

FINAL MINUTES OF THE  
NATIONAL ORGANIC STANDARDS BOARD  
FULL BOARD MEETING  
ROHNERT PARK, CALIFORNIA  
OCTOBER 10-14, 1994

October 11, 1994

1 The initial session of the National Organic Standards Board  
2 (NOSB) meeting was called to order at 8:00am by Board Chairperson  
3 Michael Sligh. He began by commenting on the anticipated  
4 lengthiness of the scheduled afternoon public input session and  
5 stated that he expected the session to run until 9pm. The Board  
6 members decided that the public input session would be handled in  
7 two hour intervals, with a ten minute break every two hours,  
8 until all persons have testified. The Board unanimously adopted  
9 the agenda as published and determined that copies of the agenda  
10 were available at the meeting for all attendees.

Board members in attendance at today's session were: Robert  
12 Quinn, Gene Kahn, K. Chandler, Merrill Clark, Margaret Clark,  
13 Rich Theuer, Michael Sligh, Craig Weakley, Gary Osweiler, Dean  
14 Eppley, Don Kinsman. Yvonne Frost from Oregon Tilth was  
15 recognized at the table as the Board selected certifying agent  
16 representative for this meeting. Jay Friedman and Tom Stoneback  
17 were absent.

18 Staff members present from USDA were: Harold Ricker, Michael  
19 Hankin, Ted Rogers, and Michael Johnson.

20 Hal Ricker, National Organic Program Staff Director, followed  
21 Sligh with the following update on USDA activities:

22 1. The impact on the Organic Program of Secretary Espy's  
23 leaving the Department will be minimal and should have no effect.  
24 However, his departure may impact the new Board nominations for  
25 the next meeting if a new Secretary is not appointed and approved  
26 before that time.

27 2. The USDA Reorganization Bill has passed Congress and is  
28 expected to be signed by the President this week. Pat Jensen is  
29 expected to continue as our Assistant Secretary.

30 3. Julie Anton (Dunn) has left the Organic Program to focus  
31 on Economic Research assignments within the Division. Michael

32 Hankin will be the principal contact for all Committee conference  
33 calls while Hal will continue to participate in the Executive  
34 Committee calls. This change should allow the Staff to focus on

35 4. The Department has added two new staff members: Grace  
36 Gershuny, who began on September 6th, and Mary Beth Hayden, who  
37 will begin on October 17, 1994.

38 5. The USDA Office of General Counsel (OGC) has been  
39 reorganized and the OGC contact with the NOP will be changing.  
40 This is not expected to affect the implementation of the Program,  
41 although it did delay responses to accreditation questions and  
42 comments on the National List petition that were anticipated  
43 before this meeting.

44 6. The European Union (EU) has declined to accept the  
45 United States on the provisional list of third countries, mainly  
46 due to lack of US Government oversight of certifying agencies.

47 7. Recently, the Food and Drug Administration (FDA)  
48 reported they are facing serious budget cuts in their random  
49 Pesticide Residue Testing Program and have informed us that they  
50 do not expect to be able to do any residue sampling for the  
51 Organic Program. They have placed organic food residue testing  
52 as a low priority because they consider it to be a quality  
53 assurance issue and not a food safety concern for the general  
54 public.

55 8. The current status of the Board nominations that have  
56 been submitted by category are: 15 farmers, 4 processor/handlers,  
57 9 environmentalist, and 4 retailers. The official expiration  
58 date of the current 3 year appointments is January 24, 1995. All  
59 new appointments will be for a five year period, unless the  
60 member is reappointed and would thereby be subject to the  
61 limitation of a maximum consecutive term length of six years.  
62 Bob Quinn has submitted his resignation to be effective along  
63 with the expiration date of the other four Board members.

64 9. The Budget Report for FY 1994 was reported (See  
65 Attachment A). The Board has received \$45,000 for FY 1995,  
66 although additional funding later in 1995 may be available as it  
67 has in previous years (See Attachment B).

68 At the conclusion of Hal's report, the Board gave a unanimous  
69 proclamation for Julie Anton Dunn's outstanding service to the  
70 Board and the Program over the last 3 years.

71 Turning again to the agenda, the approval of the minutes from the

72 May 31 - June 5, 1994 meeting in Santa Fe, New Mexico, was tabled  
73 until Friday's full Board session.

74 The NOSB then entered into a discussion concerning the new  
75 appointments and the importance of continuity. The question of  
76 whether to return old files and materials to USDA was discussed  
77 and it was decided that Board members were welcome to keep them  
78 since USDA had a copy of all documents. Chandler moved and  
79 Weakley seconded to bring the retiring NOSB members to the next  
80 meeting. VOTE Yes - Unanimous. Passed. Weakley asked that the  
81 next meeting be held before January 24, 1995, so as not to  
82 disrupt the National List review process. Because assurance of  
83 this could be stated, Weakley moved and Kahn seconded that all  
84 retiring members be requested to attend the next Board meeting at  
85 Board expense. VOTE Yes - 10. Opposed - 2. Passed. Chandler  
86 moved and Theuer seconded a motion to pay for new appointees (if  
87 they are already appointed) to attend the next meeting if it is  
88 held before January 24. VOTE Yes - Unanimous. Passed. In  
89 addition, Zea Sonnabend, NOSB National List review coordinator,  
90 was requested to establish a method by which new Board members  
91 would review National List research materials and become informed  
92 as quickly as possible.

93 Kahn requested to have Ricker put in writing his response to  
94 Quinn's question stating that endorsements or recommendations for  
95 nominees from a Board member will not receive additional  
96 consideration and that the Board itself should not endorse any  
97 nominees. Members, as individuals independent of the NOSB, may  
98 endorse nominees.

99 Sligh submitted a revised draft of a document stating the NOSB's  
100 ongoing role and duties (See Attachment C). The document was  
101 previously discussed during the Santa Fe meeting. He asked the  
102 Board to review the new draft and be prepared to discuss it  
103 during the Friday full Board session. He also requested the  
104 various Committees to develop recommendations to the USDA on the  
105 phase-in implementation time requirements of the Program.

106 Merrill Clark resurfaced the notion of a consumer conference to  
107 be held in conjunction with the implementation of the program.  
108 Ricker explained that the Department could not participate in  
109 this activity if it were held after the Proposed Rule was  
110 published and before the Final Rule is published. He will

111 research whether the Board members could participate in the  
112 public forum. In addition, he mentioned recent meetings the staff  
113 has held with various consumer and public interest groups.

114 Ricker will be attending the Codex meeting in Ottawa later this  
115 month as a delegate from the US and indicated he will discuss the  
116 subject matter further on Friday. Sligh made a request that the  
117 NOSB pay for his travel and expenses to this meeting and the  
118 Board unanimously supported this request.

119 The transitional labeling topic was deleted from the agenda since  
120 Friedman, who was not at the session, was to lead the discussion.  
121 The Board asked for clarification on the definition and  
122 principles document prepared by USDA staff and distributed at the  
123 meeting. Sligh requested that the Board review the document and  
124 discuss it on Friday and be prepared to recommend as to whether  
125 it should be distributed for public comment.

126 Chandler identified a need to prepare a simple definition of  
127 organics for the next meeting of the Feed Control Officials in  
128 January or February in San Antonio, Texas. It was motioned and  
129 approved unanimously that NOSB appropriations be allocated to pay  
130 for his expenses associated with attendance at the meeting.

131 The Board then received presentations from three persons from  
132 Washington, DC, who are involved with Federal programs that have  
133 existing regulations that impact the development of the National  
134 Organic Program. The purpose of the presentations was to inform  
135 the Board of Federal procedures and review processes already in  
136 place to evaluate the safety of medicines, food additives, and  
137 crop production aids. First, Dr. Bill Price, Deputy Director of  
138 the Division of Animal Feeds, Center for Veterinary Medicine,  
139 Food and Drug Administration, discussed the established method  
140 for FDA approval of veterinary medicines and animal feed  
141 medication additives. Dr. Price noted that withdrawal times  
142 required on labels of medications already include an extended  
143 buffer period so as to protect the consumer. Residues, he noted,  
144 come from careless practices or failure of the drug users to  
145 observe stated directions.

146 He stated that it takes 5 -10 years for a company to receive a  
147 new drug approval. He confirmed that topical treatments can be  
148 absorbed into the animal's body. In response to a question about

149 the use of unapproved medicines, such as diatomaceous earth and  
150 homeopathic and herbal preparations, he answered that the use is  
151 not as much a concern as is the liability of the producer if a  
152 residue of the unapproved medication is detected in the finished  
153 product.

154 Second, Lawrence Lin, Consumer Safety Officer, Office of Pre-  
155 Market Approval, Division of Product Policy, Food and Drug  
156 Administration, discussed Generally Recognized As Safe (GRAS)  
157 ingredients, food additives and processing aids used in processed  
158 foods. He noted that of the 1,000 substances added to food for  
159 non-flavor purposes, 700 are listed as Generally Recognized as  
160 Safe (GRAS) and the rest are regulated as additives. He informed  
161 the Board that food additives are placed in two categories: (1)  
162 added directly to food as ingredients or (2) facilitate  
163 processing and not directly affecting the food product. He  
164 listed the functional categories, such as emulsifiers, leaveners,  
165 sweeteners, pH control and texturizers, or additives, and  
166 clarified that additives are classified as processing aids when  
167 they do not have a functional effect on the final product. He  
168 reviewed the information required by FDA to determine whether an  
169 ingredient should be classified as GRAS, including environmental  
170 studies and detailed petitions. In his opinion, a particular  
171 natural substance may be equal to or greater than a synthetic  
172 substance in toxicity and, in fact, our bodies may not  
173 distinguish between natural and synthetic substances.

174 Concluding the presentations, Susan Lewis, Chief, Insecticide and  
175 Rodenticide Registration Branch, Environmental Protection Agency,  
176 reviewed the EPA's registration process for pesticides. She  
177 identified 20,000 registered products of which 675 are active  
178 substances and 1,800 are inert ingredients. In registering  
179 pesticides and establishing tolerance levels, EPA looks at human  
180 health factors, residue analyses, and environmental fate and  
181 effects (including toxicity factors and environmental  
182 persistence). Regarding inerts, these ingredients are not  
183 pesticidally active; when used in food products, inerts must have  
184 an established residue tolerance or an exemption from a  
185 tolerance. She explained the different EPA lists of inerts: List  
186 1 (40) contains those inerts classified as being of toxic concern  
187 and new products may not contain these inerts; List 2 (60) inerts  
188 are potentially toxic; List 3 (800) inerts are unknown as to  
189 toxicity; and List 4 ( ) inerts are (a) GRAS substances used in

190 crop production or (b) inert ingredients of minimal concern that will not  
191 adversely affect public health. Ms. Lewis discussed the separate  
192 Reregistration Division within EPA. Specifically, she related  
193 that pyrethrins are being looked at closely for their effects on  
194 human health and may be reviewed by a Peer Review Panel; neem  
195 will not undergo reregistration because it was registered after  
196 1984; rotenone, ryania, sabadilla, strychnine and tobacco dust  
197 will not be reviewed until after 1995 because of data gaps; and  
198 quassia is not registered yet for use in the US. Piperonyl  
199 butoxide is now in a Peer Review Panel review to answer  
200 significant toxicity questions that have surfaced. She noted  
201 that the reregistration process may take many years, and that the  
202 Board can stay current on the review process by reading the EPA  
203 quarterly reregistration reports.

204 At the conclusion of the presentations, the Board had a fifteen  
205 minute discussion on the NOSB National List review procedures for  
206 botanical pesticides. Margaret Clark asked the Board to consider  
207 qualifying its recommendations at this time as provisional.  
208 Theuer indicated that until the EPA reregistration process is  
209 complete that no decisions should be made. Merrill Clark stated  
210 her objections to voting at all because of the volume of material  
211 to be reviewed, the number of data gaps, and the need for organic  
212 production to move away altogether from the use of natural  
213 pesticides. Margaret Clark pointed out that the Board was  
214 actually voting whether to make recommendations on prohibiting  
215 (not approving) these natural substances that currently are used  
216 in organic production. Kahn stated his desire to vote now on the  
217 botanicals and to use each individual's best judgment. Zea  
218 Sonnabend supported Kahn's statement and noted the NOSB does not  
219 need to wait to develop its recommendations until the EPA has  
220 concluded its reregistration.

