cows loose in
- 11 the woods to eat whatever they eat. We feed
- 12 them. And so it's a fed, managed and fed
- 13 system, organic is with livestock.
- 14 The chair recognizes Kevin.
- 15 MEMBER ENGELBERT: I also wanted
- 16 to present another perspective from the
- 17 minority view, just so you understand a little
- 18 bit more where we are coming from and how we
- 19 got to the point that Jeff just described. We
- 20 looked at these shellfish, they are livestock,
- 21 but the way they are grown is more like a
- 22 plant. They are planted, they are essentially

- 1 planted in the ground. They don't graze; they
- 2 don't move; they don't nurture their young;
- 3 they don't have faces. They can not
- 4 distinguish whether they are sitting in the
- 5 Chesapeake Bay or a confined system where
- 6 their feed is controlled.
- 7 If you took some out of a confined
- 8 system and put them into the bay, nothing
- 9 would happen. They won't move. They simply
- 10 are controlled in and out. And the minority
- 11 opinion got to that point by saying, well,
- 12 give those choices we would prefer to control
- 13 everything that they eat, because like Jeff
- 14 said, that is what organic is all about, is
- 15 managing you are not guaranteeing the final
- 16 product, but you are the process. And we
- 17 thought we ought to at least bring to the
- 18 table that people think about, there are in
- 19 this instance because of the type of lifestyle
- 20 I guess you'd say or the way these animals are
- 21 raised we would prefer to see them the way we
- 22 described in the minority opinion.

- 1 CHAIRPERSON MOYER: Just one
- 2 follow up sentence. The conversation did sort
- 3 of analogize them to a greenhouse operation
- 4 more than you know if they are plants that
- 5 are seeded, there is a little more control.
- 6 Dan.
- 7 VICE CHAIRPERSON GIOACOMINI:
- 8 Yes, the livestock committee worked pretty
- 9 hard on this, and went around and around a lot
- 10 of times, and we looked at probably close to
- 11 at least four different potential scenarios,
- 12 and the AWG recommendation came forth with as
- 13 much the good faith of the board as wanting to
- 14 give it the respect it was due. It did come
- 15 forth four to three. I don't think that any
- 16 of those other versions that we talked about
- 17 would have come up to five votes. That is how
- 18 divided the committee was with different
- 19 points of view. The recommendation and
- 20 separation from conventional, not having
- 21 really organic feed to containment, the CAFO
- 22 greenhouse situation of these kind of

- 1 creatures. I don't know if anything we would
- 2 have come up with would have had five votes.
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Tina then Hue.
- 5 MEMBER ELLOR: And as the
- 6 Monterey Bay Aquarium comment pointed out,
- 7 this system is much more highly managed than
- 8 anything that is available in conventional
- 9 grown farm shellfish, and I think one thing
- 10 that Jennifer and I felt very strongly about
- is that it would be really hard to reproduce
- 12 the great things that are in seawater in this
- 13 highly managed situation where they are
- 14 gathering their feed. I can't imagine
- 15 figuring out what's in there and palletizing
- 16 it would be a step in the right direction.
- 17 There is well managed, well sited, situations
- 18 that could be done really well, and it's very
- 19 clear from the recommendations where that
- 20 separation is.
- 21 And the other thing we were
- 22 thinking about is these shellfish in

- 1 containment, and the disease and sanitation
- 2 issues that would bring up. And we just
- 3 innately very strongly felt more comfortable
- 4 with something that was closer to their
- 5 natural habitat, even their natural food, but
- 6 controlled. And monitored. And it's very
- 7 well controlled not very well controlled,
- 8 it's well controlled. Better controlled than
- 9 any other system out there, and very well
- 10 monitored.
- 11 CHAIRPERSON MOYER: Chair
- 12 recognizes Katrina.
- 13 MEMBER HEINZE: I have a detailed
- 14 question, and thank you to whoever put this
- 15 table together to help us understand the
- 16 differences between conventional and what is
- 17 being proposed. This is actually the first
- 18 time I actually understand the difference.
- 19 CHAIRPERSON MOYER: That was AWG.
- 20 MEMBER HEINZE: It is incredibly
- 21 helpful.
- I do have one question that now I

- 1 see highlighted looking at the table, on
- 2 organic control points. One of the things
- 3 saying this in the proposed standard is
- 4 documentation of adjacent land uses including
- 5 affidavits from contiguous land users that
- 6 prohibited substances have not been applied
- 7 during the past three years. Is that really
- 8 practical and enforceable? So if I'm
- 9 understanding that, that means I'm a bivalve
- 10 farmer, whatever you would call it, so my
- 11 neighbors, there are restrictions what my
- 12 neighbors can do on their property? Am I
- 13 reading that properly?
- 14 MEMBER KARREMAN: Perhaps someone
- 15 from AWG could just answer that?
- 16 CHAIRPERSON MOYER: We do have
- 17 George Lockwood in the audience. And if
- 18 George would come to the podium, state your
- 19 name and affiliation, and I think George can
- 20 address that question better than anybody.
- 21 MR. LOCKWOOD: George Lockwood,
- 22 chair of the Aquaculture Working Group. I'd

- 1 ask Sebastian Bell, who is also a member, if
- 2 he's available to answer this.
- 3 Katrina, what is your question?
- 4 What page are you on?
- 5 MEMBER HEINZE: I'm on page 13.
- 6 It's appendix A, it's your lovely comparison
- 7 table. Under organic control points, fourth
- 8 one down. And really this is a practical
- 9 question about if we vote for this
- 10 recommendation can it be implemented and
- 11 enforced? Or is this little sentence going to
- 12 be --
- MR. LOCKWOOD: Basically what is
- 14 going to happen here is, to meet the standards
- if anybody can, it's going to have to be a
- 16 very rural and remote kind of operation.
- 17 Chances are a grower might be up against a
- 18 national forest, or a national park, and the
- 19 aviary, the bee people, have the same problem,
- 20 that oftentimes the certifiers will require
- 21 them to get affidavits from the adjacent land
- 22 owners that they are not using prohibited

- 1 substances.
- 2 So that is what we are insisting
- 3 on here. And chances are it's going to be in
- 4 a very undeveloped kind fo an area, because
- 5 everything else forces that. And what we are
- 6 saying is, just demonstrate that there are no
- 7 prohibited substances that are being applied
- 8 on shore that are going to wash into the area.
- 9 MEMBER HEINZE: Thank you, that's
- 10 helpful.
- 11 CHAIRPERSON MOYER: Chair
- 12 recognizes Hue.
- 13 MEMBER KARREMAN: I'm thinking of
- 14 Great Bay in southeastern New Hampshire,
- 15 Durham area where I used to live and all. How
- 16 does that work with contiguous landowners
- 17 there? Because like the land, it's varied
- 18 land uses. And yet you have I mean how far
- 19 into the land would that have to be? Is it
- 20 right at the edge? Is it 25 feet back like a
- 21 little buffer zone that you have an affidavit.
- 22 Or is it the whole seven acres that that

- 1 landowner has? I'm just kind of curious now
- 2 that you brought it up.
- 3 MR. LOCKWOOD: And Hue, I don't
- 4 think in the situation you described you are
- 5 going to find somebody meeting these criteria.
- 6 It's going to be a remote area, something away
- 7 from development, where these proposed
- 8 standards are going to work. We have excluded
- 9 a lot of potential coastline.
- 10 MEMBER KARREMAN: Well, the
- 11 question though, with the adjacent land use,
- 12 I mean there are buffer strips in organics
- 13 between land. So let's say you have a
- 14 homeowner, and they've got seven acres. But
- 15 right along the water line, for whatever
- 16 reason, they just don't do anything, it's
- 17 natural. So is that bit, or is it the whole
- 18 seven acres the guy owns and he put some
- 19 pesticide on his lawn out front?
- 20 CHAIRPERSON MOYER: Well, Hue, if
- 21 you are looking at me, I think that gets to
- 22 the heart of the matter of why we had the

- 1 minority opinion, recognizing that upstream
- 2 and downstream as the water moves it brings in
- 3 material it could be from miles away that come
- 4 into the Chesapeake Bay. I mean there is no
- 5 way of knowing, and that gets to the
- 6 philosophical part of our differences, and why
- 7 we had a minority opinion.
- 8 Chair recognizes Joe.
- 9 MEMBER SMILLIE: I know we've had
- 10 this argument many times, but the same thing
- 11 happens in the land-terrestrial agriculture.
- 12 The air moves around the whole planet. Water
- 13 moves around the whole planet. People who
- 14 irrigate from the Colorado River have the same
- issues that anybody setting up in aquaculture
- 16 has. Water is the only medium through which
- 17 contaminants are carried.
- 18 CHAIRPERSON MOYER: I understand
- 19 what you are saying. But these things, they
- 20 can't move, they just sit there the whole
- 21 time. And air moves relatively quickly. They
- 22 sit there in the water.

- 1 MEMBER SMILLIE: Crops don't move
- 2 either, and they can get contaminated.
- 3 CHAIRPERSON MOYER: I understand
- 4 what you are saying. That was the point that
- 5 a good discussion point that we had.
- 6 I'm sorry, Kevin and then Barry.
- 7 MEMBER ENGELBERT: Just one quick
- 8 point, though, Joe, is that the air that is
- 9 moving around, people are also subject to
- 10 that. We are talking about them buying a
- 11 product that has been subject to contaminants
- 12 that they aren't exposed to where they're
- 13 living for the most part. That is the
- 14 difference. I understand your argument, but
- 15 there is a difference because the contaminants
- 16 that these shellfish may be exposed to sitting
- in the Chesapeake Bay, someone that purchases
- 18 them up in Vermont isn't exposed to unless
- 19 they buy that shellfish.
- 20 CHAIRPERSON MOYER: Chair
- 21 recognizes Barry then Tiny.
- 22 MEMBER FLAMM: I think George

- 1 really addressed the question we are talking
- 2 about right now, because he said the areas
- 3 that qualify are very limited if any, I think
- 4 you said, and that they are essentially
- 5 probably wild areas. And you mentioned parks
- 6 or national forests, areas in which the
- 7 headwaters could in fact be pretty much
- 8 pristine.
- 9 So I think George pretty well laid
- 10 out the parameters that are quite limited. I
- 11 got competition here. That's okay.
- 12 Anyway, I just urge that you think
- 13 about and hear what he said, and then some of
- 14 this discussion is not necessary.
- 15 CHAIRPERSON MOYER: Chair
- 16 recognizes Tina.
- 17 MEMBER ELLOR: And also consider
- 18 that we are providing an alternative to
- 19 conventionally grown shellfish, which is a
- 20 much better alternative.
- 21 CHAIRPERSON MOYER: Any other
- 22 questions for George? Or George, do you have

- 1 a final comment?
- MR. LOCKWOOD: Well, a couple of
- 3 times the Chesapeake Bay has been cited. I
- 4 seriously doubt if there are very many areas
- 5 of the Chesapeake Bay if any at all that would
- 6 pass the mussel watch tests that we're
- 7 requiring. This really is a substantial
- 8 difference in these big bodies of water that
- 9 are adjacent to human activity than remote
- 10 areas which is off an island off the coast
- of Maine, for instance, where there is very
- 12 little activity. And if the island is off the
- 13 coast of Maine, remote islands, we think that
- is where these standards will be practiced.
- 15 CHAIRPERSON MOYER: Thank you,
- 16 George, I think that's valuable information.
- 17 Final comment, Hue?
- 18 MEMBER KARREMAN: The final
- 19 comment, the technical thing I was going to
- 20 say is that what we plan to do tomorrow is,
- 21 you know, put our majority opinion up for vote
- 22 for the board, and if it passes, great; if it

- 1 doesn't we are going to have to do some
- 2 mechanism so we vote on the minority one,
- 3 okay, just so people know that ahead of time,
- 4 and Dan will figure out how to do that.
- 5 CHAIRPERSON MOYER: Okay, thank
- 6 you, Hue. Next item on your livestock report,
- 7 anything to say about 2012 sunset materials?
- 8 Nothing really?
- 9 Hue, Dan has volunteered to do
- 10 that for you.
- 11 VICE CHAIRPERSON GIOACOMINI:
- 12 Everything on 603 and 604 is up for sunset
- 13 next year, here, except for methionine which
- 14 has to drop dead. But everything listed
- 15 regardless of how it got there, over about
- 16 half a dozen different documents, they were
- 17 '07 for '12.
- 18 CHAIRPERSON MOYER: Thank you.
- 19 Hue, my understanding is, that completes your
- 20 report? Thank you.
- 21 Chair recognizes that we are only
- 22 about two hours behind schedule now. And we

- 1 still have some difficult items to go over.
- 2 At this point in time I turn the podium over
- 3 to Katrina for the Joint Materials Handling
- 4 Committee.
- 5 Katrina, the floor is yours.
- 6 JOINT MATERIALS & HANDLING COMMITTEES
- 7 MEMBER HEINZE: Thank you. And
- 8 you all thought that was fun.
- 9 Valerie, before I start, do you
- 10 have the presentation I emailed you a couple
- 11 of minutes ago? Hang tight, everyone. I
- 12 recommend everyone stand up, stretch their
- 13 hands really high to the sky, we are not
- 14 taking a break; we are just getting the blood
- 15 flowing.
- 16 That was great.
- Okay, everybody.
- 18 CHAIRPERSON MOYER: Enough
- 19 stretching. Take your seats. We are going to
- 20 get started right away.
- 21 MEMBER HEINZE: So when I do that
- 22 in a manufacturing plant third shift, none of

- 1 them do it. So I'm very operated. Our
- 2 operators on the third shift, when I ask them
- 3 to stretch never do.
- 4 We are now going to move on with a
- 5 hopefully lively discussion on classification
- 6 of materials. So as Valerie brings up our
- 7 presentation, I just want to say that this has
- 8 been a long and passionate debate for the four
- 9 years that I have either been watching or had
- 10 the honor of being on the NOSB.
- 11 Yes. And you can be on slide #2.
- 12 We have had really wonderful engagement by
- 13 lots of different folks; lots of different
- 14 recommendations; lots of public comments. I
- 15 really want to thank the members of the
- 16 Materials Working Group led by Kim Deitz and
- 17 Gwendolyn Wyard, for their countless,
- 18 countless hours over the last year and a half
- 19 of meetings and discussions and debate and
- 20 papers. I am not going to go over the
- 21 recommendation page by page. I am just going
- 22 to hit the intents and the highlights. But I

- 1 would ask people to look at all those
- 2 documents that are referenced in our document.
- 3 Okay, so moving on to our
- 4 recommendation, that before we kind of get
- 5 into the nuts and bolts, we have had some
- 6 really good detailed public comment. And so
- 7 it is the intention of our committee, we met
- 8 this morning, so you will see some changes
- 9 later that we made then. Reaction to public
- 10 comment, we are going to meet one more time
- 11 before tomorrow. We have a couple of other
- 12 things to wrap up.
- But I will try to highlight those
- 14 comments. Okay.
- 15 So next slide, Valerie. So our
- 16 recommendation is really divided into four
- 17 parts. So there is guiding principles, there
- 18 is some regulatory language change related to
- 19 synthetic and non-synthetic, there is
- 20 regulatory language change associated with
- 21 agricultural and non-agricultural, and then
- 22 there are some NOSB practices that we are

- 1 recommending that this board take up.
- 2 So first to start with the guiding
- 3 principles. And really there are three, and
- 4 these are very similar if not identical to the
- 5 ones we talked about in May. So the first is
- 6 that interest in process are equally important
- 7 in determining the classifications of
- 8 materials. So that second, as a result, the
- 9 same material, depending on its source or
- 10 process, can be either agricultural, non-
- 11 synthetic or synthetic.
- 12 And then our third guiding
- 13 principle, and this is one that we are still
- 14 having some discussion on, it was our
- intention with the scope of our document to
- 16 really make sure that folks knew this third
- one, what the intent was of the third one.
- 18 And we obviously from public comment didn't do
- 19 as good a job on that as we wanted to.
- 20 But the intent of the third
- 21 guiding principle is that if a material is
- 22 classified as synthetic, then regardless of

- 1 source it is synthetic. So I have a visual
- 2 that will address this in a sec. But if you
- 3 look at the second bullet point which is
- 4 something we've added, it is that if a
- 5 material is manufactured in full compliance
- 6 with the final rule, it was our intent that
- 7 that be outside the scope of this principle
- 8 and our document. So the status of those
- 9 materials with regard to their use in organics
- 10 should not be affected by our recommendation.
- 11 Next slide, Valerie. So this is
- 12 not a decision tree; not a decision tree.
- 13 This is just a pictorial representation of
- 14 what we are trying to do. So if you start at
- 15 the top square, we have all materials, so the
- 16 whole universe of materials. And then based
- on a set of definitions, which you can see in
- 18 our recommendations, that world is divided
- 19 into synthetic materials and non-synthetic
- 20 materials. Okay? And then from there those
- 21 non-synthetic materials are again divided into
- 22 those that are agricultural, and those that

- 1 are non-agriculture, again, through a series
- 2 of definitions. So that is what we are trying
- 3 to do.
- 4 Next slide, Valerie. So first
- 5 let's look at synthetic and non-synthetic.
- 6 And again the definitions are in the
- 7 recommendation, and we can pull them up during
- 8 our discussion later.
- 9 What the majority recommendation
- 10 says is that a material is classified as
- 11 synthetic if the use of a synthetic leads to
- 12 a chemical change in the process or there is
- 13 a synthetic present and that synthetic is not
- 14 on the national list.
- So what does this really mean? So
- 16 extraction, we talked a lot about extraction,
- 17 and that was discussed in great detail by the
- 18 material working group. So if a material is
- 19 extracted with a synthetic that is not on the
- 20 national list, it's the material is not
- 21 necessarily synthetic. It would only be
- 22 synthetic if chemical change happened or that

- 1 synthetic was in the final material at a
- 2 significant level.
- 3 Then second, extraction is broadly
- 4 defined by these definitions. It's not just
- 5 solvent extraction; it's also mechanical and
- 6 physical separation, so the example there
- 7 would be if you centrifuged, pH adjustment is
- 8 one that will come up later. Oh, yes, so that
- 9 would be the third point. Chemical change
- 10 does not necessarily include processes like
- iron exchange or pH adjustment if the final
- 12 material is not different from the initial
- 13 material. Right? So something that is pH
- 14 adjusted and pH adjusted back and you get the
- 15 same thing at the end, that is not chemical
- 16 change.
- 17 And then there is formulated
- 18 products. So there are materials on the list
- 19 dairy cultures would be an example, vitamins
- 20 and minerals are examples where the material
- 21 doesn't really exist by itself. It exists
- 22 where you purchase it or use it in a

- 1 formulated product. The other ingredients in
- 2 that formulated product have to be non-
- 3 synthetic, if they are synthetic then the
- 4 material is synthetic.
- 5 And then finally in our
- 6 recommendation we know that the definition of
- 7 significant level is really important, because
- 8 we are saying that if the synthetic is not
- 9 there at a significant level than the
- 10 materials non-synthetic. The material working
- 11 group had a lot of debate on significant
- 12 level; we had debate on significant level. We
- 13 tried to come up with something that worked.
- 14 We did get public comment that we need more
- 15 work on significant level, and so it's our
- 16 intention to continue with that.
- 17 So let me explain our rationale a
- 18 little bit. So we went with this
- 19 recommendation for several reasons. One, it's
- 20 most closely aligned with what's happening in
- 21 the industry today, and has been since pretty
- 22 much the beginning. So if you look back at

- 1 early boards, this is how they made decisions
- 2 about synthetic or non-synthetic, starting in
- 3 about '95. So this is very consistent with
- 4 how decisions have been made in this industry.
- 5 It maintains the status quo, so
- 6 it's the least destructive to the list, both
- 7 to the list and to the practices. Because if
- 8 you remember, most classification decisions
- 9 are not made by this board and don't show up
- 10 on the list. They happen everyday in crops
- 11 and livestock, when someone is looking at
- 12 whether a material is non-synthetic and can be
- 13 used in crops or livestock. So this matches
- 14 what's been happening there. Okay, next
- 15 slide.
- 16 But we do have a minority opinion,
- 17 and I wanted to highlight this because it
- 18 reflects a lot of discussion that happened at
- 19 the material working group, and a lot of
- 20 discussion that happened in our committee, and
- 21 I want to make sure the board has time to
- 22 discuss it as well.

- 1 So the minority opinion as kind of
- 2 paraphrased by me and hopefully during
- 3 discussion we can talk about this as well, is
- 4 that if a synthetic is used, then the material
- 5 should be classified as synthetic, period. So
- 6 the arguments for this is this is really about
- 7 transparency. This is black and white; it's
- 8 very clear to a consumer. We are not going to
- 9 have a lot of disagreement about this
- 10 classification. But it has really significant
- 11 impact. There would be a lot of materials
- 12 that would be reclassified that are in use
- 13 today that would be reclassified from non-
- 14 synthetic to synthetic. So at the end of the
- 15 day while something this clear is attractive,
- 16 we just did not feel that this was practical,
- 17 and it would reverse years of practice in our
- 18 industry.
- 19 So that's synthetic/non-synthetic.
- 20 So if you go next slide, Valerie okay, so
- 21 now if you take that definition of synthetic,
- 22 so there is chemical change or it's formulated

- 1 and has a synthetic in it, all those are now
- 2 synthetic. What's left is the non-synthetics,
- 3 and so from those non-synthetics we have to
- 4 decide which are agricultural and which are
- 5 non-agricultural. So next slide, Valerie.
- 6 Okay, so we are going to take a
- 7 little time out for products with naturally
- 8 occurring biological processes. These have
- 9 troubled us throughout this whole discussion,
- 10 and even so fundamentally that we don't know
- 11 what to call them. So first a little arrow,
- 12 I'm just going to bring the board's attention
- 13 to this that we got some public comment that
- 14 said, what's included in this category, what's
- 15 not. We had discussion among the committee.
- 16 We are calling them products with naturally
- 17 occurring biological processes. We don't have
- 18 a better term. These include the
- 19 microorganisms as well. So we just beg your
- 20 patience that we don't have a good term. This
- 21 morning off the record I called them the
- 22 biological thingies. We just don't have a

- 1 good term. . But the microorganisms and the
- 2 products and their processes.
- 3 So what we said about them is, the
- 4 source and processes are highly varied, so if
- 5 you look at something as relatively
- 6 straightforward as yeast, there is the yeast
- 7 where in Belgium you can take your pot of
- 8 whatever and capture your yeast and make some
- 9 of the world's best beer to something sitting
- 10 in a vat in a chemical laboratory; a huge
- 11 variety in source . Similarly you have a huge
- 12 variety in process.
- 13 The reality today is that if you
- 14 look at the technical reports that we've
- 15 looked at on these materials, they lack the
- 16 depth and breadth to help us understand all
- 17 those sources and processes. So we didn't
- 18 really feel that today we had enough
- 19 information to categorically make decisions,
- 20 to say all yeast is this way, all bacterial
- 21 cultures or dairy cultures are this way and
- 22 should be classified this way. We need more

- 1 information. So we are really taking a pass
- 2 on these right now.
- 3 So our recommendation is to defer
- 4 making categorical decisions, develop the
- 5 technical information that we need, but we
- 6 want to create a pathway so that those
- 7 products in naturally occurring biological
- 8 processes could be classified as agricultural,
- 9 because we believe some of them are. So to do
- 10 that we are recommending deleting "or
- 11 bacterial culture" from the definition of non-
- 12 agricultural, so that those could be
- 13 agricultural. Maintain the classifications on
- 14 the national list where they are today, but
- 15 ask for a petition.
- 16 So we are signing up for more
- 17 work, we acknowledge that. We want petitions
- 18 on these biological things so that we can
- 19 better understand source and process, and
- 20 start sorting through the complexity. And to
- 21 do that will allow us to be more transparent
- 22 in how those are classified. So that is our

- 1 intent.
- We heard some public comment
- 3 yesterday from Grace Marroquin on yeast. We
- 4 have asked her to make sure that the petition
- 5 is resubmitted, so that we can really do a
- 6 deep dive, and make a classification decision.
- 7 So that is what we are doing on
- 8 products in naturally occurring biological
- 9 processes.
- 10 Okay, so next slide. So we are
- 11 back to our pretty picture. We've taken on
- 12 synthetic. We have pulled out all the
- 13 biological things. Now we are left with
- 14 ag/nonag. Next slide. And really we said,
- 15 this is pretty easy now. Things that are
- 16 sourced from agriculture get classified as
- 17 agricultural. Everything else is not
- 18 agricultural, or nonag.
- 19 There is a pretty big effect, so
- 20 we wanted to highlight that. PNOBP is
- 21 products of naturally occurring biological
- 22 processes, sorry.

