

UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD

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MEETING

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TUESDAY,
NOVEMBER 19, 2008

+ + + + +

The board meeting was held at the Savoy
Suites Hotel, 2505 Wisconsin Ave., NW,

Washington, DC 20007, at 8:00 a.m., Rigoberto
Delgado, Chairperson, presiding.

PRESENT:

RIGOBERTO I. DELGADO, Chair
JEFFREY W. MOYER, Vice Chair
GERALD DAVIS

STEVE DEMURI
KRISTINE ELLOR
KEVIN ENGELBERT
BARRY FLAMM
DANIEL G. GIACOMINI
JENNIFER M. HALL
BEA E. JAMES

HUBERT J. KARREMAN
TRACY MIEDEMA
JOSEPH SMILLIE
JULIE S. WEISMAN

STAFF PRESENT :

KATHERINE BENHAM

VALERIE FRANCES

ANDREW REGALADO

BARBARA ROBINSON

JUDITH RAGONESI

MARK BRADLEY

RICHARD MATTHEWS

ROBERT POOLER

SHANNON NALLY

RUIHONG GUO

VALERIE SCHMALE

TAMMIE WILLBURN

BABAK RASTGOUFARD

ZAHA LOMAX

SHAUNTA NEWBY

C-O-N-T-E-N-T-S

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P R O C E E D I N G S

(8:02 a.m.)

MR. DELGADO: Good morning.

Just as a reminder for our visitors, we do have a sign-in sheet at the back of the room, and we are required by higher powers that everybody has to sign in to have a record of who attended. If you don't agree with me please talk to Katherine, she'll give you the details. But please do sign in.

And we are going to start now with the third day of our meeting. We had the last two days to present our proposal to receive public input, and definitely had a long night, some of us, last night, to incorporate public comment into our recommendations.

And the time has come to discuss those and propose them as recommendations for the board to consider.

Just to remind the board, every - by rules and regulations, two-thirds votes is what we need to pass a motion. That's for

1 recommendations going out to the program. For
2 those recommendations that deal with the
3 running of the board itself, that we only need
4 a majority.

5 Joe, you have a question.

6 MR. SMILLIE: Yes, I just want to
7 clarify it. That means if a person is absent
8 that it would require 10 votes?

9 MR. DELGADO: That is correct. We
10 do have 14 members present today, and two-
11 thirds would be 9.3, so -

12 MR. SMILLIE: Right, so if someone
13 said, well, I'm one-third in favor of it and
14 two-thirds against it, that would -

15 MR. DELGADO: Hopefully we won't
16 get to that situation.

17 MR. SMILLIE: I'm not fooling
18 around here. I'm serious. I mean if people
19 really want to vote against something, they
20 can't split their votes?

21 MR. DELGADO: No. They are whole
22 votes, and it's two thirds votes passed. So

1 if somebody decides to abstain we will have to
2 turn on the calculator and find out what of
3 two-thirds we have.

4 All right, any questions? Yes,
5 sir.

6 MR. KARREMAN: How does it work
7 with abstentions in the count? Because at
8 that Penn State meeting I thought we switched
9 something about things go when abstention
10 happens.

11 MR. DELGADO: If you recall our
12 policy manual does state that it will be
13 counting on the cast votes, and that does not
14 include abstentions. If someone is
15 abstaining, we will have to count the number
16 of actual votes, and consider that as part of
17 the count. Okay. So absentees, abstentions,
18 are not counting toward the vote that CAS
19 number. Is that clear?

20 MS. JAMES: But you said cast votes
21 under your -- numbers that represents a
22 majority of the people in the room, but it's

1 not a yes or a no. It is that we voted.

2 MR. DELGADO: Any other questions?

3 MS. JAMES: I have one, Mr.

4 Chairman. If you could please also clarify
5 on the votes if a recommendation came from the
6 committee as voting against something, then
7 that means you are voting for that
8 recommendation or for a position. So if you
9 could clarify that.

10 MR. DELGADO: The recommendations
11 from the committee will always come as stated
12 by the petitioner.

13 MS. JAMES: Right. So you are
14 either voting for or against the committee -

15 MR. DELGADO: No, you are against
16 the material.

17 MR. DELGADO: And the motion will
18 be stated as -

19 (Simultaneous speakers.)

20 MR. DELGADO: Do we have a question
21 here? Look, if there is a petition - we'll
22 come up with an example to make things clear -

1 if there is a petition to include material X
2 on the list, the motion presented by the
3 committee will be, in that situation, right,
4 we move to approve the listing material X on
5 the list, section 202, so and so, right,
6 regardless of what the committee's vote was.

7 Now I urge you to consider what
8 the committee's vote was, because that will
9 give you an indication of what was the feeling
10 in the rationale for that vote. The committee
11 might have said yes, which essentially was
12 approving what the petitioner was requesting.

13 If the committee said no, then
14 they would be going against what the
15 petitioner said or requested. So yes, any
16 questions? Julie.

17 MS. WEISMAN: Just to add to the
18 clarification that this is because a decision
19 was made in the last couple of years to always
20 pose the recommendation as a recommendation
21 for listing, so that it would always be
22 consistent with the quorums and the yeses and

1 the noes and all that stuff.

2 MR. DELGADO: That's very good.

3 Thank you. Any questions.

4 (Simultaneous speakers.)

5 MS. WEISMAN: That's part of the
6 reason. It's so that the whole board can
7 vote.

8 MR. DELGADO: And another point to
9 clean up is, once the committee presents a
10 recommendation to the board, at that point it
11 is out of the hands of the committee. It
12 forms part of the board in any amendments can
13 be actually incorporated into that document.

14 Obviously the committee will have
15 the right to declare that in a friendly
16 amendment or not, and that will determine
17 whether we are going to debate or not, adding
18 that amendment. So if it's a friendly
19 amendment we will skip the debate, if it's not
20 we will have to vote on considering that
21 amendment. Is that clear?

22 Any other questions on the ground

1 rules? Yes, our executive director seems
2 confused.

3 MS. FRANCES: No, you mentioned
4 that the first thing up is the technical
5 corrections, recommendation that there were
6 changes on it, that what you gave me did not -
7 I don't have anything that indicates changes
8 to that recommendation. It's only changes to
9 the technical review I think. So I think that
10 is where I think the confusion is. Because I
11 looked at the junk drive gave me - so you said
12 the first one up was the technical
13 corrections, and that there was a change, but
14 there is no change. So I just wanted to make
15 sure we are clear on that.

16 MR. DELGADO: I think we're fine.
17 And we'll rely on Barry to guide us through
18 that if there are changes.

19 I have my cheat sheet here as to
20 votes cast that our parliamentarian - that our
21 unofficial parliamentarian has kindly shared
22 with us. And here is a way quickly back to

1 the number of votes, if we have 14 cast votes,
2 the two-thirds will be 10; if we have 13 cast
3 votes the two-thirds will be 9; 12, 9; 11,
4 against the votes cast, the two-thirds will be
5 8; and if there were only 10 votes cast, two-
6 thirds would be 7. Thank you for that.

7 That's going to be our cheat sheet there.

8 Any questions before we proceed
9 with the board?

10 Okay, and again urging members of
11 the public who came in late, please sign in,
12 and we'll start with the process.

13 On that note then we are only nine
14 minutes behind schedule, we will start with
15 the Policy Committee, and Dr. Flamm, if you're
16 kind enough to walk us through the process.

17 JOINT POLICY DEVELOPMENT COMMITTEE

18 MR. FLAMM: Good morning.

19 The policy committee met with
20 materials, represented by the Chair, Dan, last
21 night, and reviewed both public comments on
22 the policy committee's recommendations, plus

1 the comments that we received from the board,
2 and also we reviewed comments in the -
3 comments from the board in our joint
4 recommendations Dan will cover later.

5 At the same time the
6 recommendations are packaged, and we'll just
7 call for a vote on the total package.

8 We'll start the ballot with the
9 technical corrections. If you would go to the
10 recommendations, there were no changes made in
11 that document so what you have in your package
12 is what we will be presenting as our
13 recommendation.

14 I won't - my eyes are still blurry
15 so I won't even try to read that to you. I
16 hope you can see it.

17 Okay, there are no changes, so
18 let's go to the next recommendation, which is
19 - which is that one? Help me out. Okay, and
20 I don't believe we had any changes on that one
21 either, is that correct?

22 So let's move to the next one.

1 Okay, election of officers, we did have some
2 changes there. Dee, do you know what those
3 changes were, if you would just summarize it?

4 MS. JAMES: Under bullet point
5 number two, we accepted the board members'
6 recommendations that clarify that the newly
7 appointed officers will resume their positions
8 at their conclusion of the trial board meeting
9 pursuant to the election.

10 So that was the change. We took
11 out - we took after the fall board meeting,
12 and replaced it with the conclusion.

13 MR. FLAMM: Just to clarify when
14 the meeting officers actually took their seat.

15 MS. JAMES: When the gavel goes
16 down, people take over.

17 MR. DELGADO: We have a question --
18 Julie?

19 MS. WEISMAN: Just, as I read it it
20 should be, they will assume their position
21 after the conclusion because they are newly
22 appointed, not recent.

1 MR. FLAMM: We'll accept that as a
2 friendly amendment.

3 MR. DELGADO: All right, would you
4 move to the next one please.

5 MS. JAMES: The next one is under
6 point B, the counting of the votes. We moved
7 that the executive director may be given the
8 opportunity to vote to break a tie, and we
9 just clarified that the re-vote will take
10 place until the tie is broken, or a candidate
11 will be given the opportunity to withdraw at
12 their discretion.

13 MR. DELGADO: And those were the
14 only changes?

15 MS. JAMES: Those were the only two
16 changes.

17 MR. DELGADO: Any changes? Are
18 those changes clear to the board? Any
19 questions? Can we move on to the next
20 recommendation?

21 MS. JAMES: Committee work plans.

22 MR. FLAMM: Committee work plans.

1 MR. ENGELBERT: Can we back up one
2 moment? Whose responsibility is it to count
3 the votes?

4 MS. JAMES: The secretary.

5 MR. ENGELBERT: Then I would
6 recommend that the votes be disposed of by the
7 secretary, not the chair, or secretary, to
8 make sure that that responsibility is
9 delegated and doesn't get neglected.

10 MR. DELGADO: So there is a comment
11 here regarding votes.

12 MS. JAMES: It says under point D
13 votes will be disposed of by the chair or
14 secretary.

15 MR. ENGELBERT: And I would
16 recommend that that be set just be the
17 secretary's responsibility. That's the person
18 responsible for counting the votes -

19 MS. JAMES: The chair and the
20 secretary count together.

21 MR. ENGELBERT: They both count?

22 MS. JAMES: Yes.

1 MR. ENGELBERT: Okay.

2 MR. DELGADO: Any other questions?

3 Are you satisfied?

4 MR. ENGELBERT: Yes, I thought the
5 secretary alone counted the votes, but they
6 both do, that's fine.

7 MS. JAMES: Under step one we
8 accepted the friendly amendment from Tracy,
9 the third bullet point down, clarification.
10 We've eliminated special petitions from the
11 national organic program such as
12 clarifications on a particular issue or
13 guidance on enforcement, and we replaced that
14 with requests for suggestions from the NOB.

15 And that is the only change.

16 MR. FLAMM: Okay, can we move to
17 the next one, Valerie, please?

18 MS. JAMES: I think the next one is
19 sunset procedures.

20 MATERIALS COMMITTEE

21 MR. FLAMM: The next one is sunset?

22 MS. JAMES: Oh, the structure

1 recommendations.

2 MR. FLAMM: I don't believe there
3 were any changes on structure recommendations.
4 What we presented is a - is what the committee
5 is still presenting as a recommendation. I
6 think we'd move to the next one, please.

7 MR. DELGADO: And that's sunset?

8 MR. FLAMM: Sunset.

9 MS. JAMES: And perhaps Dan or Hugh
10 has the changes on that.

11 MR. FLAMM: Yes, there were
12 clarification changes, recommended by the
13 materials committee on - just on the front
14 page, on the background, yes, thank you Dan.
15 And it was reworded - oops, what happened to
16 it.

17 Okay, actually there were no
18 changes. We agreed to a little clarification
19 on the listing material. It was just a
20 language clarification that Dan had suggested.
21 But there is no substantive change in the
22 sunset procedure.

1 Oh, yes, thank you, Dan. Again,
2 this is something I guess we had implied in
3 our wording we really intended, and Dan
4 pointed out that it was missing. We want in
5 looking at the sunset material we want to look
6 at all sorts of information including what the
7 committee considered in the initial review.
8 So we put that in to make sure that it was
9 clear that that would be looked at. So I
10 don't know what happened.

11 MR. DELGADO: Dan, can you give
12 your -

13 MR. GIACOMINI: I didn't mark down
14 exactly where you plugged it in.

15 MR. FLAMM: Well, it's right at the
16 right point there, following this includes,
17 and then the wording is missing.

18 MR. GIACOMINI: It should be, this
19 includes the original recommendation from the
20 board to list. From the board.

21 MS. JAMES: Valerie, are you
22 tracking this?

1 MS. FRANCES: It came up red, so
2 I'd say track changes may not be on since all
3 the font there is red. But it did come up
4 underlined, so I'm not sure.

5 MR. DELGADO: And you are keeping
6 track of those changes, right?

7 MS. FRANCES: Well, I just
8 highlighted it in yellow for you.

9 MR. FLAMM: That was the only
10 changes on sunset. Go to the next one please,
11 Valerie.

12 MS. JAMES: There's the new member
13 guide.

14 MR. FLAMM: Yes, new member guide.
15 There's no changes in that.

16 MR. DELGADO: So Mr. Chairman, you
17 have reviewed the changes that you make to the
18 three documents from your recommendations for
19 the policy and procedures manual?

20 MR. FLAMM: That is correct. And I
21 move that the board accept these policy
22 committee recommendations and add these

1 amended recommendations to the policy
2 development - policy procedure manual.

3 MS. JAMES: Second.

4 MR. DELGADO: The motion has been
5 moved and been seconded. It is moved and
6 seconded to accept changes to the policy and
7 procedures manual and its highlighting as
8 described by the chair of the policy
9 committee.

10 Discussion? Are there any
11 questions or discussion on the topic?

12 Are we ready for the vote? The
13 vice chair is asking if I need to remind the
14 board members of any potential conflict of
15 interest. I don't think it is proper or
16 necessary at this point given that it is an
17 internal work document, so we will move on,
18 and I appreciate that.

19 Ready for the question? The
20 question is on the motion - do we have a
21 question here? The question is on the motion
22 to accept the changes to the policy and

1 procedures many as described by the chair of
2 the Policy and Development Committee.

3 And we'll start taking the vote
4 this way from aisle C with Dr. Karreman.

5 MR. KARREMAN: Clarification
6 please.

7 MR. DELGADO: Yes.

8 MR. KARREMAN: I just want to make
9 sure that people know that there were two,
10 three, four, five, there are six different
11 documents for the policy procedure manual, and
12 we are voting on all those changes at once.

13 MR. DELGADO: Thank you for that
14 clarification. Any other questions on that
15 point?

16 We'll begin the vote.

17 Dr. Karreman?

18 MR. KARREMAN: Yes.

19 MR. DELGADO: Kevin.

20 MR. ENGELBERT: Yes.

21 MR. DELGADO: Jennifer.

22 MS. HALL: Yes.

1 MR. DELGADO: Steve.
2 MR. DeMURI: Yes.
3 MR. DELGADO: Julie.
4 MS. WEISMAN: Yes.
5 MR. DELGADO: Dan.
6 MR. GIACOMINI: Yes.
7 MR. DELGADO: Jeff.
8 MR. MOYER: Yes.
9 MR. DELGADO: Bea.
10 MS. JAMES: Yes.
11 MR. DELGADO: Jerry.
12 MR. DAVIS: Yes.
13 MR. DELGADO: Tina.
14 MS. ELLOR: Yes.
15 MR. DELGADO: Tracy.
16 MS. MIEDEMA: Yes.
17 MR. DELGADO: Joe.
18 MR. SMILLIE: Yes.
19 MR. DELGADO: Barry.
20 MR. FLAMM: Yes.
21 MR. DELGADO: And the chair votes
22 yes.

1 MR. MOYER: Mr. Chairman, that is
2 14 yeases; one absent. It passes.

3 MR. DELGADO: The ayes have it, and
4 the motion is agreed to.

5 Let's move on to the next topic,
6 Mr. Chairman.

7 MR. FLAMM: We have one
8 recommendation for inclusion in the new member
9 guide. It involves training. And I don't
10 believe, Steve, there are any changes in that.

11 So I move that the policy
12 committee's recommendation on training
13 additional to the new member guide be
14 approved.

15 MS. JAMES: Second.

16 MR. DELGADO: It is moved and
17 second to approve changes to the new member
18 guide as described by the Policy and
19 Development Committee chair.

20 Discussion? Any questions?

21 Waiting for the question. The
22 question is on the motion to approve the

1 updates to the new member guide as described
2 by the Policy and Development Committee chair.