221 Following this discussion, the Board adjourned for lunch.  
222 Following lunch, the public input was held on Tuesday afternoon  
223 and Tuesday night until 10:00pm. The summaries of the speeches  
224 made by the public input participants is available from USDA upon  
225 request.

226 OCTOBER 12, 1994

227 The meeting was called to order at 8am by Michael Sligh. Board  
228 members in attendance at today's session were: Robert Quinn,  
229 Merrill Clark, Margaret Clark, Nancy Taylor, Gene Kahn, Gary  
230 Osweiler, Dean Eppley, K. Chandler, Michael Sligh, Rich Theuer,  
231 Tom Stoneback, Craig Weakley, Don Kinsman and Yvonne Frost of  
232 Oregon Tilth.

233 USDA Staff members present were: Michael Hankin, Hal Ricker, Ted  
234 Rogers, Michael Johnson, and Grace Gershuny.

235 Retailer Certification

236 The morning session began with a presentation by Walter Robb of  
237 the Whole Foods retail chain about retailer certification. Robb  
238 stated that one of the missions of the entire retailer  
239 certification dialogue is to figure out how to meet the Act's  
240 intent to ensure organic integrity given that the Act exempts  
241 retailers from certification requirements. Robb brought forth  
242 the concept of Good Organic Retailing Practices (GORP) as a means  
243 of developing voluntary retailer standards. Some points he  
244 brought out relative to GORP include: a) no discrimination based  
245 upon retailer size; and b) the system developed should work  
246 within already existing systems and avoid red tape at all costs.

247 He identified Texas and Maryland as currently having retailer  
248 standards in place. Texas has a particularly good model as it  
249 involves the retailer making an application to the certifier.  
250 The burden of paperwork is maintained by the distributor, but the  
251 retailer keeps records to display proof of certification of the  
252 retailed goods. Robb then reviewed in detail the component  
253 sections of the GORP document and concluded by stating that it is  
254 now being submitted to retailers for comment.

255 Yvonne Frost of Oregon Tilth presented Tilth's recently developed  
256 retailer standards. She identified three main differences  
257 between the Tilth and the GORP standards: (1) Tilth requires that  
258 retailers who hire co-packers to produce private label products  
259 be certified because they are considered as processors in this  
260 situation; (2) Tilth includes the produce section of retail  
261 stores in its certification because it is misleading to consumers  
262 to certify the processing part of a store but not the entire  
263 store; and (3) most Tilth certified retail stores do not have

264 training programs.

265 Robb responded to Frost's report by stating that produce  
266 guidelines should not necessarily be mandatory like the  
267 processing guidelines and added that retailers want to allow for  
268 a third choice of a transitional organic label. Hankin brought  
269 forth the point that retailer certification will not fall under  
270 the National Program and questioned the legality of mandatory  
271 retailer certification under the Act except within State Programs  
272 that are approved by USDA. Margaret Clark and Hankin will pursue  
273 the development of a solution to ensuring integrity of organic  
274 goods to be maintained through sale at the retail level.

275 Merrill Clark discussed the pest control section of the Handling  
276 Plan and requested that this section be expanded to include a  
277 description of activities taken to eliminate the need to use  
278 chemical pesticides. She reiterated her concern that the same  
279 sprays used in conventional facilities should not be used in  
280 organic facilities. Theuer responded to Merrill's concern by  
281 stating that only botanicals (pyrethrins with PBO) are permitted  
282 by the regulatory agencies to be used now in conventional  
283 processing facilities and reminded everybody that pest control is  
284 not food handling because the products by law cannot come in  
285 contact with food products. Rod Crossley of Health Valley stated  
286 that water based pyrethrin sprays should be used in organic  
287 processing facilities to avoid the residues left by oil based  
288 sprays and noted that pest control practices are written in the  
289 Code of Federal Regulations. Theuer polled the Processing  
290 Committee and it was decided that the Committee would discuss  
291 Merrill's proposed changes to the Handling Plan and the Good  
292 Manufacturing Practices documents on conference calls and submit  
293 its recommendations at the next full Board meeting.

294 Following the mid-morning break, Weakley initiated a discussion  
295 on labeling of organic bulk products by claiming that bulk  
296 products not intended for retail sale should not have to contain  
297 the same extent of labeling requirements as are currently  
298 presented in the Board's labeling recommendation for consumer  
299 packaged goods. After a brief debate about the information  
300 retailers would like to have on bulk products and the labeling  
301 statements that are required by FDA, Theuer agreed to schedule  
302 Committee conference call discussions about revision of the  
303 labeling document to accommodate Weakley's concerns. Weakley



304 also requested that the Committee consider recommending that  
305 certification not be required for distributors of bulk products  
306 packaged for retail sale for which integrity of the package is  
307 assured by packaging methods. Theuer agreed to place this on the  
308 agenda for future conference calls.

309 Weakley then presented views on a policy on the use of non-  
310 agricultural ingredients in multi-ingredient organic processed  
311 foods. Weakley suggested that the Board finalize a resolution  
312 for a formal policy as notice to the industry and that the  
313 resolution include the ideas that: (1) the Act is not a carte-  
314 blanche approval to use non-organic ingredients; (2) processors  
315 should document to the certifiers that the organic form of the  
316 ingredient is not available; and (3) efforts to locate and  
317 develop organic sources of the ingredients are recorded for  
318 review by the certifier. It was noted that this issue is already  
319 addressed in the Organic Handling Plan recommendation.

320 The factors influencing determination of availability and the  
321 concept of USDA developing an ingredient database was then  
322 debated by the Board. Margaret Clark said that availability  
323 should be dealt with on a local level. Kahn agreed with Margaret  
324 and voiced his opposition to the USDA subjectively defining  
325 availability. He asserted that a more appropriate option would  
326 be to allow the market to handle this issue. Merrill Clark asked  
327 who would monitor availability if not the USDA. Kahn replied  
328 that taste and quality is equally as important as availability  
329 and that only the manufacturer and not USDA or the certifier  
330 should determine usage requirements. Weakley suggested again  
331 that the Board respond to the USDA ideas so that a policy isn't  
332 developed without some guidance from the NOSB. Joe Smillie  
333 reiterated that good faith efforts on the part of the  
334 manufacturers should be sufficient and that certifiers should  
335 make the judgment without involvement of the USDA. Theuer  
336 suggested that the Processing Committee would develop recommended  
337 resolution wording on availability for NOSB review at the next  
338 meeting.

339 After deciding to skip the agenda item dealing with a definition  
340 of synthetic, the next discussion item considered by the Board  
341 was the Accreditation Committee straw poll relative to additional  
342 language regarding the use of private certifier's seals and the  
343 USDA Shield. Hal preceded the discussion by expressing concerns

344 received from processors about the potential expense and clutter  
345 related to the required presence of certifier and government  
346 labels on organic products. Ricker would like the USDA organic  
347 shield to be distinct from the USDA inspected product shield and  
348 asserted that there needs to be some identification on the labels  
349 indicating that national standards are satisfied. Because the  
350 Processing Committee already has recommended wording that states  
351 private certifier seals should be optional, Theuer and Margaret  
352 agreed to approve joint language before the Friday session.

353 A final comment from the public asserted that the appearance of  
354 certifier labels on organic products will only serve to continue  
355 to confuse the consumer. Consumers would continue to make  
356 choices based upon certifiers and negate the intent of the OFPA  
357 to provide uniform buying standards. This was responded to by  
358 Frost who claims that Tilth standards and seal are of value to  
359 the consumer in deciding which organic products to purchase.

360 The ability of private certifiers to adopt enhanced standards was  
361 subsequently discussed; an initial presentation was made by Tim  
362 Sullivan, part-time technical advisor to the Accreditation  
363 Committee. His personal interpretation of the law gives  
364 discretionary authority to privates on the particular issue of  
365 seal use. He suggested, however, that enhanced standards be  
366 avoided by the Program because the OFPA is clear in its  
367 distinction between allowing the States to develop additional  
368 standards while denying this ability to private certifiers.

369 Quinn commented that the issue of private enhanced standards was  
370 supposedly resolved during the Ft. Collins meeting. He believes  
371 enhanced standards should be allowed through Program language  
372 that requires certifiers to certify to the National Program, but  
373 which permits them to require adherence to stricter certification  
374 requirements (two-tier) in order to utilize the private seal.  
375 Stoneback commented that the private seal is actually a national  
376 seal because all private certifiers are accredited agents of the  
377 USDA. Theuer questioned whether private certifiers could then  
378 require membership and reject certification applications. Diane  
379 Bowen of California Certified Organic Farmers, a private  
380 certification organization, expressed concerns about the  
381 consequences of requiring private certifiers to function  
382 uniformly, especially in the area of fee structure. Mark Squire,

383 a retailer, reminded the Board that the purpose of a seal is to  
384 provide the customer with assurance and that most customers would  
385 not care whether it was a private or USDA seal. Margaret will  
386 return at the Friday session with revised enhanced standards  
387 wording.

388 Lynn Coody's presentation on the materials review process was  
389 entered on the agenda because of personal time constraints with  
390 the Board's consent. Lynn emphasized that certain compatible  
391 synthetic materials belong in organic agriculture because of the  
392 community's agronomic responsibility. She expressed her  
393 understanding as to the difficulties faced by Board members in  
394 evaluating controversial materials and documenting the reasons  
395 for the decisions, especially since information is incomplete for  
396 most of the materials being considered. The Board was urged to  
397 follow the criteria and to review the categories of substances as  
398 stated in the OFPA.

399 Nancy Taylor then gave an overview of the inerts task force. She  
400 briefly discussed the outcome of the task force's October 4th  
401 conference call that reviewed both Sonnabend's and USDA's  
402 proposal for reviewing inerts. She reported that the consensus  
403 of the task force was that inerts should not appear on the  
404 National List. There was also general discussion on a phase in  
405 period for use of inerts on EPA's List 3 while a program of full  
406 disclosure of inerts is developed. It was recognized that any  
407 strategy other than the one recommended would serve to slow  
408 implementation of the program. The Task Force will report on  
409 Friday with additional recommendations on phase-in and the review  
410 of inerts for the National List.

411 Zea Sonnabend then proceeded with a progress report of the  
412 Technical Advisory Panel (TAP) process. She indicated that the  
413 TAP recruitment process is going extremely slow. The areas of  
414 insufficient TAP reviewers are livestock and the processing aids  
415 for processed foods. Crops material reviewers are also needed.  
416 The Board and USDA agreed to continue to assist Zea in the search  
417 for more reviewers.

418 Sonnabend identified certain areas of current confusion that need  
419 to be clarified before the review process continues: (1) resolve  
420 whether inerts will be reviewed individually according to the  
421 OFPA criteria and voted on by the NOSB for placement on the

422 National List; (2) resolve whether livestock substances must be  
423 registered with the FDA for a specific use in order for the  
424 substance to be reviewed for that use for the National List  
425 (accept use by organic producers of substances not registered for  
426 a particular use); (3) resolve whether processed food processing  
427 aids and ingredients will be classified according to the  
428 synthetic/natural dichotomy and thereby exclude synthetic  
429 substances from processed foods; and (4) resolve how to consider  
430 substances for entry into the Program that will be petitioned for  
431 review in the future but which are not under review at this time.  
432 The meeting then adjourned for lunch.

433 Reconvening after lunch, the Board discussed the USDA paper,  
434 Resolution of Focus. Prior to the discussion, Hankin explained  
435 to Board members that they would need to recognize and understand  
436 that the Program lead was now switching away from the Board and  
437 to USDA. USDA Staff has the expertise and experience to initiate  
438 ideas and ask the Board to provide answers to specific questions  
439 raised by Staff. This transition is following the natural course  
440 of events as the Program moves away from the standards  
441 recommendation phase and into the rulemaking and program  
442 implementation phase. Following these introductory remarks, Ted  
443 Rogers and Michael Johnson read and explained various sections of  
444 the Resolution of Focus of the National List program development  
445 paper. The paper introduced USDA's program implementation ideas  
446 concerning the categories and types of substances to be reviewed  
447 under a Federal Organic Program, determination of availability on  
448 a national level, and a strategy to achieve full disclosure of  
449 inert ingredients and subsequent review by EPA.