- 1 Okay. So the effect of our
- 2 recommendation in agricultural/non-
- 3 agricultural is that the agriculturally
- 4 sourced materials currently or some of the
- 5 agriculturally sourced materials currently on
- 6 205.605(a) which his non-synthetics, would
- 7 move to 606., because they are non-synthetic,
- 8 and they are agriculturally sorted.
- 9 We think this is a great thing
- 10 because it means commercial availability is in
- 11 effect now for those. We think handlers
- 12 should step up to the plate and prove that an
- 13 organic option isn't available. But that
- 14 would be the effect of doing that.
- 15 So we do have a definition of non-
- 16 agricultural substance that we recommended.
- 17 Now it's time for a mea culpa. We had a copy
- and paste error in our recommendation which
- 19 led to lots of public comment, so we apologize
- 20 for that, but thank you for reading it.
- 21 What we proposed is that non-
- 22 agricultural substance you see the current

- 1 definition up there we deleted "or bacterial
- 2 culture. "We deleted the second sentence,
- 3 which is about kind of the substantially
- 4 transformed. What we proposed was a product
- 5 such as a mineral or an atmospheric acid does
- 6 not originate from an agricultural system. We
- 7 had a lot of comments that, well now you have
- 8 to define agricultural system.
- 9 What we meant to propose was that
- 10 it's a product such as a mineral or
- 11 atmospheric gas that does not originate from
- 12 agriculture. For the purposes of this part
- 13 agricultural refers to the production or
- 14 handling of crops or livestock, so we haven't
- 15 had time as a committee to get together and
- 16 make sure that we all really meant to do that.
- 17 That is what we talked about doing, but like
- 18 I said, we made a copy and paste error in our
- 19 final document.
- 20 So hopefully by tomorrow we will
- 21 have this fixed. Okay. So to walk us through
- 22 next slide some examples, so to walk us

- 1 through some examples I want to highlight
- 2 first the green row. WE also got a lot of
- 3 public comment about the synthetic definition
- 4 and its impact on materials that meet the
- 5 final rule. And Gwendolyn yesterday brought
- 6 out the bleached soy lecithin that is not
- 7 commercially available and what that would
- 8 mean.
- 9 So we have been playing around in
- 10 the last 48 hours with adding a sentence to
- 11 the definition of chemical change, and that is
- 12 reflected here in this green row. So I'll
- 13 just walk you through it. So soy lecithin
- 14 bleached just a quick reminder, which you
- 15 should all know from our last meeting, this
- 16 material is, you have a physical separation of
- 17 the either solvent extraction physical
- 18 separation of the soybean oil from the soybean
- 19 meal. The oil is then extracted. You get soy
- 20 lecithin which you can bleach.
- 21 So the first question is, does the
- 22 substance undergo a chemical changed? It's

- 1 bleached, so yes it is a chemical change. If
- 2 you look at kind of our intended modification,
- 3 the question would be, is that an allowed
- 4 synthetic or not. In this case it is, so the
- 5 answer would be yes. So the next question is,
- 6 is the substance created by an actually
- 7 occurring biological process? No. Is the
- 8 substance formulated with a synthetic? Not on
- 9 205.605(b)? No. So then is the source of the
- 10 material agricultural? Yes.
- 11 So the first questions have to
- 12 deal with, is it synthetic or not? And then
- 13 the last question is, is it ag or not. So
- 14 this was if you say the hydrogen peroxide is
- 15 a chemical change that meets our definition,
- 16 then it's synthetic. If you go with a little
- 17 change you are recommending, then it would not
- 18 be synthetic. So this one is a little bit
- 19 tricky and will require more discussion.
- 20 So let's look at soy lecithin,
- 21 deoiled. This one is much more
- 22 straightforward. So does the substance

- 1 undergo a chemical change? Here the answer is
- 2 no; this is acetone extracted, the acetone
- 3 does not change the lecithin and is not
- 4 present at a significant level. So today
- 5 there is no other method to extract the oil.
- 6 But wouldn't it be great if someone could come
- 7 up with a way to do that. So because acetone
- 8 is used this material cannot be certified
- 9 organic. The classification isn't about
- 10 certification, it's about how a material is
- 11 classified.
- 12 So soy lecithin deoiled, there is
- 13 no chemical change with the definitions and
- 14 the recommendation. So that chemical change
- 15 stuff goes away. Not from a naturally
- 16 occurring biological process. And the product
- 17 is not formulated.
- 18 So it is not synthetic. But it is
- 19 sourced from agriculture, so it is classified
- 20 as agricultural. So as a handling material,
- 21 this would go on 606, commercial availability
- 22 applies. Handlers have to now, each time they

- 1 use it, demonstrate that an organic version is
- 2 not available. Hopefully that will put
- 3 pressure on the industry to come up with a way
- 4 to do this without acetone extraction. And
- 5 that's our desire.
- 6 Okay, the last one I'm going to go
- 7 through is soy protein isolate. Hopefully
- 8 I'll get this right. So the key to this one
- 9 is that in the process an acid is used and a
- 10 base is used to do pH adjustment. The first
- 11 one precipitates the soy protein out of
- 12 solution, so you can do some washing and
- 13 rinsing and other things. The second pH
- 14 adjustment puts it back into solution. I
- 15 think that is right. The material doesn't
- 16 change. You are just adding and taking off
- 17 protons. So no chemical change, and then it
- 18 flows like the soy lecithin, deoiled. Again,
- 19 this is agricultural. So those are some
- 20 examples.
- I can see lots of frowns in the
- 22 crowd, so hopefully you will have good

- 1 questions for us. So that's how our
- 2 definitions play out.
- 3 And again pretty consistent with
- 4 what's happening today. I tried to pick some
- 5 of our troubled ingredients to highlight how
- 6 the committee made their decision. So we'll
- 7 let that cook in everyone's brain there for
- 8 awhile.
- 9 I want to just wrap up talking a
- 10 little bit about NOSB practices. We made
- 11 recommendations on three practices that we
- 12 think the NOSB needs to take up so that
- 13 classification can be more consistent.
- 14 One is we want to go back to
- 15 taking two votes on all materials, and this
- 16 got strong public comment in favor of it. If
- 17 you go back and look at transcripts from early
- 18 on in NOSB history they always took two votes
- 19 on every material. So the first vote was, how
- 20 should it be classified? So someone would
- 21 move and say, I move that name your material
- 22 is classified as synthetic, and there would

- 1 be a vote.
- 2 Once it was determined what the
- 3 classification was, then there was a second
- 4 vote to determine if it should be what
- 5 should happen to it. Should it be listed, not
- 6 listed, printed, allowed, whatever needed to
- 7 happen.
- I think having two separate votes,
- 9 and the committee felt having the two separate
- 10 votes added clarity to the classification, and
- 11 kept the two decisions from getting muddled
- 12 together. Because classification is not
- 13 about, should it be allowed to be used or not.
- 14 It's just classification.
- 15 Our second recommendation is
- 16 annotations, and we recognize that a full out
- 17 use of annotations is not the way we want to
- 18 go. We are just saying we want to course
- 19 correct a little bit, that there are some
- 20 places where annotations are really important
- 21 to highlight what source and what process was
- 22 reviewed, and is being listed; that if we

- 1 don't there are cases where not using an
- 2 annotation is just as confusing as not using
- 3 it. So we want to be mindful of that, and be
- 4 more thoughtful in our decisions about
- 5 annotations.
- 6 And finally what we've learned
- 7 through all this is, materials are very hard
- 8 and they are really complicated and there is
- 9 a lot of detail. We just really need to
- 10 refocus as a board on really understanding
- 11 those details, and this is really about having
- 12 good TAP reviews, and we got resounding
- 13 comments from the public that we should do
- 14 that.
- Okay, so finally just some public
- 16 comment. Generally everyone supported the
- 17 document. There were some concerns about
- 18 scope that we heard talked about yesterday
- 19 with regards to, did it affect things like soy
- 20 lecithin bleached? What about a material that
- 21 is 95 percent organic agricultural inputs and
- 22 5 percent things on the list? So we need to

- 1 do some tweaking to adjust to that.
- 2 Strong support for developing a
- 3 guidance document. The NOSB practices, there
- 4 were a few comments concerned about the
- 5 direction of the minority opinion, but even
- 6 more broadly the majority opinion of
- 7 reclassifying so many things as synthetic that
- 8 we just put industry at risk. So we had some
- 9 comments that way .
- 10 There was a question about
- 11 commercial availability, and applying that to
- 12 205.605. That was a recommendation that has
- 13 been made several times by the material
- 14 working group, or it's been one of the
- 15 options. And I apologize we neglected to kind
- 16 of cover that in our recommendation. We did
- 17 talk to the program, and that is just not an
- 18 option that they felt was available to us at
- 19 this point, so that's why that wasn't our
- 20 recommendation.
- 21 There was a concern about CAS
- 22 numbers. One of the definitions that talks

- 1 about the identity of a substance, use CAS
- 2 numbers as an example of how identities could
- 3 be determined. It was purely meant to be an
- 4 example, so you'll see some changes trying to
- 5 clarify that.
- 6 We already talked about concerns
- 7 with the definition of agricultural. That was
- 8 brought up by a number of commenters. And
- 9 there is a comment specific to yeast, that you
- 10 heard yesterday, that yeast is non-plant life.
- 11 There is a couple of comments asking us to
- 12 clarify 205.270(c)(2). We do know that that's
- 13 out there, and that that question exists. It
- 14 is our intention to collaborate with the
- 15 program and address that in our guidance
- 16 document. So I don't want you to think we
- 17 have forgotten that request.
- 18 And then finally we need a better
- 19 definition of significant.
- 20 So with all that, here is what we
- 21 are recommending needs to happen next. We
- 22 need to do a little bit more work on the

- 1 definition of nonag. We need to take a little
- 2 look at the definition of chemical change with
- 3 regards to scope. Hopefully we will have
- 4 those done by tomorrow.
- 5 After that we need some rule
- 6 change that we would collaborate with the
- 7 program on. Most importantly we need a
- 8 guidance document so we will be working on
- 9 that. Our recommendation has some very
- 10 specific comments about timing. We don't want
- 11 to hopefully pass the recommendation tomorrow
- 12 and then have ACAs going out and making all
- 13 sorts of decisions that are disruptive to the
- 14 industry. So it's our intention that the
- 15 recommendation not be implemented until a
- 16 guidance document is issued officially and
- 17 finally by the program. In the meantime
- 18 everything would stay as it is on the list.
- 19 We do know there are some changes
- 20 to the list, so the recommendation kind of
- 21 talks about timing to execute that. And then
- 22 we have more work on those biological things.

- 1 So that is it. I know it's a lot, I know
- 2 it's a lot to digest. We really appreciate
- 3 the folks who read it and their comments, and
- 4 all the questions we have gotten from board
- 5 members since our recommendation has come out.
- 6 So there you go.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 Katrina, very well done.
- 9 I remember soon after I started on
- 10 the board somebody said to me, it's so simple,
- 11 just write the definition and vote on it. It
- 12 ain't so simple. I really want to commend
- 13 Katrina, her joint committee members, and the
- 14 greater community for all the countless hours
- 15 of working on this. If you just heard that
- 16 report and your head isn't spinning, imagine
- 17 hours and hours of trying to get to this
- 18 point. I mean I gave up long, long before
- 19 these folks did, and I commend them for
- 20 staying at it. It's important work, but it is
- 21 extremely complex and complicated. So
- 22 Katrina, I appreciate all your hard work and

- 1 your team that you assembled to do that,
- 2 inside the board and out, is extremely
- 3 important.
- 4 Okay, what I'd like to do is see
- 5 if there are any comments or questions. I
- 6 know all of the board members have gone
- 7 through this process more than once, so that
- 8 we could do it online. We did it in some
- 9 conference calls. We did it on Webinars. We
- 10 did it every which way we could. It is
- 11 complex and confusing, and it still leaves me
- 12 wondering how we did it.
- 13 MEMBER HEINZE: So what I was
- 14 going to suggest, if Valerie could put up that
- 15 part two document I sent you. So this is our
- 16 recommendation with the few modifications that
- 17 we made this morning, that I can go over when
- 18 folks want. And we can open it up for
- 19 discussion.
- 20 CHAIRPERSON MOYER: Okay, and you
- 21 might want to I know there are two minority
- 22 opinions?

- 1 MEMBER HEINZE: Oh, yes.
- 2 CHAIRPERSON MOYER: So I think we
- 3 should probably hit on those too. But before
- 4 we go to the minority opinions, is there any
- 5 questions or comments that board members would
- 6 like to make in regards to what Katrina just
- 7 presented? Everybody has had their shots?
- 8 Okay, I don't hear any, Katrina,
- 9 so the minority opinions.
- 10 MEMBER HEINZE: That just means I
- 11 confused everyone.
- 12 CHAIRPERSON MOYER: No, I don't
- 13 think so, you've done a great job of
- 14 unconfusing us.
- Do you want to go over the
- 16 minority opinions?
- 17 MEMBER HEINZE: I quess I would
- 18 leave it for folks. I kind of felt like I did
- 19 those in my discussion.
- 20 CHAIRPERSON MOYER: Okay.
- 21 MEMBER HEINZE: We had two of
- 22 them. One was more specific to our

- 1 synthetic/non-synthetic. They wanted it to
- 2 more broadly include more things in synthetic.
- 3 The other was the definition of nonag, I
- 4 suppose more the definition of agricultural,
- 5 that it shrunk non-synthetics, and that would
- 6 have an impact on crops and livestock.
- 7 CHAIRPERSON MOYER: Do you know
- 8 if the writers of those minority opinions want
- 9 to make any comments?
- 10 MEMBER HEINZE: I do not.
- 11 CHAIRPERSON MOYER: Bea?
- 12 MEMBER JAMES: I would like to
- 13 hear from the people who did write those, and
- 14 just get their input as to some of their
- 15 concerns.
- 16 CHAIRPERSON MOYER: Yes, I think
- 17 they are sort of hanging out there, and I'd
- 18 like to get a little more information. I
- 19 guess that was what I was trying to do. Dan.
- 20 VICE CHAIRPERSON GIOACOMINI: I
- 21 wrote minority number one. My concern with
- 22 the document, and I agree with 99 percent of

- 1 it I would say, but it does create a shrinking
- 2 of the nonag portion of non-synthetic. There
- 3 in the writing of the regulations as I've
- 4 gone over them a number of times the past
- 5 couple of weeks most of these restrictions
- 6 with on the crops side are written as non-
- 7 synthetic. So using the first criteria cutoff
- 8 if you remember of the box on the right being
- 9 non-synthetic, if we agree that what the thing
- 10 talked about in the crops regulations were fit
- into that box, I think we are reasonably okay.
- 12 On the livestock side, however, we still get
- 13 back to the things that were touched on a
- 14 little bit with Grace yesterday. We have the
- 15 change in the way the regulation was written
- 16 from OFPA that all feeds must be organic, to
- 17 all agricultural products must be organic.
- 18 And when we shrink that non-synthetic section
- 19 and we say, or which in this the way we
- 20 are talking here becomes the lower criteria,
- 21 set of questions. When we are looking at the
- 22 things on the bottom right, that box in

- 1 regards to feeding livestock gets much much
- 2 smaller. And the number of things that are
- 3 kept in the just simply the agricultural box
- 4 gets much larger. She's got it up there now.
- 5 And I'm concerned that we could
- 6 have a tremendous amount of problems and
- 7 implications down the road because of that.
- 8 I understand the basis of the recommendation,
- 9 the handling and processing side, and the
- 10 value of commercial availability. I wish
- 11 there were some other things there may be
- 12 some other things we can talk to the program
- 13 about also, but I'm concerned with the
- 14 livestock side. We have a requirement that if
- it's ag, it has to be organic. And we have
- 16 just expanded the things that are in that ag
- 17 square, because we have eliminated the
- 18 transition. There is no transition when you
- 19 are dealing with anything to do with livestock
- 20 the things that you see on 605(a) of the egg
- 21 white lysozyme and all those other items, they
- 22 are not non-synthetic anymore. They are

- 1 either synthetic or they are agricultural.
- 2 And I am just concerned with what it's going
- 3 to mean. I can't give you an example because
- 4 I don't know, but it makes me very very
- 5 uncomfortable.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Dan.
- 8 Katrina?
- 9 MEMBER HEINZE: So Dan your
- 10 concern, we've talked about this before but I
- 11 just want to make sure, I'm still hearing it
- 12 right, your concern is that with making those
- 13 non-synthetics that are non-agricultural very
- 14 small, we've in essence increased those non-
- 15 synthetics that are ag, and the impact for
- 16 livestock is, if used in feed they have to be
- 17 organic.
- 18 And so you're concerned about the
- 19 unintended consequences of that down the road?
- 20 VICE CHAIRPERSON GIOACOMINI:
- 21 Well, there's two sides to that actually. One
- 22 is as you say the unintended consequences of

- 1 that. Essentially everything most of the
- 2 things how do I put this? if they were
- 3 from an ag origin and they were in that non-
- 4 synthetic box, they are now either
- 5 agriculture, and would have to be organic, or
- 6 synthetic and have to be on the list. We lose
- 7 them both ways. So they would either have to
- 8 be relisted on 603, or we can't use them
- 9 unless we have organic, because of the way
- 10 things are written. All agricultural
- 11 products, and we don't have commercial
- 12 availability for feed.
- 13 And I'm not promoting that we do;
- 14 I'm just saying there might be some subtle
- 15 ways of looking at things that would not
- 16 necessarily be causing huge loopholes.
- 17 CHAIRPERSON MOYER: Chair
- 18 recognizes Katrina.
- 19 MEMBER HEINZE: So is the fix for
- 20 that how we classify them, or figure out how
- 21 to address the feed requirement?
- 22 CHAIRPERSON MOYER: Dan.

- 1 VICE CHAIRPERSON GIOACOMINI: I
- 2 think the answer to that would be how
- 3 ingrained the industry and the program is in
- 4 ever looking at that change that was made. My
- 5 concern is that the willingness to do that is
- 6 probably small.
- 7 CHAIRPERSON MOYER: Is there
- 8 anyone on the board who would like to speak
- 9 representing minority opinion #2? Kevin?
- 10 MEMBER ENGELBERT: Yes, I wrote
- 11 minority opinion #2. Briefly I'd like to
- 12 touch on what Dan spoke of. As those of you
- 13 who have been at these meetings know, I don't
- 14 share the concerns that Dan does on minority
- 15 opinion #1. In the interests of transparency,
- 16 if these materials become available and they
- 17 have to be organic, the industry will adapt,
- 18 and they will become available to dairy
- 19 farmers or any type of farmer, crop or
- 20 livestock. So I don't share that deep
- 21 concern. But I understand why Dan does.
- The minority opinion #2 basically

- 1 I think this results from, as we heard a
- 2 speaker say yesterday, if you are a chemophobe
- 3 then you might not agree with this
- 4 recommendation. And I guess that I will
- 5 probably say I am a chemophobe. As part of -
- 6 without going into details I know what
- 7 exposure to chemicals can do to you at a young
- 8 age all the way up to early adulthood, what it
- 9 can do to your metabolism, and the
- 10 implications on your health. And I think that
- 11 organic agriculture, while we are not a zero-
- 12 tolerance program, and we don't guarantee an
- 13 end product that should still be out goal.
- 14 And the first paragraph of this
- 15 minority opinion #2, there is a big typo.
- 16 I'll just read through this first paragraph
- 17 because I can't really add much to it. First
- 18 and foremost is there is a decision to define
- 19 synthetics in such a way that even those that
- 20 are on the national list are allowed in
- 21 processing as long as there is no chemical
- 22 change and the synthetic is not present in the

- 1 final material at a significant level.
- 2 Somehow the word "not" got added
- 3 into that first sentence, and it shouldn't be
- 4 there. Even synthetics on the national list
- 5 are contaminants, albeit those that are
- 6 acceptable for a specific use and hopefully
- 7 only until a more satisfactory alternative
- 8 becomes available.
- 9 In my opinion the NOSB should not
- 10 be attempting to determine significant levels.
- 11 If a synthetic is present at all the material
- 12 should be deemed synthetic. And because
- 13 humans cannot measure all substance levels
- 14 precisely enough if a synthetic is used the
- 15 resulting material should also be considered
- 16 synthetic.
- 17 And again back to what I lead in
- 18 with, organic consumers expect organic food
- 19 they purchase to be different from
- 20 conventional food, and to remain true to
- 21 organics and organic principles. Even though
- 22 no chemical change regardless of how it's

- 1 defined takes place, the use of synthetics
- 2 violates the trust that consumers place in the
- 3 organic label.
- 4 Another opinion has to do or
- 5 minority opinion has to do with the definition
- 6 of non-agricultural substance. That is
- 7 somewhat alleviated since we discovered our
- 8 faux pas. And that is not as much a concern
- 9 now as it was an hour ago.
- 10 And lastly the minority opinion
- 11 there is also has a minority opinion that
- 12 care should be taken to differentiate between
- 13 substances used in crop and livestock
- 14 production, and those that are used in
- 15 handling, processing or packaging of food.
- 16 The decision on substance is made by the crops
- 17 committee on October of 1994 to allow
- 18 synthetically derived botanicals as non-
- 19 synthetics and unlisted might have been
- 20 misguided. The NOSB should not use that
- 21 decision today to justify the use of processed
- 22 material which could end up on store shelves,

- 1 either through decoding or packaging, or in
- 2 the processing of those foods.
- There is a big difference between
- 4 using a substance to produce food and using a
- 5 substance that may end up being directly
- 6 consumed by humans due to its presence in the
- 7 food or on the packaging. The substances
- 8 should be brought out into the open and not
- 9 hidden behind the veil of inerts or
- 10 biological processes, or a so-called lack of
- 11 chemical change. All ingredients in an
- 12 organic product should be classified and
- 13 listed on the label regardless of their
- 14 origin, how little may be found in the
- 15 product, or if the material was used in
- 16 handling and processing.
- 17 And that pretty much sums it up.
- 18 CHAIRPERSON MOYER: Thank you,
- 19 Kevin. Thank you, Bea, for asking for that.
- 20 Are there any comments? The chair
- 21 recognizes Katrina.
- 22 MEMBER HEINZE: I just wanted to

- 1 thank both Dan and Kevin for writing a
- 2 minority opinion. It was so important given
- 3 all the debate we had that that debate be
- 4 transparent, and that the rest of the board
- 5 understand it. These are not easy decisions.
- 6 There are no wrong perspectives. It's just
- 7 that the decisions have effects, or
- 8 ramifications, that we need to understand. So
- 9 we wanted to make sure that those
- 10 ramifications really got discussed and people
- 11 really understood them as they made a
- 12 decision. So we have been told I don't
- 13 think asked is the right word told by you
- 14 out there sitting at the tables that we need
- 15 to make a decision, and we need to make a
- 16 decision two years ago. So we understand
- 17 that. What we have also come to understand
- is, not everyone is going to agree with it.
- 19 So we just have to it's our job sitting up
- 20 here to make that decision.
- 21 So we wanted to make sure those
- 22 minority opinions got expressed so people

- 1 understood them. So thank you for doing that.
- 2 I know it was extra work.
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Dan I'm sorry, recognizes Bea.
- 5 MEMBER JAMES: Katrina, wow,
- 6 that's great work. It's kind of mind
- 7 boggling. So bear with me on some of my
- 8 questions, because I'm not an expert by any
- 9 stretch of the imagination.
- 10 Can you elaborate a little bit
- 11 more on the point that you made on one of the
- 12 minority opinions about the use of a synthetic
- 13 not on the national list of approved
- 14 synthetics should result in a material being
- 15 classified as a synthetic? And that you had
- 16 made a comment that that would have drastic
- 17 ramifications with a lot of reclassification
- 18 and work. Just explain that a little bit more
- 19 if you would.
- 20 MEMBER HEINZE: Sure. So I'm not
- 21 a crops and livestock expert. And I'm not
- 22 going to pretend to be one. But when we

- 1 looked at it for awhile in our debates we
- 2 called them option #1 and option #2, so I'm
- 3 going to use that terminology. So option #2
- 4 is the minority opinion. When we were looking
- 5 at option #2 really what it says is, if you
- 6 use a synthetic then the material becomes
- 7 synthetic. So if you use hexane to extract
- 8 it or acetone to extract it, or you use sodium
- 9 hydroxide to do a pH adjustment. And in
- 10 handling that doesn't have a lot of effect
- 11 because everything we use have to be on the
- 12 list somewhere, so it just moves them around
- on the list. So there is going to be work for
- 14 the board, but it's not like there is a whole
- 15 bunch of new materials that have be evaluated.
- 16 They just need to be moved around.
- 17 But the concern came up on crops
- 18 and livestock where non-synthetics are mostly
- 19 not on the list today. And as we look back at
- 20 the historical records, the first ones that
- 21 came to our attention was botanical
- 22 pesticides, so pyrethrum would be an example.

- 1 So it is extracted with hexane, the hexane is
- 2 not present in the finished product. So it
- 3 has been for many many years classified as a
- 4 non-synthetic. So if we went with option #2
- 5 that material and I have a couple of other
- 6 examples, but I'm sure other people have much
- 7 more comprehensive lists than I do that
- 8 material would be reclassified as synthetic.
- 9 The people who are using it today, they have
- 10 been using it. They don't use it without
- 11 limitations. Those people still have to use
- 12 their organic system plan. They still have to
- 13 have all their good practices in place before
- 14 they use stuff like that. But it is in use
- 15 today. So today the hexane extracted non-
- 16 synthetic is in use. Because presumably
- 17 people need it in their collection operations.
- 18 So if we went with option #2, here is what I
- 19 think would happen. A whole bunch of those
- 20 materials would get reclassified as synthetic.
- 21 The people who need them for their livelihoods
- 22 and for their operations would petition the

- 1 board to have those listed. So the board
- 2 would have to review the materials, and they
- 3 would get put on the list, presumably that's
- 4 what's going to happen.
- 5 And I'm not saying we shouldn't do
- 6 the work, but that is going to be a lot of
- 7 work to kind of maintain what's happening
- 8 today. And then the other concern we had is,
- 9 we get these all the time, for putting all the
- 10 synthetics on the list. And that's going to
- 11 be a lot of beating up for maintaining the
- 12 status quo. In my opinion. That is not
- 13 necessarily the committee's opinion.
- 14 CHAIRPERSON MOYER: Bea, you had
- 15 a follow up question?
- 16 MEMBER JAMES: So by not doing
- 17 that we are just not telling the public that
- 18 there is some synthetics, but by doing that we
- 19 would be transparent; am I hearing you right?
- 20 MEMBER HEINZE: Well, we're still
- 21 telling them, because we are saying here is
- 22 how a synthetic is defined, and here is how a

- 1 non-synthetic is defined.
- 2 MEMBER JAMES: But you just said
- 3 that it's currently happening and if we had to
- 4 list everything it would take a long time, and
- 5 it would result in a big list which wouldn't
- 6 look good but we are doing it.
- 7 MEMBER HEINZE: That's why we
- 8 have a minority opinion. There are
- 9 differences of opinion on that.
- 10 CHAIRPERSON MOYER: Chair
- 11 recognizes Julie.
- 12 SECRETARY WEISMAN: I just wanted
- 13 to follow up for Bea. I get the feeling that
- 14 you think that the "it" that we are doing
- 15 right now is non-synthetics are allowed in
- 16 crop production. And the definition that has
- 17 been functioning all this time has been,
- 18 except where it's annotated on the list, okay,
- 19 because there are some things that are for use
- 20 where it specifically says, non-synthetic
- 21 solvents only. But other than that things can
- 22 be extracted with synthetic solvents. And it

- 1 has been that way all along.
- 2 CHAIRPERSON MOYER: Any further
- 3 questions or discussion? Barry?
- 4 MEMBER FLAMM: I'd actually like
- 5 Kevin to respond to the latest comments on the
- 6 extraction. I find your minority opinion very
- 7 compelling, straightforward, easy to
- 8 understand, and it seems like that's what we
- 9 ought to be doing and should be doing. But -
- 10 and I don't see in what you've said that
- 11 perhaps this extraction problem is really an
- 12 issue. But I wish you'd address that.
- 13 CHAIRPERSON MOYER: Kevin.
- 14 MEMBER ENGELBERT: I will as best
- 15 I can. It's my belief that the human body is
- 16 more sensitive to chemicals and substances
- 17 than we can measure. We are sensitive to
- 18 things down to the level of parts per billion
- 19 that can't be measured. So even though we
- 20 would say that this was extracted with a
- 21 synthetic, and it's all removed, I don't
- 22 really think technically we can absolutely

- 1 guarantee that down to the micro levels that
- 2 a human body can detect, or can is
- 3 susceptible to. And that is basically my
- 4 point. I think that our organic needs to be
- 5 an extremely high bar. I don't think that
- 6 consumers when they purchase a product expect
- 7 something to contain a substance that was
- 8 extracted with a synthetic or a chemical. But
- 9 if it is, even though there may be some pain
- 10 involved for the industry, I think that needs
- 11 to be transparent, that that should be we
- 12 should be up front about it.
- 13 CHAIRPERSON MOYER: Did that
- 14 answer your question, Barry?
- 15 MEMBER FLAMM: Yes.
- 16 CHAIRPERSON MOYER: Chair
- 17 recognizes Bea.
- 18 MEMBER JAMES: So maybe these two
- 19 things aren't related. But I'm trying to get
- 20 my head around that we are saying
- 21 nanotechnology and nanoparticles are bad, and
- 22 we are saying that we should go ahead and let

- 1 synthetic extractants be used, and that's just
- 2 the way it's always been.
- 3 CHAIRPERSON MOYER: Katrina,
- 4 would you address that?
- 5 MEMBER HEINZE: We're not letting
- 6 solvent extractions be used. We are codifying
- 7 what's happening. And has been.
- 8 MEMBER JAMES: But we're not
- 9 classifying them as a synthetic, and we are
- 10 saying that we shouldn't go down that road.
- 11 MEMBER HEINZE: Because they are
- 12 not present in the final material. So in my
- 13 mind they are not present. We said if they
- 14 are present, it's synthetic. But they are not
- 15 there any more.
- 16 CHAIRPERSON MOYER: Chair
- 17 recognizes Julie.
- 18 SECRETARY WEISMAN: I think to
- 19 some extent this the expectation is that
- 20 there are no synthetic ingredients. Right?
- 21 And so this is the debate about processing.
- 22 What is processing and what is an ingredient.