3 And we will start our vote with
4 Kevin.

5 MR. ENGELBERT: Yes.

6 MR. DELGADO: Jennifer.

7 MS. HALL: Yes.

8 MR. DELGADO: Steve.

9 MR. DeMURI: Yes.

10 MR. DELGADO: Julie.

11 MS. WEISMAN: Yes.

12 MR. DELGADO: Dan.

13 MR. GIACOMINI: Yes.

14 MR. DELGADO: Jeff.

15 MR. MOYER: Yes.

16 MR. DELGADO: Bea.

17 MS. JAMES: Yes.

18 MR. DELGADO: Jerry.

19 MR. DAVIS: Yes.

20 MR. DELGADO: Tina.

21 MS. ELLOR: Yes.

22 MR. DELGADO: Tracy.

1 MS. MIEDEMA: Yes.

2 MR. DELGADO: Joe.

3 MR. SMILLIE: Yes.

4 MR. DELGADO: Barry.

5 MR. DELGADO: Hugh.

6 MR. KARREMAN: Yes.

7 MR. DELGADO: And the chair votes

8 yes.

9 MR. MOYER: Again, Mr. Chairman,
10 that's zero noes, 14 yeses, one absent.

11 MR. DELGADO: The ayes have it, and
12 the motion is agreed to.

13 Does that conclude your
14 presentation, Mr. Chairman?

15 MR. FLAMM: That concludes my
16 presentation.

17 MR. DELGADO: Thank you very much.
18 Congratulations.

19 Let's move on to the next point,
20 which also includes the policy committee, but
21 I understand that the chair of the materials
22 committee will be handling this matter, Mr.

1 Giacomini.

2 MR. GIACOMINI: Thank you, Mr.
3 Chairman. The document or procedure for
4 handling technical reviews. A few changes.
5 At the introduction adding the information
6 possibly requested in the technical review for
7 a third party specializing in the scientific
8 know-how or with market availability on the
9 issue.

10 Going to the next, top of page
11 two, Valerie, procedure of the NOSB, the first
12 section, the last sentence was obviously an
13 artifact from somewhere. And we're looking to
14 remove that.

15 The material review process,
16 adding the qualified of NL on national list,
17 and adding the sentence dealing with the
18 clarification on petition to change annotation
19 as it essentially is a petition to add or
20 remove a substance.

21 Technical advisory panel
22 definition removing the - where are we here? -

1 changing that it is convened by the board,
2 and deleting the last sentence.

3 Yes?

4 MS. WEISMAN: A question. Does
5 eliminating that other language by the
6 substitution, I just want to make sure that
7 that does not in any way - what's the right
8 word? - that the NOP is still obligated to use
9 the funds that are - they must still hire a
10 panel, an expert panel?

11 MR. GIACOMINI: Do you sign the
12 check? Yes -

13 MS. WEISMAN: I just want to make
14 sure that this does not get interpreted as
15 changing any of the current responsibilities
16 that resides with the NOP for making funds
17 available through the National Organic Program
18 to pay for such expert panels.

19 MR. DELGADO: Dan. Dan you respond
20 to that?

21 MR. GIACOMINI: No, I believe this
22 is just a clarification requested by public,

1 in public comment, clarifying that we convene
2 it, but they are certainly the ones that sign
3 the contract - make the contract and sign the
4 check.

5 MR. DELGADO: Julie, does that
6 answer it?

7 MS. WEISMAN: Frankly, can I
8 propose a friendly amendment?

9 MR. DELGADO: Yes. Well, actually
10 on this one we can't because we are still in
11 the clarification process.

12 MS. WEISMAN: Okay.

13 MR. DELGADO: So you will be able
14 to once -

15 MS. WEISMAN: Okay.

16 MR. GIACOMINI: Phase three -

17 MR. DELGADO: And just for
18 clarification this is an internal document.
19 It is part of the workings of the board and
20 should not be considered as affecting the
21 workings of the program.

22 MR. GIACOMINI: Phase 3, Valerie.

1 The first bullet point there, scroll up,
2 Valerie, the first bullet point I believe was
3 moved to the end of phase 2 . That's dealing
4 with a notification between the program and
5 the petitioner. It belonged up in phase 2
6 rather than the section dealing with the third
7 party expert.

8 Let's see, after phase 6, and then
9 the procedures for handling technical reviews,
10 the bottom of that page, the bottom - up -
11 where did we go? On two - oh, no, my mistake.
12 Next page.

13 In the request of information
14 regarding combination with other materials, we
15 are confining that request in general to other
16 materials that are on the national list in the
17 same section; no need to look for combinations
18 of materials between Section 601 and 605.
19 That is the change in Section - in B and in
20 the new C or the old D.

21 The old C and the old E requesting
22 information on the combinations of all the

1 things in the universe seemed way too broad
2 and way too burdensome to be a reasonable
3 request.

4 And then on the last bullet point
5 there, modifying that slightly, environmental
6 risks and hazards including but not limited to
7 legalese language.

8 Following down on that same page,
9 number three, as regarding requesting of a
10 third party expert, the requesting of the
11 technical review, there are times - generally
12 that is done by the chairman of the committee
13 reviewing that material, but sometimes it's
14 done, and it's allowed to be done by the
15 materials committee.

16 Down - I believe that is - no, we
17 have one more. Oh yes, we haven't gotten
18 there. A clarification on number four, the
19 decision to define the expertise needed, and
20 the third party expert is the responsibility
21 of the committee reviewing the material or
22 issue.

1 And I think that was it.

2 Mr. Chairman, if Julie could -
3 okay. Are you happy?

4 MS. WEISMAN: Yes.

5 MR. DELGADO: We'll be able to make
6 any corrections once we have moved it.

7 MS. WEISMAN: No, I'm not going to
8 move. I'm staying right here.

9 MR. DELGADO: All right, state the
10 motion.

11 MR. GIACOMINI: Mr. Chairman, I
12 move we accept the - where is my - it's not on
13 there. I need to get to the beginning of the
14 document so I know what it's called. I move
15 we accept the recommendation to amend the
16 policy and procedure manual regarding the
17 procedure for handling technical reviews.

18 MR. FLAMM: Second.

19 MR. DELGADO: It is moved and
20 seconded to amend the policy and procedures
21 manual to - Barry seconded and it is moved and
22 seconded to amend the policy and procedures

1 manual to include the section called
2 procedures for handling technical reviews.

3 Discuss. Now at this point we can
4 make amendments, clarify it, any questions?

5 Ready for the question? The
6 question is on the motion to amend the policy
7 and procedures manual to include a section
8 called procedures for handling technical
9 reviews.

10 And we will start taking our vote
11 with Jennifer.

12 MS. HALL: Yes.

13 MR. DELGADO: Steve.

14 MR. DeMURI: Yes.

15 MR. DELGADO: Julie.

16 MS. WEISMAN: Yes.

17 MR. DELGADO: Dan.

18 MR. GIACOMINI: Yes.

19 MR. DELGADO: Jeff.

20 MR. MOYER: Yes.

21 MR. DELGADO: Bea.

22 MS. JAMES: Yes.

1 MR. DELGADO: Jerry.

2 MR. DAVIS: Yes.

3 MR. DELGADO: Tina.

4 MS. ELLOR: Yes.

5 MR. DELGADO: Tracy.

6 MR. MATTHEWS: Yes.

7 MR. DELGADO: Joe.

8 MR. SMILLIE: Yes.

9 MR. DELGADO: Barry.

10 MR. FLAMM: Yes.

11 MR. DELGADO: Hugh.

12 MR. KARREMAN: Yes.

13 MR. DELGADO: Kevin.

14 MR. ENGELBERT: Yes.

15 MR. DELGADO: And the chair votes

16 yes.

17 MR. MOYER: Again Mr. Chairman

18 there were zero noes, 14 yeses, one absent.

19 MR. DELGADO: The ayes have it, and

20 the motion is agreed to.

21 Let's move on to the next section,

22 Mr. Chairman.

1 MR. GIACOMINI: Thank you, Mr.
2 Chairman. The parliamentary procedure of
3 bringing some sidetracked petitions back into
4 consideration in - due to the fact that they
5 were formally - had been formally tabled by
6 the board.

7 We have no changes in this
8 recommendation.

9 I move that we accept the
10 recommendation to take from the table the
11 petition materials.

12 MR. DELGADO: Is there a second?

13 MS. ELLOR: I'll second.

14 MR. DELGADO: Tina has seconded.

15 It is moved and seconded to take
16 from the table the list of selected materials
17 as discussed by the chair of the materials
18 committee.

19 Discussion? Bea?

20 MS. JAMES: Dan, CCOF had made a
21 really good point in their public comment
22 about, take from the table, that in the past

1 tabled materials were incomplete, and that
2 they actually shouldn't have been tabled, but
3 they said they should have been rejected, but
4 they didn't have the terminology at that
5 point.

6 And also Whit Wave suggested that
7 we should check with the petitioner to see if
8 the material is still necessary or there is an
9 interest for it to be brought back. And I
10 believe that items tabled for so long should
11 follow some kind of reinstatement or some kind
12 of a process that you might want to address in
13 the policy and procedures manual. But
14 something about pulling these in and
15 reinstating them just doesn't really quite
16 seem to be following an accurate process to
17 me.

18 MR. GIACOMINI: The use of the
19 procedure to table is classically a procedure
20 to kill. So it may have been that that was
21 some of the intention. However it's difficult
22 to sometimes pull that out of the record.

1 In an effort to expedite the
2 situation due to the continuing request from
3 the public to deal with all of these old
4 petitions, we felt that it was an action that
5 was reasonable to take at this time in being
6 able to just bring them back and look at them.

7 Now regarding the next point, none
8 of these will automatically go onto a
9 committee's work plan. They are all going
10 back to the program. The program will look at
11 them and evaluate them. If there are multiple
12 petitions, they will just be rejected. If
13 they are - the old petitions that are not
14 multiple will be - the petitioner will be
15 contacted. The normal procedure from that, if
16 it's a real old petition I would assume the
17 program may even suggest that a new petition
18 be submitted.

19 We decided to go with the entire
20 group that we knew at the time, and we hope
21 that we don't find more, we decided to go with
22 the whole group so we would not be - so it

1 would be as transparent as possible and not be
2 accused of trying to bury certain things, and
3 certain old things. This was the list we
4 found. There may actually be none of them
5 that ever come before this board again based
6 on this petition. It's just a procedural way
7 of bringing it back to reconsider and look at
8 it.

9 MS. JAMES: So can I ask you what
10 your position is on the public comment that
11 stated that there are nine other materials
12 dating as far back as 2002 that weren't on
13 your current take from the table but are still
14 out there in cyberspace or wherever.

15 MR. GIACOMINI: We have not had an
16 opportunity to look at each one of those
17 through transcripts and records. I believe
18 that we did find a couple of them that it was
19 not a formal full board tabling that was the
20 final action. Again if it's tabled at the
21 committee level, then it's the committee that
22 can do that.

1 These are just the ones that we
2 found that were done at the final board. We
3 will review those lists, and again, we think
4 the public comment that brought all those
5 lists to us for further things for us to look
6 up and try and track down. And hopefully we
7 will resolve all of these old petitions that
8 have gone by the wayside, fallen through the
9 cracks. And we are not looking to increase
10 the workload. We are simply looking to
11 respond to the public comment that said go
12 back and deal with these issues.

13 This was a procedural thing that
14 was done that we came across at the full board
15 level that technically to be correct required
16 full board action to bring them back into
17 play.

18 MR. DELGADO: Okay.

19 MS. JAMES: Yes, I definitely
20 appreciate that the materials committee did
21 that. I guess I would like to hear from the
22 program as far as what their thoughts are on

1 resuming old petitions that have been out
2 there for five or six years that we are now
3 looking at again. Can we do that? Do they
4 need to be re-petitioned?

5 MR. MATTHEWS: Well, first of all,
6 I don't think you are re-looking at them. I
7 think what Dan has said is that he's sending
8 us a list of them, and he wants us to check on
9 the status, and to advise the board on what
10 that status is, and then the board can make up
11 its own mind as to what it wants to do there.

12 Yes, Barbara is right, it's a
13 housekeeping activity to make sure that
14 something that should have been done but
15 hasn't been done would get done if it needs to
16 be. So it's a housekeeping.

17 MR. DELGADO: Joe followed by
18 Kevin.

19 MR. ENGELBERT: Dan would it be
20 appropriate in your motion to not list one of
21 the following -- and include the others that
22 were brought forth that haven't been missed so

1 you can just say you are going to do this with
2 all that you find, or else list every one of
3 them that you know of right now?

4 MR. GIACOMINI: I'm the most
5 comfortable only doing the ones we know of.
6 I don't know how proper it would be to just
7 include a blanket statement that between now
8 and the next meeting, anything else we find is
9 considered removed from the table.

10 MR. DELGADO: Do you want to make
11 that amendment?

12 MR. GIACOMINI: I don't think
13 anybody is going to sue us over it, so we'll
14 go on.

15 MR. DELGADO: Was that a yes?

16 MR. GIACOMINI: Is the program
17 comfortable with that amendment?

18 MR. DELGADO: Okay, so it is
19 amended.

20 MR. GIACOMINI: So it'd be these
21 and anything else.

22 MS. FRANCES: Can you clarify the

1 amendment for me?

2 MR. GIACOMINI: I think maybe the
3 easiest way to do that, Valerie, is just on
4 the bold area, hopefully I'm not saying
5 anything from the rest of the thing, but just
6 in the bold area if you just put, identified
7 at this time.

8 MR. DELGADO: Kevin, is that
9 suitable?

10 MR. ENGELBERT: That satisfies it.

11 MR. DELGADO: Very good.

12 MR. GIACOMINI: And we are not
13 trying to undo any action of former boards to
14 kill these. We are just trying to respond to
15 deal with things - housecleaning of things
16 that went by.

17 MR. DELGADO: Very good. Did you
18 have a question?

19 MS. JAMES: So I just want to get
20 clarification from you, Dan, on the
21 backgrounds, the last paragraph.

22 A positive vote on a motion to

1 take from the table these petition materials
2 will allow the NOSB to resume consideration of
3 the materials within proper parliamentary
4 procedures.

5 So maybe you could explain to me a
6 little bit about - just because you are
7 looking at them doesn't mean that a petition
8 is all of a sudden going to be - you mentioned
9 earlier that you were going to contact the
10 petitioner?

11 MR. GIACOMINI: The action by the
12 board is all of these petitions are sent back
13 to the program.

14 MR. DELGADO: And what is going to
15 happen once it reaches the program?

16 MR. GIACOMINI: The program will
17 reject the multiples, and will contact the
18 petitioner. We may even try to see if we can
19 - well, actually now that we are taking from
20 the table, it would be difficult to undo that
21 in the sense of whether it was the intent to
22 kill. But nothing is going to be taken up by

1 the board immediately. It's going to be re-
2 reviewed, house cleaned up by the program, and
3 if it's considered complete and ready for the
4 board to deal with then it will come back to
5 us.

6 But the first action by the board
7 and the materials committee will be sending it
8 back to the program.

9 MR. DELGADO: Bea, did you have any
10 question or was that clear enough?

11 MS. JAMES: It is. I'm not so sure
12 it's clear how it's stated in that sentence I
13 just read. But I'm willing to just -

14 MR. DELGADO: Okay, any other
15 questions? Comments?

16 Ready for the question? The
17 question is on the motion to take from the
18 table a select list of materials highlighted
19 by the committee chair as well as the
20 amendment to that list.

21 And we will start our vote with
22 Steve.

1 MR. DeMURI: Yes.
2 MR. DELGADO: Julie.
3 MS. WEISMAN: Yes.
4 MR. DELGADO: Dan.
5 MR. GIACOMINI: Yes.
6 MR. DELGADO: Jeff.
7 MR. MOYER: Yes.
8 MR. DELGADO: Bea.
9 MS. JAMES: Abstain.
10 MR. DELGADO: Jerry.
11 MR. DAVIS: Yes.
12 MR. DELGADO: Tina.
13 MS. ELLOR: Yes.
14 MR. DELGADO: Tracy.
15 MS. MIEDEMA: Yes.
16 MR. DELGADO: Joe.
17 MR. SMILLIE: Yes.
18 MR. DELGADO: Barry.
19 MR. FLAMM: Yes.
20 MR. DELGADO: Hugh.
21 MR. KARREMAN: Yes.
22 MR. DELGADO: Kevin.

1 MR. ENGELBERT: Yes.

2 MR. DELGADO: Jennifer.

3 MS. HALL: Yes.

4 MR. DELGADO: And the chair says
5 yes.

6 MR. MOYER: Mr. Chairman, I have
7 zero noes, 13 yeses, one abstention and one
8 absent.

9 MR. DELGADO: The ayes have it, and
10 the motion is agreed to.

11 Back to you, Mr. Chairman.

12 MR. GIACOMINI: I believe I'm done.

13 MR. DELGADO: You are done? Well,
14 thank you very much, and we are actually ahead
15 of schedule, and thank you for your time and
16 clarification.