450 After the presentation, Weakley suggested that the Board verbally  
451 comment on the paper section by section. The Board agreed, but  
452 first decided to make verbal remarks on the document as a whole.  
453 Rich Theuer stated that the paper discriminated against  
454 manufacturers that refuse to disclose inerts, questioned who  
455 would be subjectively determining availability of organic  
456 ingredients, and objected to the National List constraints being  
457 applied to the category of foods made with organic ingredients.  
458 Merrill Clark believes that the Board's role in the standards  
459 process would be negated and objects to the Board's views being  
460 considered as subservient to USDA's ideas. Michael Sligh made  
461 the statement that the Board should continue to have an ongoing  
462 role in the program development and denied the assertion that the

463 NOSB was just an advisory Board to USDA, but instead is assigned  
464 an additional non-traditional role of decision making. Margaret  
465 Clark voiced her immediate reaction as anger, frustration and  
466 sadness. She thought the wording of the paper is such that the  
467 National List process would be moving away from a criteria base  
468 to a subjective base, and she reiterated her concern over the  
469 language used in the paper, referencing phrases like "generally  
470 permitted" and "yet to be determined" as problematic.

471 Gene Kahn felt that the paper was improperly titled, for in fact  
472 there is virtually no focus resolution and his impression was  
473 that the Board members were over reacting. Gene suggested that  
474 the real source of the problem was tension between the Board and  
475 USDA over jurisdiction, responsibility, and the  
476 institutionalization of organics. Nancy Taylor expressed her  
477 uncertainty over the paper's apparent twist to circumvent the  
478 Board's power over the National List. She questioned the future  
479 of the Board's jurisdiction in the National List process after  
480 the rule making process begins. Don Kinsman viewed the paper as  
481 an effort to expedite the program development process. Don  
482 agreed and disagreed with different portions of the paper, but  
483 did not take offense at it.

484 Hal Ricker explained the dual role of USDA staff - that of  
485 assisting the Board in the development of recommendations and  
486 also that of evaluating the recommendations before developing the  
487 Program. He made clear that the Secretary will create a workable  
488 program and that some of the Board recommendations will not be  
489 accepted as part of the National Program. Sligh cautioned  
490 against allowing the word "organic" to lose its soul through its  
491 institutionalization. Kahn went on to elaborate on variances  
492 mentioned in the paper by USDA that were especially important to  
493 him, including the omission of setting 5% of EPA tolerance as a  
494 residue maximum for organic foods and USDA involvement in  
495 determining availability of organic ingredients.  
496 Sligh suggested that written comments be submitted to the USDA  
497 staff within one month. November 15, 1994 was set as the date  
498 for all comments on the paper to be submitted.

499 The discussion then turned to specific comments on the document.  
500 Comments on the General Comments Section included:

501 \* The Organic Plan could become a regulatory nightmare if all of  
502 the references to it materialize as the USDA stated in the paper.

503 \* The natural/synthetic determination device was assumed to be in  
504 place; more specifics are needed than those listed in the General  
505 Comments section.

506 \* The idea of accepting a synthetic substance that could  
507 "unequivocally" be incorporated into an organic management system  
508 is unacceptable.

509 Comments on the Tolerated Substances Section included:

510 \* The position paper of the Crops Committee (May 19), relative to  
511 Botanical Pesticides, seems to better address this issue. The  
512 Department should give some contour to the phrase "judicious  
513 use". The Crops Committee recommends that the certifiers be able  
514 to use discretion in the allowable usage of botanicals. The  
515 Committee intends to bring that paper to the full Board.

516 \* The staff should not have discussed fungicides or efficacy  
517 issues about fungicides. Some Board members stated their intent  
518 that seed treatments be placed on the National List to prevent  
519 substances such as Captan from being used in organic farming. An  
520 additional comment was made regarding the Department's diligence  
521 in creating a burdensome restriction on producers to show  
522 progress in securing organic seed. The opinion was expressed  
523 that if there is an allowance for synthetic substances to be used  
524 in organic farming and if each substance is not placed on the  
525 National List, then there is a perception of hiding facts from  
526 the consumers. A Board member noted that it was decided at a  
527 previous meeting that seed treatments were to be individually  
528 named on the National List. Another Board member noted that seed  
529 treatments are short-lived at best and agrees with the USDA  
530 process to handle them.

531 Comments on the Organic Processed Foods section included:

532 \* The USDA position on "better choice" synthetic substances for  
533 processing gives the impression of trying to exercise  
534 sovereignty; this would only serve to bureaucratize the process.

535 \* An opinion was given that the USDA recommendation to abandon  
536 distinguishing between natural and synthetic non-agricultural  
537 ingredients as a violation of the Act. It was expressed that  
538 from an operational point of view, the OFPA states that the Board  
539 has to take up the natural/synthetic issue.

540 \* Ingredient disclosure, as proposed by the USDA, violates a  
541 principle of the Processing Committee that consumers must know  
542 everything contained in an organic product; therefore, any  
543 ingredient or processing aid used in producing the product must

544 appear on the label.

545 \* It was also expressed that the USDA role of evaluating the 5%  
546 allowance for non-organic ingredients in an organic product is  
547 not proper unless a producer is suspect in questionable  
548 activities. Certifiers should be allowed to handle those types  
549 of decisions. The Department's role should be to verify that  
550 certifiers are policing this issue.

551 \* The Act does not address availability or essentiality.  
552 Processors should not be told that they can't use a product that  
553 is not included on the National List. All products and materials  
554 able to be used should be on the National List.

555 \* The USDA reiterated the notion that the Act was intended to be  
556 used as a foundation for the program and that all of the Program  
557 language is not contained in the Act as written. There are many  
558 gaps, and it is the USDA responsibility to fill in those gaps  
559 with the advice of the NOSB.

560 After the conclusion of the discussion, the Board entered a  
561 general discussion on the botanical review and voting process.  
562 Zea Sonnabend provided details of her responsibilities as  
563 Technical Advisory Panel (TAP) Coordinator. She described the  
564 process by which substances submitted to her by the Board  
565 Committees are transmitted to individual TAP reviewers who have  
566 previously indicated their intent to evaluate certain substances.  
567 John Brown, the USDA Materials Review Advisor, provides a  
568 literary search for technical background information that  
569 accompanies the forms sent to TAP members. These forms are  
570 designed to solicit the information needed by the Board in  
571 evaluating the substances according to the criteria categories  
572 set forth in the OFPA. She emphasized that the botanicals under  
573 review at this meeting were being considered for placement on the  
574 prohibited natural list because the National List does not have a  
575 category for approved natural substances. Sonnabend stated that  
576 quassia would not be voted on at this time because it is not  
577 approved by EPA for use in the US, and that the vote on  
578 strychnine should also be postponed because the TAP review is  
579 incomplete.

580 Rather than begin its formal evaluation of botanical pesticides  
581 at this late hour (4:45pm) and also to accommodate the schedules  
582 of two technical presenters, the Board elected to amend the  
583 agenda by postponing the votes on neem and ryania until Thursday  
584 and by allowing Brian Baker and Bill Wolf to make their  
585 presentations at this time.

586 Brian presented an excellent overview of botanical pesticide use  
587 in California according to region, crop and specific pesticide.  
588 He reported that ryania use had decreased because of an increase  
589 in popularity of pheromone confusion techniques. He told the  
590 Board that less than 10% of CCOF certified acreage is treated  
591 with botanical pesticides and that botanicals are used mostly in  
592 extreme or emergency situations because of their expense and the  
593 limited window of opportunity available to apply them. Most  
594 producers are relying on botanicals as an aid only during the  
595 transition from conventional to organic farming. Brian said that  
596 CCOF does allow producers to use botanicals in successive years  
597 while they search for alternatives, but he has found that  
598 establishing beneficial habitats decreases the necessity for  
599 botanicals.

600 Bill Wolf of Necessary Organics, Inc., founder of a catalog  
601 supply business for organic producers and President of the  
602 Organic Trade Association, spoke about botanical use nationwide.  
603 He reported that growers in the Southern US have less ideal  
604 conditions than growers in California because of the increased  
605 moisture and humidity in the South. He has noticed that growers  
606 can reduce the amount of botanicals applied per acre through  
607 proper management, that very few growers rely on botanicals as  
608 first choice treatments for pest control and that botanicals are  
609 usually applied specifically rather than broadcast. Botanicals  
610 are preferred over synthetics because they break down rapidly in  
611 the environment and because of the safety of their breakdown  
612 components. He explained that neem actually operates by  
613 disrupting the development of the insect larvae and not through  
614 toxic action. But because neem (and other botanicals) are  
615 unstable, inerts such as petroleum distillates are necessary to  
616 be combined in formulation to increase their viability.

617 The Board concluded the business of the day by reminding each  
618 other that the TAP material is information provided to Board  
619 members to assist them in evaluating the substances and that  
620 decisions can be made even if the TAP materials are not as  
621 complete or thorough as some members would prefer.

622 The meeting was adjourned at 5:20pm.

623 OCTOBER 13, 1994



624 The meeting was called to order by Michael Sligh at 8am. Members  
625 in attendance were: Robert Quinn, Merrill Clark, Margaret Clark,  
626 Nancy Taylor, Gene Kahn, Gary Osweiler, Dean Eppley, K. Chandler,  
627 Michael Sligh, Rich Theuer, Tom Stoneback, Craig Weakley, Don  
628 Kinsman and Yvonne Frost of Oregon Tilth.

629 USDA Staff members present were: Hal Ricker, Michael Hankin, Ted  
630 Rogers, Michael Johnson, and Grace Gershuny.

631 BOTANICALS SPECIAL REVIEW

632 The review of botanicals was led by Dr. John Brown, USDA  
633 Materials Review Coordinator. Dr. Brown began by indicating that  
634 the clause in the Act relative to the special review of  
635 botanicals does not require a vote to accept specific botanicals  
636 for use in organic farming, but rather a vote to discontinue its  
637 use by placing it on the list of prohibited natural substances.  
638 He explained that the information contained in the botanicals  
639 review notebooks furnished to each member is based upon materials  
640 found in various toxicological studies and other sources. He  
641 informed the Board again that quassia and strychnine will not be  
642 reviewed because quassia is not registered by the EPA and no  
643 researchers have been identified yet to review strychnine.

644  
645 Merrill Clark summarized her handouts from yesterday regarding  
646 articles by Elliott Coleman, an organic farmer. Merrill pointed  
647 out that the Board is voting on generic substances and not on  
648 formulated products. The concern of consumers who purchase  
649 organic food, she stated, is that they think they are buying food  
650 that has been grown without the use of pesticides when in  
651 actuality the food may have been raised with the use of botanical  
652 pesticides. She suggested that botanicals should be phased out  
653 of organic production, alternatives found to their use, and that  
654 the Board should adopt recommendations to wean producers away  
655 from using botanicals.

656 Sligh suggested that USDA press releases should contain the Crops  
657 Committee wording about the restricted use of botanicals in  
658 organic farming, a description of how the National List  
659 substances are incorporated into the organic farming methodology,  
660 and clarification that the Board will revisit its botanical  
1 reviews as new information is available from EPA.

662 Theuer noted that 9 votes will be needed to pass a motion to  
663 place a botanical on the prohibited natural list (excluding  
664 abstentions) in order to satisfy the 2/3 approval requirement of  
665 the OFPA.

666 Hankin reiterated that the Board's decisions on its recommended  
667 proposed national list will be further evaluated by the Secretary  
668 before the Proposed National List is published in the Federal  
669 Register. Taylor, Weakley and Margaret Clark expressed their  
670 interpretation of the OFPA that the NOSB has purview over the  
671 National List. The USDA responded that the Board's  
672 responsibility is to develop and provide recommendations, not the  
673 final standards or the final National List of substances.