- 1 And it's not any I guess I feel the way you
- 2 are asking the question makes it sound like
- 3 there has been some subterfuge going on which
- 4 I don't think is the case. OFPA is very clear
- 5 about synthetic ingredients not being used in
- 6 organic food. And what we are talking about
- 7 right now are not ingredients. Maybe that is
- 8 what you are questioning, but that is what I
- 9 would say.
- 10 MEMBER JAMES: In my opinion, if
- 11 I could just respond, if you use a chemical,
- 12 a synthetic chemical to extract hexane for
- instance on what was it soy protein, okay,
- 14 there is a fine line between it being an
- 15 ingredient and it being part of the process,
- 16 and do we pay attention to that, and that is
- 17 my point.
- 18 CHAIRPERSON MOYER: Thank you,
- 19 Bea.
- 20 Katrina.
- 21 MEMBER HEINZE: So I want to make
- 22 sure the board is clear on this. Remember

- 1 this is classification and not allowed or
- 2 prohibited. So ingredients in food are 605
- 3 and 606. They are handling. You have to be
- 4 on the list. Right? So if there is material
- 5 that is hexane extracted it is not certified
- 6 organic; cannot be certified organic. So it
- 7 must, if it's going to be used in food, be
- 8 reviewed by this board. So that is handling.
- 9 If you're crops and livestock,
- 10 different deal. So pyrethrum is a good
- 11 example. Your hexane extracted. You can be
- 12 applied to a crop. Because it's not, the
- 13 material is not synthetic; the hexane is not
- 14 there at a significant level when that
- 15 material is used. But also on crops and
- 16 livestock you are those it's not like
- 17 someone is injecting the pyrethrum into the -
- 18 I know nothing about crops is the apple?
- 19 I'm sorry, I just have to make this up.
- 20 Right. It's not like people are injecting it
- 21 into the produce, and so it is one step
- 22 removed. It's not in the food. So I think if

- 1 you look at those early boards who made that
- 2 decision I think that is how they thought
- 3 about it.
- But this is classification; it's
- 5 not are people going to ingest it. Because
- 6 if they're ingesting it, it's on the list,
- 7 it's in handling.
- 8 CHAIRPERSON MOYER: Chair
- 9 recognizes Tina.
- 10 MEMBER ELLOR: So based on what
- 11 you just said, let me ask this question, so
- 12 any insecticide such as pyrethrum that are
- 13 formulated with inerts, which all pesticides
- 14 are, all of a sudden will become synthetics
- 15 because they contain synthetics?
- 16 MEMBER HEINZE: That's correct.
- 17 MEMBER ELLOR: So all botanical
- 18 pesticides that contain inerts or are
- 19 extracted will now become not natural but
- 20 synthetic, or not non-synthetic?
- 21 MEMBER HEINZE: The inerts are
- 22 allowed synthetics. So then right? So

- 1 since they are allowed synthetics, so that's
- 2 okay. Her response was a heavy sigh.
- 3 CHAIRPERSON MOYER: Okay, chair
- 4 recognizes Dan.
- 5 VICE CHAIRPERSON GIOACOMINI:
- 6 Yes, going back to the big picture on this,
- 7 just something that I've thought about with
- 8 it, and we've addressed one issue with the
- 9 program, and they came back with a very
- 10 legalistic no. But I'd like them to
- 11 reconsider it, and I'd like the people who
- 12 find the study of materials in organic part of
- 13 their elixir for immortality and what keeps
- 14 them going to think about this, that in this
- 15 recognition of source and process it's very
- 16 likely that in the current structure of the
- 17 national list, unless it has also changed, we
- 18 would also have something with the same name,
- 19 in three different places within the handling
- 20 framework of the list. Something could be on
- 21 606, 605(a) and 605(b). We understand the
- 22 statement, the program has already said that

- 1 commercial availability is mainly part of 606,
- 2 the agricultural. And we also understand that
- 3 the program has basically discounted order of
- 4 preference.
- What I've thought about, to save
- 6 this board and future boards, because it will
- 7 be much more long after I'm gone, I can just
- 8 imagine that when this goes through the
- 9 absolute bombardment of petitions that we are
- 10 going to get so that something can be listed
- in every possible place. And I would like the
- 12 program to consider and people who really look
- 13 at this stuff to consider the possibility that
- 14 the listing on the handling portion of the
- 15 national list, not commercial availability and
- 16 not order of preference, in a way it would be
- 17 the reverse of that, but it's for lack of a
- 18 better term the worst possible version
- 19 allowed. So that if it is listed on 606, only
- 20 the agricultural version is allowed. If it is
- 21 listed on 605(a) an agricultural version of
- the product is allowed, and a non-synthetic

- 1 version of the substance is allowed. And if
- 2 it's on 605(b) it can be any of the three.
- 3 I know there are implications
- 4 within OFPA and review and every thing else.
- 5 But maybe there is a way that we can
- 6 creatively structure our review process so
- 7 that that can become the result, because
- 8 otherwise we are going to get bombarded where
- 9 with everything that is already on there, we
- 10 are going to get two or three more petitions,
- 11 two more petitions, and everything that comes
- 12 before us is going to come forward in two or
- 13 three forms.
- 14 CHAIRPERSON MOYER: I'm going to
- 15 ask that that be the final word for now on
- 16 this topic. I know we could go around for
- 17 days and days and days; we have, we will. We
- 18 are already as I mentioned about two hours
- 19 behind schedule. I am going to suggest we
- 20 take a break now until 4:05. We will resume
- 21 promptly at 4:05, and start with the handling
- 22 committee report.

- 1 Keep in mind, we do have public
- 2 comments this afternoon and evening yet, and
- 3 we'll already be here until 7:00 by this
- 4 clock. So please be prompt to return to your
- 5 seats.
- 6 (Whereupon, at 3:51 p.m., the
- 7 above-entitled matter went off the record and
- 8 resumed at 4:09 p.m.)
- 9 CHAIRPERSON MOYER: This session
- 10 of the board meeting is reconvened. And we'd
- 11 like to start immediately with the report from
- 12 the Handling Committee, Steve DeMuri,
- 13 chairperson. Steve, if you are ready, the
- 14 floor is yours.
- 15 HANDLING COMMITTEE
- 16 MEMBER DeMURI: I am ready.
- 17 Thank you, Jeff
- 18 Want to first thank Katrina for
- 19 the great work she did on that last session.
- 20 (Applause.)
- 21 MEMBER DeMURI: Can you hear back
- 22 there? Is that better? I will have to put

- 1 the mike in my mouth I guess.
- What I was saying was, I wanted to
- 3 first congratulate Katrina on a great job on
- 4 the Joint Materials and Handling work that she
- 5 has taken on, very very complicated and
- 6 complex subject, and we all appreciate it very
- 7 much.
- 8 What we have on the docket today
- 9 for the Handling Committee are 10 sunset
- 10 items. There are three in 205.605(a), seven
- in 605(b) and nothing from 606. And what we
- 12 did was, we split these up over almost a year
- 13 ago now to start looking at them and
- 14 investigating them. So I will have the folks
- 15 that did the primary investigation on these
- 16 items explain them to the rest of the board in
- 17 preparation for tomorrow's vote.
- 18 So we'd like to start off first of
- 19 with egg white lysozyme for 605(a), and that
- 20 is Tracy.
- 21 MEMBER MIEDEMA: Thank you,
- 22 Steve.

- 1 Egg white lysozome was added to
- 2 the national list in fall of 2006, and it was
- 3 added to 205.605(a). Right off the bat I will
- 4 tell you that we are recommending relisting.
- 5 I guess technical aspect of this
- 6 that is a little unusual is that a TAP
- 7 review was performed on enzymes, plants and
- 8 fungal, and that is what our colleagues back
- 9 in 2003 use to review this material. So I
- 10 just want to be very upfront on that point.
- 11 We have a tradition here of accepting we
- 12 have a precedent of accepting the work of past
- 13 boards. And they deemed that TAP sufficient.
- 14 How much detail shall I go into
- 15 about this material itself?
- 16 CHAIRPERSON MOYER: Well, in the
- interests of time, I know we are way behind,
- 18 why don't you try to keep it brief. I think
- 19 everybody has probably read the
- 20 recommendations.
- 21 MEMBER MIEDEMA: Okay.
- 22 CHAIRPERSON MOYER: So if there

- 1 are any questions after you are done, we can
- 2 pick up any questions there.
- 3 MEMBER MIEDEMA: Sure, okay.
- 4 Egg white lysozyme is a purified
- 5 enzyme preparation. It's extracted from hen
- 6 egg whites. It's a natural enzyme microbial.
- 7 The most typical food applications are for
- 8 cheese and wine. The materials that are
- 9 alternatives for this are generally considered
- 10 to be more harsh preservatives such as
- 11 formaldehyde, nitrates, nitrin or hydrogen
- 12 peroxide.
- We those of us who were present
- 14 unanimously voted to relist, and one person
- 15 was absent.
- 16 CHAIRPERSON MOYER: Thank you.
- 17 Good summary. Anyone have any questions for
- 18 Tracy?
- 19 I've got one question, Tracy. I'm
- 20 assuming that you have reviewed the 2003 TAP
- 21 and you also determined that you didn't need
- 22 any additional information?

- 1 MEMBER MIEDEMA: As a class of
- 2 handling materials it seemed to cover what
- 3 needed to be covered.
- 4 CHAIRPERSON MOYER: Thank you.
- 5 Steve?
- 6 MEMBER DeMURI: Thank you, Tracy.
- 7 Hearing no questions on that one
- 8 we will move to L-malic acid. Katrina handled
- 9 that one for us.
- 10 MEMBER HEINZE: I just wanted to
- 11 start by saying that if I get to be known as
- 12 the classification person I'm going to be
- 13 grumpy.
- Okay, L-malic acid, we reviewed L-
- 15 malic acid for relisting on 605(a), non-
- 16 synthetics allowed. L-malic acid was added to
- 17 the national list, also in the fall of 2006.
- 18 After review by the NOSB. This is the first
- 19 time that it's up for sunset.
- 20 L-malic acid is used as a flavor
- 21 enhancer, flavoring agent, and for pH control
- 22 in a variety of foods. The original TAP in

- 1 2003 actually reviewed three forms of malic
- 2 acid. The TAP determined that DL-malic acid
- 3 was synthetic, and recommended that it not be
- 4 included on the national list. So in reaction
- 5 to that, and after more work on the TAP, the
- 6 TAP determined that L-malic, so the L version
- 7 of malic acid, was naturally occurring and
- 8 non-synthetic. So it's naturally occurring in
- 9 fruits such as apples or cherries. So given
- 10 that it was non-synthetic, it's commercially
- 11 produced from the fermentation of fumaric
- 12 acid, which is produced by fermentation of
- 13 glucose.
- 14 There are alternatives such as
- 15 vinegar or citric acid, but the L-malic does
- 16 provide some unique properties. The TAP did
- 17 not find any unacceptable risks.
- 18 When we did our review we had no
- 19 new information. We deeded the TAP
- 20 sufficient. We did receive two public
- 21 comments supporting, and no public comments
- 22 opposed to relisting. So the committee

- 1 recommended relisting L-malic acid, and the
- 2 version I have in front of me does not have
- 3 the vote. By a vote of four yeses, no noes,
- 4 and two absents.
- 5 Any questions?
- 6 CHAIRPERSON MOYER: Any questions
- 7 from the board for Katrina? Chair recognizes
- 8 Kevin.
- 9 MEMBER ENGELBERT: Just one quick
- 10 one. This material and the previous one, were
- 11 they put on with a three-year sunset? Why are
- 12 they being reviewed for sunset?
- MEMBER HEINZE: They're 2011
- 14 sunset. But we have to review them now to
- 15 have enough time to work it through the
- 16 process.
- 17 CHAIRPERSON MOYER: Any other
- 18 questions for Katrina?
- 19 Thank you, board. Steve, thank
- 20 you.
- 21 MEMBER DeMURI: Thank you,
- 22 Katrina. We have one more 205.605(a) item

- 1 that is up for sunset in 2011. That's
- 2 microorganisms, and that's one of Joe's
- 3 favorite subjects so he took that one.
- 4 MEMBER SMILLIE: Right. They
- 5 were petitioned in 2002, and added to the list
- 6 on September 12th, 2006. Basically
- 7 microorganisms are essential for the
- 8 production of many fermented foods, and there
- 9 are many examples. The TAP review of 2002
- 10 reviewed microorganisms. It also reviewed
- 11 previous TAPs on dairy cultures, yeast and
- 12 enzymes, and it felt there was no need to
- 13 review microorganisms individually.
- 14 Basically it's noncontroversial.
- 15 There wee no public comments received opposing
- the use of microorganisms, and many supporting
- 17 their use. There was one specific comment we
- 18 received and posted that said we should define
- 19 more the breadth and scope of microorganisms,
- 20 which of course we would just love to do, but
- 21 unfortunately since it's a sunset review item,
- 22 I don't think that is part of the sunset

- 1 review process, to change the listing.
- 2 So we've regretfully declined to
- 3 take on that task. And basically we recommend
- 4 the continued use and listing of
- 5 microorganisms in 205.605(a). The committee
- 6 vote was five yes, zero no, one absent, zero
- 7 abstains or recusals. So basically we
- 8 recommend its relisting.
- 9 Any questions?
- 10 CHAIRPERSON MOYER: Any questions
- 11 for Joe regarding that item? Chair recognizes
- 12 Tina.
- 13 MEMBER ELLOR: Just a comment.
- 14 Microorganism has a definition, right? Maybe
- 15 not within OFPA, but it's a microscopic
- 16 organism, especially a bacterium or virus or
- 17 fungus. I have a school dictionary on my
- 18 computer.
- 19 CHAIRPERSON MOYER: Good. That's
- 20 nice. Any other comments for Joe? Questions
- 21 or comments? If not, thank you, Joe. Steve,
- 22 back to you.

- 1 MEMBER DeMURI: Thank you, Jeff.
- Now we move into the 205.605(b),
- 3 items up for sunset in 2011. The first one
- 4 that is on the list is activated charcoal.
- 5 Gerry Davis actually did the investigation and
- 6 review of that material. He is not with us
- 7 today so I will take that one.
- 8 Activated charcoal was first
- 9 petitioned in 2002. And added to the national
- 10 list with the annotation, only from vegetative
- 11 sources for use only as a filtering agent.
- 12 The TAP report in August of 2002
- 13 reviewed activated charcoal to determine that
- 14 if it was synthetic that it met fully the
- 15 criteria of 205.605(b) and should be included
- 16 in the national list with the annotation that
- 17 I noted.
- 18 We did not receive any new
- 19 information above and beyond what was already
- 20 known, that was discussed in the original
- 21 listing. We did receive six public comments
- 22 in support of the relisting of activated

- 1 charcoal. We did not receive any public
- 2 comments that were opposed to the relisting of
- 3 activated charcoal with the annotation.
- 4 So based on that information the
- 5 Handling Committee voted five yes, zero no,
- 6 one absent, and no abstentions or recusals for
- 7 the relisting of activated charcoal.
- 8 CHAIRPERSON MOYER: Any questions
- 9 for Steve on this item?
- 10 Seeing and hearing none, Steve,
- 11 back to you.
- 12 MEMBER DeMURI: Okay, thank you.
- 13 The next item is also 205.605(b),
- 14 and I'm going to take the next three together,
- 15 because they are highly related, very closely
- 16 related. They are all boiler chemicals. The
- 17 first one is cyclohexylamine. The second one
- is diethylamineoethanol, and the third one is
- 19 octadecylamine. So we will talk about those
- 20 three together.
- I wanted to make a couple of
- 22 comments regarding the sunset process, and I

- 1 was waiting for Miles to walk back in, and I'm
- 2 glad he did. It became very obvious in our
- 3 discussions in the committee that the sunset
- 4 process is still a little bit nebulous to us
- 5 with regards to procedures for determining
- 6 sunset. When you go back and look through
- 7 transcripts from old board meetings and even
- 8 talk to previous board members that were on at
- 9 different times, there is a little bit of
- 10 differences in the interpretation of what
- 11 sunset rule means.
- To some folks it means that sunset
- 13 would mean that if a listed item is not
- 14 brought before the board and specifically
- 15 asked to be relisted, that it just goes away,
- 16 it goes into the sunset, which is kind of the
- 17 traditional meaning of sunset in other areas.
- 18 To others it's more of an evergreen type
- 19 process where it just continues to be listed
- 20 until somebody comes up, or unless somebody
- 21 lets the board know that it should not be
- 22 relisted for some reason, due to new

- 1 information.
- 2 So what we are asking of the
- 3 program is maybe to recenter us a little bit
- 4 on what sunset procedures really should be,
- 5 give us some definitions of sunset for us to
- 6 help us and future boards to delve into sunset
- 7 listings.
- 8 This is only really the second
- 9 time we've had to do sunset, so it kind of
- 10 needless, and it's going to be happening more
- 11 and more as years go by. We have a huge set
- 12 of sunset materials for 2012, so I think it's
- important now that we get this squared away
- 14 once and for all.
- 15 Any other committee members want
- 16 to throw their you're not a committee
- 17 member, but you can talk about it.
- 18 CHAIRPERSON MOYER: Joe, anybody
- 19 else?
- 20 MEMBER SMILLIE: Yes, again,
- 21 especially with input from Kim Dietz, we've
- 22 come we understand now that the procedure is

- 1 to relist unless alternative methods become
- 2 really available and unless there is
- 3 definitive arguments that you disconnected
- 4 me. Right, where was I?
- 5 So there were a couple of factors,
- 6 and we discussed this at our meeting when we
- 7 got those boiler additives. We also felt that
- 8 we didn't get that we had some opinion on
- 9 the boiler additives saying, yes, these should
- 10 be relisted, but nothing no information. So
- 11 within the committee we canvassed a number of
- 12 people, a number of organizations, to say are
- 13 there alternatives now, and we felt there were
- 14 some approaching. So we decided in committee
- 15 to not vote for relisting. Again, we weren't
- 16 100 percent committed to that, but we wanted
- 17 to test the process. We wanted to invigorate
- 18 and get a vigorous discussion on these items,
- 19 because there was some evidence, again, we
- 20 need some clarification on that, but these
- 21 items originally when they were voted on that
- 22 that NOSB membership felt that while they

- 1 voted them on but they really felt they should
- 2 come off when they expressed their opinion as
- 3 such on the documents that we read.
- 4 So we decided, knowingly,
- 5 consenting adults, that we weren't going to
- 6 vote for relisting, because we wanted to
- 7 really get to the bottom of some of the issues
- 8 that Steve asked the program to address. Is
- 9 it evergreen, or is it sunset? Exactly what
- 10 information has to be provided? Is it beyond
- 11 the shadow of a doubt, or what is the exact
- 12 rule?
- 13 So we were playing a bit of
- 14 devil's advocate on this, but for a real
- 15 purpose, because we realized as Steve just
- 16 mentioned, we've got a lot of sunset materials
- 17 coming up, and we wanted to get some real
- 18 clear lines drawn on how we deal with sunset
- 19 for the future.
- 20 So we decided to take that action
- 21 because we didn't have strong compelling
- 22 evidence from the public comments that these

- 1 should be relisted, and I'll let Steve finish
- 2 that. But now we've gotten some comments, but
- 3 even now having reviewed all these public
- 4 comments, everybody says, yes, relist it, I
- 5 don't need it but I think the industry needs
- 6 it. But did we get anyone that said, I need
- 7 it?
- 8 MEMBER DeMURI: No, actually we
- 9 didn't. Nobody came up and said I have to
- 10 have this in order to be able to continue
- 11 processing. There were some allusions to
- 12 that, but nobody actually said that.
- 13 Can I ask him to come up, Joe?
- 14 CHAIRPERSON MOYER: Certainly, if
- 15 the committee chairman wants Kim Dietz to come
- 16 to the podium, the board will recognize her.
- 17 Kim, if you would, please state
- 18 your name and your affiliation for the
- 19 transcriber?
- 20 MS. DIETZ: I'm Kim Dietz, and I
- 21 did submit public comments to a past Materials
- 22 chair. If you look at the Federal Register

- 1 notice for sunset there is a process of
- 2 material review . There is a process to renew
- 3 the materials, and then there is a process for
- 4 those who want to continue to use materials.
- 5 And that is the public process. So I don't
- 6 know if you have my comments. But I submitted
- 7 them and the board certainly has them.
- 8 So anyway there is a process to
- 9 remove a material; there has to be evidence by
- 10 the public that provides an alternative. So
- 11 to my knowledge there was nothing received
- 12 through the sunset process on these materials.
- 13 So then the second piece is, those
- 14 people who want to continue to use them just
- 15 need to submit comments that they want their
- 16 continued use, and there were quite a few
- 17 comments submitted for continued use. So
- 18 there were six due to Federal Register
- 19 notices, and then for this meeting I believe
- 20 there were like 10 probably, including the
- 21 Juice Processors Association.
- 22 So there is evidence that the

- 1 industry still needs these materials. And
- 2 then the other thing I just want to mention is
- 3 that due to sunset procedures, it's not the
- 4 boards' rule to actually go back and hash out
- 5 the TAP report and to hash out a new listing.
- 6 It's either you vote to relist them or you
- 7 vote to take them off if there is evidence to
- 8 take them off.
- 9 So if you are confused, then you
- 10 probably should take a few minutes and pull up
- 11 the CFR, pull up the Federal Register notice,
- 12 go through the process, and also go through
- 13 the process on your board policy manual
- 14 because it is outlined there as well.
- 15 CHAIRPERSON MOYER: Thank you,
- 16 Kim. If there are some questions, I see Rigo
- 17 and Dan and Hue and Barry. Start with Rigo.
- 18 MEMBER DELGADO: I was just going
- 19 to echo what Kim just said. We do have a
- 20 process clearly stated in the policy manual
- 21 that says exactly that. And the other point
- 22 that I would add to that process is, if there

- 1 is evidence that there is a replacement
- 2 element, product or procedure, that should
- 3 also be an argument to delist this. It's all
- 4 clearly stated I think in the policy and
- 5 materials manual. Maybe we can go back and
- 6 make it more clear or specific. We are
- 7 fortunate to have Steve on the committee, so
- 8 he can help us with that.
- 9 CHAIRPERSON MOYER: Chair
- 10 recognizes Hue.
- 11 MEMBER KARREMAN: Just wondering,
- 12 on a sunset item, there is no new horrible
- information that came out, and 35 people say,
- 14 you know, we really don't need this, but one
- 15 person says, you know, I really still need
- 16 this, how should the committee reviewing that
- 17 weigh it? Because it got on the list. It's
- 18 kind of like, is it evergreen or not? But one
- 19 person says, you know, we really need this.
- 20 Does that outweigh the 35 who say, yes, we
- 21 don't really need it and there is no
- 22 compelling evidence to take it off.

- 1 MS. DIETZ: I think you need to
- 2 look at the process, look at that Federal
- 3 Register notice, because there are specific
- 4 things you have to provide in the public
- 5 comment to provide evidence that there is a
- 6 replacement. So the industry has a chance to
- 7 go back and say, oh, I didn't know that was
- 8 there; maybe I can use this. So again the
- 9 process to remove a material through sunset is
- 10 much more technical than keeping a material.
- 11 So you really have to provide the evidence to
- 12 the industry, and there are like six criteria,
- and I apologize I don't have that in front of
- 14 me, I didn't realize I was going to come up
- 15 and do this. But I can certainly give it to
- 16 you, and it's in my public comments, exactly
- 17 what you are supposed to provide the industry
- 18 if there is an alternative.
- 19 CHAIRPERSON MOYER: Chair
- 20 recognizes Dan.
- 21 VICE CHAIRPERSON GIOACOMINI:
- 22 Kim. I'm surprised, it's only been what five

- 1 years since you've been on the board, and you
- 2 don't have that right off the top of your
- 3 head.
- 4 MS. DIETZ: I'm sorry, I don't.
- 5 I should, huh?
- 6 VICE CHAIRPERSON GIOACOMINI: I
- 7 would only I agree with 99 percent of what
- 8 you said. There was only one little bit that
- 9 I I'm not questioning what you said, but I'm
- 10 questioning the implication of it. And that's
- 11 what you said about the old TAP reviews. I
- 12 think going back and looking at the old
- 13 recommendation and the old TAP reviews is
- 14 vitally important. Because what we are
- 15 needing to look at is what's new. And unless
- 16 we go back and look at what was old, there is
- 17 no way of knowing what is new. So I don't
- 18 think it's going back to review it and rehash
- 19 it and reevluate it, but we haven't to
- 20 understand what it said.
- 21 MS. DIETZ: And I agree with you
- 22 there. But what you can't do is say, like

- 1 with the boiler materials, say, okay, well,
- 2 the alternative was stainless steel pipes. Or
- 3 the alternative was water rinsing. That was
- 4 reviewed at the original TAP review. But
- 5 that's not new material. So you are exactly
- 6 right you do need to look at the old to see
- 7 what is new, I agree with you there.
- 8 CHAIRPERSON MOYER: The chair
- 9 recognizes Barry.
- 10 MEMBER FLAMM: Yes, I kind of
- 11 want to reiterate what Rigo said. A year ago,
- 12 because of the same questions that are coming
- 13 up right now, the Policy Development Committee
- 14 took on examining the sunset procedures and
- 15 worked at clarifying them. We worked with the
- 16 Materials Committee, and I had the pertinent
- 17 language in front of me but I lent it to
- 18 Miles. So I can only but it's a little more
- 19 comprehensive than what's been alluded to
- 20 here. Certainly thank you let me just
- 21 read the whole thing so you and this is what
- 22 was approved at last year's November meeting.

- 1 It says the appropriate NOSB
- 2 committee begins review of the material with
- 3 the intent of providing a recommendation to
- 4 the entire board for the material's removal or
- 5 renewal. The remove is constructed based on
- 6 force of evidence as presented by the board
- 7 members, public comment and scientific data
- 8 from other sources. And this includes the
- 9 original recommendation of the board and the
- 10 TAP. So the committee may request a third
- 11 party and another technical review is they
- 12 like, and if needed verify scientific evidence
- 13 and claims made during the public comment.
- 14 So that is a little more
- 15 comprehensive. In the final analysis it's
- 16 still up to the judgment of that committee
- 17 right now, and I think whether they may have
- 18 known it or not, I think that the committee
- 19 proceeded properly, so I don't think that the
- 20 criticism that the committee somehow didn't
- 21 follow procedures is correct, because they
- 22 were really following what was the instruction

- 1 adopted last year.
- 2 MS. DIETZ: I guess where I was
- 3 concerned was just with the word, evidence.
- 4 The Federal Register docket, which is the one
- 5 that the public sees, requires specific
- 6 evidence to be provided to the industry. I
- 7 could read that to you if you want me to, but
- 8 that is what we see.
- 9 MEMBER FLAMM: Well, that is
- 10 true, and maybe that is governing. But you
- 11 also the public this recommendation and
- 12 approval was public, and it's been public, so
- it's also officially reviewed in the policy
- 14 and procedure manual which is our way of
- 15 conducting business through the board. So I
- 16 appreciate your pointing out the regulations
- 17 though.
- 18 MS. DIETZ: Yes, again, I think
- 19 that we just didn't that evidence your
- 20 flow chart actually on page 59 that --
- 21 MEMBER FLAMM: Yes, you did see
- 22 that.