17 Moving on to the next point, it is
18 the compliance and certification committee,
19 and if Mr. Smillie, the chair, can be so kind
20 as to walk us through the motion.

21 COMPLIANCE, ACCREDITATION AND CERTIFICATION

22 COMMITTEE

1 MR. SMILLIE: Thank you, Mr. Chair.

2 The first item we are going to
3 consider is our first recommendation,
4 certifying operations with multiple production
5 unit sites and facilities under the National
6 Organic Program.

7 We have a number of edits to make
8 to the document. They are not exhaustive.

9 MS. FRANCES: Okay, I didn't get
10 one with that.

11 MR. SMILLIE: We will have to do it
12 on - I don't think it will take a lot of time.
13 And I will ask Tracy to lock the board and Val
14 through some of the --

15 MS. MIEDEMA: Thank you very much.

16 We have five minor copy edits that
17 are significant in their meaning, and I have
18 marked up these five edits and numbered them
19 as such, and I'm going to hand that to you,
20 Valerie, and then that will facilitate this
21 editing process a little bit.

22 The first edit is based on Stan's

1 suggestion yesterday that we remove the words,
2 or eliminate, in discussing the role of the
3 ICS and its implications having to do with
4 inspection. So that is on page two I believe.

5 The next four edits are all very
6 similar, and it was a clarification to the
7 word, handling, that was aptly pointed out by
8 the National Organic Coalition and others, to
9 change the words, handling, proposed harvest
10 handling.

11 The wordsmithing involved in
12 making these four changes varies only slightly
13 in their syntax to make the sentences flow.
14 So there are four instances, and Valerie, I'll
15 let you speak each of those.

16 MS. FRANCES: So handled post-
17 harvest handling.

18 MS. MIEDEMA: The editor number,
19 one through five. So if you'd just go to each
20 one.

21 MS. FRANCES: That's what I'm
22 asking. Was the ones that are handled, post-

1 harvest handling?

2 MS. MIEDEMA: Yes. In that one,
3 remove the word, handled. Well, that one -
4 Mr. Chair, do you mind if I stand next to
5 Valerie to make this as painless as possible.

6 Handled post harvest. And later
7 in this paragraph the word, handling, becomes
8 post-harvest handling.

9 MS. FRANCES: We're almost there,
10 folks. If you can jump back to page two, Dan
11 just pointed out another instance of the
12 words, or eliminated, that I would also like
13 to strike.

14 Which paragraph was that Dan?

15 MR. GIACOMINI: Second to last line
16 of the text before the footnote.

17 MS. MIEDEMA: We've already removed
18 that.

19 MR. GIACOMINI: Okay.

20 MS. MIEDEMA: We welcome language
21 from the minority opinion to be incorporated
22 into the document as part and parcel of the

1 document, if any member of the minority
2 opinion would like to propose that language.

3 MR. DELGADO: You have to move it
4 first. It has to be submitted open for
5 questions.

6 MR. SMILLIE: Mr. Chair, I would
7 like to move this recommendation.

8 MR. DELGADO: Is there a second?

9 MS. MIEDEMA: Second.

10 MR. DELGADO: It is moved and
11 seconded. And the motion was to improve the
12 document called Certifying Operations with
13 Multiple Productive Unit Sites and Facilities
14 Under the National Organic Program.

15 Discussion. This one we can
16 entertain changes, and there is a motion from
17 Jennifer.

18 MS. HALL: I would like to make a
19 friendly amendment from the minority opinion.

20 MR. DELGADO: State your amendment,
21 please.

22 MR. SMILLIE: I'll second that.

1 MR. DELGADO: No, let's make sure
2 that the proponent of the motion agrees with
3 the amendment, and if you can state the
4 amendment.

5 MS. HALL: Okay, I would like to,
6 instead of consider new entrants to the
7 production unit a risk factor, I would like to
8 incorporate it into the document as mandatory
9 inspections in their inter-year.

10 MR. SMILLIE: And you accept that
11 as a friendly amendment.

12 MS. MIEDEMA: Jennifer, would it be
13 acceptable to excerpt the second to the last
14 paragraph of the minority opinion and insert
15 that directly back into the document?

16 MR. DELGADO: The minority opinion,
17 second to last paragraph, and that should be
18 at the very end.

19 MS. MIEDEMA: I'll say that - first
20 let's get to that paragraph at the very end of
21 the minority opinion.

22 MS. HALL: Sure, we can do that.

1 MR. DELGADO: So what is it that we
2 are looking for?

3 MS. MIEDEMA: Would you like to
4 read that?

5 MS. HALL: It states: all new
6 entrants to a producer unit should
7 automatically qualify as a high risk location
8 if an automatic external inspection for each
9 new member. This process would train all new
10 entrants immediately as to the importance of
11 organic certification, and prevent any new and
12 less familiar producers in the group from not
13 passing it.

14 MS. MIEDEMA: The section that you
15 identified as that - that would fit is on page
16 seven under inspection sampling and risk
17 analysis.

18 MS. HALL: Dan, do you have a
19 comment?

20 MR. DELGADO: Dan, you have a
21 comment?

22 MR. GIACOMINI: Just for

1 clarification, do you want the new member
2 inspections as a separate subject, or do you
3 want them included as the proportion of high
4 risk? I mean they'll definitely be done, but
5 do you want them to be considered a portion of
6 the high risk or a totally separate group?

7 MS. HALL: That's a good
8 clarification. They are a separate group in
9 my mind.

10 MR. GIACOMINI: I think that brings
11 them in as part of the high risk group.

12 MS. HALL: Okay. I have other
13 language that we adapted that might work as
14 well. Are you willing to entertain that.

15 MR. DELGADO: So let's look
16 basically at another way of going. And we
17 will phrase it the way you want it, Jennifer,
18 and we will see if the proponent of the motion
19 agrees, and we will move forward.

20 MS. HALL: Under Section D,
21 Inspecting the Producer Group Operation, the
22 second paragraph, the end of the first

1 sentence, it ends with meaningful sample of
2 subunits within - I'll read the whole
3 sentence. Verification of the OSP is largely
4 accomplished by a thorough audit of the
5 functioning of the Internet control system.
6 The company by a physical examination of every
7 producer unit. Generally the headquarters are
8 a common regional handling or collection
9 facility, and a meaningful sample of subunits
10 within any given production unit.

11 I would like to add, parentheses,
12 with one exception, and insert, all new
13 entrants to a production unit must be
14 inspected in their first year with the group.

15 In subsequent years all successfully
16 certified operations will be inspected per the
17 sampling method described below.

18 MS. FRANCES: Go a little slower.

19 MS. HALL: Sorry. Must be
20 inspected in their first year with the group,
21 period. In subsequent years, comma, all
22 successfully certified operations will be

1 inspected per the sampling method described
2 below.

3 Keep the last sentence. And then
4 under number one, inspection sampling,
5 enriched analysis, no go back up, sorry, just
6 right in that paragraph, it starts, the
7 certifying agent must have policies and
8 procedures for determining how many of the
9 subunits within a production unit must receive
10 an annual inspection by a certifying agent.

11 Right here I'd like to insert one
12 sentence - or part of a sentence. Are you
13 ready?

14 In addition to mandatory
15 inspection of new entrants to the production
16 unit, comma, and then just change the T to a
17 little t.

18 MR. GIACOMINI: Did she get the
19 first part of that?

20 MS. HALL: Yes.

21 MR. DELGADO: Jennifer, does that
22 conclude your -

1 MS. HALL: It does. I mean that's
2 in addition to the new entrants, and then
3 there is identifying the harvest population.

4 MR. SMILLIE: Well, I say it's
5 acceptable in the presumption that then at
6 this point in time, once we agree to this
7 change, then the minority opinion as an
8 attached document will disappear.

9 MR. DELGADO: So we're beginning
10 the minority opinion document. Did you have
11 a question, Jerry?

12 MR. DAVIS: Just a grammatical
13 question on that very last entry you made. If
14 you could go back up to that when you get a
15 chance.

16 MR. DELGADO: Any other questions?

17 Very good. Any other discussion?

18 We are in the discussion of this motion.

19 Clarifications? Questions? Jeff?

20 MR. MOYER: Yes, Joe, I'm wondering
21 if your committee gave any consideration to
22 the discussion we had yesterday regarding some

1 sort of concession on the idea of a \$5,000
2 limit. Although I know internationally that
3 seems like an arbitrary number, internally
4 with our program it does alleviate some of the
5 fears that I have that there could be some
6 very large growers lumped in with some very
7 small growers, which could indeed have many
8 employers escape inspection.

9 I'm just wondering what you guys
10 think about that.

11 MR. DELGADO: Joe?

12 MR. SMILLIE: Well, two different
13 responses. One, I'm not sure that I can speak
14 for the committee, because I think we did talk
15 about it.

16 My opinion is that although in
17 essence I wouldn't personally have a problem
18 with it, because I think, you know, some of
19 the growers that we're tied in with, if they
20 could pay \$5,000 they'd be in hog heaven. So
21 I don't think in essence it's become an issue.
22 But it does become incredibly burdensome and

1 difficult and almost like cultural imperialism
2 from my point of view to start to put
3 arbitrary U.S. dollars on that.

4 The idea, the intent of that, I
5 think, is good. But to try and put that in
6 the regulation I think would be burdensome and
7 difficult, and I wouldn't want to do that with
8 this recommendation.

9 MR. DELGADO: Tracy.

10 MS. MIEDEMA: To your specific
11 question, Jeff, of whether we discussed it
12 yesterday, we have actually discussed it for
13 18 months, that very question, with great
14 detail with literally people all over the
15 world, in meetings all over the world.

16 So it has been very well vetted,
17 hashed, discussed. And one thing to keep in
18 mind when you think about that, it is a
19 tremendous disincentive for a smallholder to
20 succeed if they reach - they sell one too many
21 tomatoes, and they lose their status as being
22 part of a group.

1 Now assuming that a flag bearer
2 role in their group is actually someone who is
3 doing well, they would be a knowledge holder
4 and a leader, and putting in a disincentive
5 threshold like that would be counter to the
6 group itself.

7 MR. DELGADO: Jeff, followed by
8 Jerry.

9 MR. MOYER: I don't understand how
10 that is any more of a disincentive than it is
11 in this country where if you earn more than
12 \$5000 you have to be inspected.

13 And as Joe said there aren't that
14 many. But I don't see that - I think it
15 alleviates - it certainly alleviates my fear,
16 I don't want to speak for anybody else.

17 MR. SMILLIE: I understand that,
18 Jeff. My understanding is that it wouldn't
19 necessarily put them out of the group. It
20 would just necessitate that they have boots on
21 the ground.

22 MR. MOYER: No, not at all. In my

1 opinion it would not put them out of the
2 group. What - it would put them in the group
3 that is inspected.

4 MR. DELGADO: Jerry followed by
5 Jennifer. Jennifer?

6 MS. HALL: I just wanted to mention
7 that we did have that conversation quite a
8 bit. And I think there is an equal part of
9 the community that is a little bit frustrated
10 with how arbitrary the 5,000 has gotten,
11 because it hasn't been updated, and so instead
12 took the tack of trying to add more rigor,
13 which we didn't focus on a lot. WE focused a
14 lot on the risk factors that help identify the
15 sampling unit;. But we did not talk much in
16 this discussion about the rigor of how you
17 qualify to even come together as a cluster,
18 and how those - how those operations have to
19 meet qualifications to become a group, and
20 then once they do, it is really part of the
21 certifiers job to also keep an eye on how
22 realistic that is.

1 And the last sentence in Section
2 C, it should be, at the top of page seven on
3 my - it does say that an upper limit on the
4 number of members or subunits included in a
5 given production unit should be based on the
6 feasibility of effective oversight by
7 management personnel and factors such as size
8 and acceptability of the subunits.

9 So there is more in there than I
10 think got its due attention as to the
11 different roles, and how that needs to be
12 administered. But I understand the point.

13 MR. DELGADO: Dan.

14 MR. GIACOMINI: Regarding one thing
15 that Jennifer just said there, and I'm not
16 saying that I don't think this will change the
17 committee, but the 5,000 is in OFPA. It's set
18 by Congress. It would have to be changed by
19 Congress. Like I say, I would be comfortable
20 if we say that each subunit is held to the
21 same standard for inspection as required by
22 OFPA, however we want to put that. That would

1 allow for Congress to make an amendment to
2 bring that more into modern dollars if that
3 ever occurs without us having to go back and
4 change this recommendation.

5 MR. DELGADO: Joe.

6 MR. SMILLIE: Our opinion, and I
7 think the absolute majority consensus opinion
8 is that this truly is covered under risk
9 analysis, as Jennifer clearly pointed out. We
10 think it's covered, and we think it's a better
11 way to do it than the \$5,000 - that's what we
12 arrived at in consultation with a lot of
13 different people.

14 MR. DELGADO: Huge followed by
15 Jerry and Tracy.

16 MR. KARREMAN: I'm just wondering,
17 is this only for outside the U.S. in
18 developing countries? Or could this be in the
19 U.S.? Because I'm just asking, what if there
20 is a farmer who is cooperative in the U.S.,
21 and it's really large, and they got people.
22 And then they say, well, as a coop we have

1 these certain protocols and ICS and all that,
2 I'm just wondering, would this apply to them
3 as well?

4 MR. DELGADO: Clarification, Tracy?

5 MS. MIEDEMA: There's no
6 limitations on who - what nationality would
7 get to use an internal control system.

8 MR. SMILLIE: As Barbara said,
9 Indiana or India, it's the same regulation.

10 MR. DELGADO: Jerry.

11 MR. DAVIS: So I defer initially
12 waiting to hear comments like what Jennifer
13 said. That portion of the document that she
14 cited is really the only part of the document
15 you think that covers that concern of how do
16 you keep a large grower from plopping himself
17 into a grower group?

18 MR. SMILLIE: I believe the entire
19 document covers that, the entire scope and
20 intent of the document, properly executed by
21 a trained certification agent, covers it. In
22 many more ways than an arbitrary number figure

1 would.

2 MR. DELGADO: Clarification by the
3 executive director?

4 MS. FRANCES: I would encourage you
5 to perhaps read this list out loud, the
6 criteria for clustering.

7 MR. DELGADO: Tracy.

8 MS. MIEDEMA: In response to your
9 question, Jerry, as well, the entire
10 presentation and clarification process are
11 further checks on what you are saying. If a
12 certifier were to wantonly - you know had some
13 hodge-podge internal control system with a
14 faulty organic system plan, puts their very
15 status as an agent of the government at risk.

16 So I mean we have multiple,
17 multiple layers of checks built in. And then
18 when we drill down into the detail level, the
19 criteria for clustering these members into
20 subunits takes into accounts details that
21 would cover something like what you are
22 talking about.

1 So I can read this list, or you
2 can read this list. We can also read through
3 the list of risk factors. But we have got a
4 macros system, and we've got the micro
5 details, and we really - I think someone said
6 it very eloquently a day or two ago that we
7 can't constantly live in fear of the
8 offenders. We have to write rules assuming
9 that the enforcement capabilities sitting here
10 at the table in front of us will do their job
11 just like it's our job to help give the
12 guidance.

13 MR. DELGADO: Tina.

14 MS. ELLOR: But the enforcement
15 people are telling us, Richard and Laura, that
16 you don't see any reason why any size growers
17 can't form their own group.

18 MR. DELGADO: Richard.

19 MR. MATTHEWS: Well, I'm not an
20 attorney, but I think an attorney would drive
21 a semi right through this thing, and get a
22 huge grower group, a coop. I mean you heard

1 from one commenter yesterday that was a coop
2 for pears that had 100 units. So what is
3 going to stop that one from doing it?

4 This - this - I don't see that
5 this would stand up in a legal challenge. But
6 I'm not a lawyer. I'm not an attorney. I'm
7 not a lawyer. But that's my belief.

8 MR. DELGADO: Tracy.

9 MS. MIEDEMA: When we talk about
10 inspection, we always talk about sampling.
11 And there is a semi truck that could be driven
12 through every 5,000 acre farm in the United
13 States that has one member and one organic
14 system plan. And if what we are saying is, we
15 are so afraid of fraud that our intent today
16 is to disallow market access to small holders
17 around the world, then we should embrace this
18 sort of fear, right now today, we have small
19 holder operations around the world that are
20 strong and rigorous and important and they
21 belong. We are strengthening the ability of
22 our program to oversee these operations

1 through this document. They already exist,
2 and we are making it stronger today.

3 We are not throwing care to the
4 wind here. We are strengthening what already
5 exists, and we are providing a legal means for
6 this to carry on and even get stronger.

7 The National Organic Program can
8 take our recommendations, they can dot more
9 I's and they can cross more T's, but we have
10 got to bring this group certification into the
11 National Organic Program as a legitimate means
12 of certification going forward.