674 NEEM

675 Dr. Brown began with an overview of neem. He noted that all of  
676 the information that will be presented by Zea or himself is  
677 contained in the notebooks provided to each Board member. John  
678 reviewed the Lethal Dose (LD50 - the dose necessary to kill 50%  
679 of the test animal population) of neem and reported that the two  
680 people who died in another country actually died from aflatoxin  
681 poisoning related to harvesting the neem seed. Neem was  
682 registered after 1984, so it is not under reregistration review  
683 by EPA. Brown reported that neem is gentle on beneficials.

684  
685 Quinn requested in the future that the Codex and international  
686 organic organizations' status be included for each substance  
687 along with the private and State certifier status and this was  
688 agreed. Osweiler requested more information on long term chronic  
689 studies in addition to acute toxicity studies.

690 Joe Smillie reported that neem is used worldwide in controlling  
691 pests for grain storage but it is not yet registered in the US  
692 for this purpose. Dick Nielsen of W.R. Grace said neem is now  
693 registered in California and that Neemix, their trade name, was  
694 registered in all fifty states. Brent Wiseman said that Texas  
695 even allows growers to obtain a special permit to apply neem on  
696 crops for which it is not registered because of its safety.

697 Margaret Clark moved to place neem on the prohibited natural  
698 list. Kinsman seconded. VOTE Yes - 0. Opposed - 13. Failed.  
699 Unanimous vote to keep neem off the prohibited natural list.

700 **RYANIA**

701 Dr. Brown expressed concern that there may not be sufficient  
702 information to conduct a vote on ryania, but the Board decided to  
703 continue with the review and decide on postponing the vote at the  
704 conclusion of the presentation. Margaret Clark read a letter  
705 from a Washington State apple grower, Bruce Spencer, about the  
706 benefits of using ryania to control coddling moth and about the  
707 lack of alternatives available to organic orchard managers.  
708 Sligh moved to table the vote on ryania with a second by Merrill  
709 Clark. VOTE Yes - 6. Opposed - 7. Failed. Kahn and Weakley  
710 stated that they are familiar enough with ryania to proceed with  
711 a vote. It was clarified that the Board has more information  
712 than the TAP reviewer received and that there should be  
713 sufficient research materials available in the notebooks to make  
714 a Board decision on a recommendation. After individual members  
715 provided comments about the adequacy of information and the  
716 ability of the Board to reconsider any vote after new information  
717 is received, the Board decided to vote on ryania. Theuer moved  
718 to add ryania on the list of prohibited naturals and Kahn  
719 seconded. VOTE Yes - 0. Opposed - 11. Abstain - 2. Failed.  
720 Ryania is kept off the list of prohibited natural substances.  
721 John Brown will continue to access information to complete the  
722 data gaps.

723 **PYRETHRUM**

724 Pyrethrum is usually combined with piperonyl butoxide (PBO) when  
725 used in organic production in order to increase its  
726 effectiveness. The TAP reviewer recommended that the use of  
727 pyrethrum be continued with restrictions. Pyrethrum does  
728 contribute to skin irritations and respiratory ailments in  
729 humans. Brown said these problems occur most often when the  
730 substance is misapplied or precautions are not observed.

731 Sligh read a letter from Lynn Coody, a TAP reviewer, who stated  
732 her desire to have more information, but who also stated her  
733 opinion that pyrethrum could be accepted. Brown and Sonnabend  
734 will attempt to provide TAP review persons with additional  
735 preparatory information in the future if it is requested by the  
736 person and if it is available from their resources. Sonnabend  
737 reported that no private certifying agency currently prohibits  
738 the use of pyrethrum and Osweiler reported that it is used widely  
739 in conventional production with very few problems known.

740 Rod Crossley of Health Valley Foods stated that pyrethrums are an  
741 essential component of pest control in processing plants and pose  
742 little danger when used according to directions and within a  
743 complete pest control program. Reese Moorman asked that its use  
744 be continued to allow for transition to organic methods and until  
745 alternatives are found by industry.

746 Theuer moved to place pyrethrum on the list of prohibited natural  
747 substances and Kahn seconded. VOTE Yes - 0. Opposed - 10.  
748 Abstain - 3. Failed. Pyrethrum is kept off the list of  
749 prohibited natural substances. The Board approved a 15 minute  
750 break and agreed to reconvene at 10:15.

751 **QUASSIA**

752 Sligh moved and Kahn seconded that quassia not be reviewed at  
753 this time because it is not registered with EPA for use in the  
754 US. Suzanne Vaupel stated that many products are actually used  
755 that are not registered and that quassia is one of them. The  
756 Board clarified that its decision not to review quassia would not  
757 prohibit its use by those producers who choose to use it despite  
758 the lack of proper registration. VOTE to table quassia. Yes -  
759 10. Opposed - 3. Passed.

760 **STRYCHNINE**

761 Sligh moved and Merrill Clark seconded to table a vote on  
762 strychnine because of the lack of a TAP review. John Brown  
763 stated that he is searching for a TAP reviewer and expects to  
764 have the review completed for the next meeting. Theuer expressed  
765 that he would be able to vote with the information presented.  
766 Taylor and Margaret Clark spoke to the importance of strychnine  
767 use until a synthetic with no secondary kill effect is approved.  
768 VOTE to table Yes - 8. Opposed - 3. Abstain - 2. Vote to  
769 table is passed.

770 Before the review of sabadilla was initiated, Joan Clayburgh of  
771 the National Coalition against Pesticides was allowed to make a  
772 presentation to the full Board about her group's opposition to  
773 the use of botanical pesticides. She declared that the Board  
774 should err on the side of safety in its attempt to balance  
775 consumer vs. producer needs when evaluating substances. Ms.  
776 Clayburgh was specific about the possibility of broad  
777 environmental damage occurring from botanical applications and

778 asserted that the NOSB review should not be conducted until EPA  
779 provided information to close all of the data gaps. Kahn made  
780 the point that without the benefits afforded by botanicals,  
781 organic farmers may switch to conventional methods. Theuer  
782 claimed that allowing PBO decreases the amount of botanical used  
783 by 10-20%. Merrill Clark questioned how the consumers should be  
784 informed about botanical use on organic foods that they purchase  
785 and called for further education and clear disclosure of  
786 botanical use.

#### 787 SABADILLA

788 John Brown explained that one TAP report completed for sabadilla  
789 was confusing as to its recommendation for List placement and  
790 that another TAP report (from Bill Wolf) was not returned.  
791 However, Bill Wolf was present to inform the Board directly about  
792 the information that would have been included in his report.  
793 Bill described how sabadilla came back into popular use in 1984  
794 when effective alternatives could not be found for application to  
795 true plant bugs. It is an irritant to mucous membranes and in  
796 fact is found in sneezing powder. Its LD-50 shows that it is  
797 many times less toxic than rotenone or pyrethrum. He testified  
798 that he is somewhat concerned about the data gaps on sabadilla,  
799 and he corrected the written information in the Board members'  
800 notebooks by clarifying that only the ground seeds are used (no  
801 extraction process) and that inerts associated with sabadilla's  
802 formulation are readily available.

803 After Bill Wolf's testimony in which he also recommended that  
804 sabadilla not be placed on the list of prohibited natural  
805 substances, Margaret Clark moved and Dean Eppley seconded to  
806 place sabadilla on the list of prohibited natural substances.  
807 Merrill Clark stated her disturbance that the Board was using a  
808 risk assessment approach rather than following the criteria as  
809 stated in 2119m of the OFPA. Brown declared that the information  
810 before the Board was prepared with the goal of providing enough  
811 information to evaluate the substance according to the required  
812 criteria. VOTE Yes - 1. Opposed - 10. Abstain - 2. Failed.  
813 Sabadilla is kept off the list of prohibited natural substances.

814 TOBACCO DUST (actually nicotine and nicotine derivatives)  
815 Sonnabend began the review by explaining and apologizing for the  
816 confusion involving tobacco dust, nicotine and nicotine  
817 derivatives. Nicotine was the substance originally placed on the

818 Crop Committee's list intended for TAP review as a prohibited  
819 natural, but it was transcribed with tobacco dust, which is a  
820 natural fertilizer, on one of the revisions. She continued that  
821 tobacco dust is approved by some certifiers as a fertilizer, but  
822 this substance is not registered with EPA as a botanical  
823 pesticide and is not being reviewed now. Rather, nicotine and  
824 nicotine derivatives are the botanicals and should be considered  
825 for placement on the prohibited natural list.

826 Theuer stated and it was generally agreed that nicotine sulfate  
827 is a synthetic ingredient and not a natural botanical pesticide.  
828 Zea responded that nicotine by itself is extracted and still is  
829 considered a natural substance and appropriate to be considered  
830 for the prohibited natural list. The Board concurred that it  
831 should be voting on nicotine only and not on tobacco dust or  
832 nicotine sulfate.

833 Theuer motioned and Merrill Clark seconded to place nicotine on  
834 the prohibited natural list for all uses. Dave LaTourneau, a  
835 tobacco grower and organic inspector, spoke to prohibiting  
836 nicotine sulfate and allowing tobacco and tobacco dust. George  
837 Siemon, an organic farmer and dairyman, spoke to the potential  
838 uses of tobacco in livestock care and asked the Board not to  
839 automatically reject tobacco. David Haehn recommended separating  
840 nicotine from tobacco and pleaded that philosophical prejudice  
841 toward tobacco not become a factor. Brent Wiseman noted that  
842 tobacco can be useful in certain situations because it can be  
843 grown and used on the same farm and is readily available as a  
844 tool for organic farmers. Zea Sonnabend suggested that the Board  
845 prohibit only commercial preparations of nicotine. VOTE on  
846 Theuer's motion. Yes - 4. Opposed - 7. Abstain - 2. Failed.  
847 Taylor moved and Sligh seconded to table the previous vote on  
848 nicotine until more information is available and John Brown can  
849 elucidate on the differences between nicotine, nicotine sulfate  
850 and tobacco derivatives. VOTE Yes - 12. Opposed - 1. Passed.

851 **ROTENONE**

852 Brown reported on the low LD50 of rotenone when tested on rats,  
853 its toxicity to fish and birds and on no records of fatalities or  
854 poisonings in humans. Kinsman reported that it is used widely  
855 for lice, mange and mites in conventional production. John  
856 clarified that the Board is reviewing the natural ground root and  
857 not synthetic preparations or the synthetic extracted form of

858 rotenone. Theuer offered that the half life of rotenone is long  
859 and the required 24 hour withdrawal time may not be long enough  
860 and that there are many alternatives. Brian Baker stated that  
861 rotenone is restricted in its applications by private certifiers  
862 and that the California Senate repealed its registration because  
863 of incomplete information and not because of health reasons.  
864 Merrill Clark requested that the Board take actions to move  
865 production away from the use of all botanicals by considering a  
866 phase out of all botanicals. David Haehn spoke to its usefulness  
867 in livestock and aquaculture. Brian Baker informed the members  
868 that rotenone has been debated within the organic community for  
869 years and despite its shortcomings and data gaps, there are no  
870 alternatives because of the natural/synthetic rule.

871 Quinn moved and Kinsman seconded to place rotenone on the  
872 prohibited natural list. VOTE Yes - 1. Opposed - 8. Abstain -  
873 4. Failed. Rotenone is kept off the list of prohibited natural  
874 substances.

875 The Board then adjourned for lunch. After lunch, separate  
876 meetings of the Livestock and Accreditation Committees will be  
877 held before the Board participates in a tour of Fetzer Organic  
878 Vineyards and Winery at 3pm.

879 OCTOBER 14, 1994

880 **FULL BOARD SESSION**

881 Members in attendance were: Robert Quinn, Merrill Clark,  
882 Margaret Clark, Nancy Taylor, Gene Kahn, Gary Osweiler, Dean  
883 Eppley, Michael Sligh, Rich Theuer, Tom Stoneback, Craig Weakley,  
884 Don Kinsman and Yvonne Frost of Oregon Tilth.