- 1 MS. DIETZ: And evidence from
- 2 public input, and the recommendation didn't
- 3 say it was from public input, that evidence.
- 4 It just said it was the sense that there was
- 5 alternatives. So that's, again, it's could
- 6 just be wording. But all in all I'm glad this
- 7 happened. I'm glad that we could clarify
- 8 sunset. I'm glad that it will get us all on
- 9 the same page because that is all part of
- 10 learning. So I'm sorry if my comments were
- 11 harsh. But I just want to make sure that
- 12 everybody understands the sunset process, and
- 13 we can't just take a material off the national
- 14 list through sunset, because we don't want it
- on there anymore. We have to provide the
- 16 evidence to the industry that those
- 17 alternatives that you list are viable
- 18 alternatives, to give us a chance to look at
- 19 those.
- 20 CHAIRPERSON MOYER: Very good
- 21 points, Kim.
- 22 Chair recognizes Joe.

- 1 MEMBER SMILLIE: Well, wouldn't
- 2 you agree, it's more of an evergreen process.
- 3 MS. DIETZ: Oh, yes.
- 4 MEMBER SMILLIE: It's just
- 5 misnamed.
- 6 CHAIRPERSON MOYER: An evergreen
- 7 process with review.
- 8 MEMBER FLAMM: Can I make a
- 9 comment?
- 10 CHAIRPERSON MOYER: Yes.
- 11 MEMBER FLAMM: You know the only
- 12 place it appears is in the law, and the
- 13 statement is rather brief. You could
- 14 interpret it that way, but I don't think there
- 15 nothing I see in the legislative history
- 16 that would suggest that this sunset is any
- 17 different than other sunsets, which usually
- 18 mean that you have to have a process of
- 19 reinstatement stricter than anything we are
- 20 doing right now. So I think we may have
- 21 trended toward what has been characterized as
- 22 evergreen, but I don't know if there is any

- 1 basis for that trend. And what we were trying
- 2 to do in the new procedures, which were
- 3 approved, is to say let's take a look at we
- 4 are not throwing out the old, but on the other
- 5 hand we have to have room for what is
- 6 happening now and allow judgment on the
- 7 current committee. And I appreciate your
- 8 allowing this discussion.
- 9 CHAIRPERSON MOYER: Chair
- 10 recognizes Julie.
- 11 SECRETARY WEISMAN: Yes, there
- 12 was also something that I agree, this was
- 13 important and good in its way that this
- 14 happened now, because we are about to go into
- a whole new slug, which I'm sorry I won't be
- 16 here for, but there was something else that
- 17 went on that doesn't have to do with how we
- 18 interpret sunset that was different than what
- 19 has gone on in the past. The ANPR for this
- 20 sunset came out uncharacteristically early.
- 21 I believe the ANPR was published on March
- 22 14th, 2008, a year and a half ago, and public

- 1 comment was received in the 60 days after
- 2 that, or maybe within a month and a half
- 3 that followed. And in that period there were
- 4 three comments, but it had been so long ago,
- 5 and it's never happened that way before, that
- 6 at the committee it was like that was outside
- of our memory, and we weren't even aware that
- 8 part of our discussion was, that oh, we
- 9 haven't gotten any public comment about this,
- 10 but that was actually erroneous. There had
- 11 already been public comment, and then we
- 12 published our recommendation, and there was
- 13 more public comment ahead of this meeting. So
- 14 the body of evidence is quite different than
- 15 we felt it was at the time we were having
- 16 these deliberations.
- 17 CHAIRPERSON MOYER: Thank you,
- 18 Kim.
- 19 MS. DIETZ: So that clears up
- 20 sunset.
- 21 CHAIRPERSON MOYER: I think it
- 22 was.

- 1 MS. DIETZ: And again, it's in my
- 2 comments exactly what is required to remove
- 3 material.
- 4 MEMBER DeMURI: Right, and part
- 5 of my reason to bring it up I hesitated to
- 6 bring it up at all, but I wanted to get it on
- 7 the table, because it is going to be important
- 8 to our discussion. Those of you who went
- 9 through and read the recommendation are going
- 10 to see in the recommendation that the original
- 11 board, when they made the decision back in
- 12 2001 to list it, there was some language in
- 13 that recommendation that they hoped that
- 14 future boards would be able to delist these
- 15 three chemicals because they were toxic. So
- 16 that also weighed into our original decision
- 17 to recommend not relisting these three items.
- 18 Since that time we got together
- 19 again and based on the public comment we
- 20 received since we posted that original
- 21 recommendation plus what we heard over the
- 22 last couple of days, we met again today and we

- 1 did vote to recommend relisting all three of
- 2 these, because we do believe there is some
- 3 evidence that it is still necessary in the
- 4 industry for processors.
- 5 So on all three of these, the
- 6 cyclohexylamine, the diethylaminoethanol, and
- 7 the octadecylamine, we voted five yes, zero
- 8 no, and one absent to relist.
- 9 CHAIRPERSON MOYER: Thank you,
- 10 Steve. Appreciate that process as well as the
- 11 presentation.
- 12 Your next material, Mr. Chairman?
- 13 I'm sorry, I thought we had covered that. Are
- 14 there any more questions for Steve regarding
- 15 those materials? Or the reasons that the
- 16 committee chose to vote the way they did.
- 17 Thank you.
- 18 Back to you, Steve.
- 19 MEMBER DeMURI: Okay, thank you.
- 20 The next item is also a 205.605(b) item. It's
- 21 peracetic acid, and Katrina handled that one
- 22 for us.

- 1 MEMBER HEINZE: Okay, we reviewed
- 2 peracetic acid also known as peroxyacaetic
- 3 acid for delisting on 205.605(b) synthetics
- 4 allowed. Peracetic acid, that's what I'll
- 5 call it, was added to the list again in the
- 6 fall of 2006 based on a review by the NOSB.
- 7 So just some historical
- 8 information. The NOSB reviewed Peracetic
- 9 acid, but in the proposed rule the program
- 10 added the equivalent word, perocyacetic acid,
- 11 because that is how FDA regulations lists the
- 12 material. So using both common names helps
- 13 avoid confusion.
- 14 This is the first time that
- 15 Peracetic acid has been reviewed through the
- 16 sunset process. It's used in the food
- industry as a sanitizer, to control deposits,
- 18 odors, biofilms, and then as well, a microbial
- 19 control agent for food contact surfaces and
- 20 direct contact with fruit and vegetables.
- The TAP review was completed in
- 22 November, 2000. Everyone agreed that the

- 1 material was synthetic but should be allowed
- 2 with annotation for use in organic handling.
- 3 I was going to review the
- 4 annotation for that. So the annotation for
- 5 this material is for use in wash and/or rinse
- 6 water according to FDA limitations; for use as
- 7 a sanitizer on food contact surfaces.
- 8 The reason the original board
- 9 listed this and the TAP reviewers recommended
- 10 it for listing is the control of food-borne
- 11 pathogens, and how it effective this material
- 12 is for that purpose. There are alternatives,
- 13 but each alternative has drawbacks when
- 14 compared to Peracetic acid. So some of the
- 15 alternatives are steam or hot water, which are
- 16 not incredibly effective sanitizers in all
- 17 cases.
- 18 In the case of other sanitizers
- 19 and disinfectants, they are certainly no worse
- 20 with regards to human health, but Peracetic
- 21 acid is no worse, but certainly it is viewed
- 22 as being more benign environmentally because

- 1 its breakdown products are acetic and hydrogen
- 2 peroxide.
- 3 The TAP review also showed that
- 4 this material was more effective than others
- 5 previously recommended by the board.
- 6 So the Handling Committee had no
- 7 new information that would cause us to
- 8 reevaluate this material. We did receive 11
- 9 public comments in support of, and no public
- 10 comments opposed to, relisting Peracetic acid.
- 11 So by a vote of five yes, zero
- 12 noes, and one absent, we are recommending
- 13 relisting of Peracetic acid, peroxyacetic
- 14 acid, on 205.605(b).
- 15 CHAIRPERSON MOYER: Thank you,
- 16 Katrina. Any questions or points of
- 17 discussion of these materials which I won't
- 18 pronounce?
- 19 Hearing none, back to you, Mr.
- 20 Chairman.
- 21 MEMBER DeMURI: Thank you,
- 22 Katrina and Jeff.

- 1 The next time is also a 205.605(b)
- 2 substance. It's sodium acid pyrophosphate.
- 3 It was first petitioned in October of 2002.
- 4 And added to the national list effective
- 5 September 12th, 2006. Sodium acid
- 6 pyrophosphate was originally petitioned for
- 7 use as a leavening acid in baked goods, and
- 8 was given annotation at the time of listing
- 9 for use only as a leavening agent. One that
- 10 was originally recommended for listing by the
- 11 NOSB.
- We did review the TAP, and did not
- 13 receive any information. Didn't see anything
- in the TAP that would have changed since then,
- 15 since they did the TAP. We did receive three
- 16 public comments prior to the posting of our
- 17 recommendation that were in support of
- 18 relisting sodium acid pyrophosphate, and there
- 19 were no public comments opposed to it . But
- 20 since that original recommendation was posted,
- 21 we did receive a comment from PCO that
- 22 supported removing the material since it was

- 1 not considered to be nonessential, which
- 2 wouldn't probably be considered new
- 3 information since the original TAP was done.
- 4 The committee vote at the
- 5 committee level for this substance was for
- 6 relisting, yes, give, no zero and one absent;
- 7 no abstentions or recusals.
- 8 CHAIRPERSON MOYER: Thank you,
- 9 Steve.
- 10 Any questions from board members
- 11 for Steve, or comments regarding this
- 12 material?
- 13 Seeing and hearing none, back to
- 14 you, Steve.
- 15 MEMBER DeMURI: Thank you.
- 16 The last item for sunset for
- 17 handling for 2011, another 605(b) substance,
- 18 tetrasodium pyrophosphate, or TSPP it's
- 19 commonly known as, it was added to the
- 20 national list effective September 12th, 2006.
- 21 Based on an NOSB recommendation that was made
- 22 in April, 2004. And it also has an

- 1 annotation, tetrasodium pyrophosphate has the
- 2 annotation for use only in meat analog
- 3 products.
- 4 It was originally petitioned for
- 5 use as a pH buffer, and a dough conditioner
- 6 for use in organic meat alternative products.
- 7 It's relatively comment, it's GRAS, it has
- 8 USDA and FDA approval. Had a fairly thorough
- 9 TAP done on it at the time of listing. And
- 10 again a review of that did not point out
- 11 anything that has changed since that original
- 12 TAP, and the original decision for listing was
- 13 made.
- 14 We did again receive three public
- 15 comments in support of, and no public comments
- 16 opposed to relisting TSPP prior to our posting
- 17 of our original committee recommendation.
- 18 Since that time again, PCO made a comment that
- 19 allowing TSPP should not be relisted because
- 20 it is not compatible with NOP criterion
- 21 205.600(b)(4).
- But again not any new information

- 1 since it was originally listed.
- 2 So the committee voted on this a
- 3 couple of months ago, back in September. We
- 4 voted yes, five, no zero, and one absent, no
- 5 abstentions. There were four recusals.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Steve.
- 8 Any questions or comments from
- 9 board members regarding this particular
- 10 material? Again, hearing none, is there
- 11 anything else in your report, Steve?
- 12 MEMBER DeMURI: I'd like to talk
- 13 briefly about sunset, 2012. Let me pull out
- 14 my big stack of papers here.
- We have a total of 95 materials
- 16 that are coming up for sunset in 2012, and we
- 17 have started talking about these at the
- 18 committee level. We have 19 205.605 color
- 19 substances that `well be sunsetting in 2012,
- 20 and we had 22 other 606 items. There are 20
- 21 205.605(a) items, and 30 205.605(b) materials.
- 22 So we have our work cut out for us

- 1 over the next year, or year and a half, in
- 2 reviewing these 95 materials for sunset in
- 3 2012. So like I said we have already started
- 4 our discussions on these. We have split them
- 5 up into groups and made some assignments. So
- 6 we are starting to work on these.
- 7 CHAIRPERSON MOYER: Thank you,
- 8 Steve, for that report.
- 9 Any final questions from board
- 10 members for Steve?
- 11 If not, that concludes the
- 12 business of the committees in front of this
- 13 board, and the next item on our agenda is
- 14 public comment. I will remind the board and
- 15 the gallery that it is 10:05, so we have 10
- 16 minutes to get through all of those comments.
- We have 25 commenters. So I'd
- 18 just remind people that the board does have a
- 19 lot of work to do tonight on revising our work
- 20 load for tomorrow, our recommendations for
- 21 voting. We want to be sure we have some time
- 22 and brain capacity left for that, not to

- 1 detract from people's making their public
- 2 comments.
- I think we will start right away
- 4 with public comment and get going.
- 5 PUBLIC COMMENT
- 6 CHAIRPERSON MOYER: First on the
- 7 list is Will Fantle from Cornucopia, and
- 8 Richard Siegel will be on deck.
- 9 If Will is here? I don't see
- 10 Will.
- 11 We'll take Richard Siegel for now,
- 12 and Kelly Shea on deck.
- 13 MR. SIEGEL: Good afternoon. I'm
- 14 Richard Siegel, a lawyer here in Washington,
- 15 D.C.
- But I'm not going to be making any
- 17 comment. I am offering my time to Kim Dietz.
- 18 I gave my proxy to Kim Dietz.
- 19 CHAIRPERSON MOYER: Thank you,
- 20 Richard.
- 21 If Kim will come to the podium?
- 22 Thank you, Kim.

- 1 MS. DIETZ: I'll be very brief.
- 2 Another materials process issue that I have to
- 3 do. I was sitting in the back today with the
- 4 livestock, and realized that you are trying to
- 5 change some annotations to materials on the
- 6 National List, and you are calling them
- 7 technical corrections, as well as
- 8 clarifications.
- 9 So again there are some procedures
- 10 in place for changing annotations that have
- 11 been there for a long time, and so I'm just
- 12 going to read this.
- 13 The Livestock Committee's
- 14 recommendation to change annotations on
- 15 materials already on the National List is
- 16 going against the materials process as defined
- 17 by 7 CFR Part 205 national list petition
- 18 process, and annotation to materials currently
- 19 on the National List can only be changed
- 20 through the petition process.
- NOSB's policy manual as well, on
- 22 page 50, defines the guidelines for a

- 1 technical correction. It requires that a
- 2 technical correction can only be made if there
- 3 is an error in the annotation between the
- 4 timeframe of the original NOSB vote and
- 5 recommendation and the Federal Register notice
- 6 recommending the material's placement on the
- 7 National List.
- 8 So in order words if there is
- 9 actually an error made in the typing or the
- 10 processing of the annotation. So that is
- 11 truly a technical correction. And we have
- 12 battled this for years, really what is a
- 13 technical correction. But it is really just
- 14 a transfer of information to the Federal
- 15 Register notice that is wrong.
- 16 So if this board votes on the
- 17 recommended annotation changes, then you are
- 18 going against the materials process and
- 19 setting precedent that any annotation can be
- 20 changed by committee recommendations. And we
- 21 have never been able to do that.
- The materials process has been

- 1 established for consistency, and I would
- 2 suggest that the vote on these materials be
- 3 deferred until a petition is received. The
- 4 NOSB does not have the ability to change
- 5 annotations as a recommendation or a technical
- 6 correction unless they meet either of those
- 7 quidelines.
- 8 And I can give those to you if you
- 9 like. But that is all I have to say. And
- 10 then thank you, Katrina, for your hard work on
- 11 the document. It's been 20-plus years that we
- 12 have battled with materials between synthetic
- 13 and non-synthetic and ag and nonag, and we are
- 14 getting there, so I thank you very much, and
- 15 everybody actually.
- 16 CHAIRPERSON MOYER: Thank you,
- 17 Kim.
- 18 Chair recognizes Hue.
- 19 MEMBER KARREMAN: We asked the
- 20 program about this, being that we are
- 21 individual citizens sitting at the table. We
- 22 were told that we can submit whether we have

- 1 the way we have to do a clarification,
- 2 although the person who said that is no longer
- 3 in the program, although the person is in the
- 4 room. I don't know if the person wants to
- 5 speak to that at all.
- 6 MS. DIETZ: I don't know how you
- 7 can go against process. If you make this
- 8 decision to allow this, then at any time
- 9 committees can change annotations and I'm not
- 10 sure that's a transparent and fair process.
- 11 CHAIRPERSON MOYER: Would
- 12 somebody from the program, Miles, would you
- 13 like to address that, or someone from your
- 14 staff?
- 15 MS. FRANCES: I would only offer
- 16 a little information that the question was put
- 17 to the Office of General Counsel on a number
- 18 of these questions and they felt that these
- 19 were all the kind of changes that could be
- 20 made.
- 21 CHAIRPERSON MOYER: That was the
- 22 livestock's understanding.

- 1 MS. DIETZ: Well, then, it should
- 2 be in the petition process.
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Bob Pooler from the program. If
- 5 you could come to the podium. Thank you, Kim.
- 6 MR. POOLER: I'm Bob Pooler,
- 7 National Organic Program. Just want to remind
- 8 the board that there are petition guidelines
- 9 out there that were published in the Federal
- 10 Register, that describe that the only way to
- 11 amend the National List is through the
- 12 petition process or through sunset. We did
- 13 not receive petitions for these materials, so
- 14 we do not have recognized petitions for these
- 15 kinds of changes that we are going through.
- 16 Thank you.
- 17 CHAIRPERSON MOYER: Thank you,
- 18 Bob.
- 19 MR. McEVOY: So it sounds like
- 20 the program is saying two different things, so
- 21 I think we have to clarify the facts here.
- 22 CHAIRPERSON MOYER: I just heard

- 1 two different messages here.
- 2 MR. McEVOY: I did too. So
- 3 something I guess we need to figure out and
- 4 get back to you with one clear message,
- 5 because --
- 6 CHAIRPERSON MOYER: And you need
- 7 to do it fast.
- 8 MR. McEVOY: Yes.
- 9 CHAIRPERSON MOYER: Thank you.
- 10 Chair recognizes Hue.
- 11 MEMBER KARREMAN: I just want to
- 12 say that we would not have gone through this
- 13 process had we not gotten a green light from
- 14 somewhere in the program. Believe me, we
- 15 would not have undertaken this to present it
- 16 at the board, put it on the agenda, get the
- 17 agenda approved, blah blah blah. So obviously
- 18 I'm somewhat upset to learn this from Kim, but
- 19 that is the all I'm saying is that we were
- 20 going on good word, maybe we should have
- 21 gotten it in writing. But that is why we did
- 22 what we did.

- 1 CHAIRPERSON MOYER: Chair
- 2 recognizes Dan.
- 3 VICE CHAIRPERSON GIOACOMINI: In
- 4 many ways, Miles, if you are running out on
- 5 this well, one more thing, though, this is
- 6 the I think this would be the exact same
- 7 situation we dealt with that we had at the
- 8 last meeting with injectables. So in a way
- 9 the precedent was already set, I'm sorry. But
- 10 I'm not sure that that is entirely I believe
- 11 that is the umbrella of where all this started
- 12 from. It was a little different, in that I
- 13 think that may have been an entirely new
- 14 listing as opposed to an annotation change.
- 15 But that was also not doing through the
- 16 typical public submitted petition.
- 17 MR. McEVOY: Bob just said that
- 18 the injectables was done through a petition
- 19 process.
- 20 CHAIRPERSON MOYER: Chair just
- 21 recognizes --
- 22 MEMBER KARREMAN: I would say

- 1 that the injectables that we voted on as a
- 2 full board last time was done this exact same
- 3 way, came out of committee.
- 4 CHAIRPERSON MOYER: Chair
- 5 recognizes Bob Pooler from the program.
- 6 MR. POOLER: Bob Pooler, National
- 7 Organic Program. We did receive a petition
- 8 from Dr. Karreman on injectable vitamins and
- 9 minerals. I reviewed that petition and I did
- 10 reject that petition as incomplete. I sent
- 11 you that notice, and I believe essentially you
- 12 appealed to the program and found another
- 13 method to review that petition and at the last
- 14 meeting you had a vote on it. That's the
- 15 history of that.
- 16 So there was a petition for
- 17 injectable vitamins and minerals, if you want
- 18 to call it that. But anyway, we did have a
- 19 petition for that, so that is not setting
- 20 precedent.
- 21 CHAIRPERSON MOYER: Thank you for
- 22 that clarification. Hue can respond, and then

- 1 you, Dan.
- 2 MEMBER KARREMAN: When that
- 3 petition was rejected, Bob, I let it go. I
- 4 did not correct that petition so that it was
- 5 officially accepted.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Hue.
- 8 Chair recognizes Dan.
- 9 VICE CHAIRPERSON GIOACOMINI: In
- 10 the normal process we did not receive that
- 11 petition from the program to review as he
- 12 said. We proceeded with a different method.
- 13 Under the approval of the program.
- 14 CHAIRPERSON MOYER: Okay, chair
- 15 recognizes Rigo.
- 16 MEMBER DELGADO: Just one
- 17 technical question. We have on the Crops
- 18 Committee a petition to remove annotation.
- 19 Our response as a committee was to reject that
- 20 petition. But we responded with a second
- 21 follow up, additional annotation. What is the
- 22 status of that? Is it affected as well given

- 1 the new developments?
- 2 CHAIRPERSON MOYER: Technically,
- 3 yes, I believe so. Chair recognizes Kevin for
- 4 a comment.
- 5 MEMBER ENGELBERT: The Crops
- 6 Committee got approval from the program.
- 7 CHAIRPERSON MOYER: Yes, we did.
- 8 MEMBER ENGELBERT: To make that
- 9 change in annotation just like the Livestock
- 10 Committee did to change these annotations.
- 11 CHAIRPERSON MOYER: Miles, this
- 12 comment is directed towards the program. I
- 13 believe that we need some clarification on
- 14 this and some guidance in the next few hours
- 15 if you could.
- 16 MR. McEVOY: Yes, I need some
- 17 clarification and guidance as well, so we are
- 18 working on it.
- 19 CHAIRPERSON MOYER: Okay, we
- 20 appreciate those comments, Kim, sort of. No,
- 21 we want to get this right, and we appreciate
- 22 that guidance.

- 1 Dan, one more comment.
- 2 VICE CHAIRPERSON GIOACOMINI:
- 3 Part of Kim's statement is the listing I'm
- 4 assuming it's also listed that way on the
- 5 recommendation unfortunately. Again we had
- 6 discussion of whether this should be listed as
- 7 a technical correction. And again I believe
- 8 we got a recommendation from the program that
- 9 it was okay to list it in that format on the
- 10 recommendation and the agenda, and that it was
- 11 no problem.
- 12 CHAIRPERSON MOYER: Thank you,
- 13 Dan.
- 14 The Chair will now call Will
- 15 Fantle to the program.
- MR. FANTLE: My name is Will
- 17 Fantle. I'm the co-director for the
- 18 Cornucopia Institute. We are an organization
- 19 advocating for social justice for family
- 20 farmers. We have about 3,000 members across
- 21 the country, the majority of whom are organic
- 22 farmers. We have hundreds of dairy organic

- 1 farmers as well, and just to remind the
- 2 committee of the testimony that was presented
- 3 yesterday by policy analyst Charlotte
- 4 Vallaeys, we did support as well a two times
- 5 a day milking strategy for dairy.
- I had some comments about the
- 7 website first. I am going to leave some
- 8 comments with Valerie that were unable to be
- 9 electronically filed by people who had an
- 10 interest in the livestock issue. And this was
- 11 disappointing to us. This was not the first
- 12 time we've heard this, and I'm going to ask
- 13 you as a board, and ask the staff at the NOB
- 14 to see if there is some help that can be done
- 15 or created on this to make it truly an
- 16 interactive website so that the public can use
- 17 this. It is very cumbersome, difficult to
- 18 use. I have said this before, and it inhibits
- 19 the ability of people to interact with
- 20 important officials such as yourself.
- 21 So I will leave these additional
- 22 comments on the proposed livestock regulations

- 1 with Valerie; perhaps they can get into the
- 2 record.
- I want to turn to the pasture
- 4 livestock rule, or the livestock rule as we
- 5 call it. This is the third meeting now that
- 6 this board has had since the draft rule was
- 7 released last year. You still have not had an
- 8 opportunity to comment on any of its
- 9 iterations. Our organization would like the
- 10 NOSB to be involved with such an important
- 11 rule, particularly since this rule morphed or
- 12 changed from what I think was initially
- 13 expected by people across the country who were
- 14 looking at this, a rule that became much
- 15 broader in scope than just a few tweaks to
- 16 dairy and on pasture.
- 17 So we hope in the future when
- 18 important changes come that there will be
- 19 allowances made for your input. We think
- 20 that betters the function and process.
- 21 I'm going to read a portion of a
- 22 letter that we sent to Secretary Vilsack last

- 1 week regarding the pasture or livestock rule.
- We are delighted it's out, and moving forward
- 3 from USDA. We want to see improvements made.
- 4 But we think that given the gravity of the
- 5 changes that were initially proposed that it
- 6 would and this is what we asked Secretary
- 7 Vilsack we respectfully request that you
- 8 would consider releasing this as an interim
- 9 final rule, allowing the public to have one
- 10 last opportunity for input. This approach
- 11 would allow for the immediate implementation
- 12 of the rule.
- Now I know that this board
- 14 probably can't take any action on that. I'm
- 15 speaking as much to staff here hoping that
- 16 they can encourage others at the USDA to
- 17 approve this as an interim final rule.
- 18 We are suggesting this because of
- 19 what happened last year. The rule, and I'm
- 20 going to read again a portion of this, the
- 21 draft rule was nearly universally rejected.
- 22 Whatever the department now

- 1 releases will we assume be materially
- 2 different than the draft version. We believe
- 3 that this experience suggests that it would
- 4 appropriate to have one last opportunity to
- 5 critique and tweak if necessary the rules.
- 6 Those of you who are close to
- 7 dairy and those of you who are interested in
- 8 organic sitting on this board know that we
- 9 have a crisis in the dairy community across
- 10 this country, both in conventional and
- 11 organic, farmers are truly stressed by a
- 12 decrease in prices. And it's our contention
- 13 that in organics much of that surplus that is
- 14 occurring and causing the diminished price in
- 15 organics is due to the confined animal
- 16 operations that we've been talking so strongly
- 17 about being in violation of the rules. So we
- 18 think that their milk is helping to depress
- 19 the prices that ethical family farmers who are
- 20 following the organic rules are now being
- 21 forced to suffer under.
- So I appreciate your indulgence in

- 1 this. I want to offer one last comment here,
- 2 and that is for the departing members on this
- 3 board. We appreciate your service. I've
- 4 talked to a number of you; I know how much
- 5 work is involved in this, and it's a challenge
- 6 for you to do this, to take time out to do
- 7 this in your own lives, and we thank you for
- 8 that service.
- 9 CHAIRPERSON MOYER: Thank you,
- 10 Will. Questions from the board for Will?
- 11 Dan?
- 12 VICE CHAIRPERSON GIOACOMINI:
- 13 Thanks, Will.
- 14 Let me just say that I think
- 15 probably to a person on this board we echo y
- 16 our feelings on the occasional frustration
- 17 with regulations dot gov. I will say though
- 18 that if you call the help desk, they're really
- 19 nice, because I had to do that in order to be
- 20 able to get on and review the document.
- 21 MR. FANTLE: That speaks to how
- 22 difficult it is.