13 MR. DELGADO: Jeff.

14 MR. MOYER: Tracy, I couldn't agree
15 with you more that when it comes to small
16 holders I think your point is very well made.
17 When it comes to large holders, I don't think
18 your point is well made. I think that I am
19 not still naive to think that the Richard
20 Bransons of his world who are forming large
21 grower groups in India with literally millions
22 of acres, turning millions and millions of

1 dollars that want to drive through the
2 loophole that Richard just identified over
3 there.

4 I am not willing to take that
5 risk, and I would hate to throw out the baby
6 with the bathwater on this, and that's why I'd
7 like to consider putting in a - I know the
8 5,000 seems globally arbitrary. I understand,
9 I was at the IFOAM conference too. I
10 understand what is happening at the IFOAM
11 level.

12 But this is the US, the aid
13 program, and this is the National Organic
14 Standards Board, and we do as Dan mentioned
15 have a number that we could all argue is
16 arbitrary or outdated. But we do have a
17 \$5,000 number that in this country is
18 applicable. I don't think it's imperialistic
19 to place that on international growers that
20 want to do business in this country.

21 If they are making more than that,
22 it in no way disparages from getting to that

1 size. They are just going to get inspected.
2 What is the fear in getting inspected? I
3 don't have a problem with that, and at some
4 point I'm going to make a motion, probably
5 unfriendly, to insert that language.

6 MR. DELGADO: Tina, and then Dan.

7 MS. ELLOR: I actually like the way
8 Dan put it. Maybe you could restate that,
9 Dan, about we are not necessarily saying
10 5,000, but holding everyone to the same
11 standard.

12 MR. DELGADO: Dan?

13 MR. GIACOMINI: Boy, I'm lucky to
14 get something out once. So I have a different
15 way of looking at it right now, if you would
16 like me to address that issue.

17 Joe, is it correct that all high
18 risk subunits get inspected?

19 MR. SMILLIE: Yes.

20 MR. GIACOMINI: Okay, if you were
21 saying that everybody over \$5,000 would be in
22 the high risk group, they would get inspected,

1 correct?

2 MR. SMILLIE: It's quite possible.
3 Let me just go back a second on the 5,000,
4 okay. Right now what you are doing is
5 comparing apples to oranges here, and I just
6 want to point it out. People under 5,000 in
7 the U.S. don't get inspected, and can
8 legitimately sell as organic.

9 We are talking about these people
10 being inspected, okay.

11 MR. GIACOMINI: No, what I'm
12 talking about is the public relations semi
13 truck train wreck that could occur on this
14 thing when it comes out in the New York Times
15 that product selling in the United States from
16 someone in China making over \$10,000 a year is
17 not being inspected, when a grower in Vermont
18 making 5,000 and I is having to. That is what
19 I'm comparing. I'm not comparing apples and
20 oranges. I don't see it's imperialistic. I
21 don't even see it's arbitrary. It's the law.

22 And if they are already going to be part of

1 the high risk group in whatever high
2 percentage of times, I don't see the problem
3 with separating them out and saying it to
4 prevent that wreck from occurring, which I can
5 see occurring in absolutely no time at all.

6 MR. DELGADO: Let's have a
7 response.

8 MR. SMILLIE: It would take me
9 about a day to respond. The whole point of
10 this is that you have to understand how
11 certification works, and we have to go back to
12 the very beginning of this argument. We are
13 not talking about not inspecting again. We
14 are not talking about - we are talking about
15 a different system that complies with the law
16 that throws the full force of vigor of the
17 regulation into play. And right now you are
18 talking about a detail of it.

19 I don't know what to do with it.

20 So it's a big picture discussion.

21 And you are focusing on one of the details.

22 Again, the fear that seems to be

1 driving - and you have expressed it clearly,
2 it's fear - we are afraid of a scandal, we are
3 afraid of a train wreck, and all that sort of
4 thing. And if you try to over-regulate, I
5 guarantee you people, you will cause the train
6 wreck by overprescriptive - and I think we are
7 seeing that happen.

8 That is just a - let me finish.
9 Basically what you have to do is look at the
10 document that we have created. I do not think
11 large growers are going to try and get into
12 groups that have to follow a single OSP. As
13 I talked about yesterday, they have to follow
14 the same OSP, and I don't think they are going
15 to want to get in, and even if they do, if you
16 look at the risk factors, I think they will be
17 identified as a risk and have that additional
18 third party inspection. That's what this
19 document does.

20 MR. GIACOMINI: Then why are you
21 afraid of separating -

22 MR. DELGADO: We have Jennifer,

1 followed by Craig.

2 MS. HALL: Thank you, Mr. Chairman.

3 At the outset, Joe, I heard you
4 say that you were open to the \$5,000 limit,
5 and just - let me finish - so what I heard Dan
6 saying as a bit of a concession that he is not
7 saying that there needs to be a dollar limit
8 on who clusters together, but if they do, and
9 they do reach over 5,000, then it's a
10 mandatory inspection, which seems to be a
11 feasible compromise, and taking into the
12 reality of different sorts of currency,
13 wherever, however.

14 MR. DELGADO: Joe, do you want to
15 respond to that?

16 MS. MIEDEMA: Okay. Esteemed
17 colleagues, I implore you to curb the
18 hyperbole and come back down to earth and look
19 at what the real implications are of this
20 recommendation.

21 What Dan I believe is referring to
22 is a fundamental misunderstanding of consumers

1 today of all inspections. The scenario he
2 describes of consumers being aghast of a field
3 not getting looked at where some fraudulent
4 products came from exists today. Those of us
5 with 1,000-plus acre farms are very aware of
6 where the inspector is on inspection day. A
7 lot of that time is in the conference room.
8 And that does not diminish the strength of the
9 organic system plan or what inspection really
10 is.

11 But let's face facts: inspection
12 is not well understood by consumers. So the
13 fear that Dan is expressing exists already
14 today completing setting aside grower groups.

15 Five years ago my husband and I
16 had a small under \$5,000 organic farm. We
17 sold our products into restaurants, and it was
18 a nice back of the trunk bring organic produce
19 into restaurants. It was wonderful. And if
20 we had sold too many herbs and flowers we
21 would have got bumped up above that, and we
22 would have felt a little pain that we would

1 have had to pay that inspection fee. That is
2 the scenario here in the U.S.

3 The scenario that you got into,
4 the woman who is farming coffee organically
5 and who has access to the U.S. organic market
6 through her certification and earns \$5,001 and
7 now is denied access to the U.S. market
8 because she sold one pound too much coffee is
9 a completely different scenario.

10 So when you start putting these
11 thresholds in and calling these two scenarios
12 equal, we are talking about two separate
13 things. Because if you are talking about she
14 has to now at the \$5,000 point pay for an
15 outside Western inspection every year - I see
16 a lot of heads nodding.

17 MR. DELGADO: Can you finish your
18 statement.

19 MS. MIEDEMA: The comparison you
20 are making is not equal.

21 MR. DELGADO: Tina.

22 MS. ELLOR: But if I understand it

1 correctly, she wouldn't be bumped out of the
2 group and have to pay the inspection. It's
3 just that as part of the group she would be
4 inspected.

5 MR. DELGADO: Is that clarification
6 -

7 MS. MIEDEMA: Well, what we're
8 capturing with that is the cost being
9 allocated. Maybe they will get spread
10 throughout the group. It could bring a burden
11 to bear exponentially when that is the entire
12 market access to organic.

13 And what is inherently more risky
14 about running \$5,001 on one of these group
15 certification operations, so why would we
16 arbitrarily assign that as always being higher
17 risk.

18 MR. SMILLIE: You have to know that
19 we are certifying the group. These people are
20 subunits or members of the group, okay. So if
21 the group makes the money, they pool together,
22 they sell the coffee or whatever it is and

1 they all get the money. Each member of that
2 group gets their share of the total income
3 less the fees to the group.

4 If you try to do record keeping
5 for each member of the group, to try and force
6 it, it would be possible, and I think the
7 system could accommodate it as a risk factor.
8 And I believe it is in there. I believe your
9 concerns are addressed in this document.

10 MR. DELGADO: Dan followed by Julie
11 and then Jennifer, Kevin.

12 MR. ENGELBERT: I'm trying to get
13 around this, and all the work that you have
14 done and I appreciate it. But we still have -
15 maybe we could drop this \$5,000 impasse by
16 simply having every production unit inspected
17 every year.

18 I understand where you are coming
19 from with the thousands of acres. Counting
20 all the acres on my farm, pasture, woodland,
21 cropland, we have 1,400 acres under
22 management. In another country that might

1 support 3,000 people. We still have to have
2 every acre looked at every single year.

3 So you still have an open-ended
4 system where in your proposed recommendation
5 a farm could never be inspected by - based on
6 random sampling.

7 But theoretically that is another
8 train wreck waiting to happen. If you have a
9 product coming into this country that is
10 contaminated that is traced back to an organic
11 farm subunit that has never had an inspector
12 walked by and look. And trained inspectors
13 can notice different things on different farms
14 simply by driving through.

15 It seems like it's just a time
16 factor that you are saying, we can't inspect
17 every subunit every year. It can't be done.
18 But I don't like that as an excuse.

19 MR. DELGADO: Point of
20 clarification.

21 MR. MOYER: When you say inspected,
22 you mean third party inspection, not internal

1 control system inspection?

2 MR. ENGELBERT: Yes.

3 MR. DELGADO: Julie, followed by
4 Jennifer.

5 MS. WEISMAN: My point that I
6 wanted to make was actually following up on
7 Tracy's point, although I think that this is
8 an important line of discussion and I am sort
9 of reluctant to interrupt it.

10 But I also wanted to point out
11 that outside of this - there are certain crops
12 which vary widely in very short periods of
13 time, vanilla being one of them, cocoa being
14 one of them. So factors that don't have
15 anything to do with anything that the farmer
16 did, in other words, from one year the value
17 of the crop - of every person in that
18 production unit would go up and push them over
19 that \$5,000 mark, and though individual
20 farmers are not necessarily the ones that are
21 seeing that value.

22 So I just wanted to point out that

1 there are factors, global factors of changes
2 in exchange rate, and that certain commodities
3 vary wildly from year to year that will cause
4 additional undue burden to people in those
5 groups.

6 MR. DELGADO: Jennifer.

7 MS. HALL: On that same point, and
8 I recognize that it does change around the
9 globe, but I also understand the hesitancy of
10 people who are trying to grapple with it,
11 because it is a global thing. So if it is
12 applied here, in that scenario, at least they
13 don't get bounced out of the group. If the
14 FOPA rule is assigned as a risk criteria, and
15 they may be more expensive within that year,
16 which is unfortunate, in that they would have
17 to have a higher level of inspection. But at
18 least here, when it is applied, there would be
19 parity, and at least that loophole is
20 eliminated ideally.

21 MR. DELGADO: Any other questions,
22 comments? Barry?

1 MR. FLAMM: I had originally the
2 same concerns about size and dollar amounts as
3 Jeff, and Dan, and others have raised. And I
4 guess I still have some of those concerns.

5 I became convinced that the
6 structure of this covered it, and that
7 provided the flexibility. But the trouble is,
8 we need flexibility but we don't need
9 loopholes either. And that is where I'm
10 struggling with. I guess I'm still attracted
11 to the suggestions put forward by Jeff and Dan
12 and expressed by Jennifer as a possible
13 alternative to this.

14 But I think what Joe says in terms
15 of - it's filled in, the committee hasn't
16 ignored these concerns. It's just not as
17 specific as others might like.

18 So that's all I have to say right
19 now.

20 MR. DELGADO: Joe.

21 MR. SMILLIE: I'm going to take
22 Valerie's suggestion. Could you just scroll

1 down to the risk analysis - down a bit,
2 actually, you are close.

3 Val often has many good words of
4 wisdom; I should learn to pay more attention
5 to her. The number of production units and
6 production subsites and facilities,
7 participating in the -

8 MR. GIACOMINI: Can you go back and
9 tell us what this list is?

10 MR. SMILLIE: Oh, I thought you all
11 had been very conversant with the document.

12 Oh, boy, my eyeballs. The
13 certifying agent must have policies and
14 procedures for determining how many of the
15 subunits within a production unit must receive
16 an annual inspection by the certifying agent,
17 in addition to the mandatory inspection of new
18 entrants into the production unit. The
19 certifying agent must also have policies and
20 procedures for determining which subunits
21 present the greatest risks of noncompliance.

22 Various risk assessment methods

1 are used, and I refer again to the reference
2 material at the end of this document, are used
3 to both determine sample size and select the
4 appropriate subunits to examine. Higher
5 levels of overall risk for a production unit
6 would dictate a higher proportion of
7 components to be sampled.

8 The factors below will assist
9 inspection both in determining the sample size
10 and in deciding which components he/she should
11 inspect annually.

12 It is a responsibility of the ACA
13 to instruct the inspection on which high risk
14 subunits must be inspected, and the number of
15 lower risk subunits that should be sampled,
16 based on their determination of the group's
17 overall risk. The ACA will ensure that this
18 protocol is transparent.

19 And again this system, all
20 certification systems, rely on the competence
21 of the certifying agent, and their monitoring
22 by the program. And we are seeing that today

1 as we go through the five year renewal.

2 The program staff has increased
3 the compliance and enforcement section
4 dramatically and significantly, and we have to
5 keep the faith that everybody in the system is
6 going to do their role, and we can't
7 overprescribe for anyone else what they need
8 to do.

9 It's not Sunday, is it? Okay.

10 Here are some of the risk factors.

11 The number of production units and subunits,
12 sites and facilities, participating in the
13 producer group operation. How big is it?
14 That's important.

15 The size of the average production
16 unit and subunits, there we go; that is one of
17 the first indicators. We are going to look at
18 the size of them. If there are eight guys
19 that have a hectare and one guy who's got four
20 hectares, he's going to get the visit, in my
21 opinion, my opinion as an ACA.

22 Maybe somebody else may else may

1 not look at it that way. I don't know. The
2 size - the degree of uniformity among the
3 subunits within the production - the degree of
4 uniformity. Those eight guys are all on a
5 hectare. They've all got the same amount of
6 bananas. The other guy, he's got bananas, and
7 he's got more. So again he's not uniform.
8 You know it's the nail that rises above the
9 rest. Obviously another reason, that you are
10 going to look at the uniformity. If somebody
11 is not uniform, they are going to be a risk
12 factor.

13 The complexity fo the production
14 system. These guys just harvest their coffee
15 and take it to the grinding machine that takes
16 the cherry off the coffee. This guy has got
17 his own grinder. It's a little different.
18 He's following the same OSP, but he's got his
19 own, whatever it's called, that machine that
20 takes the cherry off the coffee.

21 Anyhow, the complexity of the
22 production system, the management structure of

1 the internal control system, how do they
2 function. One of the things that is really
3 important for a certification agent is not
4 just the subunits which everybody is focused
5 on. They are going to focus on the internal
6 control system. They are going to examine
7 that internal control system with a fine-tooth
8 comb, because that is one of their keys. And
9 how that internal control system functions is
10 also going to dictate where the risks show up.

11 Prohibited materials applied
12 adjacent to a subunit within the previous
13 year, again, that is for every farm, as you
14 know, Kevin. If you've got a neighbor that's
15 spraying on your border, man, that inspector
16 better check out that border real well. Same
17 thing here.

18 The new entrants - well, now
19 that's enshrined institutionally. Significant
20 expansion of the size of the subunit,
21 obviously a big risk factor, if all of a
22 sudden there was a split or parallel

1 production. Again, split means two different
2 crops, parallel same crop; conventional and
3 unconventional - well, that is obviously a
4 huge risk factor. That's got to be taken into
5 account right away.

6 The number of years the producer
7 group has functioned - you know, their
8 training. I mean let's face it, an inspector
9 goes on a farm, if it's like, you can see the
10 weed control machinery out there. It's all
11 shiny. It's been worked. You see the wheat
12 in the field. You start to get real
13 comfortable.

14 You go to a field that's got no
15 weeds, and the discs are rusty, you are not
16 comfortable; you start digging. And that's
17 what inspectors do; that's what ACAs do. The
18 same thing applies here. They dig. They do
19 their job.

20 It is the rate of growth in new
21 members, previous problems with the
22 functionings of the ICS. They are

1 accountable; they are responsible. They are
2 watching staff turnover. ICS totally changes,
3 whoa, we got a problem.

4 These are all key elements in how
5 risk is assigned.

6 Potential conflict of interest:
7 all of a sudden there are three brothers on
8 the ICS, and that family, you know, hm, better
9 look at that. Complexity in the types of
10 subunits and/or products marketed - again,
11 there is your indication once again that those
12 larger over \$5,000 U.S. units are going to be
13 identified.

14 The prevalence of conventional
15 production of the same type in the region -
16 very important obviously for everything -
17 whether post-harvest handling or livestock
18 facility is included. Any of the big - you
19 know, let's just use coffee as our favorite
20 example, although maybe we should use ginger
21 and china, it might be more appropriate
22 consider the signs of the times - but whatever

1 it is, you look at whatever is going to be the
2 hot ticket item. And again, any facilities
3 within the group are going to be boots on the
4 ground third-party stuff. They are not going
5 to skip those.