885 Staff members present from USDA were: Hal Ricker, Michael  
886 Hankin, Ted Rogers, and Michael Johnson.

887 **LIVESTOCK COMMITTEE**

888 Merrill Clark opened with the discussion of the Livestock  
889 Committee additions on outdoor access language to the Healthcare  
890 Practices document and the new language on antibiotic and  
891 parasiticide use in laying hens. Theuer questioned whether  
892 species specific language on parasiticide usage had been  
893 developed as had been agreed upon at the meeting in Santa Fe.  
894 Merrill replied that the Committee had decided not to take that

895 route because it decided that the general policy language  
896 provided sufficient guidelines and the Committee did not want to  
897 set precedent by allowing exceptions to the general policy in its  
898 recommendations. Osweiler stated that the National List petition  
899 process should provide the means by which persons request use of  
900 a substance for a specific purpose.

901 At this time, the livestock discussion before the Board was  
902 temporarily suspended to hear a presentation on PBO from Bill  
903 Wolf who would only be able to remain at the meeting for a short  
904 while.

905 PIPERONYL BUTOXIDE

906 Bill Wolf made comments relative to yesterday's presentation by  
907 Joan Clayburgh of NCAP. Bill asserted that the statement that  
908 the OFPA was a food safety Act is inaccurate because the OFPA is  
909 actually a means to provide a label for a production management  
910 system. Bill also disagreed that PBO is a carcinogen, citing  
911 that the concern over PBO's carcinogenic properties stems from a  
912 single study that showed liver cancer development in a laboratory  
913 rat. He recommended that PBO not be placed on the prohibited  
914 natural list. He also agreed that the use of botanicals as a  
915 group should eventually be eliminated from organic systems.

916 LIVESTOCK COMMITTEE

917 The Board resumed the livestock discussion with the issue of  
918 outdoor access for livestock, especially chickens. Quinn and  
919 Hankin exchanged comments about whether one flock of chickens  
920 that lives indoors its entire life because of weather conditions  
921 can be considered organic when another flock of chickens in a  
922 better climate is required to be outdoors to be certified as  
923 organic. Hankin noted that the issue is not the chickens  
924 themselves, but rather the type of housing system upon which the  
925 care is based. Kinsman noted the importance of developing a  
926 definition for "confinement" to clarify whether this means in a  
927 building or in battery cages.

928 Anne Schwartz interjected that confinement was addressed in the  
929 original Senate bill but the language was omitted from the OFPA  
930 as a political decision; this robbed the National Program of a  
931 fundamental principle. Steve Mahrt asked that broilers and  
932 layers be considered separately because their needs are  
933 different. Quinn reiterated that good indoor conditions should



934 be adequate and acceptable for certified production. Sligh  
935 discussed the current trend toward producing free  
936 range/antibiotic free broilers that are not organically labeled  
937 and wondered about the confusion that the consumer would  
938 experience if organic broilers could be raised in confinement  
939 housing. He cited the strong sentiments in Europe and  
940 internationally that the organic label represent an outdoor  
941 access requirement. Steve Mahrt stated that the question is  
942 truly whether the birds are in cages and not whether they are  
943 roaming indoors or outdoors.

944 Kahn asked that the outdoor access wording be returned to the  
945 Committee to clarify the confusion around confinement and the  
946 conditions that might comprise acceptable outdoor access.  
947 Osweiler concluded that this issue comes down more to philosophy  
948 than to healthful practices and acknowledged that most of the  
949 input received at the Livestock Hearings was against confinement.  
950 Merrill made a motion and Quinn seconded to accept the October  
951 13, 1994 proposed additions to the Healthcare Practices Final  
952 Recommendation. VOTE Yes - 0. Opposed - 12 Unanimous.  
953 Failed.

954 Kahn expressed the need for the Board to set a clear precedent as  
955 to what direction the Committee should pursue relative to the  
956 confinement issue. Kinsman suggested developing guideline  
957 language for certifiers to follow, rather than including required  
958 production practices in the regulatory language. Taylor moved  
959 and Merrill seconded to accept the following language as  
960 amendment to the Final Recommendation: "Confinement of livestock  
961 with the exception of fish to an indoor housing facility without  
962 the opportunity for regular exercise and access to the outdoors  
963 is prohibited." VOTE Yes - 4. Opposed - 8. Failed. The will  
964 of the Board is that the definition of confinement be worked on  
965 further by the Livestock Committee.

966 Merrill then distributed new wording for line 565 of the Organic  
967 Farm Plan. The language reads: "Seasonal access to grazing  
968 pasture should be considered a fundamental principle for all  
969 livestock species. A producer's Farm Plan should demonstrate  
970 movement toward this goal, as well as document that sufficient  
971 land resources exist on the farm to provide adequate grazing  
972 while protecting soil and water resources". Kahn said that this  
973 wording is premature until the confinement issue is resolved and

974 that this amended language should be set aside until a later  
975 date. All agreed to this resolution.

976 The last Livestock Committee topics were the additions (dated  
977 October 13, 1994) to the Board Final Recommendations on  
978 antibiotic and parasiticide use to establish guidelines for  
979 antibiotic and parasiticide use in organic laying hens. Quinn  
980 stated his belief that the guidelines should be patterned more  
981 like the guidelines for organic milk production than for organic  
982 beef production given the similarity in relation between  
983 cows/milk and chickens/eggs. Merrill disagreed with this  
984 comparison. Theuer requested and the Board agreed to delete the  
985 word "synthetic" before "antibiotic" and "parasiticide."  
986 Osweiler agreed with Quinn as to the inconsistencies. Steve  
987 Mahrt stated that his market would be lost if he had to sell his  
988 hens, but that it would be maintained if he simply had to observe  
989 a withholding time. Dick Kregel spoke to the rare use of  
990 antibiotics in layers and the even rarer need to use them on  
991 broilers raised indoors. Merrill moved to approve the wording to  
992 amend the Antibiotic Final Recommendation and Weakley seconded.  
993 VOTE Yes - 3. Opposed - 7. Abstain - 2. Failed. The  
994 parasiticide wording was not voted on and will be reconsidered by  
995 the Committee along with the antibiotic amendment for the next  
996 meeting.

997 **ACCREDITATION**

998 Margaret Clark reported to the Board about the discussions during  
999 the Committee meeting yesterday concerning minor infractions and  
1000 random spot inspections. Margaret related that certifiers seem  
1001 to respond to minor infractions on a case by case basis and do  
1002 not currently have policies in writing. The Committee will  
1003 develop a list of ways that certifiers can help prevent minor  
1004 infractions from occurring. Regarding spot inspections, the  
1005 Committee will wait to receive responses to Theuer's draft of  
1006 spot visit concepts from the Organic Certifiers Caucus before  
1007 revisiting the item before the next Board meeting.

1008 The Board then turned to the issue of costs of the first round of  
1009 accreditation. Sligh introduced NOSB resolution #2 "Concerning  
1010 the first round of accreditation costs", and explained the  
1011 resolution as follows: The Board passed a first resolution at the  
1012 October 1993 meeting in Arkansas which requested that USDA  
1013 appropriated funds be used to fully cover the costs associated

1014 with accrediting certifiers during the first round. Sligh  
1015 indicated that the resolution reflected the concerns of  
1016 certifiers and the Board now that USDA is publicly presenting  
1017 proposals putting forth projected expenses that may have to be  
1018 paid by the certifiers during the first round. The resolution  
1019 requests that the USDA specify in writing to the NOSB (1) why the  
1020 USDA failed to act upon the first resolution after being given  
1021 verbal assurances; (2) what specific costs of the first round will  
1022 be carried by existing USDA appropriated funds; and (3) what costs  
1023 are estimated for the certifiers to carry. Theuer said that the  
1024 language of #1 was too strong, and Ricker stated that he could  
1025 not respond to the resolution because of the tone with which  
1026 statement #1 had been written. The Board unanimously willed that  
1027 item #1 be deleted from the resolution and then VOTED Yes- 9  
1028 Abstain - 2 to accept the resolution as amended.

1029 Robert Beauchemin, representing the Organic Crop Improvement  
1030 Association (OCIA), a private certifying organization, then made  
1031 a presentation about OCIA's experiences with accreditation costs.  
1032 OCIA has analyzed the expenses related to licensing 17 of its 60  
1033 chapters and found the following: the evaluations required an  
1034 average visit of two and a half days and the evaluation reports  
1035 averaged 60 pages. The average per chapter cost was \$2,500,  
1036 excluding follow up monitoring. He also reported that he had  
1037 received information from the International Federation of Organic  
1038 Agricultural Movement (IFOAM) Accreditation Program that showed  
1039 their accreditation time averaging 115 hours per certifier  
1040 including monitoring of field visits. The four year cycle cost  
1041 for this program was around \$12,000 and was influenced more by  
1042 the certifier's readiness for the accreditation process than by  
1043 its size. Additionally, he asserted that the number of certified  
1044 farmers is not currently increasing in the US and that the EU has  
1045 also experienced a leveling of certified acreage.

1046 Ricker replied that we expect organic livestock and livestock  
1047 products to provide growth but that he is not projecting any  
1048 costs on anticipated growth. Our research shows that 3,500  
1049 farmers are certified and 1,500 are non-certified organic;  
1050 figures are not available for organic processors. The US cost  
1051 model will probably be based on an annual assessment fee plus the  
1052 actual costs of accreditation.

1053 Margaret Clark reported that the Committee has not had the

1054 opportunity to further develop its current brief list of areas in  
1055 which States should be permitted to develop additional  
1056 requirements, but they may take this up and submit  
1057 recommendations to the full Board before the next meeting.

1058 Margaret requested that discussion on additional language  
1059 regarding the required or optional use of the USDA shield on  
1060 labels be tabled so that the Committee could have more time to  
1061 analyze the results of its straw vote on the subject. The Board  
1062 agreed.

1063 Finally, the Board discussed the Committee draft language on the  
1064 use of the certifying agent's seal. After brief comments about  
1065 the proposed language, minor changes were made and the following  
1066 language was adopted as a Board resolution after a motion by  
1067 Weakley and a second by Merrill Clark on a VOTE of Yes - 10.  
1068 Abstain - 2. Passed:

1069 "The Board recommends that all certifying agents, both State  
1070 and private, who are accredited under the National Organic  
1071 Program, will be allowed to continue full use of their  
1072 seals, trademarks or logos."

1073 The Board decided to postpone a vote on the provision for  
1074 additional standards promulgated by private certifiers until the  
1075 afternoon session.

#### 1076 INTERNATIONAL

1077 Sligh initiated this Committee section of the full Board meeting  
1078 by explaining that the Codex Alimentarius process involves an  
1079 eight step process for approval by participating countries and  
1080 that the organic standards were now at the seventh step. He  
1081 specified some of the differences between the Codex proposals and  
1082 the US recommendations:

- 1083 \* Codex requires manure from organic sources
- 1084 \* Codex has a 2 year transition period compared to 3 in the  
1085 US
- 1086 \* Codex has more liberal livestock production standards
- 1087 \* Codex has an approved substance list whereas the US list  
1088 will be of approved synthetics and prohibited

1089 natural

1090 Ricker reported that additional issues had surfaced within the  
1091 last two weeks: (1) 3 of 4 responding countries want to prohibit  
1092 genetically modified seeds, products and organisms; (2) Australia  
1093 is requesting three times the established withholding time when

1094 livestock medications are used; and (3) Spain is requesting that  
1095 certain materials (that would seem to be permissible under the  
1096 National Program) be removed from the Codex annexes. After  
1097 noting that IFOAM encourages whole farm conversion to organic  
1098 production, Stoneback moved and Sligh seconded that "In light of  
1099 the material list amendment and accreditation confusion, the US  
1100 delegation should have the Codex Committee on Organic Standards  
1101 follow a course of deliberate speed until the USDA has had a  
1102 chance to implement its program based on the Board  
1103 recommendations. VOTE - Yes - unanimous. Passed. USDA agreed  
1104 to develop a list of imported products from specific countries  
1105 requiring fumigation before being allowed entry into the US and  
1106 to compare the Codex list of processed food ingredients and  
1107 processing aids with the Committee's recommended list.  
1108  
1109 The Board adjourned for lunch at 11:55am.