- 1 CHAIRPERSON MOYER: Any other
- 2 questions or comments for Will?
- Thank you, Will.
- 4 Could Kelly Shea come to the
- 5 podium, and Joe Dixon on deck?
- 6 MS. SHEA: Hello, Kelly Shea with
- 7 White Wave Foods.
- 8 In light of the fact that most of
- 9 my comments have already been spoken by my
- 10 colleagues, I will cede my time back to the
- 11 board, and I will just thank all the members
- 12 of the board for their incredible hard work,
- 13 and especially those of you who have put in a
- 14 great five years.
- 15 So thank you very much.
- 16 CHAIRPERSON MOYER: Thank you for
- 17 coming to the podium. We appreciate your
- 18 time.
- Joe Dixon? I thought for a minute
- 20 you were running away. It's too late for
- 21 that.
- MR. DICKSON: I was counting on a

- 1 few more speakers while I finished writing my
- 2 comments.
- 3 My name is Joe Dickson. I am
- 4 quality standards coordinator of Whole Foods
- 5 Market. I'm also holding a proxy from
- 6 Margaret Wittenberg who was originally
- 7 scheduled for this slot, but I don't think I'm
- 8 going to use it because it is already after
- 9 5:00.
- 10 Good evening, members of the
- 11 board, NOP staff, and the organic community.
- 12 Thank you very much to all the outgoing board
- 13 members for all your hard work these years,
- and for those of you who aren't leaving I'm
- 15 very excited to be joining you in the spring.
- 16 Congratulations to Miles on his
- 17 new position and to everyone at the USDA for
- 18 showing more support for organic and local and
- 19 sustainable agriculture in the first year of
- 20 the administration, and we've seen it a long
- 21 time. It's incredibly uplifting to be a part
- 22 of this community in this room at this time.

- 1 Since this is my last chance to
- 2 give public comment until the beginning of
- 3 2016, I thought I'd just use the opportunity
- 4 one last time.
- 5 First off on the personal care
- 6 products recommendation we heard from a lot of
- 7 commenters yesterday that noted that the
- 8 landscape of organic personal care claims is
- 9 sort of a wild west. It's very haphazard and
- 10 unregulated, and we see products in stores
- 11 making all kinds of organic claims with
- 12 varying levels of organic ingredients and
- 13 oftentimes very little substantiation.
- 14 We know that there is some
- 15 potential for further exploration of what
- 16 federal agency has the jurisdiction and the
- 17 teeth to regulate this. We believe very
- 18 strongly that some federal agency needs to
- 19 regulate organic personal care claims, and we
- 20 hope that the NOB, the NOSB, this community,
- 21 the industry, will work together and continue
- 22 forward momentum to figure out what path we

- 1 need to take to get to a place where organic
- 2 personal care products are regulated.
- 3 Our shoppers don't expect to walk
- 4 into the personal care aisle from the produce
- 5 aisle and have to deal with a different
- 6 definition of organic. I suspect very
- 7 strongly that other consumers feel very much
- 8 the same way. It's a very basic problem with
- 9 the market that does need to be addressed, and
- 10 I look forward to working with everyone who is
- interested to get to where we need to get on
- 12 that.
- 13 On retail certification, we also
- 14 heard a lot of really good comments on that
- 15 issue yesterday, and support specifically the
- 16 position of the CCOF, Oregon Tilth and the
- 17 Organic Trade Association. In general we
- 18 believe that surveillance, enforcement and
- 19 education of noncertified and certified
- 20 retailers would support organic integrity in
- 21 the industry far better than focusing only on
- 22 voluntarily certified retailers who are

- 1 already under the supervision of a certifying
- 2 agent.
- 3 The certifying agent for a
- 4 certified retailer is responsible for visiting
- 5 the stores, evaluating compliance, and in our
- 6 experience, does a very very diligent job of
- 7 keeping us on our toes and making sure that
- 8 our stores are in compliance.
- 9 The recommendation asks a series
- 10 of questions about signage and label claims
- 11 that we feel are already answered in the
- 12 rules. There are questions that we have asked
- 13 and answered with our certifying agents since
- 14 2003, and the answers are there.
- 15 We don't believe that there needs
- 16 to be some sort of proscriptive guidance that
- 17 is focused on retailers. Other than the fact
- 18 that retailers are exempted from the
- 19 certification requirement, there is no other
- 20 basis in the rule that differentiates
- 21 retailers from any other type of handler.
- The rules about commingling,

- 1 contamination, documentation, all that stuff
- 2 is in there, and it's taken some teasing for
- 3 us as a retailer to make sure that we are in
- 4 compliance. And it's a lot of work. But the
- 5 answers are there.
- 6 However we do agree with the board
- 7 or the committee that the certified organic
- 8 retailer plan does need to be clarified.
- 9 There are stores out there that have one
- 10 department certified that we see making
- 11 certified organic retailer claims that seem to
- 12 apply to the own store. In our own stores
- 13 actually every department is certified, and we
- 14 do claim to be a certified organic retailer.
- 15 But we feel substantiated in doing that,
- 16 because we've had every department that
- 17 handles organic food get certified.
- 18 However again there is no reason
- 19 to single out retailers. The same issue could
- 20 apply to a certified farm, a certified organic
- 21 warehouse, a certified organic soup factory.
- 22 There are all sorts of claims out there that

- 1 could apply to an entire operation, and we
- 2 feel it would probably be more productive to
- 3 come up with a general recommendation for that
- 4 type of plan for any type of operation, and
- 5 not again just focus on retailers.
- 6 On animal welfare, consumers
- 7 expect that organic meat and dairy products
- 8 come from animals that are treated humanely
- 9 and allowed to fulfill their natural
- 10 behaviors. We totally support the fact that
- 11 this is coming to the forefront of the NOSB
- 12 agenda, and we support working on the issue.
- 13 The current recommendation which
- 14 we detailed in our written comments which were
- 15 acknowledged today, the recommendation as it
- 16 was originally advanced requires substantial
- 17 clarification and refinement, in a number of
- 18 areas. We covered those in our comments, and
- 19 we still feel very strongly that there are a
- 20 number of stakeholders on this issue that are
- 21 not here at this meeting.
- 22 As you guys noted yesterday, there

- 1 were entire categories of producers such as
- 2 swine producers that didn't comment at all.
- 3 Which could have been because they weren't
- 4 aware of this recommendation. We feel that
- 5 there continues to be an opportunity for a
- 6 larger stakeholder grou8p of animal welfare
- 7 advocates, every producer group, retailers, to
- 8 at least weigh in. And we are not suggesting
- 9 that the process be bogged down over several
- 10 years, and continually discussed. But we feel
- 11 that there still is an opportunity for some
- 12 sort of a multi-stakeholder group to take on
- 13 this issue, and it shouldn't be rushed.
- I also just passed out and I
- 15 apologize we didn't get these in before the
- 16 discussion today our comments on bivalve
- 17 mollusks. That is an issue where we totally
- 18 support the board's recommendation, with a few
- 19 opportunities for clarification that will be
- 20 in our written comments that we believe would
- 21 make that recommendation much clearer. But in
- 22 general it's very good that this issue has

- 1 been taken up, and we do support the
- 2 recommendation overall.
- And that's all. Thank you very
- 4 much for your time.
- 5 CHAIRPERSON MOYER: Thank you,
- 6 Joe. Any questions from the board or
- 7 comments?
- 8 MEMBER SMILLIE: While I agree
- 9 with you, Joe, on your statement that
- 10 basically the processing and handling parts of
- 11 the regulation adequately cover retailers, I
- 12 think the other part of your statement that
- 13 you've managed over the years working with
- 14 your certifying organizations to deal with it
- 15 and get a really clear understanding, I think
- 16 that is what we want the program to do in its
- 17 guidance documents for those certifiers and
- 18 those retailers who haven't had perhaps your
- 19 experience in interpreting processing and
- 20 handling regulations that are in the
- 21 regulations to specific retail things.
- 22 So I think in a way, certainly in

- 1 the macro, I agree with you. It's already
- 2 covered. But I think the devil is in the
- 3 details, and that you've had the experience,
- 4 you've worked it out and defined it, and what
- 5 we just want is for the NOPs through all the
- 6 public input to just put that in their
- 7 guidance document.
- 8 MR. DICKSON: And I totally
- 9 agree. And if there are areas where it seems
- 10 that different certifiers are interpreting the
- 11 regulations differently for different
- 12 retailers, that does sound like an opportunity
- 13 for some clearer guidance from the program.
- 14 CHAIRPERSON MOYER: Chair
- 15 recognizes Kevin.
- 16 MEMBER ENGELBERT: Hi, Joe,
- 17 welcome aboard.
- 18 MR. DICKSON: Thanks.
- 19 MEMBER ENGELBERT: I'm a little
- 20 troubled by your comments that because the
- 21 swine growers or any other animal operation
- isn't represented here that we need to

- 1 postpone what we hoped to accomplish. This
- 2 recommendation has been out long enough that
- 3 we believe that if there was tremendous
- 4 concern about it they would be represented
- 5 here, and we are concerned about the delay of
- 6 such important rulemaking that postponing for
- 7 another six months would apply. Because as
- 8 was mentioned earlier, this still will have to
- 9 go through an ANPR; there still will be a lot
- 10 of time for public comment; and quite frankly
- 11 because they aren't here we don't look at that
- 12 as a justification for saying, oh well, I
- 13 guess we'll have to wait until they decide to
- 14 come and express their concerns.
- 15 MR. DICKSON: And I think the
- 16 fact that this board meets every six months
- 17 and if something gets postponed that means it
- 18 won't be considered again for another half a
- 19 year, and I totally agree with what you are
- 20 saying. Our hope is that if this moves
- 21 forward as part of the rulemaking process,
- 22 that we all reach out to make sure that any

- 1 voices that might have a perspective on the
- 2 issue are heard from. And ideally it would
- 3 have included more of a multi-stakeholder
- 4 group to begin with.
- 5 CHAIRPERSON MOYER: Chair
- 6 recognizes Hue.
- 7 MEMBER KARREMAN: Yes, welcome to
- 8 the board, Joe, and you will be here getting -
- 9 you can get the questions next time you're
- 10 here, and when I'm at the podium you can nail
- 11 me.
- 12 I'm sure you all will. Fair is
- 13 fair.
- I guess I lost my train of
- 15 thought, sorry. But you know, with all the
- 16 stakeholders and over a year's time, I just
- 17 don't see I mean they had there has been
- 18 input. I mean we have given from last spring
- 19 it's amazing, this is what I want to say
- 20 actually you know, I guess we really whacked
- 21 the hornet's next on this one, because we
- 22 really got a lot of input from the public on

- 1 this recommendation, because it's a
- 2 recommendation. It seems when there is a
- 3 discussion document, you get some people
- 4 interested in it, but they know nothing is
- 5 really going to move, kind of like, yo,
- 6 everybody we are going to do something, but
- 7 you are not really doing it until there is a
- 8 recommendation like we have.
- 9 And you know the process is the
- 10 process, and I'll just reiterate what Kevin
- 11 said. There is going to be an ANPR. This
- 12 whole thing for animal welfare at this meeting
- 13 if it passes out of this meeting I don't
- 14 know if it will or won't but if it does,
- 15 just step one. There is a lot more to do. So
- 16 there will be a lot of time for more input.
- 17 We are just trying to lay the foundation to
- 18 get the bar higher.
- 19 CHAIRPERSON MOYER: Thank you,
- 20 Hue.
- 21 Any other questions or comments?
- 22 Bea?

- 1 MEMBER JAMES: Welcome to the
- 2 jungle.
- 3 MR. DICKSON: Thank you.
- 4 MEMBER JAMES: I just wanted to
- 5 say thank you for the comments that you
- 6 submitted, and one of the things that I'm
- 7 really looking forward to is kind of passing
- 8 off that guidance document to you, because of
- 9 your depth and breadth and experience I
- 10 didn't mean it that way well kind of -
- 11 because of the depth and breadth of experience
- 12 that you bring with the magnitude of
- 13 certification that Whole Foods has done
- 14 throughout the entire store is really going to
- 15 add a lot of value to helping to educate all
- 16 the other retailers out there.
- 17 And I think that the
- 18 recommendation is more of an expose on some of
- 19 the struggles that are happening in some
- 20 retail formats that maybe don't have that
- 21 depth and breadth that potentially that
- 22 obviously Whole Foods has got. So I think

- 1 that you coming in is excellent timing, and I
- 2 hope that you will reconsider your statement
- 3 around the focus on retailers, although I do
- 4 see that restaurants and probably some other
- 5 venues that could benefit as well if you
- 6 broaden that scope, but to grow retail
- 7 certification is the benefit of creating a
- 8 guidance document that will serve all
- 9 retailers so that there is kind of a layman's
- 10 document out there to help with guidance and
- 11 understanding.
- 12 And I really truly do look forward
- 13 to your work on that. I think you will do an
- 14 excellent job.
- 15 CHAIRPERSON MOYER: Thank you,
- 16 Bea. Thank you, Joe, appreciate your time.
- 17 The board will call Jim Riddle to
- 18 the podium, Pat Kane on deck.
- 19 MR. McEVOY: I apologize. It
- 20 won't take long. I apologize for not
- 21 knowing the process, and just want you to know
- 22 that the process is important, and I will know

- 1 this next time.
- 2 But I think what I understand is
- 3 that the excipients, that recommendation is
- 4 okay because it is a clarification of an
- 5 existing recommendation, but the other ones
- 6 would require a petition, and I think Rick can
- 7 explain it a lot better.
- 8 CHAIRPERSON MOYER: Richard, if
- 9 you could state your name and position for the
- 10 transcriber.
- 11 MR. MATHEWS: Richard Mathews,
- 12 former with the NOP, now with NOP Solutions.
- 13 Anybody that needs help, I need cash.
- 14 Hue is correct. On the excipients
- 15 I did tell him that he would be able to go
- 16 forward with this one, because what happened
- 17 was that there was a petition on excipients.
- 18 It went through the board; it went through the
- 19 rulemaking process. During the comment period
- 20 we received no comments that said anything
- 21 about our missing APHIS. But after the rule
- 22 came out in final form it was brought to our

- 1 attention that some of the drugs that are used
- 2 on livestock were missed, and those were the
- 3 ones from APHIS, because the annotations that
- 4 put that states what excipients are allowed
- 5 inadvertently missed mentioning APHIS, because
- 6 it was intended, excipients was intended to
- 7 cover all drugs, but because of the way the
- 8 annotation is worded it has excluded all of
- 9 the drugs that are actually approved by APHIS.
- 10 So the intent was to go ahead and
- 11 fix that problem. So it is a correction.
- 12 It's a correction to make it expansive and
- 13 cover all of them which was the original
- 14 intent through the petition process.
- Now on the other ones, the
- 16 xylazine for example, that would be a change
- 17 and you need a petition for that.
- 18 CHAIRPERSON MOYER: Chair
- 19 recognizes Hue.
- 20 MEMBER KARREMAN: Even though
- 21 it's already on the list, and it's an
- 22 annotation change, it's been reviewed. I mean

- 1 I know what you are saying, but it did have a
- 2 full TAP, went through the FDA. You know all
- 3 about that, Rick.
- 4 MR. MATHEWS: In that case
- 5 somebody should send in a petition saying we
- 6 need to change that annotation because, and
- 7 tell us why it needs to be changed. In the
- 8 case of the excipients you weren't changing
- 9 the annotation, you were fixing an oversight.
- 10 In the case of the excipients you are actually
- 11 changing the substance in the annotation.
- 12 MEMBER KARREMAN: So let's just
- 13 say then, what was presented and posted but
- 14 coming from a private citizen, a board member
- 15 who is also a private citizen, be considered
- 16 as a petition? Do I have to go through a
- 17 whole --
- 18 MR. MATHEWS: You would have to
- 19 go through the regular procedures. Everybody
- 20 that has come up here has been right. I mean
- 21 Bob has been right, Valerie has been right,
- 22 you've been right. Everybody is right, but

- 1 they are talking about different substances.
- 2 So in the case of the excipients, what you are
- 3 doing works. In the case the other substances
- 4 you need to be following the procedures that
- 5 Bob laid out and Kim laid out.
- 6 MEMBER KARREMAN: What I'm
- 7 asking, just briefly then, what was posted for
- 8 xylazine and chlorhexidine, if that gives the
- 9 reasons for everything, that could be a
- 10 petition? I mean resubmitted.
- 11 CHAIRPERSON MOYER: If you go
- 12 through the process.
- MR. MATHEWS: Yes, it needs to go
- 14 through the process. But now you need to talk
- 15 to Bob on that. I can't speak for the
- 16 department.
- 17 CHAIRPERSON MOYER: The chair
- 18 recognizes Dan.
- 19 VICE CHAIRPERSON GIOACOMINI:
- 20 Okay, so I understand where we stand on the
- 21 chlorhexidie and the xylazine. On the
- 22 excipients, we are making two minor changes.

- 1 You said one is okay. Is the second one okay?
- 2 MR. MATHEWS: I'm really only
- 3 familiar with the APHIS part.
- 4 VICE CHAIRPERSON GIOACOMINI:
- 5 We're changing drugs to drugs or health care
- 6 products.
- 7 MR. MATHEWS: That is going
- 8 beyond the original scope I believe.
- 9 VICE CHAIRPERSON GIOACOMINI: So
- 10 we can only make the APHIS change at this
- 11 point in time?
- MR. MATHEWS: Off the top of my
- 13 head I would say that in the case of the drugs
- 14 and health care, you are expanding the
- 15 annotation. In the case of just adding APHIS,
- 16 you are clarifying the original intent, and I
- 17 wouldn't think you would need a petition for
- 18 that. But if you are going to expand it
- 19 beyond drugs, then you are going to have to
- 20 petition to have the annotation amended to add
- 21 the health care products.
- 22 VICE CHAIRPERSON GIOACOMINI:

- 1 Okay. When we were setting up the agenda, I
- 2 lost the argument that I did not feel that
- 3 vaccine petition should be listed as under the
- 4 category of either materials or technical
- 5 corrections or clarifications; that it was a
- 6 change in the regulation at 105.
- 7 MR. MATHEWS: And that is my
- 8 understanding as well.
- 9 VICE CHAIRPERSON GIOACOMINI: So
- 10 even so contrary to the way it's listed in
- 11 the agenda, it is still okay to proceed with
- 12 that?
- MR. MATHEWS: Yes. Because you
- 14 are not changing 603. You are actually
- 15 changing 105. Correct?
- 16 VICE CHAIRPERSON GIOACOMINI:
- 17 Just asking clarification.
- MR. MATHEWS: Well, by changing
- 19 105 you are not changing the National List.
- 20 The listing in 603 remains the same.
- 21 VICE CHAIRPERSON GIOACOMINI:
- 22 That was my that's why I didn't want it

- 1 listed there.
- 2 MR. MATHEWS: To put it here as a
- 3 materials annotation is actually an error in
- 4 the agenda.
- 5 CHAIRPERSON MOYER: That would be
- 6 an error. Chair recognizes Kevin.
- 7 MEMBER ENGELBERT: Dan asked the
- 8 question. I wanted that clarification. I
- 9 didn't think that was a change in annotation.
- 10 CHAIRPERSON MOYER: Thank you,
- 11 Kevin.
- 12 Chair recognizes Hue and then
- 13 Tina.
- 14 MEMBER KARREMAN: I quess I was
- 15 just wondering. For those six years that
- 16 those medicines were going through, Rick, we
- 17 didn't at all think about USDA stuff. And oh
- 18 my gosh, afterwards, wow, gee whiz, what a
- 19 shame. Just to play devil's advocate against
- 20 what I want to go through, just for a clear
- 21 process, was it actually not an oversight,
- 22 but if we add this APHIS materials, wouldn't

- 1 that be was that part of the intent?
- 2 MR. MATHEWS: Well, you were the
- 3 petitioner.
- 4 MEMBER KARREMAN: I was with a
- 5 couple of people.
- 6 MR. MATHEWS: Was that the
- 7 intent?
- 8 MEMBER KARREMAN: Yes, that was
- 9 the intent.
- 10 MR. MATHEWS: All right. You
- 11 just answered your own question.
- 12 CHAIRPERSON MOYER: To stay on
- 13 time, let's move on. Tina, we have a lot to
- 14 go through here today.
- 15 MEMBER ELLOR: Ouick like a
- 16 bunny, how does this affect the peracetic acid
- 17 situation?
- 18 CHAIRPERSON MOYER: I'm sorry, I
- 19 didn't hear that question.
- 20 MEMBER ELLOR: How does this
- 21 affect the peracetic acid? Because it's the
- 22 same issue.

- 1 CHAIRPERSON MOYER: It's a
- 2 question that Rigo brought up. I don't know,
- 3 Richard, are you prepared to answer that
- 4 question, peracetic acid, when we are changing
- 5 that we also need to adjust the annotation of
- 6 hydrogen peroxide, because if we vote the way
- 7 the committee voted by default, hydrogen
- 8 peroxide would fall off the list, and that is
- 9 not our intent. But because peracetic acid is
- in formulation with hydrogen peroxide, we feel
- 11 the need to change the annotation to hydrogen
- 12 peroxide to keep it on the list. We don't
- 13 want to vote I'm not speaking for the board,
- 14 I'm speaking for the committee.
- MR. MATHEWS: So you had a
- 16 petition to change the peracetic acid.
- 17 CHAIRPERSON MOYER: To expand the
- 18 use of peracetic acid.
- 19 MEMBER ELLOR: To remove the
- 20 annotation.
- 21 CHAIRPERSON MOYER: To remove the
- 22 annotation.

- 1 MR. MATHEWS: To remove the
- 2 annotation from peracetic acid.
- MEMBER ELLOR: Right, and we
- 4 decided what we would do is change the
- 5 annotation on hydrogen peroxide and peracetic
- 6 acid instead.
- 7 CHAIRPERSON MOYER: If the room
- 8 could please remain quiet.
- 9 MR. MATHEWS: To do both instead
- 10 of just the one.
- 11 CHAIRPERSON MOYER: Right.
- MR. MATHEWS: One isn't dependent
- 13 on the other?
- 14 CHAIRPERSON MOYER: No, they are.
- MEMBER ELLOR: They are.
- 16 CHAIRPERSON MOYER: They are
- 17 intertwined.
- 18 MEMBER ELLOR: They can't be
- 19 separated.
- 20 MR. MATHEWS: In that case, since
- 21 you had a petition to do the peracetic acid,
- 22 and you think or you believe that the two are

- 1 related, I would suggest but again you may
- 2 want to turn to Miles on this my reaction
- 3 would be, you go ahead and proceed with it,
- 4 because the attorneys would let us know
- 5 whether or not we could do it.
- 6 CHAIRPERSON MOYER: Yes, the door
- 7 was opened.
- 8 MR. MATHEWS: I've got to break
- 9 the habit of the "we" word, though.
- 10 CHAIRPERSON MOYER: Briefly, if
- 11 we can, the chair recognizes Valerie from the
- 12 program.
- 13 MS. FRANCES: This very same
- 14 question came up with the petition to expand
- 15 the use of tetracycline. And it was then -
- 16 there was a consult with OGC on that question,
- 17 whether you could go ahead and expand the use
- 18 of tetracycline in that case, and also add an
- 19 expiration date which was not petitioned to
- 20 do.
- 21 CHAIRPERSON MOYER: But the door
- 22 was opened.

- 1 MS. FRANCES: The door was
- 2 opened.
- 3 CHAIRPERSON MOYER: Chair
- 4 recognizes Dan.
- 5 VICE CHAIRPERSON GIOACOMINI: I
- 6 respectfully disagree with you, Valerie. The
- 7 situation here is that they are recommending
- 8 an annotation change on something that wasn't
- 9 petitioned, correct? We are only on the
- 10 peracetic.
- 11 MEMBER ELLOR: Because of the
- 12 reclassification of peracetic acid from inert
- 13 to active, they are inextricably linked; they
- 14 cannot be separated. One cannot exist without
- 15 the other.
- 16 VICE CHAIRPERSON GIOACOMINI: But
- 17 you are recommending an annotation change for
- 18 what ingredient?
- 19 MEMBER ELLOR: Hydrogen peroxide.
- 20 VICE CHAIRPERSON GIOACOMINI: So
- 21 they are recommending an annotation change for
- 22 a substance that was not petitioned or part of

- 1 the petition.
- 2 CHAIRPERSON MOYER: It is part of
- 3 a petition.
- 4 MR. MATHEWS: You just have to
- 5 explain it real well in your recommendation to
- 6 the department, and they will go through the
- 7 rulemaking process, and the attorneys will let
- 8 you know whether or not you can.
- 9 CHAIRPERSON MOYER: Thank you,
- 10 Richard, I appreciate your time.
- 11 Moving on, I apologize, Jim, and
- 12 appreciate your patience with the board. Jim
- 13 Riddle and Pat Kane ondeck.
- 14 MR. RIDDLE: Jim Riddle,
- 15 University of Minnesota, and I offer my
- 16 comments on my own behalf, and as a recovering
- 17 NOSB member, I would like to add for personal
- 18 privilege for a moment to say a few words
- 19 before I start my comments, Mr. Chair.
- 20 CHAIRPERSON MOYER: That
- 21 permission is granted.
- MR. RIDDLE: Thank you.