6 Okay, compliance with internal
7 frame. You know the ICS takes their job
8 seriously. And everybody has got this idea
9 that the ICS is like, oh yes, I'll take it,
10 don't worry about it. No, these guys are
11 serious. These people are serious. They are
12 protecting the investment and the work of
13 their entire community. If somebody screws up
14 in that group the whole gang can go down.

15 These people are pledged to
16 protect that; that is their job as an ICS.
17 They take it seriously. They know more about
18 what's going on in that community than any
19 parachuted gringo will ever know. Trust me on
20 that. Well, you don't have to trust me.
21 Legislate it.

22 Frequency of minor noncompliances.

1 We see a lot of minor noncompliances. Well,
2 they didn't do this, they didn't do that.
3 Bang, sampling size goes up. That is the job
4 of the ACA. That's what ACAs do, and that is
5 what they are accredited to do.

6 And again, one of the pleas that
7 perhaps if there is a real problem with this
8 document, to me what you pointed out is not a
9 real problem - it's a problem but it's not a
10 real problem - the real problem is, I think we
11 need a separate scope of accreditation for
12 certifiers that - you know there are crops,
13 livestock processing, and there should be also
14 multi-site. It should be a separate scope of
15 accreditation, taken very seriously. A number
16 of organizations are currently doing it that
17 don't have a big volume of it. They realize
18 what's involved. They say, we're out of this.
19 Let the professional ACAs who do this work all
20 over the world carry it out.

21 Sorry for the long-winded thing,
22 but as always, Valerie had a valid point.

1 So that's the answer to your
2 questions the best way that we can phrase it.

3 MR. DELGADO: Huge.

4 MR. KARREMAN: Thank you, Joe, for
5 going through that. That is very reassuring
6 except on one point, and maybe it's just me,
7 but I am very concerned about having a split
8 operation in a grower group. Can you address
9 that? I just - either - well, I'm just very
10 concerned about that.

11 MR. DELGADO: Joe?

12 MS. MIEDEMA: Well, it's addressed
13 in a couple of ways. One is, all of the
14 organic product must be sold only through the
15 group. And where I heard this come up was the
16 acknowledgment of family sustenance, and not
17 necessarily a strict adherence to organic
18 practices for their own food to eat. They're
19 a coffee grower, but you know, they have got
20 a little patch of corn or something. And I
21 feel maybe a little - to speak to this more
22 clearly - but this was really left in as a

1 survival item.

2 MR. KARREMAN: This is in the U.S.
3 as well. I understand - I mean I understand
4 what you're saying. That's totally fine. But
5 there is something just to me that - I know
6 split operations are allowed and everything.
7 But they ought to be raked over the coals.
8 Every single one of them in this country or
9 elsewhere. Because there are some sitting on
10 farms that really need looking at real hard if
11 they are split operations.

12 MS. MIEDEMA: I work for a split
13 operation, and am aware of how clearly
14 delineated organic borders need to be, and the
15 extra scrutiny that comes from that, and if
16 that is represented by the notation here as
17 that being an additional risk factor.

18 MS. JAMES: Well, I think one of
19 the elephants in the room here is that we have
20 to look at economy and supply scale. I'm not
21 an inspector, I'm not a farmer. But I do
22 represent the endpoint where a lot of these

1 products are sold. And currently 100 percent
2 inspection of all farms is not something that
3 is being practiced. And I would be very
4 concerned that if we couldn't come up with a
5 multisite recommendation that the program as
6 well as the board is comfortable with, that
7 it's going to cloud the system. That if all
8 of a sudden we turn around and we say, 100
9 percent inspection of all farm sites, that
10 would seriously affect the supply.

11 And I am not opposed at all - I
12 think I probably side with Barry a little bit
13 - I think some of the feedback has been really
14 good, and especially if the program is sitting
15 over there telling us that we can drive a semi
16 truck through this recommendation, that we
17 shouldn't hold onto it so tightly that we are
18 not willing to look at ways that we might be
19 able to change it so that the rest of the
20 board felt more comfortable with it.

21 And I want to point out some
22 things that I heard in public comment, and

1 that I read in a lot of the comments that were
2 posted, and that is, that I think there is a
3 serious concern about sites exceeding a long
4 time limit, without being inspected. I think
5 that that is something that we need to
6 possibly look at.

7 I think that the definition of
8 selection unit, that maybe we need to look at
9 the idea of that not exceeding 100 individual
10 growers.

11 I think we also - we did make a -
12 we did acquiesce by adding in the minority
13 opinion which I think is great, that new sites
14 are under a high risk. And defining the size
15 of the average production unit is probably
16 something that should be addressed as well.

17 Because my concern is that if this
18 recommendation passed and went to the program
19 that they would reject it and then here we are
20 back at ground zero.

21 So I just want -

22 MR. DELGADO: Do you have a quick

1 response, Joe?

2 MR. SMILLIE: No, nothing is going
3 to be quick here.

4 MR. DELGADO: Okay, a response to
5 the point.

6 MR. SMILLIE: Number one, that kind
7 of wholesale reexamination we can't do today.
8 So let me just try and point out one big
9 thing. If we do this, you will be drinking
10 sustainable coffee, not organic coffee. You
11 will be having sustainable vanilla and
12 sustainable sugar; not get a recommendation
13 through that allows for group certification.

14 Just be very clear what the
15 ramifications of this are internationally and
16 for the entire organic industry. I would just
17 urge you to think about that.

18 Number two is, if in order to get
19 this through, and I love open transparent
20 democratic processes, we have to make a deal
21 to include in the risk factors that mandatory
22 inspection for anyone exceeding \$5,000 U.S. -

1 luckily that is dropping like a stone everyday
2 - if that is the deal-breaker, then we are
3 willing to discuss it as - to put it in the
4 risk factor, not as mandatory, but to add it
5 specifically to the risk factor. Any member
6 or subunit making more than \$5,000 is
7 highlighted as a risk factor; I'm willing to
8 consider that as a friendly amendment.

9 MR. DELGADO: I'd remind the board,
10 speaking of action items, we haven't
11 considered any amendments, unfriendly or
12 friendly, after the first two. So that is a
13 way to get things through.

14 So if I understand correctly, are
15 you making an amendment yourself?

16 MR. SMILLIE: I don't think I can.

17 MR. DELGADO: You can, because this
18 now is a document before the floor.

19 MR. SMILLIE: Okay, if I could
20 recognize myself as friendly. Gets a little
21 schizzy on that.

22 (Laughter.)

1 MR. DELGADO: Jeff.

2 MR. MOYER: Joe, while I had jotted
3 down a comment, I would like to make an
4 amendment to your document. But based on just
5 your recent comment, I don't know if you will
6 like it or not. Because I was not going to
7 call it a risk factor. My suggestion is to
8 put it in the paragraph right above this unit.
9 So my motion is to accept this language placed
10 in page seven, D1 following the - right in the
11 center of the paragraph right in front of
12 where it says, various, is where the sentence
13 would go. And this is the sentence I'm
14 proposing as a motion.

15 All subunits that gross over
16 \$5,000 in organic sales in any year must be
17 inspected by third party during the next
18 inspection cycle - that's in U.S. dollars.

19 MR. GIACOMINI: Second.

20 MR. DELGADO: Second. Is that a
21 friendly amendment?

22 MS. FRANCES: Can you repeat that,

1 please?

2 MR. MOYER: I certainly can.

3 The sentence that I wrote said:

4 all subunits that gross over \$5,000 U.S.

5 dollars in organic sales in any year must have

6 third party inspection at the next inspection

7 cycle.

8 MR. DELGADO: And that is an

9 amendment to assert.

10 MR. MOYER: And that was seconded

11 by Dan.

12 MR. DELGADO: Seconded by Dan. Is

13 that a friendly amendment?

14 MR. SMILLIE: Can we have the

15 discussion first?

16 MR. DELGADO: Absolutely. It's

17 been moved and seconded. And it's going to be

18 followed by a discussion. So it's been moved

19 and seconded to amend by inserting the words:

20 all subunits that gross over \$5,000 U.S. in

21 organic sales in any year must have third

22 party inspection in the following year.

1 MR. MOYER: I said in the following
2 inspection cycle.

3 MR. DELGADO: And discussion on the
4 amendment?

5 Tracy followed by Tina then Joe.

6 MS. MIEDEMA: I believe this is
7 overly prescriptive, and that we are going to
8 prescribe ourselves out of the construct
9 actually working the way it does now, and
10 should continue to work around the world.

11 And just a quick history on this
12 issue, folks. This board cast a
13 recommendation on criteria for certification
14 of grower groups in 2002. It was quite
15 rigorous, and in fact, in its entirety it has
16 found a home in our recommendation.

17 It did nothing to prevent the plug
18 being pulled on grower groups around the
19 world, and frankly, whatever we send to the
20 program today they are still going to be able
21 to make mincemeat of - they are going to be
22 able to take or leave. We are giving a

1 recommendation.

2 But if our intent today is to tear
3 apart what's happening out there in the world
4 right now, then we should start layering in
5 items like this. If we are to make it more
6 rigorous and give the program our intention,
7 then we should move forward with what it is.

8 I think our recommendation would
9 not be weakened by including the 5,000
10 threshold as simply a risk factor, and leaving
11 discretion in the hands of certifiers. In our
12 system, we here, USDA organic, we embrace an
13 organic system plan that is flexible and melds
14 to every farm here in the U.S., single
15 operations. We do not have a one-size-fits-
16 all organic system plan. Let's keep it as a
17 risk factor and allow our spirit of organic to
18 live in the same way in these groups.

19 Have it be a risk factor and not a
20 prescription.

21 MR. DELGADO: Tina.

22 MS. ELLOR: Yes, from some of the

1 comments we heard, I am a little bit concerned
2 that this would be very very onerous in terms
3 of record keeping. So I'm comfortable with
4 making it a risk factor myself.

5 MR. DELGADO: Huge.

6 MR. KARREMAN: Yes, I'd be
7 comfortable with risk factor as well, and I
8 think \$5,000 is in OFPA. I think it's fine to
9 have that in there, as some kind of awareness
10 level. But in your sentence, Jeff, if it sits
11 in there or it goes down into the risk
12 factors, the third party inspection following
13 inspection cycle they have to have. But they
14 they are kind of in the risk - not the risk
15 but the general random samples after that
16 inspection, is that what you were saying? Oh,
17 every year - okay, I gotcha, I can read that.

18 MR. DELGADO: Jim.

19 MR. MOYER: Well, just so we're
20 clear that if you put this into the list of
21 risk factors, it just gets pooled with the
22 many. It could mean that a farm that earns -

1 that makes \$400,000 may never get inspected by
2 third party inspection. It just - if - Joe,
3 if there are 10 farms that all earn that much
4 in a large coop, that could easily happen.
5 You are telling me it can't happen?

6 MR. SMILLIE: The laws of
7 economics, those guys are not going to get
8 together as a group. They are going to get
9 individually certified.

10 MR. MOYER: They don't have to.

11 MR. SMILLIE: No, it's much more
12 difficult -

13 MR. MOYER: I didn't say it's not
14 difficult.

15 MR. DELGADO: Bea, followed by
16 Tracy.

17 MS. JAMES: I have a question that
18 maybe you can answer, Joe. Is having a \$5,000
19 sales, would that basically pretty much say
20 that in the United States it's 100 percent
21 inspection?

22 MR. DAVIS: Grower groups in the

1 U.S.

2 MS. JAMES: Yes, grower groups in
3 the United States, would that be pretty close
4 to creating a 100 percent inspection
5 framework? Close to it?

6 MS. MIEDEMA: If it's a risk
7 factor, or if it's -

8 MS. JAMES: No, if it's listed like
9 it is now.

10 MR. DELGADO: Tracy, you want to
11 clarify that?

12 MS. MIEDEMA: Most likely if that
13 were listed as Jeff was lining it out, it
14 would do just exactly what it says it's going
15 to do. But it sounds like we are starting to
16 gain some consensus around the idea that there
17 is some riskiness. It's an indication of
18 being bigger. It's an indication of risk;
19 let's let it be that, and add it where it
20 sounds like we are getting some agreement on.

21 MS. JAMES: Well, my question is
22 really around whether or not we are excluding

1 the United States from a multi-site framework
2 because of that?

3 MR. DELGADO: Dan.

4 MS. JAMES: Can Joe?

5 MR. GIACOMINI: If I can respond to
6 Bea, what I see it doing is, it puts the
7 producers in the U.S. in line with federal
8 law. It - there is nothing within that
9 regulation that prevents them from forming a
10 production unit, a grower group. It doesn't
11 prevent them from doing it. It's just that if
12 they are in a group, they conform to the law
13 of if they are over five grand they get
14 inspected. They can still be part of it; they
15 can still benefit from the ICS. They can
16 still have all those benefits, but they get
17 inspected.

18 MR. DELGADO: Tina, followed by
19 Jerry.

20 MS. ELLOR: So I'm still not clear
21 where - neither one of these seems to solve
22 both of the problems, the record keeping

1 problems we heard about and the hole that the
2 truck can drive through. Neither one of those
3 seems to me to address those two issues.

4 Is there some way that you can
5 think of that we -

6 MR. DELGADO: I'd remind you that
7 we are considering an amendment, and we should
8 focus on that.

9 On that note, if you want to chime
10 in and provide comments?

11 DR. ROBINSON: First of all, if you
12 are below \$5,000 in the United States or any
13 place else for that matter you do not have to
14 get inspected or certified; you are exempt
15 from this law, except for record keeping.

16 Secondly, if you do not give us
17 anything, no one will be driving a truck
18 through anything at all. The longer you
19 delay, the longer you wait, and that's Rick's
20 opinion off the top of his head about whether
21 or not you drive a truck through something.

22 We got to walk down the hall and

1 go sit down and talk with legal counsel about
2 what you give us. This is a pretty hefty
3 document. And one of the things I hear up here
4 that I don't really like what I hear is
5 statements to the effect of this: well, since
6 we can't do complete inspections today, why
7 don't we just concede the point that we can't
8 completely do inspections, and just - we'll do
9 something like less than full inspections.
10 And consumers are being misled anyway, so we
11 are going to do something a little bit
12 different.

13 I don't really like that sentiment
14 about this program. That is not the way this
15 law was written, and that is not the way this
16 regulation was developed. And I hope that is
17 not what consumers are being informed about,
18 because the fundamental - the fundamentals of
19 this program are that it is about inspection.
20 It is about an annual inspection in this
21 program.

22 It is true, no one expects that an

1 inspector walks up and down each foot of each
2 acre of each farm; yes, of course not, that is
3 kind of ridiculous. Nobody expects that. I
4 don't think anybody is that naive.

5 But the fundamentals of this
6 program are that an inspector comes out to
7 every operation every year. You know I get -
8 I'm constantly called by the media, and one of
9 the things I am always asked is, how do
10 consumers know that somebody - that a product
11 or that an operation is in compliance with
12 this program? And my standard answer is,
13 because a certifying agent sends an inspector
14 to an operation. We don't certify the
15 product; we certify the operation. It's the
16 operation that we hold accountable.

17 So I really don't - I'm sorry, I
18 know this is a little bit of me being on my
19 soapbox, but I don't like hearing that, well,
20 you know, accreditation - I mean certification
21 that just takes place in a conference room.
22 Our auditors don't think it takes place in a

1 conference room. In fact they write up
2 noncompliances if they hear the inspector say,
3 I don't have to go out on the processing
4 floor. I don't have to go out on the field;
5 I was there last year. That's considered a
6 noncompliance and they get written up for it.

7 MR. DELGADO: Joe, followed by -

8 DR. ROBINSON: I'm sorry, I wasn't
9 done, Rigo.

10 So I don't like to hear that just
11 because you can't walk the field, or just
12 because we can't inspect we shouldn't inspect.
13 We do inspect in my opinion. In the program's
14 opinion.

15 Now how we inspect, how thoroughly
16 we inspect and what we do I'm not saying that
17 inspection is not also a sampling process. It
18 is. The thoroughness of it, and we can take
19 this recommendation and we can do something
20 with it. We can work with the board, and we
21 can work with our attorneys. And yes, risk
22 factors are important. Income can be a risk

1 factor. The degree of uniformity in my
2 opinion can encompass size and income.

3 But you know, you guys, you got to
4 come up with something, you have to give us
5 something or we are not going to get anywhere.

6 MR. DELGADO: Just in the interests
7 of time and moving forward, I want to
8 highlight those points from Barbara. If we
9 give something to the program, we can work on
10 it and perfect it and come up with an end
11 product. I think that was a point to
12 highlight.