1110 **PROCESSING**

1111 Reconvening at 1:15pm, the Board moved on to the Processing  
1112 section of the full Board meeting. Theuer informed the members  
1113 that the Committee is preparing a number of documents for the  
1114 next board meeting. The subject matters being developed are: (1)  
1115 pest control amendments to the Handling Plan and Good  
1116 Manufacturing Practices; (2) allowances to the specified labeling  
1117 recommendations for bulk products packaged to assure integrity;  
1118 (3) exemption from certification of distributors who only handle  
1119 packaged goods where there is no opportunity for compromise to  
1120 the organic product; (4) determination of the criteria and  
1121 oversight factors affecting availability of organic ingredients.

1122 Theuer requested the Board to consider accepting Section 4 of the  
1123 Board Draft Recommendation on Labeling of Processed Foods as a  
1124 Board Final Recommendation. This section pertains to foods  
1125 containing organic ingredients that comprise less than 50% of the  
1126 finished product or to foods that contain any percentage of  
1127 organic ingredients but have a prohibited substance, processing  
1128 aid or food additive involved in its manufacture. The wording  
1129 restricts the use of "organic" to the ingredient listing  
1130 statement and provides for documentation to be provided by the  
1131 processor to verify the authenticity of organic ingredients, when  
1132 necessary, but does not require certification or routine  
33 verification. Theuer motioned and Stoneback seconded to accept  
1134 Section 4 as a Board Final Recommendation. VOTE Yes - 9.

1135 Opposed - 0. Abstain - 1. Passed.

1136 CROPS

1137 The Crops Committee announced that it had three main items on its  
1138 agenda: improving the process for the review of materials, a  
1139 Board vote on PBO for the approved synthetic list and language on  
1140 the preferred use of botanical pesticides in organic production.

1141 First, Kahn asked John Brown to discuss the changes that he will  
1142 be making to improve the review packages for materials that are  
1143 presented to members prior to a meeting. These improvements will  
1144 include: (1) international status of each material; (2) acute and  
1145 chronic toxicity information; (3) historical use data; and (4) a  
1146 check-off list for each material according to the criteria stated  
1147 in Section 2119m of the Act.

1148 Sligh urged, in lieu of reestablishing the Materials Committee,  
1149 that conference calls be initiated to handle materials issues,  
1150 and he expressed the importance of the materials review  
1151 procedures being separate from the regular recommendation  
1152 process. Sonnabend agreed to coordinate the agenda for materials  
1153 conference calls. The Board unanimously decided that there  
1154 should be regularly scheduled materials review process conference  
1155 calls between John Brown, Zea Sonnabend, the chairpersons of the  
1156 Livestock, Processing, and Crops Committees, and USDA staff.

1157 The Board reverted back to the discussion regarding the use of  
1158 PBO that had been ongoing throughout the week. There was first a  
1159 discussion on the history of PBO for clarification. John showed  
1160 that PBO is extracted from natural sources, but explained that  
1161 PBO is considered a synthetic substance because of the process by  
1162 which it is extracted from the natural source; the Board  
1163 concurred. Zea noted that its historical use is mixed because  
1164 its classification as a natural or synthetic has been in doubt.  
1165 PBO was considered natural, but was found to be synthetic after  
1166 its manufacturer finally disclosed the necessary information; at  
1167 that point, certifiers started prohibiting it because of  
1168 philosophy, not necessarily because of environmental or health  
1169 concerns. It was previously considered as an approved synthetic  
1170 in California, but it is currently prohibited there because there  
1171 are no exemptions for allowed synthetics in the revised  
1172 California law. Yvonne Frost explained that, historically, PBO  
1173 was found on various certifiers' materials lists, and so it was

1174 allowed by Oregon Tilth for a while, but now it is prohibited.  
1175 OCIA does not allow the use of PBO because OCIA could not  
1176 determine how PBO acts, but Washington State does allow its use.  
1177 Oregon prohibits PBO use because it is prohibited by Tilth and  
1178 Tilth prohibits it because it is synthetic. It was indicated  
1179 that Tilth, Oregon and California would change their regulations  
1180 if the National Program permits PBO.

1181 Brown explained that PBO acts as a synergist and reduces the  
1182 amount of botanical pesticides that have to be used by 5-10%. It  
1183 has a very high LD-50; a very low toxicity, and it has been  
1184 concluded that environmental exposure is not a risk associated  
1185 with the use of PBO. There are currently no synergistic  
1186 alternatives for PBO.

1187 Eric Kindberg reminded that the Board that any active synthetic  
1188 substance placed on the approved synthetic list has to belong to  
1189 one of the categories stated in the OFPA. (Board and USDA  
1190 representatives had decided at a previous meeting that substances  
1191 currently in use in organic production and processing would be  
1. 2 evaluated without regard to category and that the interpretative  
1193 requirement that the substance must belong to one of the  
1194 categories would be discussed after the substance had been  
1195 accepted for the National List.) Rod Crossley stated that  
1196 processing plants require a PBO/pyrethrum combination because  
1197 rotenone use is prohibited. David Haehn also made the point  
1198 about approved synthetics first having to be classified in one of  
1199 the categories before being evaluated.

1200 Sligh informed the Board that he had called EPA and found out  
1201 that PBO has been under the reregistration process since 1988;  
1202 that it is currently in a Peer Review Study because of  
1203 inconsistent lab research reports; and that the reregistration is  
1204 anticipated to be completed in October 1995. Based on this  
1205 information, Sligh moved and Quinn seconded to table a vote on  
1206 PBO. VOTE Yes - 6. Opposed - 5. Abstain - 1. Failed. Kahn  
1207 moved and Eppley seconded to place PBO on the list of synthetic  
1208 active ingredients for the National List and restrict its use to  
1209 a synergist with botanicals according to EPA regulations and  
1210 subject to further use restrictions. VOTE Yes - 7. Opposed -  
1211 4. Abstain - 1. Failed. John will obtain further information  
: 2 on PBO for a possible reevaluation at a future meeting.

1213 Finally, Kahn distributed a Crops Committee paper (10/14/94)  
1214 about guidelines for a policy on the use of botanical pesticides  
1215 in organic production. Merrill clarified that the paper  
1216 pertained to generic active substances and not formulations.  
1217 Weakley moved and Quinn seconded to accept this as a Board Final  
1218 Recommendation. Amendments to language that were first discussed  
1219 and approved are: (1) add PBO summary; (2) add "generic" in line  
1220 34; (3) delete lines 38-42; (4) add "livestock and crops" at line  
1221 64; (5) delete "USDA accredited" at line 74; (6) delete "be  
1222 authorized to use at their discretion"; and (7) change line 76 to  
1223 read "shall assure". Quinn asked USDA staff to continually  
1224 update the dates of action for the statuses of the botanicals and  
1225 PBO. VOTE Yes - 12. Unanimous. Passed. Ted Rogers urged the  
1226 Board to adopt similar language governing the use of all  
1227 substances approved for the National List.

1228 The Board then returned to the issue of additional standards  
1229 promulgated by private certifiers and considered the following  
1230 refined wording developed by the Committee:

1231 "The Board recommends that certifiers will continue the  
1232 evolution of the certification process and production  
1233 requirements that may be additional to those of the Federal  
1234 Program. These certifiers may make the use of their  
1235 trademarks, seals and logos contingent on the fulfillment of  
1236 these requirements. Such requirements must be published and  
1237 available to all applicants."

1238 Theuer asked to insert wording that the requirements should  
1239 conform to the National Program, but Weakley said that this is  
1240 understood without being stated. Hankin asserted his preference  
1241 that language be included to indicate that the additional  
1242 requirements would be reviewed by USDA, but the Board rejected  
1243 this idea claiming that this too was implicit in the  
1244 accreditation process. Weakley moved and Sligh seconded to  
1245 accept the language as part of the resolution. VOTE Yes - 10.  
1246 Opposed - 2. Passed.

1247 Following a 15 minute break, the Board reconvened at 3:25 to  
1248 conclude the week long meeting. Quinn stated that the PBO vote  
1249 to table the substance evaluation should only have required a  
1250 simple majority vote and therefore the vote to approve PBO for  
1251 the list of synthetics should not have occurred. Sligh stated  
1252 that he will review the Board's operating policy on this and  
1253 report back at the next meeting.



1254 The Board voted unanimously to adopt the June 1994 Santa Fe  
1255 meeting minutes as revised.

1256 Sligh asked for the will of the Board to expand the mission of  
1257 the inert task force to include the development of a  
1258 recommendation to the NOSB on how a review of inerts should be  
1259 handled under the OFPA requirements for the National List.  
1260 Approved Unanimous.

1261 Margaret Clark made a motion that was seconded by Kahn to accept  
1262 the document previously submitted for review by Sligh about the  
1263 "Continuing Role of the NOSB". Approved Unanimous.

1264 The USDA Program Staff paper on the principles and definition of  
1265 "organics" was briefly presented to the Board by Ricker who  
1266 explained that it was written to satisfy a Board request from the  
1267 Santa Fe meeting. Merrill said the paper wasn't specific enough  
1268 to organics; Kahn said to delete overused words; and Kinsman  
1269 expressed the need to develop a simpler consumer-oriented  
1270 definition. It was decided that the Board would submit written  
1 1 comment to the USDA by November 15, 1994.

1272 A discussion on a transitional label was the next topic for  
1273 debate. Kahn expressed the industry need for some type of  
1274 transitional labelling program. Sam Fahr of the Arizona Dept. of  
1275 Agriculture noted that their transitional labeling program uses  
1276 the terminology "certification pending". Ten members of the  
1277 Board supported a transitional label in a straw vote, although  
1278 they recognized the difficulty of the use of transitional organic  
1279 products in multi-ingredient processed foods. The Board  
1280 supported USDA Staff's intention to move ahead with exploring a  
1281 transitional label that maintains all components of organic  
1282 production standards except the three year rule for no prohibited  
1283 substances having been applied to the land.

1284 The discussion of implementation guidelines was initiated with a  
1285 reminder that industry, Committees and certifiers were to have  
1286 provided comments to USDA before this meeting. Theuer told the  
1287 Board that specific phase-in recommendations were not needed for  
1288 organic processed foods because of the time already permitted by  
1289 FDA for label changes. Kahn said the Crops Committee will  
1 0 provide an update at the next meeting and Merrill said the  
1291 Livestock Committee will examine the issue on conference calls.

1292 Katherine DiMatteo said that the Organic Trade Association will  
1293 submit comments after a workshop at Asilomar.

1294 The week of March 20th was agree upon by members as being most  
1295 convenient to hold the next meeting. North Carolina, Texas and  
1296 Florida were discussed as potential sites. The Board voted to  
1297 accept Florida as the next meeting location in hopes of touring  
1298 organic and transitional organic citrus production.

1299 An official thank you was made to Diane Bowen and CCOF and a  
1300 round of gratitude was extended to any member of the Board who  
1301 may not be attending future meetings. Michael Sligh made a  
1302 motion to adjourn. The meeting was adjourned at 4:35pm.

## LIVESTOCK COMMITTEE MEETING

October 13, 1994  
Rohnert Park , California

1 Board members in attendance: Merrill Clark, Gene Kahn, Gary  
2 Osweiler, Bob Quinn, K. Chandler, Don Kinsman, and Tom Stoneback.  
3 Staff members present: Ted Rogers and Michael Johnson.

4 Merrill Clark, Chairperson of the Livestock Committee, called the  
5 meeting to order at 1:25pm.

6 The purpose of the Livestock Committee meeting was to discuss the  
7 "access to outdoor" proposal (10/13/94) being developed as an  
8 amendment at line 278 to the Board Final Recommendation on  
9 Healthcare Practices.

10 Bob Quinn moved and it was seconded by Don Kinsman to delete  
11 "temporary" from line three and line six, and to add "and well  
12 being" in line eight after safety. The rationale for flexibility  
13 in the language is to give more discretion to the certifier in  
14 permitting exceptions to mandatory outdoor access. VOTE: Yes -  
15 4. Opposed - 2. Passed.