- Bea, Julie, Rigo, Hue, and for the
- 2 record, Gerry, wherever you are, I served two
- 3 years with all of you, and I just want to it
- 4 means a lot to me to be here today to thank
- 5 you for the five years of effort that you all
- 6 have put in. Everytime I come to one of these
- 7 meetings I am just blown away by the depth of
- 8 the issues that are considered, and by the
- 9 thoughtfulness that this board over the years
- 10 different people come and go but
- 11 thoughtfulness that this board and the respect
- 12 that this board shows for each other and for
- 13 the people that come before you. So I just
- 14 want to thank you for that service, and I also
- 15 want to thank all the other board members, and
- 16 the incoming board members. It's great to
- 17 have four new appointees here I know there
- 18 are five coming on, but four of them are here
- 19 on their own dime just getting up to speed so
- 20 they can hit the ground running. And I think
- 21 that is a really good sign.
- 22 ` I also want to thank Valerie for

- 1 sticking with the board, and all that you have
- 2 done to keep things flowing and keep things
- 3 moving.
- I want to thank the program, and
- 5 Miles, congratulate you and look forward to
- 6 your leadership. And thank Rick, maybe he
- 7 left, and wish him well in his retirement.
- 8 And I did bring a little something
- 9 to share with the program, and this is a
- 10 product that my wife purchased October 20th at
- 11 the Wal-Mart in Winona. It's HOMS brand Bio
- 12 Block organic pest control, big words, organic
- 13 pest control oh, look a USDA organic seal on
- 14 this product. Not a single organic
- 15 ingredient. Not a name of a certifier. So we
- 16 have problems beyond personal care and some
- 17 others. So I'll be turning this over to the
- 18 program to take a look at.
- 19 Also on my flight here yesterday
- 20 on US Air in the flight magazine BMD organic
- 21 honey throat drops, USDA organic seal on this,
- 22 and I'm assured it doesn't say who it's

- 1 certified by, hopefully it is, because it is
- 2 a food product more or less but what are the
- 3 honey standards? We didn't certify honey, but
- 4 to what standards?
- 5 So that just reinforces I know
- 6 one of the priorities for the program is
- 7 moving forward with the aquaculture standards.
- 8 But just to pass these two things on. Enjoy.
- 9 Okay, now for my comments. The
- 10 organic agriculture and the standards
- 11 themselves are the very embodiment of the
- 12 precautionary principle. Look before you
- 13 leap; know the consequences to the maximum
- 14 extent possible before adopting new practices
- 15 or new inputs.
- 16 I find that the Livestock
- 17 Committee's recommendation to allow GMO
- 18 vaccines with no restrictions, no technical
- 19 review, no consideration of OFPA criteria, and
- 20 very little time for engagement of the public,
- 21 totally turns the precautionary principle
- 22 upside down. Throw precaution to the wind.

- 1 Allow any of this new class these are novel
- 2 recombinant substances into organic
- 3 agriculture without performing due diligence,
- 4 the OFPA criteria.
- 5 There was just talk about whether
- 6 this is a national list issue or not, and I'd
- 7 like to remind you that the National List is
- 8 empowered by Section 105. That is the holy
- 9 grail. The National List is a list of
- 10 exceptions that are only allowed because 105
- 11 allows their consideration. And that is where
- 12 the GMO, the excluded method vaccine language,
- 13 appears. So you know, you have to consider it
- 14 as a material recommendation, which is exactly
- 15 what the USDA has said. And to me that means
- 16 that the board must consider the OFPA criteria
- 17 to have both a legally valid and a defensible
- 18 recommendation that stakeholders can support.
- 19 What is the potential for
- 20 detrimental interactions with other
- 21 substances? What are the toxicity mode of
- 22 action, breakdown products, contaminants,

- 1 persistence, concentrations in the
- 2 environment? Probability of environmental
- 3 contamination during manufacture or use,
- 4 misuse, or disposal. Possible effects on
- 5 human health. Effects on the agro-ecosystem.
- 6 What are the available alternatives? And are
- 7 these substances compatible with organic
- 8 production?
- 9 None of these have been addressed
- in the committee's recommendation. There has
- 11 been a little more discussion today of some of
- 12 the alternatives, but not put in the context
- of the universe of vaccines, and how few of
- 14 those are actually even genetically engineered
- 15 currently.
- 16 The committee's recommendation did
- 17 not it makes a passing reference to the
- 18 preamble, but I find it very helpful to
- 19 actually read the preamble, which is what I
- 20 did when the rule came out. I read the
- 21 language of the rule, and the preamble, and
- 22 it's always been very clear to me that the

- 1 only opening for GMOs is the allowance for
- 2 consideration to place them on the National
- 3 List for vaccines. They have never been
- 4 allowed.
- 5 And when you read this language
- from the preamble, based on comments received,
- 7 and because of the potential impact of the
- 8 prohibition of the use of excluded methods is
- 9 still uncertain, we have created the
- 10 possibility of Section 105(e) for the NOSB to
- 11 exercise one very narrow exception to allow
- 12 use of animal vaccines produced using excluded
- 13 methods, but only if they are explicitly
- 14 approved on the National List.
- We believe the issue of animal
- 16 vaccines requires further deliberation as most
- 17 appropriate to consider it through the
- 18 National List process which mandates review by
- 19 the NOSB and technical advisory panels.
- 20 Consideration of animal vaccines
- 21 produced using excluded methods is appropriate
- 22 for the National List review process, because

- 1 animal vaccines we believe are most
- 2 appropriately considered synthetic material.
- 3 That is what USDA said. It's
- 4 pretty unequivocal, and there was some talk
- 5 today about a middle ground, potentially
- 6 putting some kind of commercial availability
- 7 or order of preference language. But we have
- 8 commercial availability in 606 and in seeds,
- 9 and it's problematic. And it becomes very
- 10 subjective of what is a good faith effort.
- 11 And so I don't see that really as workable.
- 12 But I think the middle ground
- 13 already exists, and a win-win; it's not lose-
- 14 lose, Kevin. There is a middle ground which
- is for the board to request for these
- 16 substances, or the classes of substances you
- 17 identify in the review paper, that those
- 18 classes of GMO vaccines be undergo a full
- 19 technical review, build stakeholders with you,
- 20 be fully legal, and get this information about
- 21 this technology transparent and out in the
- 22 public. It shouldn't be based on one review

- 1 paper written by authors in Australia and
- 2 Europe and with no context of use in organic
- 3 agriculture.
- 4 I just think that is rushing
- 5 things forward. We are not sitting at a
- 6 crisis right now. This is a very significant
- 7 change to the rule. USDA has said, organic
- 8 prohibits GMOs. If this moves forward, it
- 9 will change it to in marketing terms, organics
- 10 prohibits most GMOs. And that's not a very
- 11 strong stand, and I think we are looking at
- 12 the possibility of consumer backlash going
- 13 down this road. Thank you.
- 14 CHAIRPERSON MOYER: Chair
- 15 recognizes Kevin.
- 16 MEMBER ENGELBERT: Before we get
- into your comments, my first question is, you
- 18 say you are recovering NOSB member. How long
- 19 do you expect the recovery to take?
- 20 MR. RIDDLE: I think it's for
- 21 life. One day at a time.
- 22 CHAIRPERSON MOYER: Did you have

- 1 any additional questions, Kevin?
- 2 The chair recognizes Hue.
- 3 MEMBER KARREMAN: Thanks for your
- 4 comments, Jim. I kind of had an idea of what
- 5 might be coming from your written comments.
- 6 And I truly appreciate them, and
- 7 it is you know, it's a tough position we are
- 8 in. Because my question to you is, what do we
- 9 do with any of the animals that have been
- 10 treated over the last seven years with these
- 11 vaccines that technically are prohibited? I
- 12 guess they should all be identified and taken
- out of production, because they have to be
- 14 permanently removed at this point, and how do
- 15 we deal with the fact that they are already
- 16 being used, and the consumers haven't said
- 17 anything? I understand totally what you are
- 18 saying about, you know, the GMOs, like well,
- 19 organics might allow some. That's not cool.
- 20 But you know in reality out in the barns, out
- 21 in the countryside, I know they have been
- 22 used, and I don't know to what point, but how

- 1 do you address that, because that is reality.
- 2 MR. RIDDLE: Well, I think with
- 3 education and more information, where there
- 4 are alternatives, different products to meet
- 5 the same vaccination, you just say you have
- 6 been using this. It's not appropriate. This
- 7 is new information that has come to our
- 8 awareness, and you shift, but are there some
- 9 that there are no alternatives? I don't think
- 10 we know that really yet, and are they being
- 11 used in organic animals where there are
- 12 absolutely no alternatives? I mean those are
- 13 the ones to target, that get reviewed either
- 14 individually or those classes as you have
- identified, and move them through the process.
- 16 It may feel satisfying to vote on
- 17 this now and think you are done with it. But
- 18 you are not done with it. It's just going to
- 19 start rulemaking, no matter what you do. So
- 20 to call for a full review, it gets all of us
- 21 together, rather than a risk of significant
- 22 potential backlash.

- 1 But I think through education of
- 2 producers, of inspectors, of certifiers, and
- 3 not a heavy hand, because it's not like
- 4 someone has been trying to cheat. This is not
- 5 a willful violation. This is not fraud. This
- 6 is basically an oversight, and to keep that in
- 7 perspective.
- 8 CHAIRPERSON MOYER: Chair
- 9 recognizes Dan.
- 10 VICE CHAIRPERSON GIOACOMINI:
- 11 Thank you, Jim. I just want to take what you
- 12 just said a little bit and redirect it back to
- 13 the program. Because this is another example
- of something that Miles is going to have to
- 15 look at and have the program review. The
- 16 evolution of the petition process is single
- 17 substances. I don't know if they would
- 18 readily accept a class of vaccine petition.
- 19 Number two, the nature of the
- 20 process and the things requested in that
- 21 petition process is tremendously biased to the
- 22 manufacturer. The users of something like

- 1 this will never they are the ones that have
- 2 to make the petition saying I need that
- 3 vaccine, or I need that group of vaccines -
- 4 they will n ever get the information that is
- 5 requested currently requested in the
- 6 petition process for it ever get through the
- 7 program and get to this board. It just won't
- 8 happen.
- 9 I know I have pounded the table a
- 10 number of times, but we have two huge biases
- 11 that are one is the nature of, that was one
- of the problems we had with the injectables,
- is they were not going to what they were
- 14 insisting on for a group petition was just
- 15 absolutely unwieldy, and the information they
- 16 were requesting coming from users or
- 17 representatives of users as opposed to
- 18 manufacturers, was information that they were
- 19 just never going to get it.
- 20 So that is another one of those
- 21 things that, if this is the way we have to go,
- 22 is the producer coming in and saying I need

- 1 this vaccine, the petition will never get out
- 2 of the program.
- 3 MR. RIDDLE: If I could respond,
- 4 I understand your concerns, Dan, and I mean
- 5 you do have someone coming off the board who
- 6 is extremely knowledgeable and passionate
- 7 about this who maybe could represent those
- 8 producers in helping put together a petition
- 9 that is targeted at meeting their needs. So
- 10 I don't see that in this instance as being a
- 11 huge obstacle.
- 12 And there have been classes of
- 13 substances considered. You bring up the
- 14 vitamins and minerals, but also amino acids
- 15 were petitioned and considered as a class, and
- 16 it came out that methionine was the one that
- 17 moved forward, but it started off as a class.
- 18 So it's not at all unprecedented
- 19 that that happened.
- 20 VICE CHAIRPERSON GIOACOMINI: It
- 21 would have to involve that.
- MR. RIDDLE: Well, it's gone

- 1 either way. I would say. I wouldn't say it's
- 2 evolved.
- 3 CHAIRPERSON MOYER: Thank you. I
- 4 just want to remind the board that at this
- 5 rate we'll be here until 11:00 o'clock at
- 6 night, judging by the numbers I'm looking at.
- 7 So --
- 8 MEMBER KARREMAN: As far as a
- 9 petition like a person or a farmer
- 10 petitioning, I agree completely with what Dan
- 11 said. The reason that the petition for
- 12 whatever it was that I submitted to Bob,
- injectables, before got rejected was because
- 14 let's see there were about 35 manufacturers of
- 15 injectables that all have CBI or confidential
- 16 business information, old patents, the new
- 17 ones you can't get it. I mean it was just
- 18 humanly impossible to do that petition. I'm
- 19 just telling you that.
- 20 So I don't see it any easier for
- 21 this particular group of products either.
- MR. RIDDLE: If you look at the

- 1 language in 105, though, it's provided that
- 2 the vaccines are approved in accordance with
- 3 205.600. It doesn't say individual vaccines,
- 4 so you can certainly read the regulation
- 5 either way.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Jim, we very much appreciate that.
- Again, I just want to remind the
- 9 board that just doing some simple math here we
- 10 calculate that at this rate we will seriously
- 11 be here at 11:00 o'clock at night. That is
- 12 how many people we have to go. We've gone
- 13 through four in an hour. So.
- 14 Pat Kane to the podium and Sam
- 15 Welsch on deck.
- 16 MS. KANE: Hi, my name is Pat
- 17 Kane, and I am coordinator of the Accredited
- 18 Certifiers Association, a non profit
- 19 organization representing 40 USDA accredited
- 20 certifying agencies.
- 21 I would like to thank the NOSB for
- the opportunity to comment today, and for all

- 1 the work that you folks do on behalf of the
- 2 organic community. And thanks especially to
- 3 all of you who are not going to be here at the
- 4 next meeting for your work.
- 5 We would like to congratulate
- 6 Miles on his appointment as the program
- 7 director, and also extend our willingness to
- 8 NOP to help with anything that we can help
- 9 with.
- 10 We also thank the NOP for their
- 11 upcoming participation with our professional
- 12 development training for the certifiers to be
- 13 held in January.
- 14 ACA did submit comments to the
- 15 NOSB Livestock Committee regarding the animal
- 16 welfare recommendation, and we very much
- 17 appreciated the work that you folks did on
- 18 this work, to start it moving. We believe the
- 19 document addresses a very important aspect of
- 20 the organic standards, and when complete will
- 21 provide a very good background with which to
- 22 address the animal welfare requirements.

- 1 We also spent the last few months
- 2 working with our members to draft a guidance
- 3 for organic poultry production. As part of
- 4 the poultry work of the ACA poultry outside
- 5 access working group we did create a
- 6 comparison chart of various stocking
- 7 densities, looking at different standards for
- 8 who required beak trimming, toenail clipping,
- 9 wing clipping, lighting requirements, perch
- 10 requirements and pasture.
- I can forward the chart to the
- 12 board if you think that would be helpful, and
- 13 any further work you might do.
- We appreciate the Livestock
- 15 Committee's willingness to incorporate
- 16 portions of the ACA guidance document into the
- 17 livestock recommendation. However we are also
- 18 concerned about the process used. The major
- 19 revisions done today also need public comment,
- 20 which we would hope would result in
- 21 recommendations that would be more widely
- 22 accepted and supported.

- 1 Thank you to the committee for
- 2 initiating this work. We hope when complete
- 3 this recommendation will provide the needed
- 4 clarity regarding the issue of animal welfare.
- 5 At this time Valerie has
- 6 distributed to you a draft of our organic
- 7 apiculture guidance document that we have also
- 8 been working on. Various members of the ACA
- 9 spent a lot of time and effort to pull this
- 10 together. It was based on the original NOSB
- 11 recommendation for 2001, but we did expand it
- 12 somewhat.
- So we hope that the board or the
- 14 NOP can begin work on this topic, because
- 15 there is organic honey being marketed, but
- 16 without definitive standards.
- 17 So we would urge the board and
- 18 livestock committee to begin work on the topic
- 19 in the near future.
- 20 I'd also like to remind the board
- of the ACA's WWW606 organic dot com website.
- 22 This is the organic alternatives to the 606

- 1 listings.
- We have a few up there. We are
- 3 getting more everyday, so if you are looking
- 4 for alternatives and want to know what is
- 5 currently available in discussions about
- 6 sunset and all that for 606 materials, please
- 7 monitor the website. Hopefully we'll be adding
- 8 more listings.
- 9 Thank you for the opportunity to
- 10 provide comments.
- 11 CHAIRPERSON MOYER: Thank you,
- 12 Pat.
- Any questions or comments from
- 14 board members for Pat? Hearing or seeing
- 15 none, we appreciate your time.
- 16 If Sam Welsch is in the room and
- 17 would come to the podium.
- Joe Casey? And Carissa Gigliotti
- 19 on deck.
- 20 MR. CASEY: My name is Joe Casey.
- 21 I'm director of North American Lecithin at
- 22 Solae LLC. Solae is a manufacturer if

- 1 nonorganic bleached doiled soy lecithin sold
- 2 for use in products labeled as organic or made
- 3 with organic.
- I have given Ms. Frances copies of
- 5 my prepared statements, but after sitting here
- 6 today I decided to deviate from them a bit.
- 7 I am aware of the decisions made -
- 8 of the decision made during the May meeting to
- 9 move deoiled lecithin to 205.606, and I am
- 10 also aware of the decision to remove lecithin
- 11 bleach from 205.605(b).
- But by doing this you are actually
- 13 disallowing the use of deoiled lecithin,
- 14 because all commercially available deoiled
- 15 lecithin today is currently lightly bleached
- 16 as an anti-microbial step. Thus if you delist
- 17 lecithin bleached from 605(b) without
- 18 simultaneously having deoiled lecithin bleach
- 19 listed in 606 or 605(b) organic food producers
- 20 will not be able to use deoiled lecithin, and
- 21 as you have already learned there is currently
- 22 no functionally comparable alternative.

- 1 After those deviations, I will -
- 2 the rest of the time I have I will move back
- 3 to some of my prepared statements.
- 4 Solae would like to emphasize the
- 5 significant differences in form and function
- 6 between deoiled lecithin and what is being
- 7 marketed as powdered organic lecithin, a
- 8 distinction which we feel may not be clearly
- 9 defined.
- 10 The functional portion of lecithin
- 11 consists of a complex mixture of polar
- 12 molecules, primarily phopholipids. This is
- 13 the basic can be considered the active
- 14 ingredient in the lecithin, or AI.
- The purpose of the deoiling
- 16 process is to concentrate the active portion
- 17 of the lecithin or AI. The minimum AI for
- 18 Solae or any deoiled lecithin is 97 percent,
- 19 while the AI of organic liquid lecithin is
- 20 typically no greater than 65 percent; that is
- 21 the liquid product.
- 22 Powdered organic lecithin is just

- 1 liquid organic lecithin that has been plated
- 2 onto some form of carry out. Thus powdered
- 3 organic lecithin does not undergo the deoiling
- 4 process, and the functional portion of the
- 5 lecithin is even further reduced even less
- 6 than liquid lecithin.
- 7 Aside from the inability of
- 8 currently available organic lecithin
- 9 ingredients to function similarly to
- 10 nonorganic bleached deoiled lecithin, we
- 11 further question the compliance of these
- 12 organic lecithins with US food labeling laws.
- 13 We have reviewed several product
- 14 specifications for organic lecithin products
- 15 that list the hexane insolubles as less than
- 16 1 percent. Title XXI, Part 184.1400 of the
- 17 Code of Federal Regulations, however, states
- 18 that the food chemicals code of specification
- 19 for legithin must be referenced to determine
- 20 if an ingredient meets the requirements to be
- 21 identified as lecithin.
- 22 The FCC specification for lecithin

- 1 lists the requirement for hexane insolubles to
- 2 be less than point three percent, not less
- 3 than 1 percent. In order for lecithin to be
- 4 truly called lecithin or declared as lecithin
- 5 in an ingredient statement, the additive must
- 6 meet the food chemicals code of specification.
- 7 So now in the interests of time
- 8 I'll conclude my remarks.
- 9 CHAIRPERSON MOYER: Thank you
- 10 very much, Joe.
- 11 Are there questions for Joe
- 12 regarding his comments? Any questions or
- 13 comments for Joe?
- 14 Hearing or seeing none, appreciate
- 15 your time. Thank you very much.
- 16 Carissa.
- 17 MS. BROWN-ROSEN: I tried to get
- 18 her to talk to you about materials, but she
- 19 really wouldn't do it. I'm here again. I
- 20 have a proxy.
- 21 CHAIRPERSON MOYER: So if you
- 22 would just state your name.

- 1 MS. BROWN-ROSEN: Emily Brown-
- 2 Rosen, Pennsylvania Certified Organic, I'm the
- 3 policy director.
- 4 CHAIRPERSON MOYER: Thank you
- 5 very much.
- 6 MS. BROWN-ROSEN: I'm going to
- 7 talk about classification of materials. I do
- 8 have one small comment about bivalves, but if
- 9 I run out of time you can also ask me about
- 10 it.
- We support the proposal that's
- 12 written that we reviewed, and our comments, we
- 13 submitted comments in writing in support of
- 14 the committee.
- Now I'm not in support necessarily
- of some of these proposed changes we have been
- 17 talking about. I think that would radically
- 18 change my perspective. But particularly we
- 19 were in support of the whole extraction idea,
- 20 limited use of synthetics and extraction,
- 21 provided there is no chemical change. That's
- 22 fine, that's historic, that's the way things

- 1 have been.
- We're not in favor of adding the
- 3 criteria if a synthetic on the National List
- 4 is used and it affects change, that it's
- 5 somehow not synthetic. You know we don't care
- 6 if it's on the list or not; if you are using -
- 7 if you are causing a chemical change with a
- 8 synthetic substance it's synthetic. So that's
- 9 I would just invite you to hold off on that
- 10 additional change. But otherwise I was really
- 11 pretty pleased with the document. We really
- 12 agree with the principles. I think Jessica
- 13 Walden from QAI provided some really good
- 14 suggestions about modifying the heading of
- 15 605. Perhaps if you could call that
- 16 nonorganic, that could be the home temporarily
- 17 for things that are derived from agricultural
- 18 substances, have been changed chemically, and
- 19 they need a home to go to on the list.
- 20 And then later if they are able to
- 21 be made organically they can just be
- 22 petitioned to be removed. So I think that may

- 1 handle that little paradox.
- We agree also with Tilth, the
- 3 critical details need to be worked out, and
- 4 the guidance, particularly the decision trees.
- 5 I also got kind of lost and didn't necessarily
- 6 follow the rationale on some of these examples
- 7 here. So there is more work, but basically
- 8 the way it's written I'm very happy. I think
- 9 it needs to go forward so we can do the next
- 10 step of the work.
- We agree, many substitutes can be
- 12 agricultural yet processed in a way that
- 13 renders them synthetic, and we believe in the
- 14 case of food ingredients these should
- 15 specifically be reviewed and approved for use
- 16 as synthetics that appear on 605.
- 17 We agree also that the annotations
- 18 are useful for clarifying which forms are
- 19 required, and appreciate as much detail as
- 20 possible when substances are reviewed,
- 21 preferably with TAP reviews so that we can
- 22 refer back to these reviews when we are

- 1 evaluating new material, or similar
- 2 formulations.
- We are also glad to see the
- 4 proposal to bring back the practice of voting
- 5 first whether it is synthetic or not. This is
- 6 key, and sometimes that's an important debate
- 7 to have before you go any further, listing or
- 8 not listing.
- 9 I think well, we supported the
- 10 original definition of nonagricultural, except
- 11 with the amendment to add a definition of
- 12 agricultural systems. This may be moot we
- 13 will probably find with the new definitions.
- 14 The only problem with putting
- 15 agricultural items that are I think you call
- 16 them derived from agriculture but processed so
- 17 as to render them synthetic and put them in
- 18 605 is of course then we have no incentive to
- 19 make them organic. So this is where we are
- 20 back to, we would really much prefer combining
- 21 605 and 606 preference. Maybe we can still
- 22 talk about how to do that, or get another

- 1 legal opinion. Because it would just help
- 2 with having to split all these hairs.
- Now I have another topic that was
- 4 off the table here today but I think it's
- 5 important to think about for your work plans
- 6 on this. It involves personal care also in
- 7 the sense that you are saying the scope, we
- 8 are only talking about synthetic in terms of
- 9 inputs, not products that can be certified,
- 10 and that's fine, I agree with that.
- 11 But I do realize there is a
- 12 crossover. When certified products are
- 13 actually ingredients, so we are certifying
- 14 ingredients that are then used in organic
- 15 processes, food products that become certified
- 16 organic. We talk about innovative producers
- 17 out there making more and more organic
- 18 product, which is great, the manufacturers,
- 19 but it is also sort of a loophole in some
- 20 sense. If you are worried about synthetics
- 21 and the amount of synthetics being in organic
- 22 food, if everybody is out there creating novel

- 1 ingredients, using organic agricultural
- 2 ingredients, like soil, biological mechanical
- 3 processes, and then substances on the list,
- 4 you can make all kinds of things, and you can
- 5 certify them organic, and get them approved,
- 6 and they turn up in the product and they never
- 7 were reviewed as a synthetic thing that could
- 8 be in organic food. For instance there are
- 9 people out there with websites selling
- 10 emulsfiers, sucrose cocoates, hydrolyzed
- 11 protein, glycerin, long chain fatty acid,
- 12 steaeric acid these are all certified
- 13 organic. None of these in an non-organic form
- 14 would be allowed in organic food.
- So it's tricky, do we want to
- 16 control this? Can we control this? Is it
- 17 desirable to control it? I think it is. I
- 18 think we need to talk about some sort of
- 19 guidance, what can be certified? Particularly
- 20 on these minor food additive ingredients, or
- 21 otherwise the door just blows open, because we
- 22 do have so many creative manufacturers out

- 1 there. So that is a thought for the future.
- 2 I did have suggested wording in
- 3 my soap comments, so that is it.
- 4 Any questions.
- 5 CHAIRPERSON MOYER: Thank you
- 6 very much, Emily.
- 7 Are there questions for Emily from
- 8 the board or comments?
- 9 Seeing and hearing none,
- 10 appreciate your time, Emily, thanks for
- 11 coming.
- 12 The board will now call Nichelle
- 13 Harriet and Sebastian Bell is on deck.
- 14 MS. HARRIET: My name is Nichelle
- 15 Harriet. I'm with Beyond Pesticides, a
- 16 nonprofit group right here in D.C.
- 17 First of all Beyond Pesticides
- 18 would like to thank the NOSB for all your hard
- 19 work, and we are pleased that Jay Feldman, our
- 20 executive director, will be joining the board.
- 21 I look forward to working with you on these
- 22 issues.