13 Joe, followed by Jerry.

14 MR. SMILLIE: Thank you, Barbara.
15 I couldn't agree more. I cannot accept this
16 as a friendly amendment.

17 MR. DELGADO: Jerry.

18 MR. SMILLIE: To finish that, I
19 could accept it as an addition to the risk
20 factor grouping. But I would like it removed
21 from -

22 MR. DELGADO: Well, we do have an

1 amendment - a motion to amend that is already
2 moved and seconded. So it stands as it is, so
3 we are going to vote.

4 MR. SMILLIE: No, I have a right to
5 deny it as a friendly amendment, don't I?

6 MR. DELGADO: Not after it's been
7 moved.

8 MS. MIEDEMA: An outside person
9 can't simply amend -

10 MR. DELGADO: Yes, they can. This
11 document now before the board, it was made by
12 Jeff, seconded by Dan. And -

13 MS. MIEDEMA: The person who made
14 the motion has the discretion of whether to
15 accept it - even after seconded.

16 MR. DELGADO: As a friendly
17 amendment. Which you did not, so we are going
18 to vote. You just stated that it's an
19 informal amendment. You don't agree with it.
20 But it is now before the board, and it's been
21 stated, and we had a discussion about the
22 amendment, and after the discussion we'll put

1 it in.

2 Yes.

3 MR. DAVIS: That goes to my
4 question of the procedural question, as a
5 voting member of the board, do we have to vote
6 yes or not on that particular amendment, or
7 can it be simultaneous with the idea that
8 there is going to be this other amendment -

9 MR. DELGADO: No. We have to vote
10 on this amendment, approve it or reject it.
11 If it is approved it will be incorporated into
12 this document, and then if there is no other
13 amendment, we will have to vote on that
14 document as it is.

15 Any other clarifications? Hugh?

16 MR. KARREMAN: What Barbara just
17 said, I think that that amendment Jeff made
18 has to stay in there, because \$5,000 is the
19 threshold for inspections. And if the whole
20 program is based on inspections, or is a
21 fundamental part of it, if you are making more
22 than five grand, you've got to get inspected.

1 MR. DELGADO: Any other comments or
2 questions?

3 MR. SMILLIE: Sorry, back to basics
4 again. This is a unit. This is being
5 inspected. The group is a production unit; it
6 is being inspected. What you are talking
7 about is subunits, members of this production
8 unit.

9 The unit -

10 MR. KARREMAN: I'm saying a subunit
11 of some 100 unit coop if some subunit is
12 making more than five grand they should get
13 inspected every year.

14 MR. DELGADO: Dan.

15 MR. GIACOMINI: In agreement with
16 you and agreement with Jeff I second the
17 motion, the subunit in question here is the
18 farmer. The grower group is not the farmer.
19 That's the ICS; that's the group; that's the
20 over thing, just as we talked about, whether
21 we do it in the coop. This is the farmer;
22 this is the guy at five grand that I think

1 should be inspected to be in compliance with
2 federal law and not have the train wreck that
3 will occur when something happens.

4 MR. DELGADO: Any questions?

5 Any other comments? Are we ready
6 for the question?

7 The question is on the motion to -

8 MR. GIACOMINI: Point of order, Mr.
9 Chairman. Clarification: would this be
10 considered a substantive motion at this point,
11 the act of the amendment?

12 MR. DELGADO: Substantive motion?
13 Can you clarify?

14 MR. GIACOMINI: Substantive motion
15 of issues going to the program are two-thirds.
16 Just for clarification, typically an amendment
17 is a majority. I think I would be considered
18 to have a conflict of interest, but in my
19 experience with parliamentary procedure, and
20 I believe in past references with the program
21 on amendments, they are not considered
22 substantive motions that require two thirds.

1 Do you agree?

2 MR. DELGADO: I agree with your
3 intent. This is going to be a majority vote.
4 It is an amendment. We are still working on
5 an internal document that has not been
6 presented to the board.

7 MS. FRANCES: So Dan has a
8 conflict of interest?

9 MR. GIACOMINI: No, my conflict of
10 interest was in my interpretation of
11 parliamentary procedure, since I have - I
12 believe in one side or the other. So that is
13 where someone could say, well, you have a
14 conflict of interest so your interpretation of
15 parliamentary procedure is not as valid. So
16 I just wanted to qualify that. But I do not
17 have a conflict of interest regarding voting
18 on the amendment.

19 MR. DELGADO: And once again I'll
20 put the question. The question is on the
21 motion to amend by inserting the words, all
22 subunits that grossed over \$5,000 U.S. in

1 organic sales in a year must have third party
2 inspection in the following inspection cycle.
3 And that will be inserted in paragraph one,
4 inspection, sampling and risk analysis.

5 And we will start taking the vote

6 -

7 MS. FRANCES: For clarify, we are
8 voting that this would be added?

9 MR. DELGADO: For clarify purposes
10 you are voting on the amendment -

11 MS. FRANCES: - to add that?

12 MR. DELGADO: - to amend by
13 inserting that sentence.

14 And we will start with - are there
15 any questions on that regard before we start
16 the vote? Yes.

17 MR. KARREMAN: I'm not sure if you
18 said it or not, but in that location.

19 MR. DELGADO: In that location as
20 stated in the screen.

21 We will start the vote now with
22 Julie.

1 MS. WEISMAN: No.
2 MR. DELGADO: Dan.
3 MR. GIACOMINI: Yes.
4 MR. DELGADO: Jeff.
5 MR. MOYER: Yes.
6 MR. DELGADO: Bea.
7 MS. JAMES: No.
8 MR. DELGADO: Jerry.
9 MR. DAVIS: No.
10 MR. DELGADO: Tina.
11 MS. ELLOR: No.
12 MR. DELGADO: Tracy.
13 MS. MIEDEMA: No.
14 MR. DELGADO: Joe.
15 MR. SMILLIE: No.
16 MR. DELGADO: Barry.
17 MR. FLAMM: Abstain.
18 MR. DELGADO: Abstain.
19 Kevin? Hugh - sorry.
20 MR. KARREMAN: Yes.
21 MR. DELGADO: Kevin?
22 MR. ENGELBERT: Abstain.

1 MR. DELGADO: Jennifer.

2 MS. HALL: No.

3 MR. DELGADO: Steve.

4 MR. DeMURI: No.

5 MR. DELGADO: And the chair votes
6 yes.

7 MS. WEISMAN: Let's see, we have
8 two abstentions, one absent, and seven noes,
9 and four yeses.

10 MS. JAMES: I count eight noes.

11 MR. DELGADO: So the noes have it,
12 and the motion to amend by inserting the
13 statement already described is lost.

14 Going back to the discussion,
15 Tracy followed by Joe.

16 MS. MIEDEMA: I would like to
17 propose a friendly amendment that we add to
18 our list of risk criteria the factor that any
19 subunit or member earning \$5,000 or more per
20 year presents a higher risk.

21 MR. DELGADO: Second?

22 MR. SMILLIE: Second.

1 MR. DELGADO: Can you state
2 specifically where you want that?

3 MS. MIEDEMA: I'll restate that
4 that should be listed among the risk factors
5 for inspection.

6 MR. DELGADO: Let's talk about the
7 document location specifically.

8 MS. MIEDEMA: That would be number
9 one, page seven I believe, sampling and risk
10 analysis, the bulleted list.

11 They are not in hierarchical
12 order.

13 MR. DELGADO: And it's going to be
14 in exactly the same sentence we had before,
15 correct, Tracy?

16 MS. MIEDEMA: Yes. Actually to be
17 consistent with the way this list is written,
18 it should say simply, earning \$5,000 per year
19 or more.

20 MS. FRANCES: Grossing?

21 MS. MIEDEMA: Grossing.

22 MR. DELGADO: Clarification from

1 Julie, yes? Tracy, are you aware of that,
2 5,000 or more? Right?

3 MS. MIEDEMA: Yes.

4 MR. DELGADO: Okay, it is moved and
5 seconded to amend by inserting the sentence,
6 grossing \$5,000 or more in U.S. organic sales
7 per year in the section titled, one-point
8 inspection, sampling and risk analysis.

9 Discussion? Steve followed by
10 Gary?

11 MR. DeMURI: I like this
12 compromise. I think it's a good place to put
13 it. It puts the onus on the certifiers where
14 it belongs. I think they are all
15 conscientious; they want to do the right
16 thing. And I think this is a great compromise.
17 We need to give the program something they can
18 work with.

19 MR. DELGADO: Hugh.

20 MR. KARREMAN: I'd like to call the
21 question at this time.

22 (Simultaneous speakers.)

1 MR. DELGADO: The previous question
2 you're talking about?

3 MR. KARREMAN: The vote. I'd like
4 to vote on this document.

5 MR. SMILLIE: I will accept that as
6 a friendly amendment.

7 MR. DELGADO: Okay, you accept it
8 as a friendly amendment. So we don't have to
9 vote -- we do have a second, so we do have to
10 vote and proceed.

11 Plus I want to make sure that we
12 have the previous question. Was that the
13 intent of your previous question?

14 MR. KARREMAN: I apologize, Joe, I
15 thought that it was seconded, and we were in
16 discussions, to discuss this. And I said I'd
17 like to call the question on the whole
18 document.

19 MR. DELGADO: We are doing an
20 amendment.

21 (Simultaneous speakers.)

22 MR. DELGADO: If it is agreed with

1 by the board, we can consider this an
2 amendment and forget about --

3 MR. SMILLIE: I accept it.

4 MR. DELGADO: Any other - yes, sir.

5 MR. GIACOMINI: I just had one
6 question. We've had the change underneath
7 that. I was wanting to ask Valerie if she
8 could scroll down and see what essentially the
9 replacement to that first sentence has become.

10 The highest risk subunits are
11 identified and inspected.

12 MS. MIEDEMA: Actually that is
13 struck out, and we are voting on -- it begins
14 --

15 MR. GIACOMINI: No, no, no, once
16 the annual inspection for fringe rate is
17 determined the highest risk subunits are
18 identified and inspected.

19 MR. SMILLIE: That's correct.

20 MR. DELGADO: Questions? Do you
21 have a specific question?

22 We do have a friendly amendment,

1 and it's been stated, and now we have - you
2 are calling the previous question? Now we are
3 talking about the whole document here. Hugh
4 had called for the previous question.

5 MR. KARREMAN: Yes, I even have a
6 second.

7 MR. DELGADO: Called and seconded.
8 The previous question has been ordered - has
9 been moved.

10 All those in favor of voting on
11 the previous question -

12 MR. SMILLIE: I'll defer to Dan,
13 but once he calls the question.

14 MR. DELGADO: The previous question
15 has been moved on.

16 Yes?

17 MR. GIACOMINI: If there is - it
18 was not a motion to call the previous
19 question. It was calling for the question.
20 Unless someone speaks up and continues
21 debating, you can call it without the added
22 vote.

1 MR. DELGADO: I'll take that as a
2 direction, and I'll open the questions to the
3 board of any opposition to the previous
4 question?

5 If not, I'll put the question.

6 And the question is on the motion to approve
7 the document called Certifying Operations with
8 Multiple Production Units, Sites and
9 Facilities under the National Organic Program
10 as described by the chair of the CACC, the
11 committee.

12 And we will start our vote with
13 Dan.

14 MR. GIACOMINI: Yes.

15 MR. DELGADO: Jeff.

16 MR. MOYER: No.

17 MR. DELGADO: Bea.

18 MS. JAMES: Yes.

19 MR. DELGADO: Jerry.

20 MR. DAVIS: Yes.

21 MR. DELGADO: Tina.

22 MS. ELLOR: Yes.

1 MR. DELGADO: Tracy.

2 MS. MIEDEMA: Yes.

3 MR. DELGADO: Joe.

4 MR. SMILLIE: Yes.

5 MR. DELGADO: Barry.

6 MR. FLAMM: Yes.

7 MR. DELGADO: Hugh.

8 MR. KARREMAN: Yes.

9 MR. DELGADO: Kevin.

10 MR. ENGELBERT: No.

11 MR. DELGADO: Jennifer.

12 MR. DELGADO: Steve.

13 MR. DeMURI: Yes.

14 MR. DELGADO: Julie.

15 MS. WEISMAN: Yes.

16 MR. DELGADO: And the chair votes

17 yes.

18 MR. MOYER: Okay, Mr. Chairman, we

19 have two noes, 12 yeases, and one absent.

20 MR. DELGADO: Okay, the yeas have

21 it, and the motion is agreed to. And

22 congratulations to all of us for what

1 wonderful discussion.

2 We can move on to a well-deserved
3 break. WE are way behind schedule, and we'll
4 take - oops, sorry, that's right, I guess we
5 have a request from the chair of the CACC, and
6 you want to proceed with the next.

7 MS. FRANCES: I need a break.

8 MR. DELGADO: Make it quick.

9 MR. SMILLIE: At this time the
10 committee in its meeting has reconsidered our
11 recommendation for 100 percent, and we'd like
12 to withdraw that recommendation and take it
13 back to committee for further use based on the
14 excellent public input we got on that.

15 So we'll bring that forward at the
16 spring meeting.

17 MR. DELGADO: And it is the
18 understanding that you will add that to your
19 work plan.

20 MR. SMILLIE: Absolutely.

21 MR. DELGADO: On that note, let's
22 take a well deserved break. Five minutes.

1 We'll see you in here at 10:23.

2 (Whereupon, the above-entitled
3 matter went off the record at
4 10:20 a.m. and resumed at 10:33
5 a.m.)

6 MR. DELGADO: All right, we are
7 continuing with our program, and now it's the
8 turn of the crops committee to discuss the
9 proposals. And on that note, Mr. Davis.

10 JOINT CROPS & COMPLIANCE, ACCREDITATION AND
11 CERTIFICATION COMMITTEE

12 MR. DAVIS: Thank you, Mr. Chair.

13 The first action is a joint crops
14 and CACC committee document with further
15 guidance on commercial availability of organic
16 seed.

17 The joint committee would like to
18 present a couple small edits to the document
19 which Valerie should have on screen.

20 The only changes are on page four
21 - no it's actually on page five, the last
22 page. I pointed out yesterday there is kind

1 of a relict artifact left from a previous
2 addition of this. So the sentence was deleted
3 as shown in strike-through there: producers
4 using nonorganic varieties not appearing on
5 the database will need to provide
6 justification for such use. It does not make
7 any sense in there anymore. Once we - that's
8 from a previous addition and now does not
9 belong there any more.

10 The only other change would be in
11 point number two there on the same page, where
12 it says, buyers of organic agricultural
13 products. For additional clarity we wanted to
14 add, buyers and/or processors. Processors are
15 buyers, but some of the public comment kind of
16 pointed out that that was an important point,
17 so we added that. And again, two other places
18 in that same paragraph: buyer/processor was
19 inserted there.

20 Other than that we are satisfied
21 as a joint committee with this document, and
22 I move that the board accept this

1 recommendation.

2 MR. MOYER: I'll second that
3 motion.

4 MR. DELGADO: It is moved and
5 seconded to approve the document called:
6 Commercial availability guidance regarding the
7 sourcing of organic seed.

8 Discussion? Any questions?
9 Steve.

10 MR. DeMURI: I would like to hear
11 your thinking behind the additional processor
12 statement in the organic seed.

13 MR. DELGADO: Jerry.

14 MR. DAVIS: The thinking is that in
15 that section it involves the buyers of organic
16 agricultural products. We feel that by adding
17 that extra statement, processors, it's not
18 changing anything. The processor in this case
19 is the buyer. It's just whether - it doesn't
20 change it at all, it just highlights the
21 processors as one example of a buyer.

22 MR. SMILLIE: And it brings them

1 into the picture, also. We want them to be --
2 to share the pain, or the gain.

3 (Laughter.)

4 MR. DELGADO: Thank you. Any other
5 questions? Comments? Ready for the question?

6 And the question is on the motion
7 to approve -- guidance regarding the sourcing
8 of organic seed, Section 205.204.

9 And I'll start taking the vote
10 with Dan - I'm sorry, Jeff.

11 MR. MOYER: Yes.

12 MR. DELGADO: Bean.

13 MS. JAMES: Yes.

14 MR. DELGADO: Jerry.

15 MR. DAVIS: Yes.

16 MR. DELGADO: Tina.

17 MS. ELLOR: Yes.

18 MR. DELGADO: Tracy.

19 MS. MIEDEMA: Yes.

20 MR. DELGADO: Joe.

21 MR. SMILLIE: Yes.

22 MR. DELGADO: Barry.

1 MR. FLAMM: Yes.

2 MR. DELGADO: Hugh.

3 MR. KARREMAN: Yes.

4 MR. DELGADO: Kevin.

5 MR. ENGELBERT: Yes.

6 MR. DELGADO: Jennifer.

7 MS. HALL: Yes.

8 MR. DELGADO: Steve.

9 MR. DeMURI: Yes.

10 MR. DELGADO: Julie.

11 MS. WEISMAN: Yes.

12 MR. DELGADO: Dan.

13 MR. GIACOMINI: Yes.

14 MR. DELGADO: And the chair votes

15 yes.

16 MR. MOYER: Mr. Chairman, we had

17 zero noes, 14 yeses, one absent.