16 The members then entered into discussion to change the wording in  
17 line 11 regarding a recommendation that pasture be provided, but  
18 K. Chandler subsequently moved and was seconded by Bob Quinn to  
19 not make changes to the wording as presented in the proposal.  
20 VOTE Yes - unanimous. Passed.

21 Just before the close of the meeting, Anne Schwartz submitted  
22 some proposed amendments and additions for the document, but the  
23 committee did not agree to review them.

The meeting adjourned at 2:35pm.

## ACCREDITATION COMMITTEE MEETING

October 13, 1994

Rohnert Park, California

1 Margaret Clark, Chairperson of the Accreditation Committee,  
2 called the meeting to order at 1:15pm. Other Board members  
3 present: Nancy Taylor, Michael Sligh, Dean Eppley, Rich Theuer,  
4 and (Yvonne Frost). USDA Staff: M. Hankin, H. Ricker, and G.  
5 Gershuny. Many members of certifying agencies were in  
6 attendance.

7 Sligh began the meeting by reporting that there was confusion as  
8 to whether USDA was going to be able to cover the first round of  
9 accreditation costs from appropriated funds. Sligh moved and  
10 Margaret seconded to have the Committee approve his developing a  
11 resolution before Friday that would be presented to the full  
12 Board for a vote. The resolution would require USDA to prepare  
13 in writing before the next meeting a more detailed analysis of  
14 accreditation costs that would address the division of costs and  
15 other Program expenses between USDA and certifiers. VOTE Yes -  
16 Unanimous. Passed.

17 Ricker responded to this vote by stating that although it was  
18 USDA's intent to cover all first round expenses, the Budget  
19 limitation initiative may restrict USDA's ability to carry out  
20 its intent. USDA will try to cover training, Peer Review Panel,  
21 and some related costs from appropriated funds. Ricker estimated  
22 that the certifiers may need to allow \$2,500-\$3,000 annually for  
23 accreditation related expenses, but emphatically asserted that  
24 these are only ballpark figures. Ricker also informed the  
25 members that preliminary talks with OGC indicate that certifiers  
26 will have to provide liability insurance, but not the much more  
27 expensive surety bond that was being rumored.

28 Turning to the issue of minor infractions, Diane Bowen of CCOF  
29 presented a summary of certifiers' policy on minor infractions.  
30 Minor infractions was defined as "Departure from any organic  
31 practice that will not corrupt the organic integrity of the  
32 product." Examples were given as inadequate buffer zones, using  
33 fish fertilizer with urea and using unapproved brand name  
34 formulations. Anne Mendenhall of Demeter Association said that  
35 they handle these on a case by case basis without trying to  
36 generalize and establish a formula for punitive measures.

37 Margaret thought that certifiers needed to develop a policy to  
38 ease the nervousness associated with acting as USDA agents. The  
39 Accreditation Committee will look at ways to prevent minor  
40 infractions, such as education by the certifier and diligent  
41 follow-up of specific corrective measures assigned by the  
42 certifier to the producer, and present these at the next meeting.

43 The next agenda item was public access to certification  
44 information. The public access policies of Oregon Tilth, Texas  
45 and CCOF were reviewed briefly. Tilth requires a written release  
46 by the grower before allowing access to records, while Texas has  
47 an Act mandating all file information to be available to the  
48 public. The critical points to be balanced were identified as  
49 the consumers' ability to find out all information about the  
50 production of the food versus the confidential nature of certain  
51 business related information. No action was taken at this time  
52 on adopting additional language for public access to  
53 certification information.

54 Annie Kirschenmann gave an update from the Organic Certifiers  
55 Caucus group. Annie reported that the Caucus is developing  
56 protocol guidelines for certifiers to follow in settling  
57 disputes. She also informed the Committee that Lloyds of London  
58 quotes have been obtained for indemnification of the Secretary  
59 under the National Program, in case this type of insurance should  
60 be needed.

Following a brief exchange of comments about the need for  
certifiers to comment on Rich Theuer's ideas concerning random  
spot inspection visits and the need for the Accreditation  
Committee to further develop criteria for approval of State  
programs, the meeting was adjourned by Margaret Clark.

PUBLIC INPUT SESSION - NOSB MEETING ROHNERT PARK, CALIFORNIA

Tuesday, October 11, 1994

Key: WTOF = Written testimony on file

(1) John Audrey -- Eden Foods; The primary topic of discussion by Mr. Audrey was organic soy products, and the labeling thereof. Specifically, Mr. Audrey expressed his concern over the method of calculating the exclusion of water from the percentage ingredients in organic soy milk. He also made the assertion that the NOSB labeling recommendation for calculation of % ingredients was in conflict with the FDA National Labeling and Education Act.

(2) Gary Mahrt -- Sheep Herdsman; The topic of discussion of Mr. Mahrt's presentation was the restricted use of synthetic parasiticides in the raising of organic sheep. He raised many concerns about the safety and humane treatment of sheep relative to the non-use of parasiticides. He also talked about the fact that the current NOSB recommendations would prevent any organic lamb from being produced. He urged for consideration of a withdrawal period for their use similar to that of organic dairy cattle. (WTOF)

(3) Gil Preston -- Rose Valley Farms, represented by Anne Schwartz; The topic of the presentation by Anne Schwartz on behalf of Gil Preston centered around the free range meat and egg poultry products. The thrust of the input was the importance of non-confinement for organic livestock. The conclusion was that if livestock is raised in confinement, then it is not truly organic. (WTOF)

(4) Liz Bourret -- Veritable Vegetable; The topic of discussion by Ms. Bourret was the use of ethylene as a ripening agent for bananas. She explained that ethanol is a naturally fermented product that goes through a conversion process to produce ethylene gas that is used to ripen bananas. This material would primarily be used on specialty bananas and plantains, as there is no replacement for ripening of the standard yellow banana. (WTOF)

In her second line of testimony, she discussed the requirements for handler certification. Her residual concerns were that packers, hydro-coolers, and co-packers should not have to be certified. Their facilities should however, be inspected as a part of a grower or handler certification. (WTOF)

Her final testimony was on behalf of Ocean Organic Produce, Inc., a commission merchant which operates a cooler, hydro-cooler and loading dock. This presentation was similar to her previous one and focused on not requiring certification for coolers. (WTOF)

(5) Bu Nugent -- Veritable Vegetable; Ms. Nugent's presentation raised several points regarding the small farm exemption. She

first noted that it is not worthwhile for farmers grossing in the area of \$5K to \$10K to pay for certification. She then went on to discuss the importance of wholesalers being an outlet for small growers. She suggested farmers with a gross below \$5K limit be required to file farm plans and a list of outlets with a local certifier. (WTOF)

(6) Phil Foster -- CCOF; Mr. Foster made some general comments about maintaining the community, grass-roots spirit of the organic industry and not permitting the government to destroy this very important identity component. In addition, while discussing accreditation and the National List, he pointed out that the OFPA implementation should not disrupt regional difference in certification.

(7) Leonard Diggs -- President, CCOF North Coast Chapter; Mr. Diggs commented on the diversity of the organic production in Sonoma County. His focus then shifted to the small grower (less than 1/2 acre) and their insistence on no more rules, regulations, and cost burdens.

Following his discussion on regulation, he supported the use of botanical pesticides in organic farming. He made the statement that the use of botanical pesticides is found prevalent in both large and small grower operations.

(8) Dermot Wynne -- Mr. Wynne gave some commentary on consumer access to information about organic products and certification. He stressed the point that consumers must continue to have access after the National program is implemented. Documentation must be available for the concerned consumer to make informed purchases.

(9) John Wise -- Organic Grower; To the surprise of many, Mr. Wise's presentation was about a current emergency eradication spray event taking place in Ventura County, where his organic farm is located. Under the emergency eradication, there is mandatory spraying of quarantined areas. He brought forth comments about the economic consequences of spray programs to organic growers. He urged the NOSB to consider some alternatives for these situations, some of which were crop insurance and alternative spraying or treatments for these spray programs. Also, he pointed out that products from a quarantine program can be sold as organic, provided the products do not exceed 5% of EPA tolerance.

(10) Lon Johnson -- Trout Lake Farms; Mr. Johnson spoke primarily to the notions of animal care in organic livestock production. He began by stressing the philosophical approach to the issue, followed by the need for efficacious therapy. He stated that as for veterinary medicine, there is little to no history on animal standards. He also stressed to keep the focus on holistic systems. Mr. Johnson supports minimal use of botanical pesticides.

(11) Mark Lipson -- Mr. Lipson's testimony opened with some

general observations about organic programs. He commented that certification, as it currently exists, has increased consumer confidence in organic products. Some of his other points included; a) the National List, inherited from CCOF, should evolve and become more restrictive, b) botanicals are less prevalent than assumed and therefore should not be ruled out as a class of substances, c) animals must have access to treatment and medicines -- but observe strict extended withdrawal times, d) certification and accreditation are our enforcement tools; they must be rigorous and stringent and must provide for enforcement at the State and local level.

(12) Mr. Alan Bornt, Bornt Family Farms, Holtville, California: Mr. Bornt presented two areas of concern. The first addressed the concern that land currently under organic production under the California law might not be certifiable under Federal Regulations because of the "three year provision. He suggested that some sort of grand-fathering might be appropriate to prevent serious impact on the growers effected.

His second concern was that the National List include only the "pure" organic approach. In his opinion there should be no "synthetic-but-safe" compromises made. He also suggested that the Botanical Pesticides be restricted in their use.

(13) Mr. Steve P. Mahrt, Rock Island Egg Farm, Petaluma, California: Mr. Mahrt's primary concerns were indoor confinement of poultry under organic standards, referring to a poultry flock rather than an individual bird, allowances for a synthetic antiprotozoal agent (Amprol), and considering a laying hen flock as equivalent in standards to a dairy herd. In his presentation, Mr. Mahrt related his experiences and opinions on many short comings of a requirement for access to the outside for poultry. He also noted that it might be more practical and was certainly traditional among poultry producers to refer to a flock of domesticated poultry rather than tracking an individual bird. Within the Rock Island Egg Farm, there has been a history of 75% success in managing the coccidiosis problem with vaccination; however, there continues to be a need for the coccidiostat Amprol which is labeled for use in laying hens. Mr. Mahrt urged the consideration of Amprol as an approved [synthetic] material in the National Organic Program. He also drew comparisons between the dairy farmer and the egg farmer and suggested that it would be appropriate to extend the same transitional opportunities to the egg farmer that have been proposed for the dairy farmer.  
(WTOF)

(14) Mr. Dick Krengel, California: First, Mr. Krengel delivered the written testimony of Allen Shainsky, of Petaluma Poultry Processors, Petaluma, California. Mr. Shainsky's primary concern is that indoor confinement of poultry not be prohibited under the National Organic Program. He noted a variety of problems regarding outside production of poultry from his experience as a



producer processor. Mr. Krengel then shared his concerns and experiences as a poultry feed supplier to organic and conventional growers. He particularly stressed the market demand for fresh poultry (and eggs) 52 weeks out of the year and his opinion that smaller non-concentrated growers would not and could not answer that demand. He also stressed that the most damaging microorganisms are endemic in any exposed ground system and are best managed in an indoor confinement system. In his experience, predator pressure keeps poultry inside or very near the shelter in many situations. He also noted that land costs influence the way poultry is managed in any given area. (WTOF)

(15) Dr. Randy Kidd, DVM, PhD, 911 West 33rd St., Kansas City, MO: Dr Kidd presented some information on efficacy and safety of alternative forms of livestock health care encouraging the board to consider the alternatives as viable methods. He also offered his services as an expert in alternative forms of health care for livestock. (WTOF)

(16) Ms. Nell Newman, Newman's Own Organics-The Second Generation, Aptos, California: After describing her background and the vision of Newman's Own Organic, Ms. Newman discussed her concerns about the essential nature of sodium hydroxide as a processing aid in the manufacture of pretzels. She emphasized that essentiality by distributing samples of pretzels made with and with out the sodium hydroxide bath before baking.