- 1 Many of our comments have been
- 2 expressed here earlier, so I'm going to keep
- 3 this very brief.
- 4 First on inert, Beyond Pesticies
- 5 believes that full disclosure and review of
- 6 all ingredients only serves to strengthen
- 7 organic standards and public support for the
- 8 organic program and legal. The NOSB is having
- 9 this in its discussion in a period when the
- 10 manner in which EPA handles inert ingredient
- 11 disclosure has changed and is continuing to
- 12 change. And this section 25(b) of FIFRA
- 13 products meeting the standards for exemption
- 14 including inert ingredients previously listed
- on List 4 must be on the label identifying the
- 16 name and percentage of each active ingredient,
- 17 and the name of each inert ingredient.
- 18 So the distinction between type of
- 19 ingredient active versus inerts is becoming
- 20 less meaningful.
- 21 Similarly as you know EPA at the
- 22 end of September announced that it will be

- 1 considering the disclosure of all inert
- 2 ingredients on pesticide labels thus further
- 3 blurring the distinction between active and
- 4 inert ingredients.
- 5 Full listing of product
- 6 ingredients goes hand in hand of full review
- 7 and assessments. We believe that the NOSB and
- 8 the NOP must work closely with EPA to utilize
- 9 its staff to conduct assessments. Discussions
- 10 between NOP and NOSB and EPA should result in
- 11 a collaboration that utilizes EPA's assessment
- 12 capability.
- 13 Devoting additional resources in
- 14 EPA's Office of Pesticide programs certainly
- 15 fits with ongoing efforts to shift the
- 16 agency's priorities to registering and
- 17 labeling FIFRA minimum risk pesticides and
- 18 green approaches to pest management.
- 19 In addition the technical advisory
- 20 panel review process can help inform
- 21 environmental effects decisions made by the
- 22 NOSB. Additional funds appropriated by

- 1 Congress for TAP reviews serve to emphasize
- 2 the importance of higher and higher levels of
- 3 scientific scrutiny.
- 4 On GM vaccines, it has been
- 5 proposed that genetically modified vaccines be
- 6 allowed in the NOP without significant review.
- 7 We agree with submitted comments by the
- 8 National Organic Coalition and Jim Riddle that
- 9 vaccines that are compatible with organic
- 10 production and which meet the evaluation
- 11 criteria as stated in OFPA be subjected to
- 12 technical review, with transparent and
- 13 inclusive rulemaking.
- We also believe that a petition
- 15 must be written to consider the various
- 16 classes of GM vaccines.
- 17 As laid out by OFPA, GM vaccines
- 18 regardless of their ubiquity in the
- 19 marketplace, as suggested in the proposed
- 20 recommendation, must be evaluated like any
- 21 other synthetic substance in order to be
- 22 determined compatible with the principles and

- 1 standards of the NOP.
- 2 Finally we thank you for the
- 3 opportunity to comment, and would like our
- 4 written comments to be entered into the
- 5 record.
- 6 CHAIRPERSON MOYER: Thank you
- 7 very much, Nichelle.
- 8 Any questions or comments? Okay,
- 9 thank you very much. We appreciate that.
- 10 Sebastian Bell and Chris Nelson on
- 11 deck.
- 12 MR. BELL: I don't think Chris
- is here. I'm not sure, but I suspect he may
- 14 not be.
- 15 Sebastian Bell from the Maine
- 16 Aquaculture Association. We represent in any
- 17 given year about 140 150 farms in the state
- 18 of Maine that grow 15 different species, but
- 19 our principal species are salmon, cod,
- 20 halibut, mussels and oysters, making comments
- 21 on the shellfish standards.
- 22 And just really wanted to answer a

- 1 couple of questions that came up in the
- 2 committee discussion earlier today, and then
- 3 also wanted to take the time from the Hue's
- 4 point of view to thank NOSB and all your time
- 5 and effort on the aquaculture issue. I know
- 6 it's been at times an uncomfortable one, but
- 7 certainly from the aquaculture community we
- 8 appreciate your efforts.
- 9 Also wanted to thank the livestock
- 10 committee under Hue's leadership, I think at
- 11 times we were a testy workgroup for him, but
- 12 he did an able job in managing us and making
- 13 sure that we stayed on track.
- 14 And finally I want to recognize
- 15 and thank George Lockwood for his leadership
- on the committee. Many of you who aren't in
- 17 aquaculture don't know what a pioneer George
- is in the aquaculture industry, and I think
- 19 the fact that he is so involved in the
- 20 organics movement really confirms that he is
- 21 still way ahead of the curve, even after being
- 22 in the field for a lot of years. So he

- 1 deserves a lot of credit.
- I wanted to offer to folks who
- 3 have concerns about the lack of control, I'm
- 4 just going to offer as a sideline if people
- 5 would like to talk to me about that in the
- 6 have-the-answer questions. I'm more than
- 7 willing to do that. I'm not going to do that
- 8 tonight. We have a long day. But I did want
- 9 to comment, because I think there are actually
- 10 some answers to those concerns, and I'd be
- 11 more than willing to talk about that.
- 12 I wanted to talk a little bit
- 13 about land-based production, and just put kind
- 14 of some reality in that proposal.
- I went to my shellfish folks and
- 16 asked them to do back-of-the-envelope
- 17 calculations on what kind of a facility that
- 18 entailed for a relatively small food
- 19 production farm. So an oyster farm for
- 20 example that was going to grow on land in
- 21 tanks.
- 22 And there are two parts to that

- 1 facility. The first is the hatchery part
- 2 where you are supplying seed for it, and that
- 3 exists in the industry now, and is pretty
- 4 standard practice.
- 5 But the actual grow out part, you
- 6 have to do two things. You have to grow the
- 7 algae that you are going to feed to those
- 8 organisms, and because we have a three-year
- 9 production cycle on shellfish, most shellfish,
- 10 that means you have to have three separate
- 11 year classes in a land-based system. So you
- 12 have to have triple your annual harvest in
- 13 that facility.
- 14 What that boils down to is that
- 15 for about a 500-ton farm, which is a
- 16 relatively small shellfish farm, you would
- 17 have to build an algae culture facility the
- 18 size of probably the middle-sized Budweiser
- 19 brewing plant. That is the first piece of it.
- 20 And then when you actually had the
- 21 tanks for the animals, you are talking about
- 22 kind of a small oil refinery scale operation

- 1 with very large tanks and very large volumes
- 2 of water.
- 3 So I think it's important for
- 4 people to understand when you are talking
- 5 about that as an approach I can understand
- 6 conceptually how that answers the control
- 7 thing, but you are really talking about a
- 8 facility which is probably about 50 to 100
- 9 acres of very high intensive energy use,
- 10 because you have to use lights, to culture the
- 11 algae; huge amounts of electricity; very high
- 12 energy use for pumping water; so it really is
- 13 an industrial firm at that point. It is not
- 14 a kind of mom-and-pop operation. And I think
- it's unrealistic to expect a small producer to
- 16 do that. You are talking about really I would
- 17 argue a big CAFO essentially, basically. Even
- 18 though I know that wasn't the intent, that's
- 19 what you would end up. So just as a point of
- 20 clarification.
- 21 And thank you.
- 22 CHAIRPERSON MOYER: Thank you,

- 1 Sebastian, we appreciate those comments.
- 2 Are there questions for Sebastian,
- 3 or comments for him? Okay, thank you.
- 4 Hearing none, I think if Bonnie Wideman is in
- 5 the room, Bonnie, we would entertain you at
- 6 the podium, and Nicole Dineen on deck. Also
- 7 gone? I'm sorry. Then we would have Dave
- 8 Rogers, also gone. Jim Piece. Thank you.
- 9 Bonnie.
- 10 MS. WIDEMAN: All right, thank
- 11 you.
- 12 My name is Bonnie Wideman, and I'm
- 13 the director of Midwest Organic Services
- 14 Association, known as MOSA. And being as we
- 15 have submitted comments on handling and
- 16 livestock, and out of our 1,300 clients about
- 17 645 of them have livestock, I want to focus on
- 18 the animal welfare recommendation.
- 19 And I know it's hard to please
- 20 everyone. We were told that the new pasture
- 21 rule will please everyone, and that will truly
- 22 be a work of art, because we recognize that

- 1 some certifiers are calling for more
- 2 specificity, and some don't want specificity
- 3 and they don't want numbers. So how can you
- 4 please everyone?
- 5 And mostly we would like enough
- 6 specificity that when we have an issue with a
- 7 client's with the animal welfare in their
- 8 operation, on the health of their animals, on
- 9 concerns about how well they are fed, we have
- 10 something to hang that noncompliance on.
- 11 At the same time we are concerned
- 12 about too much specificity when items do not
- 13 apply to all types of livestock, and I wanted
- 14 to illustrate these. Part of my illustration
- 15 will also be that I'm not only the director of
- 16 MOSA but I also have a certified organic sheep
- 17 and beef farm. So I'll separate the comments.
- 18 We sent out the recommendation in
- 19 our newsletter, and we received a few
- 20 comments, not a whole lot. Most of them were
- 21 from poultry producers. And we believe that
- 22 they will be very happy with the ACA

- 1 guidelines.
- 2 But many of our comments had to do
- 3 with the vet relationship, and those were also
- 4 from the poultry producers. And as I reread
- 5 what you had, in that it said we have to have
- 6 that relationship, a herd health plan, and
- 7 maintain preventive livestock health care
- 8 practices, I think maybe some of our producers
- 9 who don't have dairy didn't know that that
- 10 would apply to them. And I'm wondering in
- 11 your proposed revisions if you will be
- 12 striking or modifying the herd health plan,
- 13 because we have flocks, too.
- Okay, well, I will go on here so I
- 15 don't lose my time. Another just a few little
- 16 other comments that were made by farmers. A
- 17 farmer called from Upper Michigan and said, do
- 18 they know how hard it is to keep animals clean
- 19 on pasture? I can't tell them where to lie
- 20 down and whatnot. I took a load of steers to
- 21 a buyer, and they went running off the
- 22 trailer, and they said, well, Bonnie, you had

- 1 them on some lush pasture.
- 2 So you know pastured animals are
- 3 going to be dirty sometimes, and this is just
- 4 a call for practicality in that regard.
- 5 Also we do have some grazers or
- 6 primarily dairy farmers who will pasture but
- 7 not always have water in front of their
- 8 animals all the time. And I think it needs
- 9 to be recognized that it is possible to graze
- 10 for a period of time and then have them come
- 11 back to the barn for water when they come up
- 12 to the facilities.
- Not everyone is set up with water
- 14 in all paddocks is my observation.
- 15 Let's see, what else here. The
- 16 most important thing though is the working
- 17 relationship with the vet or nutritionist, and
- 18 this was a comment from many of our farmers,
- 19 and I also wanted to tell you that the
- 20 majority of our 475 dairy farmers do use a vet
- 21 for emergency situations. As far as routine
- 22 practices only about a third do, and not that

- 1 many have nutritionists. The average herd
- 2 size of our dairy farms is around 54 cows.
- 3 And we do not feel that a working relationship
- 4 with a vet or a nutritionist should be
- 5 required. I don't feel that it should be the
- 6 case as a sheep farmer and a beef farmer
- 7 either, even though I live in a part of the
- 8 country where there are a lot of organic farms
- 9 there aren't necessarily the vets that I would
- 10 choose to rely on. In fact some of them don't
- 11 respect the organic practices.
- 12 My final comment would be for
- 13 sheep and goats that even though many of us do
- 14 our lambing on pasture, many operations have
- 15 confined lambing, and 18 square feet is a
- 16 little bit larger, especially if you include
- 17 the four square feet for lambs.
- 18 Most of us when we do lambs in the
- 19 barn have pens at 16 square feet. And this is
- 20 mostly for tight bonding of the ewing lamb.
- 21 Al l right, that's almost
- 22 everything.

- 1 CHAIRPERSON MOYER: Thank you
- 2 very much, Bonnie.
- The chair recognizes Hue.
- 4 MEMBER KARREMAN: Thank you, Mr.
- 5 Chair.
- Thanks for the comments coming
- 7 from dairy land out there. And one of the
- 8 reasons for the veterinary or nutritionist
- 9 being involved is to make sure I guess to
- 10 ensure the organic consumer that you know the
- 11 animals are doing okay, that you are not way
- 12 out on a limb and there is something wrong
- 13 going on chronically. That's the intent
- 14 there.
- The other thing is, at least with
- 16 dairy, to actually use some of the analgesics
- 17 and anaesthetics and what not, or even have
- 18 them dispensed, you do have to have a valid
- 19 client-patient relationship. I know that
- 20 veterinary groups in my area will not dispense
- 21 lidocaine to let the farmer do disc budding
- 22 and the little horn buds, which is promoted by

- 1 all certifiers it seems now, without knowing
- 2 that farmer. So if Farmer Joe calls out of
- 3 the blue, can you drop off lidocaine, I want
- 4 it, no, they won't do it, because they don't
- 5 know that farm.
- 6 Now the flip side is of course
- 7 there is not a whole lot of vets in certain
- 8 areas like, I don't know, southern Missouri
- 9 I'll just pick a place, let's just say, so
- 10 that is a problem there. But the intent is to
- 11 make sure that the organic consumer can feel
- 12 assured that these animals do have a second
- 13 set of eyes looking at these animals, that was
- 14 the intent.
- The other thing was, at least in
- 16 dairy, the pasteurized milk ordinance for
- 17 alternative treatments to be used and have in
- 18 your medicine cabinet, you get a seven point
- 19 debit if you don't have a valid label on some
- 20 of these things. So with a veterinary
- 21 relationship you can do that. If you don't
- 22 have that you are not going to have it. So

- 1 it's almost bordering toward the illegal to
- 2 not have a vet involved if you are a dairy
- 3 farm that is shipping milk to the fluid
- 4 market, and you are using alternative
- 5 treatments which organic guys do.
- Anyway, I just wanted to explain
- 7 the whole veterinary thing.
- 8 MS. WIDEMAN: May I response?
- 9 CHAIRPERSON MOYER: Absolutely.
- 10 MS. WIDEMAN: That's for dairy.
- 11 I don't have lidocaine in my operation. I
- 12 have Redman salt and kelp. And I have looked
- 13 around for a vet, and actually found some that
- 14 are fairly antagonistic. I had a vet come -
- and oh, here's another thing, having a vet
- 16 approve the alterations, no, I believe that
- 17 it's the farmer, him or herself, that knows
- 18 what kind of alterations are best.
- I had a vet come to do my
- 20 alterations. And we knife cut my steers after
- 21 they've had a summer on the pasture to enjoy
- 22 their bullyness out there, which I think is

- 1 appropriate. But the vet did not do as good
- 2 a job as the custom guy usually did, and could
- 3 not handle the cattle. He insulted me by
- 4 saying I'm going to give you a free fecal
- 5 examination to show you have worms in your
- 6 beef. I did not, but I would not like to be
- 7 forced to have a relationship with a vet like
- 8 that.
- 9 Another thing about the
- 10 alterations at the earliest age, I don't think
- 11 we should all be forced to ban it. Because
- 12 there are other considerations. In beef and
- 13 sheep you want the animals to bond. I mean I
- 14 could go out there and band lambs and steers
- 15 when they are born, and I think that would be
- 16 a horrible practice. But I think people tend
- 17 to want to do what they think is easiest for
- 18 an animal; no blood, no pain. It's not true.
- 19 So.
- 20 CHAIRPERSON MOYER: Chair
- 21 recognizes Hue for a rebuttal.
- 22 MEMBER KARREMAN: Just a quick,

- 1 not rebuttal, just a little discussion here.
- 2 So I think the earliest age thing, I accept
- 3 that fully. But I guess if you have a large
- 4 bull that is eight months old and you go in
- 5 and you castrate it, do you think that any
- 6 anaesthesia is needed for that?
- 7 MS. WIDEMAN: It depends on the
- 8 competency of the person who is going it. One
- 9 thing that isn't taken into consideration here
- 10 when you work with blocks and you work with
- 11 herds is the stress that is involved in
- 12 handling them. Like when I have my cows on a
- 13 far and I have them altogether on a far
- 14 pasture, and I have a lame animal out there,
- 15 I am not going to round everyone up and
- 16 bringing them back to the barn, because that
- 17 is going to cause harm to everyone else in the
- 18 herd and the flock. I am going to monitor it.
- 19 And it's the same thing when you
- 20 are working animals, if you have to keep them
- 21 in shoe, in a head gate, long enough for the
- 22 anaesthetic to take effect, I think that is

- 1 more stressful. When we have someone very
- 2 competent do our castration, the steers make
- 3 less noise than the heifers when you get the
- 4 ear tags for them. So that's my view.
- 5 CHAIRPERSON MOYER: Thank you
- 6 very much, Bonnie.
- 7 Any other questions? Thank you
- 8 for your time.
- 9 The board will recognize Jim
- 10 Pierce to the podium, and Marty Mesh on deck.
- 11 MR. PIERCE: The comic relief
- 12 starts now.
- 13 CHAIRPERSON MOYER: We could use
- 14 it.
- 15 MR. PIERCE: There was a little
- 16 bit of confusion getting me on the list. So
- 17 I was originally going to deliver this
- 18 yesterday, but I tweaked it a little bit based
- 19 on your discussions today.
- So here we go. My name is Jim
- 21 Pierce, and my affiliation is Oregon Tilth,
- 22 and these comments include but are not

- 1 limited animal welfare, greenhouse, and
- 2 nanotechnology recommendations.
- If successful I'm going to
- 4 convince you all that the functional beauty
- 5 and simple subjective goal-based language such
- 6 as included but not limited to, and therefore
- 7 the unnecessary of prescriptive livestock
- 8 stocking density requirements.
- 9 Before working at Oregon Tilth,
- 10 the best certifier, my career was at Organic
- 11 Valley Crop Cooperative, the best farm
- 12 cooperation. One of my last projects at OV
- 13 was working at the standard with the farmers
- 14 to dissect, debate, delineate and develop
- 15 private animal husbandry standards; we called
- 16 the husbandry standards.
- I learned early on that there were
- 18 a few unnegotiable truisms when working with
- 19 farmers, for me, boundaries of etiquette you
- 20 just cannot cross. The first for me was, thou
- 21 shalt wear thy jeans. If I showed up in
- 22 manager pants they would label me as a suit,

- 1 and my credibility would be worse than Levi
- 2 Johnson lecturing on abstinence.
- 3 Here is another ism worth carving
- 4 into stone: there are two things you should
- 5 never tell a farmer, what they have to do and
- 6 what they can't do. Or in the King James
- 7 version, what they shalt and what they shalt
- 8 not do. Now certainly the cannon of organic
- 9 regulations, loaded with thou shalts and thou
- 10 shalt nots, thou shalt be inspected every
- 11 year, thou shalt not use prohibited materials,
- 12 thou shalt keep records sufficient to
- demonstrate compliance, thou shalt graze thy
- 14 bovines.
- But these are goal shalts, not
- 16 prescriptive shalts. The Livestock Committee
- 17 animal welfare recommendations had both.
- 18 However it is the prescriptive shalts that
- 19 have generated the most push back. The
- 20 greenhouse recommendations to the credit of
- 21 the crop committee contains this language,
- 22 paraphrase: in lieu of crop rotation and cover

- 1 cropping, soil regeneration and recycling
- 2 practices shall be implemented and documented
- 3 in order to demonstrate that the required
- 4 functions of crop rotation and cover cropping
- 5 have been achieved. Specifically, maintain or
- 6 improve soil organic matter content. Examples
- 7 include but are not limited to, that's end
- 8 quote.
- 9 The rule I am going to skip this
- 10 paragraph. Here is the point in the revised
- 11 new international version. One size does not
- 12 fit all. While prescriptive stocking
- densities are easier to uniformly calculate,
- 14 these do not assure animal welfare. They
- 15 establish a minimal threshold for compliance
- 16 rather than impetus for continuous
- 17 improvement. The golden rule of the NOP is to
- 18 create and enforce outcomes based goals-
- 19 oriented flexible, geographically adaptable,
- 20 adoptable and applicable rules that are
- 21 documented in the organic system plan,
- 22 verified by inspection, cited in review as

- 1 requiring corrective action, and resulting
- 2 ultimately in the continuous improvement that
- 3 is the basis, the hallmark, the backbone, the
- 4 heart, the foundation, the cornerstone, the
- 5 pinnacle, the anchor, the keel, the crux,
- 6 indeed the holy grail of the national organic
- 7 program. You got to love that thesaurus
- 8 button.
- 9 As you revise this animal welfare
- 10 recommendation, think about how to do so under
- 11 the template of including but not limited to.
- 12 Show the farmer the goal without limiting
- 13 their ability to innovate.
- 14 Take a break, turn the page,
- 15 change the subject: nanotechnology. As stated
- in our written comments, Oregon Tilth believes
- 17 and endorses the minority opinion that would
- 18 create a more flexible approach effectively
- 19 locking the door to nanotech in organic, while
- 20 at the same time allowing case-by-case
- 21 consideration in the future.
- We thank you for respectfully

- 1 debating that position during your discussion
- 2 today. To be clear we are absolutely in
- 3 agreement with the Center for Food Safety and
- 4 others to prohibit nanotechnology in its
- 5 present and foreseeable state. However we are
- 6 not in favor of adding it to excluded methods,
- 7 thereby prohibiting it forever and ever, amen.
- 8 Although nascent and potentially
- 9 as evil as gene splicing, nanotechnology is
- 10 exponentially more diverse and complex.
- 11 Think homeopathy, think veterinary medicine,
- 12 think energy, think food safety. Shining a
- 13 critical spotlight on nanotechnology now is
- 14 proactive and laudable. Banishing it forever
- 15 as an excluded method would not be.
- The precautionary principle is our
- 17 friend; embrace it.
- 18 Thank you to the fabulous five who
- 19 your actions on this board has permanently
- 20 improved it. Thank you for the tenacious ten
- 21 who remain to carry the torch, and welcome to
- 22 the class of 2010. Thank you for not running

- 1 away screaming after this afternoon's
- 2 discussion.
- 3 Thank you.
- 4 CHAIRPERSON MOYER: Thank you,
- 5 Jim. We appreciate those comments.
- 6 Are there any questions or
- 7 comments from I see Kevin and then Katrina.
- 8 MEMBER ENGELBERT: What's the
- 9 NOSB board you've ever spoken in front of?
- 10 MR. PIERCE: I had anticipated
- 11 quite a few questions. I will tell you this,
- 12 though, there have been a lot, there have been
- 13 eight or nine or 10 years worth of this. And
- 14 the engagement and interaction and capture of
- 15 comments from the last three years' worth of
- 16 boards really the full tenure of your five
- 17 years on this board has improved it. And I
- 18 really do mean that, that you five have
- 19 dramatically improved the functionality of
- 20 this board forever the way it works. I don't
- 21 know which one the very best single one is,
- 22 but things have been continually improving.

- 1 CHAIRPERSON MOYER: That would
- 2 mean it's this one. Your safe with that one.
- 3 MR. PIERCE: Best farm
- 4 cooperative.
- 5 MEMBER ENGELBERT: Right answer.
- 6 CHAIRPERSON MOYER: Thank you,
- 7 Jim. Katrina.
- 8 MEMBER HEINZE: I'd like to think
- 9 more about your comments on animal welfare.
- 10 Do you happen to submit something in writing?
- 11 MR. PIERCE: Yes, they are in
- 12 writing.
- 13 MEMBER HEINZE: Really?
- MR. PIERCE: Yes, they are in
- 15 writing.
- 16 MEMBER HEINZE: They are?
- MR. PIERCE: Yes, they're there.
- 18 MEMBER HEINZE: Those weren't the
- 19 same ones that you submitted earlier, were
- 20 they?
- 21 MR. PIERCE: Yes, they are, on
- 22 regulations.

- 1 MEMBER HEINZE: They sound so
- 2 much better when you say them.
- 3 MR. PIERCE: No, not these
- 4 comments.
- 5 MEMBER HEINZE: Do you have those
- 6 comments?
- 7 MR. PIERCE: Yes.
- 8 MEMBER HEINZE: That would be
- 9 wonderful, thank you.
- 10 CHAIRPERSON MOYER: Any other
- 11 questions for Jim? Joe?
- 12 MEMBER SMILLIE: I just wanted to
- 13 agree with you, Jim, on your illustration of
- 14 prescriptive versus including but not limited
- 15 to. I think that is the way I'd like to see
- 16 us move forward.
- 17 MR. PIERCE: Can I comment on
- 18 that? You brought this up before. The
- 19 Canadians have these standards. They love
- 20 their numbers. And so do the Europeans, but
- 21 they are not necessarily working for them. So
- 22 to take them well, there are actually two

- 1 problems. One is to take them might not be
- 2 the right numbers; the other is, the Canadian
- 3 system is petitionable for regulation, not
- 4 only materials. So it can change quite
- 5 quickly, and you can very easily find yourself
- 6 with an antiquated version of their table that
- 7 they have already decided is dysfunctional.
- 8 CHAIRPERSON MOYER: Jim, not to
- 9 prolong the conversation, but when we talked
- 10 about goal-oriented processes earlier, we were
- 11 chastised by the certification community and
- 12 told that what they wanted to see were numbers
- 13 that were verifiable and easy to certify. So
- 14 it's difficult to have it both ways.
- 15 MEMBER SMILLIE: I would
- 16 disagree. What Jim outlined was basically in
- 17 the Green Host document. We want to see your
- 18 plan, but we are going to leave it up to you
- 19 as to how you are going to show compliance to
- 20 that, rotation or soil improvement. We are
- 21 not going to prescribe that your organic
- 22 matter will increase from 3.4 to 3.6.

- 1 CHAIRPERSON MOYER: Yes.
- 2 MR. PIERCE: Well, one quick
- 3 comment on that, then, if I may. There has
- 4 been a lot of recommendations to add guidance
- 5 language as recommendations. We've been
- 6 promised the guidance manual or program
- 7 manual that will contain a lot of that
- 8 guidance and suggestion, so there is really no
- 9 need to write it into the regulation. It's
- 10 another level. And the Canadians again have
- 11 done this. Their program manual has a lot of
- 12 the detail that the regulation does not.
- 13 CHAIRPERSON MOYER: Thank you,
- 14 Jim.
- 15 Marty, if you would come to the
- 16 podium, and Patty Lovesh is on deck.
- 17 MR. MESH: All right, Marty Mesh,
- 18 Quality Certification Services, and Florida
- 19 Organic Growers.
- I think I'll save the retiring
- 21 board member comments to the very end just
- 22 because if I right out of time you can ask me.

- 1 But I wanted for the record to thank Barbara
- 2 and Rick they're gone Miles' picture the
- 3 other day really illustrated I think quite
- 4 vividly for everybody that wasn't aware of how
- 5 under resourced the program was and how much
- 6 they tried to accomplish with really a staff
- 7 less than our own certification program staff,
- 8 in dealing with the amount of work that they
- 9 have to deal with. So while we may have
- 10 disagreed sometimes, my hat goes off to them
- 11 and I wish them both the best.
- 12 So I wanted to congratulate Miles
- 13 and the new staff and we of course look
- 14 forward to working with him. We very much
- 15 appreciated the budget illustration to show
- 16 how the program is allocating resources, and
- 17 word is it's a bit more transparent than how
- 18 it was years ago, and I was glad to see it.
- Now that I have said something
- 20 nice about Miles, let me just be the first one
- 21 to bring up a concern which is how the USDA
- 22 may seem to be handling the compost issue, and

- 1 how I think they are blessing the California
- 2 Department of Ag did handle the compost issue.
- 3 I have several concerns: who will pay for this
- 4 testing, and leaving farmers with loads of
- 5 compost that now they can't seem to use that
- 6 they purchased that met the regulation, really
- 7 that had vegetative plant material that's
- 8 allowed in regulations. And so I think some
- 9 more thinking needs to go on.
- 10 Aquaculture, this isn't the
- 11 finish. It's only the beginning. And shrimp
- 12 is a managed ecosystem, and I heard the
- 13 discussion earlier. We've been here for years
- 14 asking for shrimp. It's fully managed pond
- 15 ecosystem, and we look forward to that. We're
- 16 thankful for the aquaculture working group's
- 17 work, and look forward to the continuing day
- 18 when pond shrimp can actually be certified.
- 19 We support the materials before
- 20 the board to be continued. I was so
- 21 devastated yesterday I misplaced the letters
- 22 I had in hand to turn in in the napkin with my

- 1 well thought out comments. But I did notice
- 2 that today dressing up and having a laptop,
- 3 y'all are allowing me to speak. So now I am
- 4 concerned about the proceeding, dress and
- 5 technology codes being implemented.
- 6 The pasture rule, let me the
- 7 pasture rule, you know, I actually find it
- 8 intriguing about the interim final rule.
- 9 Actually the USDA could fix this
- 10 administratively without adding pain and
- 11 suffering to dairy producers and certifiers by
- 12 instructing and monitoring the certifiers to
- do accreditation of what access the pasture
- 14 needs without the regulatory overreach which
- 15 was evident in the first proposed rule. But
- 16 maybe the train has left the station.
- 17 And then the supporting nickel,
- 18 Rich Thur has submitted a petition. He spoke.
- 19 Our clients faced severe problems with pecans,
- 20 and a bit of institutional memory may help.
- 21 In 1995 the AAFCO list of essential
- 22 micronutrients was accepted with the specific

- 1 exclusion of iodine and chlorine. AAFCO then
- 2 determined the essentiality of nickel after
- 3 the date of the national list was published as
- 4 an essential micronutrient, essential in some
- 5 cases for plant health. I believe that we
- 6 were indeed the certifiers that did not allow
- 7 a grower to us it, causing great harm to a
- 8 grower in relation to a deficiency documented
- 9 by a test as mandated. I feel sad if a
- 10 program I supported the creation of will cause
- 11 more economic hardship to a grower and
- 12 possibly force a certified organic pecan
- 13 grower to go back to conventional production
- 14 if this path through petitioning and blah blah
- 15 blah takes another crop season or two or three
- 16 to add to the updated AAFCO list the addition
- 17 of a critical micronutrient which should be
- 18 on there.
- 19 Maybe there can be a, quote,
- 20 strict but sensible, unquote, solution to this
- 21 minor oversight not to include and update the
- 22 list and now to include nickel as an essential

- 1 micronutrient. I would accept total
- 2 responsibility for communicating with any
- 3 environmental or consumer organizations that
- 4 have questions.
- 5 IQF okra update: well, it seems to
- 6 me like you know this is the last time they're
- 7 going to be here, by god, you are not going to
- 8 cut this one off. It seems like the
- 9 petitioner would be here stating how many
- 10 growers they reached out to, the status of
- 11 those fair contracts offered to produce RQF
- 12 okra, et cetera. However it's only me again
- 13 to say as yet as far as I know the petitioner
- or the supporters have never made even a
- 15 possible inquiry much less pursue the business
- 16 relationship.
- 17 And I think that in the interests
- 18 of time and your long day I will close with
- 19 comments to the board members, but you will
- 20 have to ask the questions, retiring board
- 21 members.
- 22 CHAIRPERSON MOYER: Ouestion from

- 1 Julie.
- 2 SECRETARY WEISMAN: Marty, do you
- 3 have any comments for the board?
- 4 MR. MESH: I do. Well, let me
- 5 first add another thing to that before I
- 6 answer the question.
- 7 I just wanted to thank the five
- 8 retiring board members. And it's been a
- 9 pleasure and I do know how hard y'all work,
- 10 how painful it is sometimes to try to stay
- 11 awake and act like you are interested in bad
- jokes as we come up here.
- But you have done a great job and
- on behalf of all of us we are currently
- 15 appreciative of all of your efforts who have
- 16 served, and will now be gallivanting around
- into retirement, and probably growing a beard
- 18 like Richard, and starting to relax, dress
- 19 down a little bit. It will be fun to see.
- 20 CHAIRPERSON MOYER: Thank you,
- 21 Marty. No other comments from board members?
- 22 There is one comment or question from Tracy.