18 MR. DELGADO: The ayes have it, and

19 the motion is agreed to. Let's go on to the

20 next point. We continue with the crops

21 committee.

22 MR. DAVIS: The next one would be

1 materials. The first one on the list would be
2 tetracycline, tetracycline hydrochloride to be
3 specific. The committee met this morning and
4 discussed the public comment that was received
5 and the discussions yesterday on the relative
6 merits of leaving the petition as is for - as
7 a petition for adding tetracycline -
8 oxytetracycline hydrochloride specifically,
9 for fire blight control only on the national
10 lands to apply 601I leaving it as it stands
11 versus the idea of changing it to amend the
12 annotation of the existing material on the
13 list, which is tetracycline - oxytetracycline
14 calcium. This is a different material,
15 different CAS number, we felt it would be
16 problematic to go about it that way to list -
17 to present it as a - just an addendum change -
18 an annotations change, excuse me - and prefer
19 to just let it go forward as is.

20 MR. DELGADO: So you want to state
21 the motion?

22 MR. DAVIS: The motion would be to

1 -

2 MR. DELGADO: You are moving to
3 add? You are going with the addition of this
4 material, correct?

5 MR. DAVIS: Right. The motion is
6 to add this material to the national list as
7 stated on the recommendation.

8 MR. MOYER: I'll second it.

9 MR. DELGADO: Seconded. It is
10 moved and seconded that - you have a question?
11 State the question?

12 Let me state the question. I was
13 confused by the indication there. It is moved
14 and seconded to add tetracycline -
15 oxytetracycline hydrochloride for fire blight
16 control only onto the national list, Section
17 205.601(I).

18 Discussion? Joe?

19 MR. SMILLIE: Sorry, but I'm a
20 little bit confused on this in two areas. The
21 first area is, and correct me where I'm wrong,
22 Jerry and Jeff, but the first area is, if we

1 added it as an annotation which you are not
2 going to do, but if we had done that then it
3 would provide a level playing field for the
4 petitioner but would not extend the use of
5 tetracycline in general; it would sunset at
6 the same time as the current material is going
7 to sunset; is that correct?

8 MR. DAVIS: That is correct.

9 MR. SMILLIE: But you decided not
10 to do that? You have decided not to change
11 the annotation?

12 MR. DAVIS: We went with the
13 original petition which was to add this
14 material?

15 MR. GIACOMINI: Could we check with
16 the program on that issue? It seems to me a
17 reevaluation of this substance and this
18 listing by the board could reset that clock.
19 Could we please ask the program for
20 clarification on that?

21 MR. DELGADO: Certainly -- comment
22 on that for us. If we change the annotation

1 would it extend in anyway the sunset
2 provisions on that? Of the calcium materials
3 in this case?

4 MR. GIACOMINI: If it's a
5 reevaluation of an existing list to change an
6 annotation, is that considered a review by
7 this committee of this substance? And if that
8 annotation is changed in the Federal Register
9 would that reset the clock?

10 MR. MATTHEWS: We don't believe it
11 would.

12 MR. DELGADO: The program does not
13 believe that would be affected. So Joe, with
14 that statement, is that clarified?

15 MR. SMILLIE: Rather than get
16 caught up in parliamentary language, here is
17 my intent, and sorry, maybe I'm not phrasing
18 it properly. My intent is to offer a level
19 playing field to the petitioner. That doesn't
20 extend to the use of tetracycline. So my vote
21 would be, I want to see the petitioner get a
22 level playing field, but if that means

1 extending the use of tetracycline I would vote
2 no.

3 So I want to vote my intention,
4 which is to give the petitioner a level
5 playing field with a competitor who uses the
6 same product currently allowed under the
7 regulation, but if that's best accomplished by
8 adding this material, then I could be
9 comfortable with that. But if by adding the
10 material we move the sunseting of that
11 tetracycline farther along then I wouldn't be
12 comfortable.

13 Am I explaining myself correct?

14 MR. DELGADO: Hugh.

15 MR. KARREMAN: I understand what
16 you're saying totally, Joe, and as to the
17 rationale, I feel the same way. I think that
18 we need to look at this material in the way
19 we're looking at it, and it's tetracycline is
20 the active compound. The salt of this
21 particular tetracycline is kind of to level
22 the playing field, but the active is

1 tetracycline. So if it doesn't reset the clock
2 - and it shouldn't, it should not, because
3 tetracycline is already on there, and we are
4 just kind of saying, well, this color of
5 tetracycline is -- not to get any color,
6 sorry, sorry -- but you know that this is just
7 embellishing what is already there, but the
8 main top one is going to go away, whenever it
9 does. I agree with that and I hope it is that
10 way, if that is the motion; I want to hear
11 that for sure.

12 MR. DELGADO: Dan and Jeff.

13 MR. GIACOMINI: I agree with Joe
14 and Hugh, and I think that as Gerry described,
15 whether it was problematic depends on how the
16 annotation is attacked. If the annotation is
17 attacked by adding this substance to the list
18 that is already there, of adding a second item
19 in the parentheses, you have a CAS number
20 problem, and you have other problems.

21 If the annotation is attacked by
22 deleting that in the parentheses, I don't

1 think you have that problem. I think you
2 accomplish the same thing. I think you level
3 the playing field, and I am - maybe I'm being
4 a little schizophrenic, but I have a problem
5 adding a separate listing. I'm not
6 comfortable adding another item in the
7 annotation. I'm very comfortable deleting
8 that between the parentheses, and at the same
9 time I have no problem at all if at the next
10 meeting we have a petition to remove
11 tetracycline, and I vote for that to happen.

12 I have no contradictions in all
13 those things.

14 MR. DELGADO: Joe.

15 MR. MOYER: Yes, two points. One
16 is, I believe at the last meeting when this
17 was discussed, the program did tell us that it
18 reset the clock. So I do think I'd want a
19 clarification on that before we vote.

20 The second point is, I think
21 removing bracketed information on annotations
22 is a little bit of a risky slippery slope.

1 There are reasons that many of these
2 annotations were put on, and different
3 formulations of different material react
4 differently in the environment, and within the
5 context within which they are being applied.

6 And I just think we have to be
7 careful as we look at all these materials that
8 we don't just look at base ingredients and
9 assume that everything else that is being done
10 there is okay moving forward.

11 MR. DELGADO: Bea followed by Hugh.

12 MS. JAMES: I would agree with what
13 Jeff just said, and because it was clear
14 yesterday during comment that it was a
15 separate CAS number that it should be looked
16 at separately.

17 MR. DELGADO: Hugh?

18 MR. KARREMAN: I'm not an
19 agronomist, obviously, but I would honestly,
20 I understand what you are saying, Jeff, but
21 it's tetracycline; it's not the hydrochloride.
22 And it's a different CAS number. It could

1 reset the clock. I would rather just see that
2 parenthesis taken out of there. And it's
3 tetracycline, whoever set it, let's kill it
4 soon, but let's not reset clocks and all that
5 if we don't have to.

6 MR. DELGADO: Barbara?

7 DR. ROBINSON: Well, I think to
8 your point, Jeff, on the annotation, I think
9 the point is that the annotation is for the
10 purpose of the tetracycline, and the purpose
11 is for fire blight control only. That's
12 really what you are annotating here. It's
13 tetracycline for fire blight control; that's
14 what you want.

15 MR. DELGADO: It's actually not the
16 annotation. Just for clarification, it's
17 actually the title -

18 DR. ROBINSON: The original
19 annotation says, tetracycline in parenthesis,
20 oxytetracycline calcium complex. What you
21 want - what you'd be doing is just removing
22 that parenthetical, oxytetracycline calcium

1 complex. So you'd be left with tetracycline
2 for fire blight control only, which would
3 allow the forms of tetracycline, which is what
4 the petitioner has asked for: tetracycline.

5 MR. MOYER: But it does have a
6 separate CAS number, and is for all intents
7 and purposes.

8 DR. ROBINSON: Right, but EPA says
9 that these forms are all functionally
10 equivalent for fire blight control. That's
11 what the petitioners said, so that's what we'd
12 be allowing under the same clock.

13 MR. MOYER: And the second question
14 was whether the clock will be reset as you
15 stated, Jeff, and the question again is no -
16 the answer is no.

17 DR. ROBINSON: And that's what we
18 would put in the rule. That the clock does
19 not change.

20 MR. DELGADO: The clock does not
21 change. Bea followed by Jennifer and then
22 Jerry.

1 MS. JAMES: So my question for
2 Jerry then is, by creating this level playing
3 field are we then making it so that there are
4 two forms of tetracycline that are being used?

5 MR. DELGADO: Jerry?

6 MR. DAVIS: Effectively I think the
7 petitioner stated it accurately when they said
8 that there would be two forms of tetracycline,
9 but the overall use pattern of tetracycline
10 would not increase. There would just be a
11 substitutionary effect at the whim of the
12 marketplace on which one they wanted to
13 choose.

14 MR. DELGADO: Jennifer.

15 MS. HALL: Just for clarification,
16 the -- is not here, did - oh, he said he was
17 leaving, sorry - he did assess this and say
18 yesterday that he did not intend to reset the
19 clock; that the standing sense, that was fine.

20 MR. DELGADO: Steve.

21 MR. DeMURI: Jerry, there are other
22 members that are experts in this area, are

1 there other forms of tetracycline that would
2 fall into this category later on?

3 MR. DELGADO: Jerry.

4 MR. DAVIS: I can't state that for
5 sure. I don't remember from the EPA documents
6 that we went over whether there are additional
7 forms. You'd have to ask that maybe of the
8 petitioner if you wanted to know that.
9 There's none on the marketplace that I know,
10 but I don't know if there are technical forms
11 that could arise.

12 MR. DELGADO: Could the petitioner
13 please address that question?

14 MR. RICHARDSON: Paul Richardson
15 with AgroSource. And there are currently only
16 the oxytetracycline base material,
17 oxytetracycline hydrochloride and
18 oxytetracycline calcium registered with EPA.
19 And those are the only forms that I would be
20 aware of that would potentially be used in
21 agriculture, and even the base is not used in
22 agriculture, because its form is really just

1 the hydrochloride or the calcium.

2 MR. DELGADO: Tina.

3 MS. ELLOR: And that was basically
4 question and what came up in our discussions
5 is that we didn't know how many forms there
6 were, and if you took the parenthetical, you
7 know -- we didn't know what kind of door we'd
8 be opening, and really felt like we had to
9 review all of those individually for their
10 effects on the environment.

11 MR. DELGADO: Bea.

12 MR. DAVIS: In reading the EPA
13 documentation they do not delineate the
14 different forms of tetracycline as having any
15 different environmental or human health
16 effects.

17 MR. DELGADO: Bea?

18 MS. JAMES: My question is, why do
19 we want to create a level playing field for a
20 material that we don't think should be on the
21 list anyway - some of us?

22 MR. DELGADO: Joe.

1 MR. SMILLIE: Because it's just
2 fair.

3 MS. JAMES: In one aspect.

4 MR. DELGADO: Hugh.

5 MR. KARREMAN: Bea, I guess the
6 intent, roughly stated by a few of us here, is
7 to get rid of tetracycline. His petition and
8 his public comment basically said, he's
9 squeezed out of market price because - it's to
10 be just and fair. That's why I agree. And
11 I'm not even in favor of this material, but I
12 agree with that rationale.

13 MS. JAMES: So is our duty to be
14 just and fair to the manufacturer or to the
15 organic principles?

16 MR. KARREMAN: Well, right now, an
17 organic producer, whatever the crop it's used
18 on will be buying it from the other guy. It's
19 not like they are not going to use it. He's
20 just asking that he has fair competition in
21 the marketplace. It's not like it's not
22 allowed right now in organic production; it

1 is.

2 MR. DELGADO: Barry.

3 MR. FLAMM: One of the things we
4 discussed at length in committee was the
5 intent to remove them - these substances
6 through the sunset process. And in that
7 connection we discussed what kind of message
8 approving any new form.

9 And the petition we had before us
10 is what we addressed, and addressed carefully
11 the second go-round. We did it at the last
12 meeting, and then pulled the vote at the last
13 minute, and we are sort of going around the
14 same block again.

15 I'm concerned if we change the
16 committee's deliberation on this.

17 MR. DELGADO: Barbara.

18 DR. ROBINSON: Mr. Chairman, we
19 just consulted with our attorney, and it will
20 change the clock. It will change the clock.
21 It will change the clock. Your annotation
22 change does change the clock.

1 MR. MATTHEWS: Yes, it's considered
2 - even by removing the annotation it's looked
3 at as if you have reconsidered the material
4 and therefore the clock resets.

5 DR. ROBINSON: I apologize.

6 MR. DELGADO: Dan.

7 MR. GIACOMINI: If we are held to
8 the standard of only reevaluating new material
9 at sunset, and I understand that everybody is
10 allowed to make their vote - I'm not aware of
11 a lot of new information that has come to
12 light or will or likely will come to light.
13 We know what this does, and we would like to
14 get it off. The way to get it off is a
15 petition to remove. It's still a matter of
16 what is fair and just and equitable. We're
17 not adding anything new.

18 I question whether we are
19 affecting the rate - the point in time when we
20 can remove it by the fact that we are changing
21 - resetting the clock and redoing sunset. I
22 still think it's the right thing to do. I

1 still hope somebody submits a petition to
2 remove it.

3 MR. DELGADO: Hugh.

4 MR. KARREMAN: When is the sunset -
5 when will the current listing go?

6 MR. DELGADO: Jeff.

7 MR. MOYER: Just to follow up on
8 what Barry said, I think as a board we have to
9 be careful about the message we send to the
10 community when we reevaluate this, and that is
11 what we are doing is reevaluating it and
12 extending the life expectancy of this material
13 for another two years, we have to be careful
14 about that. And that did come up in our
15 deliberations in our committee - five more
16 years. Three from the previous.

17 MR. DELGADO: Any other questions
18 or comments?

19 The motion stands then as it is?
20 Okay, I'll put the motion, and the question is
21 on the motion to list tetracycline -
22 oxytetracycline hydrochloride for fire blight

1 control only on the national list, Section
2 205.601.

3 And we'll start taking the vote
4 with Bea?

5 MS. JAMES: No.

6 MR. DELGADO: Jerry.

7 MR. DAVIS: No.

8 MR. DELGADO: Tina.

9 MS. ELLOR: No.

10 MR. DELGADO: Tracy.

11 MS. MIEDEMA: Yes.

12 MR. DELGADO: Joe.

13 MR. SMILLIE: No.

14 MR. DELGADO: Barry.

15 MR. FLAMM: No.

16 MR. DELGADO: Hugh.

17 MR. KARREMAN: No.

18 MR. DELGADO: Kevin.

19 MR. ENGELBERT: No.

20 MR. DELGADO: Jennifer.

21 MS. HALL: No.

22 MR. DELGADO: Steve.

1 MR. DeMURI: No.

2 MR. DELGADO: Julie.

3 MS. WEISMAN: No.

4 MR. DELGADO: Dan.

5 MR. GIACOMINI: No.

6 MR. DELGADO: Jeff.

7 MR. MOYER: No.

8 MR. DELGADO: And the chair votes

9 no.

10 MR. MOYER: Mr. Chairman, we have
11 one yes, 13 noes, and one absent.

12 MR. DELGADO: The noes have it, and
13 the motion to list tetracycline
14 oxytetracycline hydrochloride in Section
15 205.601(I) of the list is lost.

16 Let's proceed with the next.

17 MR. DAVIS: The next material is
18 sorbitol octanoate, and the petition is -
19 states, to add sorbitol octanoate as insect
20 control on the national list, Section
21 205.601(e).

22 We have no further statement to

1 make about this as a committee. We believe
2 that to add it because it is like sucrose
3 octanoate ester a little bit, and that it's
4 some of the reasoning that was presented in
5 public comment is not sufficient to overturn
6 our original recommendation, and would like to
7 present - have it be accepted by the board for
8 a vote.

9 MR. DELGADO: Okay, make the
10 motion, please.

11 MR. DAVIS: I move that we vote on
12 adding sorbital octanoate as an insect control
13 on the national list, Section 205.601(e).

14 MR. DELGADO: Any second?

15 MS. ELLOR: Second.

16 MR. DELGADO: Seconded by Tina. It
17 is moved and seconded to add sorbital
18 octanoate as insect control on the national
19 list on Section 205.601(e).

20 Discussion?

21 MR. SMILLIE: Was there a TAP done
22 on this?

1 MR. DELGADO: Jerry?

2 MR. DAVIS: Yes.

3 MR. DELGADO: Any other questions?

4 Comments?

5 Ready for the question? Joe? No?

6 The question is on the motion to
7 list sorbital octanoate as an insect control
8 on the national list, Section 205.601(e). And
9 we will start taking the vote with Jerry.