(17) Mr. Rick Miller, Manager, product Development/Technical Services, BIOSYS, Palo Alto, California: Mr. Miller described his company's commercial production and marketing of beneficial insect-killing nematodes (steinernematids). The production and formulation of the BIOSYS products requires the introduction of small quantities of a synthetic bacteriostat to prevent unchecked growth of opportunistic bacteria. The ingredient usually Hyamine (Diisobutylphenoxyethoxy ethyl dimethyl benzethonium chloride monohydrate) appears in the most common nematode product at 5ppm and is completely biodegradable in soil. Mr. Miller urged the board not to recommend prohibition of nematode products based on these minute quantities of bacteriostat. (WTOF)

(18) Mr. David Bunn, Crown Packing Company, Inc., Salinas, California: (Presented by Janning Kennedy) As a mixed conventional/organic grower, Mr. Bunn expressed concern about the barriers to conversion to organic by some standards. In this, he urged the board to recommend the creation of a "transition" label to make the three year requirement more workable. He also urged the board toward moderation in creating a workable National List. Mr. Bunn also stressed the need for botanical pesticides as tools, noting that even the best organic farms have occasional unusual pest infestations and the Botanicals are a viable and necessary solution. (WTOF)

(19) Ms. Janning Kennedy, Salinas, California: Ms. Kennedy expressed a concern for transition into the Federal Program for land now considered organic under the California Law as it is possible that some of it might not meet the three year requirement. She suggested that this land might in effect be "grandfathered" in. This concern for transition extended to "new" land which farmers might wish to bring into organic production, but the three year requirement might cause more economic stress than a willing producer could reasonably withstand. Her suggestion for alleviation of this situation was a federal "Transitional Organic" label. (WTOF)

(20) Mr. Michael Gorman, TKO, California: Mr. Gorman, who runs a large specialty salad production and packing operation much of which is certified organic brought concerns about transitioning land currently under organic production under the California Law which might not qualify in the first year or two of the Federal Program. He suggested that this land might be grandfathered into the National Program as a way to smooth out the transition. He also strongly advocated the creation of a Federal Transitional Organic label to encourage the U.S. organic producers. Finally Mr. Borman urged the Board to take a moderate stand on the botanical pesticides as they continue to be critical tools in management of pest outbreaks.

(21) Mr. George Nororian, Fruitful Valley, Dinuba, California: Mr. Nororian is a producer and canner of organic peaches. He expressed two concerns one was the use of sodium and potassium hydroxide for peeling of fruit. He pointed out that the hydroxyl radical is a major problem in fruit quality for canned products as it causes glutens to convert to glutamates which has a negative effect on flavor. He suggested therefor that this "chemical peeling" not be used in the preparation of Organic fruit for further processing. Mr. Nororian also expressed a deep concern for the use of packing house rejects in commercial production of purees. He noted that these are of low quality, are low in sugars, lack food value and are a general bane on the fruit industry in general and that this practice should not be tolerated in organic processing.

(22) Brian Fitzpatrick -- Farmer/winemaker and member of CCOF and OGWA (Organic Grapes into Wine Alliance); OGWA was organized in 1989, based on French organic wine standards which allow use of sulfur dioxide (SO<sub>2</sub>). Their mission statement includes "committed to producing a most civilized beverage in a most responsible way." SO<sub>2</sub> is not the same as a sulfite, so its use is non inconsistent with OFPA. Use of SO<sub>2</sub> goes back to the Romans, and 99% of winemakers use it. The French tried to prohibit it for organic wine, but had to retract the prohibition. Consequences of failure to use SO<sub>2</sub> are inferior products with a very high (>20%) rate of returns. The issue is one of sulfite sensitivity in a small percent of the population, not general health risk. No ill effects from sulfites have ever been recorded at concentrations < 100 ppm, which is well over maximum amount

occurring in organic wines. All bottles are currently labelled as "containing sulfites."

(23) Rees Moerman -- Spectrum Oils & member of MPPL Task Force; Advises to "rise above the minute and see the big picture" of the organic industry. We are part of the "Third Wave" as described by Toffler. The word is "CREDIBILITY." Once you lose it, you can't get it back. Consumers have four mental issues: **purity, nutrition, care, and value.** These must be balanced so that the quest for the first three doesn't eliminate the fourth. Consumer decisions are based on their belief in the company (in the case of processed products) combined with their belief in the integrity of "organic."

(24) Anne Schwartz -- Ms. Schwartz's remarks specifically addressed living conditions and access to outdoors. It is important to place the discussion within the context of organic principles, not seeking justification in relation to conventional management systems. (Reiteration of principles). Lists health problems which are known to be reduced by access to outdoors and freedom of movement. Notes that respiratory problems are common among workers who manage confined hogs and poultry. Specific replies to concerns raised by Alan Shainsky: Coccidiosis is hard to control in poultry. Rodents are still a problem for indoor management. There are various ways to control predators without confinement. Wild birds haven't been shown to pose problems. Today's "industrial" breeds of birds may not be appropriate in organic systems. States unequivocal opposition to allowing exemptions for confinement livestock production. Re: need to maintain year-round supply of fresh poultry to assure distribution, balance must be struck between marketplace demands for consistency and organic principles. Consumers are aware of seasonal considerations in fresh produce, so can understand similar constraints for poultry. (WTOF)

(25) Kate Burroughs -- Harmony Farm Supply, apple producer; It is unrealistic to require organic garlic and onion sets--they are clearly unavailable on a commercial scale as yet. The Farm Plan requirement as revised is still too much paperwork for farmers. Essential needs should be reconsidered. Supports allowing continued use of botanicals, even though she has stopped using them. "It's not true that if you do things right you'll never have any problems." Advises NOSB to avoid getting involved with brand-name evaluation of materials.

(26) Bill Reichle -- OCIA Central California chapter; Criticism of NOP focus paper on National List: Doesn't like implication of USDA telling NOSB what should be put on the list. This approach gives the government too much power to add or delete materials without adequate public scrutiny. Opposes allowing a certifier's name to go on a label because it will confuse consumers as to whether all accredited agents are in fact equivalent. The criteria for who needs to be certified as a handler should hinge on the possibility for contamination or commingling. Not every

conventional distributor who handles some organic products should have to be certified. Re: accreditation: No "foreign bodies" should be accredited.

(27) Tana Daha -- Hawaii Organic Growers; Biological control is problematic in Hawaii because of restriction on importing predators due to ecological sensitivity of the island system. Argues for consideration of tissue culture propagation as a disease preventive technology. Tropical crops such as banana, ginger and taro should be permitted to use tissue culture for transplant production. This also provides an avenue for introducing more genetic diversity in these crops since they are brought in sterile media. Botanicals are needed when biocontrols are not available. Evaluation of botanicals should focus on mode of action to determine permissibility. Describes farmer-based experimental approach used by small growers in tropics to evaluate potential pest controlling plants.

(28) Ed Davis -- California cotton producer; Advocates "industry type" label for "organic" such as the generic "wool" or "cotton" mark. He is a state licensed pesticide applicator, and supports the necessity for continued use of botanicals. Main subject is **cotton defoliants**: Since freezes come late to California, unlike Texas, some means of inducing defoliation prior to harvest is needed. Suggest allowing Sodium or Potassium Chlorate. This doesn't actually kill leaves, but mimics frost damage to trigger plant hormones to initiate defoliation. Amount of material applied is negligible compared with amount of salt contained in a moderate application of compost. (Information sheet provided)

(29) Fred Rohe -- Omega Nutrition; Argues that high temperature bleaching and deodorizing should not be permitted for organic oils and flours.

(30) Lynn Coody -- Organic Agsystems Consulting; Lynn spoke about the Board's role as materials evaluators. She expressed her understanding that the data is incomplete and asked the members to do the best possible based on the information that is available. She thought the botanicals should be restricted in their use and that a phase-out should be used in case any were not permitted. (WTOF)

(31) Hazel Flett -- sheep producer; Hazel related her unsuccessful experiences with raising sheep without the use of wormers. She cautioned about the harmful effects on market development of not incorporating reality with principle. She encouraged allowing parasiticide use in raising organic sheep.

(32) Bob Durst -- Oregon State University Food Science Senior Research Assistant; Bob spoke about processing aids in organic processed foods, proposing that some, like Potassium Hydroxide be prohibited, but others, like Sodium Hydroxide, be permitted, depending on necessity. He thought that if residues were

minimal and the substances were recognized as GRAS, then they should be approved. Bob offered to assist the Board in completing a list of processing aids currently used in organic products.

(33) Cindy Hoops -- Cindy heads up a CCOF Chapter in California. Cindy spoke to 5 separate points: (a) place Magnesium sulfate on the approved synthetic list; (b) don't allow producers to lose certification if a material (later found to be unacceptable) is used in good faith, provided that the material has a negligent effect in soil life; (c) promote healthy soils, not pure food - allow growers to market drifted-on crops; (d) use a residue test to continue the 5% maximum residue allowance in lieu of prohibiting drifted-on crops; and (e) encourage farmers to switch to organics by providing for botanical and emergency antibiotic use.

(34) Craig Weakley -- Muir Glen Tomatoes, Inc., representative and NOSB member; Craig presented a petition signed by ten members requesting that the National Program set a maximum allowable pesticide residue level at the FDA action level or 5% of EPA tolerance or the minimum level of detection (when testing methods cannot measure 5% of EPA tolerance). The Board petition asks the USDA to discuss this issue further with the Board and EPA because allowing a residue level of 100% EPA tolerance would harm the organic industry and is unnecessary because organic farmers don't use the pesticides in the first place. (WTOF)

(35) Bill Wolf -- Past president of the Organic Trade Association, processor of botanicals, and presenting for Vivian Purdy of Necessary Trading Co.; Bill said that AMS should be allowed to develop the marketing Program and that we all should realize that it won't be perfect the first time around. Botanicals are necessary for unexpected problems and they are compatible with provisions of the OFPA. Botanicals are safe and their use should be controlled through the Farm Plan. (WTOF)

(36) Steve Pavich -- organic grape grower for 28 years; Steve urged that the Program get put in place and then allowed to evolve so that conventional growers could begin their conversion to organic methods. He stressed that the Farm Plan design should place minimal burden of farmers and that it should be a mission statement and not a record of practices.

(37) Eric Sunswheat -- compost expert; Eric asked that full disclosure of materials used in finished compost products should be required because of his concern that large processors could get by with using contaminated sewage sludge in compost sold to organic producers.

(38) Charles Hench -- organic farmer; Charles thought that synthetics should be prohibited in organics. He told us that regionalized planting and resourceful natural methods should be sufficient; and, if they don't work on a particular site, then

that particular crop or livestock should not be raised there until a suitable breed or variety is found that does not require synthetics.

(39) Mark Cassidy -- organic grower in the San Joaquin Valley; Mark stated his preference that Magnesium Sulfate (epsom salt) be placed on the National List now that it has been determined to be a synthetic. It is needed for meaty tomatoes and works well as a spray.

(40) George Siemon -- organic dairy farmer; George made several distinct points in his presentation: (a) the timing of certification is important when implementing the Program; (b) the Farm Plan should not be used subjectively to enforce; (c) a new herd clause should be allowed for first time dairy herds that allowed for less than 12 months organic feed; (d) access to outdoors is an important organic principle; (e) ensure that some medications are available to producers by not prohibiting alternative medications; and (f) prevent mislabeling by prohibiting labeling that leads the consumer into assuming that more ingredients are organic than actually are included, such as "organic milk" if the dry milk and cream are not organic.

(41) Eric Kindberg -- organic farmer; Eric wants the petition process sped up and emphasized that the National List must be done by the Board, not USDA. He stressed the List can only contain three components, active synthetics, non-synthetic non-organic ingredients, and synthetic inerts in addition to prohibited naturals. He expanded on his inerts opinion, proposing that inerts on EPA's List 3 are unacceptable for organic production.

(42) Suzanne Vaupel -- attorney at law; Suzanne addressed the Board on the issue of approval of organic fertilizers and pest controls. She noted that EPA and State regulations make it difficult for an organic production aid to be allowed for use in organic agriculture because of the test and financial requirements. She urged the Board to work with the EPA in approval of allowed materials and asked the Board not to reject materials just because they are not yet approved by EPA. (WTOF)

Conclusion of Public Input.