- 1 MEMBER MIEDEMA: Marty, I
- 2 sympathize with your organic okra growers,
- 3 because if we had been able to add that item
- 4 to 606, those growers would have made
- 5 transparent to the trade that organic is
- 6 needed, and what happens with a petitioner
- 7 like that is they are sort of forced to take
- 8 a different path. And had that item been
- 9 added, it wouldn't have they wouldn't have
- 10 automatically, the petitioner, been able to
- 11 use an inorganic variety. And remember
- 12 getting placed on 606 doesn't give carte
- 13 blanche to use in a organic variety; it just
- 14 subjects it to personal availability. So the
- 15 opportunity list for that was not created.
- 16 MR. MESH: The opportunity is
- 17 still there is a major manufacturer wants to
- 18 enter into a fair contract with growers to
- 19 grow organic okra and help them have the
- 20 infrastructure they need. That's the
- 21 difference. It becomes possible if the buyer
- 22 wants to help, and it doesn't if the

- 1 responsibility is all on the growers, in my
- 2 opinion.
- And about sunset, does anyone have
- 4 a question about sunset? And this will be
- 5 really quick. Come on, Joe, work with me.
- 6 MEMBER SMILLIE: I have not heard
- 7 that question, Marty.
- 8 MR. MESH: The sunset, this is of
- 9 critical importance.
- 10 MEMBER JAMES: Marty, I have a
- 11 question about sunset.
- MR. MESH: I actually think the
- 13 board I'm glad you asked that and whether
- 14 or not you want to finish your question, I can
- 15 go ahead and provide you an answer. I
- 16 actually think the board in your comments in
- 17 this track raised some concerns for me that
- 18 sunset was never envisioned to be that
- 19 evergreen. It was meant to be a sunset, and
- 20 that materials that were to be petitioned and
- 21 be reviewed and put on the list at some point
- 22 in time would go off the list. And to put the

- 1 whole onus on citizens to provide the absolute
- 2 concrete proof to come up and prove that
- 3 there is an alternative; to prove that I'm
- 4 sorry, it should be incumbent upon the
- 5 industry at least a little bit to come, we
- 6 need this material and here is why.
- 7 So I recognize that maybe there is
- 8 a balance, but it seems to me as though the
- 9 scale has tipped way too much in the wrong
- 10 direction putting the responsibility on
- 11 citizens instead of the industry.
- 12 CHAIRPERSON MOYER: Thank you,
- 13 Marty. We have one more question from Dan.
- 14 VICE CHAIRPERSON GIOACOMINI:
- 15 Marty, I have often sat up here and tried to
- 16 find in some cases just somebody not
- 17 recommending that we keep something on. And--
- 18 MR. MESH: Wait until Chilean
- 19 Nitrate comes up.
- 20 VICE CHAIRPERSON GIOACOMINI:
- 21 Well, that is a back door problem. There is
- 22 a whole other issue. But the thing that I'll

- 1 ask you and through you the certifiers is,
- 2 really tell us what you want to include and
- 3 not just give the blanket, keep everything on
- 4 sunset. Because sometimes it's been one or
- 5 two certifiers that were the only persons who
- 6 made the comment to recommend keeping
- 7 something, and if it hadn't been for that I
- 8 would have voted it off.
- 9 CHAIRPERSON MOYER: Thank you,
- 10 Marty.
- 11 MR. MESH: I had San Francisco
- 12 tied in with a good joke in the compost
- 13 section, but I ran out of time.
- 14 CHAIRPERSON MOYER: Thank you.
- 15 Thank you, Marty, we appreciate that.
- 16 Patty Lovera to the podium if she
- 17 is here, and Farah Ahmed is on deck.
- 18 MS. LOVERA: Hi everybody. My
- 19 name is Patty Lovera. And I'm with Food and
- 20 Water Watch, which is a consumer group here in
- 21 town, and we are also a member of the National
- 22 Organic Coalition. So I appreciate you guys

- 1 sticking around after a long day to take more
- 2 public comments.
- 3 Because we are a member of NOC and
- 4 several folks have already talked about GM
- 5 vaccines and personal care, I'm not going to
- 6 get into those. I'm going to talk about
- 7 aquaculture, nanotechnology and if I have
- 8 time, animal welfare.
- 9 So we've been here before
- 10 obviously on aquaculture. On the bivalve
- 11 recommendation we were happy to see that there
- 12 was a lot of focus on water quality. That is
- 13 appropriate; it's necessary, because of the
- 14 way that bivalves grow and eat. We do have
- 15 concerns, historic concerns, about organic
- 16 aquaculture in open ocean net pens, so adding
- 17 bivalves to that mix doesn't really do it for
- 18 us. So that is a piece of the recommendation
- 19 that we weren't happy to see, but we do
- 20 appreciate the part about in open ocean
- 21 bivalve systems, really focusing on what types
- 22 of understanding you have to have about water

- 1 quality and location and testing and going
- 2 above and beyond what would shut down one of
- 3 these facilities in a conventional or
- 4 nonorganic system.
- 5 So I think that that reflects your
- 6 good hard work in thinking through these
- 7 quality issues. We also wanted to think about
- 8 to recommend or commend, sorry, that we
- 9 think it's appropriate to require that 95
- 10 percent of the weight come under organic
- 11 management. We thank you for putting that in
- 12 there.
- One point we did want to make on
- 14 aquaculture, bivalve piece was under the
- 15 collection method to recommend taking dredging
- 16 off that list. Environmental impact and not
- 17 disturbing those bottom layers is a goal which
- 18 we think it should be for organic systems; we
- 19 think it is hard to reconcile that with a lot
- 20 of dredging technology.
- 21 So organic technology, I think
- 22 most of this has been said. We just want to

- 1 reiterate our concern about this technology,
- 2 about consumers' expectations that it not be
- 3 inorganic. And we support the many folks
- 4 today that have said it should be prohibited.
- 5 So we agree with that majority opinion, and
- 6 would like the minority opinion taken out.
- We also agree that the definition
- 8 should increase the size to 300 nanometers.
- 9 You know we have been hearing a lot more from
- 10 our members and consumers about their concerns
- 11 about nanotechnology. So there is just a
- 12 sense that this is a genie we can't stick back
- in the bottle. And the precautionary
- 14 principle to us means that it should be kept
- out in the most definitive way possible out of
- 16 organic, because it is one of the types of
- 17 things people look to organic to be protecting
- 18 them from, and the more we learn about
- 19 nanotechnology, which is happening way too
- 20 slowly, because it's incredibly underfunded in
- 21 terms of environmental impacts, occupational
- 22 impact, what it means in the waste water and

- 1 waste stream of these plants that use it. It
- 2 just seems like there are so many unknowns
- 3 that have no business even having options to
- 4 get into this type of food that is marketed as
- 5 being protective and being precautionary.
- 6 So finally on animal welfare
- 7 again, like you have heard from many folks,
- 8 we think the pasture rule is an important
- 9 piece for this, so we want to see that as soon
- 10 as we can. And again this is another area
- 11 where consumer expectations are incredibly
- 12 high, and the proliferation of labels in the
- 13 marketplace. You just have to go to the egg
- 14 case or the meat case to see all of the claims
- 15 about animal welfare. It shows that consumers
- 16 are interested in this. They are confused by
- 17 the proliferation of labels. And so obviously
- 18 we think the organic label should be right up
- 19 there at the top in terms of having really
- 20 solid standards that are understandable. So
- 21 we can get smart, things that you guys put in
- 22 there, things about specific practices,

- 1 because that's where the public debate is.
- 2 That's where people are starting to
- 3 understand. And we will just echo what some
- 4 other groups like Center for Food Safety said
- 5 today about dealing with some of the culturing
- 6 issues and going beyond just the piece about
- 7 cages.
- 8 So that's it for me.
- 9 CHAIRPERSON MOYER: Thank you
- 10 very much, Patty.
- 11 Any questions from the board for
- 12 Patty? Hearing none, thank you very much,
- 13 Patty.
- 14 Farah Ahmed is up, and Harriet
- 15 Behar on deck.
- 16 MS. AHMED: Good afternoon. Or
- 17 maybe I should say good evening, because it is
- 18 getting late.
- 19 My name is Farah Ahmed. I'm here
- 20 to speak on behalf of the Personal Care
- 21 Products Council. I'd like to thank Valerie
- 22 for her help in sort of schooling me on the

- 1 logistics. I am relatively new to this
- 2 dialogue. I'd like to thank the board for
- 3 inviting me and allowing me to speak.
- 4 Really my purpose is to lay a very
- 5 and quick foundation with respect to the
- 6 regulations that surround cosmetics. We
- 7 certainly filed our comment, and I am happy to
- 8 take questions on those comments as well.
- 9 But I thought rather than
- 10 reiterate those, I'd use this opportunity to
- 11 lay just a brief overview on the regulatory
- 12 side of it that may be helpful to some.
- So essentially the primary laws
- 14 affecting labeling of cosmetics are derived
- 15 from the Food Drug & Cosmetics Act, as well as
- 16 the Fair Package Labeling Act.
- 17 A cosmetic would be consider
- 18 misbranded if it's label is false or
- 19 misleading in anyway or it does not bear the
- 20 labeling information required by regulation,
- 21 which is very detailed; or the container is
- 22 filled in some sort of deceptive manner.

- 1 I just want to lay out the
- 2 definitions now for a cosmetic. These are
- 3 articles that are intended to be rubbed,
- 4 poured, sprinkled, sprayed on, introduced
- 5 into, or otherwise applied to the human body
- 6 for cleansing, beautifying, promoting
- 7 attractiveness or altering the appearance.
- 8 On the flip side for drugs, and
- 9 when I say drugs I mean over-the-counter
- 10 sunscreen, skin protectant, things of that
- 11 nature, which are regulated. When we say
- 12 personal care products, I think we generally
- 13 mean cosmetics, and the other stuff that would
- 14 be better definitionally considered drugs by
- 15 FDA but I think consumers view it all as sort
- 16 of cosmetics.
- 17 Essentially, drugs, the definition
- 18 really is, intended for use in the treatment
- 19 or prevention of disease, or an article that
- 20 affects the structure or function of the body.
- 21 Although I think we can all recognize that we
- 22 see advertising from time to time talking

- 1 about rebuilding collagen, et cetera, et
- 2 cetera. But from a technical standpoint those
- 3 type of claims should be reserved for drugs
- 4 and not cosmetics.
- 5 And you will also see probably in
- 6 a lot of advertising that products talk about
- 7 affecting the appearance, reducing the
- 8 appearance of wrinkles, things of that nature.
- 9 So that is where these stem from.
- 10 So there are clear definitions as
- 11 outlined by the Food & Drug Administration for
- 12 both of these categories of products.
- 13 So again, intended use. I think
- 14 the crux of what divides products is how they
- 15 are marketed, their intended use. Of course
- 16 I'm oversimplifying a little bit, but I think
- 17 for our purposes that is generally how these
- 18 types of products can be divided up.
- 19 Of course safety is a primary
- 20 priority with respect to drug, cosmetics,
- 21 foods, et cetera. But here we are discussing
- 22 labeling. So they are combination products,

- 1 and I think if you go to the next slide.
- 2 Combinations do both, so if you
- 3 can just think of a sunscreen with a
- 4 foundation, that would be a combination
- 5 product. You can go to the next slide.
- 6 And here are some examples quickly
- 7 of what would be considered a cosmetic, and
- 8 what would be really considered a drug or a
- 9 cosmetic drug.
- 10 So what information is required on
- 11 a cosmetic product label? Again, the two
- 12 laws, one of the two is the Food, Drug &
- 13 Cosmetics Act, which requires the following
- 14 information, warning statements, what have
- 15 you. And these are the CFR references if
- 16 anyone cares, but I can provide a copy of the
- 17 slides electronically, and we certainly
- 18 brought hard copies as well. Go to the next
- 19 slide.
- 20 The Fair Packaging and Labeling
- 21 Act, however, requires a slightly different
- 22 set of requirements on the label, and these

- 1 are outlined here. You can go to the next
- 2 slide.
- 3 These are some of the things that
- 4 are not required on the label. Actually,
- 5 surprisingly, the brand name is not required
- 6 on the label, although I personally like to
- 7 see what brand I'm buying.
- 8 We can just fly through these,
- 9 these are just illustrative examples of the
- 10 requirements. I think everyone can be
- 11 thankful that I'm not a graphic artist, but I
- 12 did my best. We can keep going.
- 13 So let's focus on ingredient
- 14 labeling. Here we are. The Fair Package
- 15 Labeling Act, really the crux of this act is
- 16 to prevent consumer confusion. And we need a
- 17 fair balance, we need a way to compare product
- 18 to product, so I think Valerie if we can just
- 19 keep skipping along toward the end.
- 20 With respect to organic, this
- 21 issue has cropped up quite often, and this is
- 22 regarding the use of the asterisks in the

- 1 labeling. And that is not actually permitted
- 2 according to FDA regulations. FDA references
- 3 the INCI dictionary, which is an international
- 4 dictionary, so it's an international language
- 5 in terms of unique ingredient names. So when
- 6 you start using asterisks and parentheticals,
- 7 we start then raising questions as far as what
- 8 does it mean, organic in U.S., organic in a
- 9 different market. So for that reason it's not
- 10 allowed. So I wanted to make sure that we got
- 11 that message across.
- 12 Any questions?
- 13 CHAIRPERSON MOYER: Yes, thank
- 14 you, Farah. I think there are some questions.
- Joe.
- 16 MEMBER SMILLIE: Obviously there
- is a lot here that we need to understand, but
- 18 the last thing that you seemed to be stressing
- 19 that asterisks are not allowed by FDA?
- 20 MS. AHMED: FDA, the way the
- 21 regulations break down, FDA references the
- 22 INCI dictionary as one of the authorities.

- 1 Now the INCI dictionary does not include the
- 2 use of asterisks or parentheticals. And the
- 3 reason behind that is because the INCI
- 4 dictionary is an international universal
- 5 dictionary, and when we start adding
- 6 parentheticals, for example, the word fresh
- 7 with organic or natural, it has a different
- 8 meaning. And it starts to then create a
- 9 rubber ruler for the consumer so when they
- 10 look at the label you don't have now the same
- 11 measure.
- 12 MEMBER SMILLIE: I understand that
- 13 for example it allows lavender but not organic
- 14 lavender.
- MS. AHMED: Correct.
- 16 MEMBER SMILLIE: Right, but I
- 17 didn't I don't my understanding was that
- 18 if it was lavender asterisk, and then down
- 19 below the asterisk explained, certified
- 20 organic, that that is not an FDA rule.
- 21 MS. AHMED: That is not allowed;
- 22 technically that is not allowed.

- 1 MEMBER SMILLIE: By who?
- 2 MS. AHMED: By FDA. The FDA
- 3 references again the INCI dictionary. The
- 4 INCI dictionary does not allow for those, for
- 5 a parenthetical or for an asterisk to be used
- 6 in the ingredient deck. Now the ingredients
- 7 can most certainly be called out anywhere else
- 8 on the label. Typically companies will,
- 9 underneath the ingredient deck or above the
- 10 ingredient deck, will call out the organic
- 11 ingredient and to what standard it it
- 12 certified to. But it is not allowed in the
- 13 actual declaration.
- 14 And it's an international
- 15 language. And in the case of multinational
- 16 corporations that are formulating global
- 17 formulations, and some are global labels,
- 18 often, we believe that it's really not just a
- 19 cost saving but a saving in terms of labeling,
- 20 the environment and what have you to have that
- 21 consistency.
- 22 CHAIRPERSON MOYER: Chair

- 1 recognizes Katrina.
- Oh, I'm sorry, if you had a
- 3 rebuttal or another question.
- 4 MEMBER SMILLIE: Again, I agree
- 5 with you.
- 6 MS. AHMED: I'm talking as
- 7 quickly as I can.
- 8 MEMBER SMILLIE: You're doing
- 9 great. I think it references the INKY DINKY -
- 10 dictionary whew, it's getting late -
- 11 references the INCI dictionary.
- MS. AHMED: It does.
- 13 MEMBER SMILLIE: And the INCI
- 14 dictionary has that rule, but I wouldn't
- 15 translate directly as that would be an FDA
- 16 requirement. And I think as we investigate
- 17 the relationship between the USDA and FDA.
- 18 Because right now one of the few things that
- 19 is really accurate in the cosmetic area is a
- 20 few companies are at least not claiming their
- 21 products are organic, and they are restricting
- their claim to what we in the USDA regulations

- 1 like to see, is they are restricting their
- 2 claims to the ingredient panel and saying that
- 3 their lavender is organic.
- 4 And that's a step up from the
- 5 people who are claiming the whole product to
- 6 be organic, and it's one of the things that we
- 7 like to see on the USDA side of things. So as
- 8 we this is going to be a long process
- 9 obviously. But as we start working with the
- 10 FDA I think we will clarify where we can agree
- 11 on ingredient panel listing. But that is one
- of the many issues we'll have to get into.
- MS. AHMED: And if I may?
- 14 CHAIRPERSON MOYER: Please.
- 15 MS. AHMED: There certainly are a
- 16 lot, and as you mentioned earlier, it's
- 17 definitely acknowledged this is a very very
- 18 complicated area. Having practiced at the FDA
- 19 chief counsel's office I can tell you that in
- 20 dealing with these labeling issues there is a
- 21 lot involved in changing or accepting, for
- 22 example, aqua in lieu of water on a label, to

- 1 do something of that nature would require a
- 2 lot of would require data. I mean today we
- 3 have all been saying consumer confusion, but
- 4 what does that really mean? If you make a
- 5 data-driven decision that would require
- 6 adequate and reliable study, actual consumer
- 7 study, intercept, and typically a 2-3,000 mall
- 8 intercept study, something of that nature.
- 9 Typically that was what I was used to dealing
- 10 with with respect to labeling issues.
- 11 So without making judgment in
- 12 terms of the right, the wrong, what's actually
- 13 happening in the market, I can say that there
- 14 is a lot of value in outlining clear and
- 15 transparent process, having data-driven
- 16 decisions, and really ultimately promoting the
- 17 mission of the NOP and that's organic farming.
- 18 So all of those things I think are
- 19 extremely important issues. They are
- 20 extremely important issues to our industry,
- 21 our association. And we look forward to
- 22 future dialogue.

- 1 CHAIRPERSON MOYER: Tracy?
- 2 MEMBER MIEDEMA: The issue that
- 3 you raise about the ingredient panel seems one
- 4 that's pretty analogous to wine, for instance,
- 5 where the organic producer has had to comply
- 6 with a different set of regulations than they
- 7 are used to having to comply with for a food
- 8 product. So we do have a precedent for
- 9 teaching new entrants to a category to comply
- 10 with a labeling schema.
- 11 So that I feel can be rectified
- 12 relatively simply. Are there other issues you
- 13 have with the recommendation besides the
- 14 ingredient panel? That is the only one I
- 15 heard you bring up.
- MS. AHMED: We responded in our
- 17 comments as far as the recommendation goes.
- 18 I'd be happy to go over those. But I think to
- 19 your point as to wine, I am certainly not -
- 20 unfortunately not a wine expert, or not yet.
- 21 But I can say that with respect to the
- 22 labeling side of the cosmetic, the issue is,

- 1 when you use an asterisk, what does that
- 2 specifically mean. So if there was some
- 3 melding between FDA and USDA, and there is a
- 4 strict definition for what does organic mean
- 5 for a specific ingredient that is one thing.
- 6 But here we are talking about an
- 7 issue and from our perspective, it's an
- 8 international issue, and we are dealing with
- 9 harmonization and things of that nature, and
- 10 we certainly don't want to take a step
- 11 backward, so I think this is something that we
- 12 need to tread very carefully on, and it may
- 13 seem like a small or trivial issue, just tiny
- 14 little asterisks, but it actually is a big
- issue, and it's just the tip of the iceberg.
- 16 You're nodding your head.
- 17 MEMBER SMILLIE: Well, I can't
- 18 believe it's high on FDA's enforcement list.
- 19 MS. AHMED: That's a whole other
- 20 conversation.
- 21 MEMBER SMILLIE: What
- 22 enforcement, you were going to say.

- 1 MS. AHMED: I mean, FDA, we
- 2 certainly believe in a very strong FDA. We
- 3 have done our best to get funding for
- 4 specifically the cosmetic division; it's
- 5 frustrating. I worked there; I don't want to
- 6 divulge my salary when I was there. I mean
- 7 you know there is a lot that we can talk
- 8 about fixing. But yes, I mean enforcement
- 9 certainly they don't seem to be doing too
- 10 much. There was a recent warning letter sent
- 11 to a bakery, a food company, regarding the use
- of the term, "fresh," if I recall. I'll look
- 13 it up and send it to you.
- 14 MEMBER SMILLIE: We will be
- 15 talking about this for years.
- 16 CHAIRPERSON MOYER: Thank you.
- 17 Thank you, Joe. Chair recognizes Bea.
- 18 MEMBER JAMES: So what I hear you
- 19 saying is that to move forward we need to not
- 20 worry so much about the asterisk and spell out
- 21 organic under every ingredient in the label
- and then we will be able to work together and

- 1 start moving forward?
- MS. AHMED: No, that's not what I
- 3 am saying. What I am saying is that the
- 4 asterisk is one issue. And as far as
- 5 identifying all the issues, I think that is
- 6 going to take time. From my perspective, from
- 7 our perspective, the question is, should we
- 8 move forward? If we should, then how should
- 9 we? When we are talking about a rulemaking or
- 10 potential rulemaking or guidance, what have
- 11 you, something that would affect a very large
- 12 section of a \$250 billion industry, it's
- important to really be clear on really the
- 14 parameters and the potential outcomes before
- 15 making a decision on the best way to go, on
- 16 the timing, things of that nature.
- 17 So again I'm not weighing in in
- 18 terms of making a decision on those things.
- 19 Our companies are certainly not entirely in
- 20 agreement, especially when we drill down to
- 21 the specifics of what is organic and what is
- 22 not in terms of synthetics and processes.

- 1 MEMBER JAMES: But it sounds like
- 2 you recognize that there is a need to merge
- 3 the home so to speak of organic body care
- 4 towards FDA so that consumer confusion is
- 5 minimized, and we have that we are not
- 6 internally arguing over asterisks, but we are
- 7 doing the best thing to try to label things
- 8 correctly for the consumer?
- 9 MS. AHMED: I think even before
- 10 making that conclusion or taking that step, I
- 11 think that we really need to determine, is
- 12 there consumer confusion? If there is, then
- 13 what is it? Where does it lie? Is it with
- 14 the USDA seal? Is it with the private
- 15 standard? Is it with the term, organic? I
- 16 mean even before making that conclusion, I'm
- 17 very hesitant to go in that direction.
- 18 CHAIRPERSON MOYER: Bea.
- 19 MEMBER JAMES: So next steps for
- 20 making giving the information that you need
- 21 in order for this to manifest would be?
- 22 MS. AHMED: I think continued

- 1 dialogue. I think sitting around a table and
- 2 having a discussion, and hearing from large,
- 3 small, medium sized companies in all
- 4 directions, hearing from consumers, hearing
- 5 from standard setting bodies, hearing from all
- 6 relevant stakeholders I think is very
- 7 important.
- 8 MEMBER JAMES: We had an
- 9 educational panel discussion in Pennsylvania
- 10 around a different topic, but we brought in a
- 11 lot of experts to talk about pasture and get
- 12 all of the different issues out on the table,
- and maybe perhaps that would be a next step
- 14 toward blending the conversation between the
- 15 FDA and the USDA National Organic Program.
- 16 MS. AHMED: I think that is very
- 17 helpful. And I think before making any
- 18 decisions the powers that be that make these
- 19 decisions, i.e. USDA and FDA, we should I
- think it's obligatory for us to arm them with
- 21 information from all sides, experts,
- 22 consultants, large companies, small companies,

- 1 standard setters, certifiers, not just a small
- 2 group, if you really want to make this really
- 3 have legs and make a real positive impact on
- 4 organic farming.
- 5 MEMBER JAMES: I thank you for
- 6 your comments, and I think that is a
- 7 great starting point for the CACC to start to
- 8 develop that dialogue with the NOP and see if
- 9 we can create that.
- 10 CHAIRPERSON MOYER: Thank you,
- 11 Farah. We appreciate your time and your
- 12 comments.
- MS. AHMED: Thank you very much.
- 14 CHAIRPERSON MOYER: Is Harriet
- 15 Behar in the room? I don't see her. If that
- 16 is the case, then we have completed the entire
- 17 list that I have for public comments, and
- 18 without any further ado, this meeting stands
- 19 adjourned until 8:00 o'clock tomorrow morning,
- 20 when we will reconvene in this room.
- 21 (Whereupon, at 7:07 p.m., the
- 22 above-entitled matter went off the record.)

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