10 MR. DAVIS: No.

11 MR. DELGADO: Kristine.

12 MS. ELLOR: No.

13 MR. DELGADO: Tracy.

14 MS. MIEDEMA: Yes.

15 MR. DELGADO: Joe.

16 MR. SMILLIE: Yes.

17 MR. DELGADO: Barry.

18 MR. FLAMM: No.

19 MR. DELGADO: Hugh.

20 MR. KARREMAN: Yes.

21 MR. DELGADO: Kevin.

22 MR. ENGELBERT: No.

1 MR. DELGADO: Jennifer.

2 MS. HALL: Yes.

3 MR. DELGADO: Steve.

4 MR. DeMURI: Yes.

5 MR. DELGADO: Julie.

6 MS. WEISMAN: Yes.

7 MR. DELGADO: Dan.

8 MR. GIACOMINI: Yes.

9 MR. DELGADO: Jeff.

10 MR. MOYER: No.

11 MR. DELGADO: Bea.

12 MS. JAMES: No.

13 MR. DELGADO: And the chair votes

14 no.

15 MR. MOYER: I have seven noes,
16 seven yeses, one abstention - I'm sorry, one
17 absent, not abstention.

18 MR. DELGADO: The noes have it and
19 the motion to list sorbitol octanoate as
20 insect control on the national list, Section
21 205.601(e) is lost.

22 Go on to the next section, please.

1 Jerry, you seem to have a
2 question.

3 MR. SMILLIE: I just wanted to
4 review it. The motion was to list, and the
5 motion did not gain two thirds?

6 MR. DELGADO: Correct. We had
7 seven -

8 (Simultaneous speakers.)

9 MR. DELGADO: The motion was lost.
10 The motion was to list, and did not have the
11 necessary votes for that.

12 Any other questions on that
13 matter? Very well, let's continue with the
14 next point, Mr. Chairman.

15 MR. DAVIS: The next petition is
16 for adding pelargonic acid as an herbicide in
17 farm -- maintenance, roadways, ditches, right
18 of ways, building perimeters, and ornamental
19 crops on the national list, Section
20 205.601(e)(1).

21 I have a question for the
22 materials committee chair. On this material,

1 premeeting the petitioner anticipating - well,
2 after seeing the board - I mean the committee
3 recommendation and that this committee was
4 rejected at the committee level had asked that
5 it be removed from consideration. And the
6 committee considered that and discussed it.

7 Your thoughts on that topic?

8 MR. DELGADO: So the petitioner,
9 just to clarify, the petitioner would withdraw
10 the petition?

11 MR. GIACOMINI: The petitioner
12 requested to withdraw the petition. I'm not
13 aware of anything in either from the program
14 or within our policy and procedure manual
15 which gives us definitive direction on that
16 matter. I would think that serious
17 consideration should be given to the wishes of
18 the petitioner in this type of request.
19 However, I believe that all the matters
20 involved should be considered in granting that
21 request. The petition is in the hands of the
22 committee right now for a vote as it was at

1 the last meeting when the committee was going
2 to recommend a no vote. Is that correct?

3 MR. DELGADO: Yes.

4 MR. GIACOMINI: And the petitioner
5 withdrew it at that time. They brought it
6 forth again with some new information. The
7 committee has again voted to not recommend;
8 the petitioner has decided to withdraw it
9 again.

10 While I fully respect the - I
11 think the committee and the board should fully
12 respect the issues of the petitioner, there
13 are certainly considerations in regard to work
14 hours, man hours performed, effort put into
15 this petition, the extended review that has
16 been done twice, and the potential whiplash
17 effect that we could be feeling as a board if
18 it got to the point where every time a
19 petition was coming up no, it'd just get
20 pulled back and resent in at the next meeting.

21 So with no specific guideline to
22 follow I think that is pretty much in the

1 hands of the crops committee.

2 MR. DELGADO: I'd like to ask the
3 policy committee chair if he has any input in
4 the matter.

5 MR. FLAMM: I'm trying to confirm
6 whether the policy manual says any thing
7 specifically on this point. But I know this
8 is one of the work items for spring to clarify
9 the handling of petitions and so forth.

10 I think I'll have to defer, and
11 have to leave it up to the chair to call it,
12 which I think has been called already by the
13 committee.

14 MR. GIACOMINI: Mr. Chairman?

15 MR. DELGADO: Yes.

16 MR. GIACOMINI: Did you ask the
17 program if they offered any guidance on this
18 matter?

19 MR. DELGADO: Barbara, would you
20 like to add to this?

21 DR. ROBINSON: I apologize, I was
22 conferring with Rick about something - another

1 option that we could consider, and another
2 vote that we had already made. So I don't
3 know what your question is?

4 MR. GIACOMINI: We have a petition
5 that has been reviewed now twice, and each
6 time it gets to the board level with a
7 recommendation to not list it, the petitioner
8 pulls it back.

9 We acknowledged that request the
10 first time and did not vote. There wasn't
11 anything formal. To do that I think we should
12 generally acknowledge and recognize requests
13 by petitioners, but in consideration of
14 manpower and potential down the road of
15 continuing whiplash I think it's up to the
16 chairman of the cross-committee to decide
17 whether to proceed with that vote or not.

18 DR. ROBINSON: I would concur with
19 that.

20 MR. DAVIS: With all that being
21 said the crops committee discussed that
22 request from the petitioner, and for the

1 reasons highlighted by Dan, we decided to
2 proceed with presenting this making the motion
3 to present this recommendation and be accepted
4 by the board.

5 MR. DELGADO: Okay, can you state
6 the motion, please.

7 MR. DAVIS: The motion is, again,
8 to add pelargonic acid for use as an herbicide
9 in farmstead maintenance, roadways, ditches,
10 right of ways, building perimeters, and
11 ornamental crops on the national list, Section
12 205.601(b)(1).

13 MR. DELGADO: Is there a second?

14 MR. MOYER: I'll second that.

15 MR. DELGADO: Seconded by Jeff.

16 It's been moved and seconded to add pelargonic
17 acid for use as a herbicide in farmstead
18 maintenance, roadways, ditches, right of ways,
19 building perimeters and ornamental crops on
20 the national list, Section 205.601(b)(1).

21 Discussion? Tina, followed by
22 Tracy.

1 MS. ELLOR: This is more a concern,
2 and maybe the policy committee can take this
3 up, that did petitioner know we could not
4 withdraw the petition? The petitioner knew we
5 were going to consider it at this meeting?

6 MR. DELGADO: Tina, can you get
7 closer to the microphone?

8 MS. ELLOR: Did the petitioner know
9 that we were going to be considering this at
10 this meeting?

11 MR. DAVIS: It's on the agenda.

12 MS. ELLOR: Oh, okay, that's fine.

13 MR. GIACOMINI: Mr. Chairman, the
14 request to withdraw was only, what, two weeks
15 ago? About? Since all of this has been
16 published.

17 MR. DELGADO: So the committee knew
18 the outcome of the committee decision for a
19 considerable time.

20 MS. ELLOR: Okay.

21 MR. DELGADO: Okay, we're going
22 back to Tracy.

1 MS. MIEDEMA: During the
2 intervening two weeks was the petitioner
3 notified that we were in fact going to proceed
4 with the vote so they knew to be here today to
5 provide additional information?

6 MR. DELGADO: Valerie, can you
7 answer that question?

8 MS. FRANCES: Bob just said that
9 Fisher was invited to the meeting via the
10 meeting notice.

11 MR. DELGADO: Does that clear it
12 up, Tracy?

13 MS. MIEDEMA: I guess I feel the
14 petitioner should be granted due process, and
15 they did fulfill their end of the bargain.
16 They withdrew their petition. They came back
17 with additional information in the process,
18 and seemed to be indicating that they believed
19 they can continue to flesh out their case.
20 And it's quite a burden on the petitioner to
21 do this. I don't know that we are going to
22 see a rash of people that would be this

1 engaged.

2 But I do understand what we are
3 kind of setting ourselves up for. In any
4 event, I am going to abstain from this because
5 I feel I don't have enough information from
6 petitioner.

7 MR. DELGADO: Very well. Jerry,
8 would you like to comment on that?

9 MR. DAVIS: No, I think the
10 discussion is health, and am willing to let
11 everyone state their case.

12 MR. DELGADO: Okay, any other
13 questions? Comments? Ready for the question?

14 MR. DAVIS: I would say one thing.

15 MR. DELGADO: Yes, Gerry.

16 MR. DAVIS: I am concerned that
17 considering that this is - the petitioner is
18 Dow Chemical I believe, very large company.
19 I'm shocked that they did not come. So I
20 think that in a way makes a statement that
21 perhaps they are under the impression that it
22 was not going to be voted on and given serious

1 consideration.

2 MR. DELGADO: Any other questions,
3 comments? Ben?

4 MR. GIACOMINI: I think we need to
5 recognize that there - within the motion there
6 is no statement - no vote to withdraw. Even
7 an abstention is just setting yourself aside
8 and calling yourself absent - I mean calling
9 yourself present, and allowing the rest of the
10 vote to go to two thirds. It is still an up
11 or down vote of whether it is listed or
12 rejected. It is not within the motion that we
13 are considering right now to have the option
14 to withdraw, and to not take action at this
15 time. Second time they've done it.

16 MR. DELGADO: Yes, Valerie.

17 MS. FRANCES: I would just like for
18 the committee to state for the record whether
19 they thought the additional information
20 provided by the petitioner for this second
21 review of this material was truly new
22 information.

1 MR. DELGADO: Jerry.

2 MR. DAVIS: In our opinion, no.

3 The information they submitted was not new
4 information. We asked them to - well, let me
5 back up just a little bit. This section of
6 the national list pertains to herbicides, and
7 specifically soap-based herbicides. So far at
8 least that is the only classification of
9 synthetic herbicides on the national list. So
10 which is why it has the non-crop usage and
11 ornamental crop only designation on it.

12 The additional information we
13 asked for was, can you tell us if this is a
14 soap? Can it be classified as a soap? And
15 they never answered that question. They did
16 submit more information, but it was more of
17 the same. It was additional information,
18 label information, various things. But it
19 didn't address the question of, where do we
20 put this? What part of the list does this go
21 on?

22 And through our own study on what

1 soaps are, and particularly since we had it in
2 another petitioner, petitioning ammonium
3 nonanoate, it's a soap. That's a soap; that
4 fits within the EPA classification of a soap.
5 But we don't understand why the petitioner for
6 pelargonic acid never said, no, this really
7 isn't a soap, or it is. They just did not
8 answer the question.

9 MR. DELGADO: Dan, you want to
10 clarify?

11 MR. GIACOMINI: Just for
12 clarification on what Jerry just said, the
13 listing of soap-based herbicides is a listing
14 - specific listing on the national list, but
15 it's not just a listing on a national list.
16 It is the listing within OFPA of allowable
17 herbicides, allowable synthetic herbicides.
18 So not being a soap is not just a matter of
19 what we already have on the national list; it
20 is significant implications to OFPA.

21 MR. DELGADO: Kevin followed by
22 Joe.

1 MR. ENGELBERT: I just want to
2 reiterate to the board the amount of time that
3 has been spent on this. And there are a lot
4 of other materials that we have to deal with
5 in the crop committee, and the time spent on
6 this takes away from that. If the motion
7 continues through and this is defeated, it's
8 not gone forever. It can be re-petitioned at
9 some point. That's why the board has decided
10 to move forward. We've put a lot of time and
11 effort into this. A vote needs to be taken in
12 our opinion, and then if there is new
13 information available at some point in time,
14 it may come back.

15 But we think this is one of those
16 things that as you were talking about earlier
17 about pulling things off the table, it's time
18 for a full board vote on this item for this
19 material.

20 MR. DELGADO: Can.

21 MR. GIACOMINI: But the way this
22 vote is, that will be a precedent setting

1 action of either listing or denying. That's
2 different than as I talked about on the tabled
3 issues, just moving to lay this petition on
4 the table would essentially kill it and set it
5 aside and we never have to see it again, until
6 a petition is refiled. But that would not
7 have the same precedent-setting status of
8 having been rejected at the board level.

9 MR. KARREMAN: Sorry for being a
10 little slow, Dan, following you, but could you
11 repeat what you said about how this affect
12 OFPA, or somehow the interaction there,
13 please?

14 MR. GIACOMINI: Well, the listing
15 in OFPA, the soap-based herbicide is the
16 category listing in OFPA. It's not just that
17 it's a current category on the national list.
18 It's OFPA. And that is the only listing of
19 herbicides I believe for synthetic in OFPA.
20 So the fact that it is not a soap is
21 significant.

22 MR. DELGADO: Jeff.

1 MR. KARREMAN: So it's not a soap.

2 MR. MOYER: Thanks, Dan, that's
3 what I was going to say. This is not a soap;
4 it's an acid. And they could not prove to us
5 that it was a soap, so there is no place to
6 put it. It's not allowed even in OFPA. There
7 is no category to put it under.

8 MR. DELGADO: Any questions?
9 Barbara, you wanted to add to the comment?

10 DR. ROBINSON: The production
11 contains an active synthetic ingredient in one
12 of the following categories and soaps is one
13 of them.

14 MR. DELGADO: Barbara, can you get
15 closer to a microphone.

16 DR. ROBINSON: Oh, sorry. Hugh, in
17 order to be put on the national list in crops,
18 the substance is used in production under the
19 law, the substance is used in production and
20 must contain an active synthetic ingredient in
21 one of the following categories, and one of
22 those is soaps.

1 Well, it is a soap. I mean it
2 would have to be a soap, or it would have to
3 fall in one of the other categories. And that
4 was the question, that was apparently the
5 question the petitioner failed to answer.

6 MR. DELGADO: Jerry.

7 MR. DAVIS: It's a problem of
8 nomenclature a little bit. I was handed a
9 document that has on the EPA 40 CFR what is
10 that 180.950 listing of inerts of minimal
11 concern for the ammonium nonanoate. And right
12 next to it they put in parentheses, pelargonic
13 acid. Now I'm totally confused, because they
14 are not identical, but nomenclature wise it
15 seems like there is a little bit of overlap
16 here. I really wouldn't mind asking a
17 question of Brian Baker if you had any comment
18 at all on helping us sort this out?

19 MR. DELGADO: Brian?

20 MR. SMILLIE: I just want to double
21 check. You had a TAP on this, right?

22 MR. DAVIS: Oh, yes.

1 MR. SMILLIE: And the TAP didn't
2 answer that question?

3 MR. DAVIS: The TAP did not support
4 it was a soap.

5 MR. SMILLIE: Oh, so the TAP
6 asserted it was not a soap?

7 MR. DELGADO: Brian Banker, please,
8 step up to the microphone.

9 MR. BAKER: Brian Baker, research
10 director, Organic Materials Review Institute.
11 We've looked at this particular active
12 substance. It is OMRI's opinion that soaps
13 are alkali salts of fatty acids, and that the
14 fatty acid component by itself is not a soap.
15 It is OMRI's opinion that pelargonic acid is
16 not a soap.

17 MR. DELGADO: Thank you. Jerry?

18 MR. DAVIS: Yes, that repeats our
19 concern at the committee level of venturing
20 into new territory, trying to add a material
21 that does not fit an OFPA category because it
22 is not a true soap-based herbicide. And that

1 is why we did not want to deal with it and
2 just let it be withdraw. We wouldn't like to
3 see a future board have to go through this all
4 again, because it is quite confusing and not
5 easy to sort out. I thought it was time to
6 deal with it.

7 MR. DELGADO: Valerie.

8 MS. FRANCES: In EPA's own document
9 it declared that pelargonic acid is not a
10 soap. They indicate it's a precursor, can be
11 used as a precursor to a soap, and they do
12 indicate that. But clearly the board needs to
13 get clarification from EPA as to why it is on
14 the inert of minimal concern there as a
15 parentheses. Is that something that you feel
16 is essential to the question.

17 MR. DAVIS: That is brand new
18 information that was just handed to me.

19 MR. DELGADO: Hugh.

20 MR. KARREMAN: Thank you for that,
21 but I don't think that is germane to this
22 petition not being a soap to get on OFPA. It

1 is interesting, but that is not the question
2 right here.

3 MR. DELGADO: Clarification -- Any
4 other questions? Comments? Joe.

5 MR. SMILLIE: Call the question.

6 MR. DELGADO: The question is on
7 the motion to list pelargonic acid for use as
8 a herbicide in farmstead maintenance,
9 roadways, layaways, building permitters and
10 ornamental crops on the national list, Section
11 205.601(b)(1).

12 Start the vote with Tina.

13 MS. ELLOR: No.

14 MR. DELGADO: Tracy.

15 MS. MIEDEMA: No.

16 MR. DELGADO: Joe.

17 MR. SMILLIE: No.

18 MR. DELGADO: Barry.

19 MR. FLAMM: No.

20 MR. DELGADO: Hugh.

21 MR. KARREMAN: No.

22 MR. DELGADO: Kevin.

1 MR. ENGELBERT: No.

2 MR. DELGADO: Jennifer.

3 MS. HALL: No.

4 MR. DELGADO: Steve.

5 MR. DeMURI: No.

6 MR. DELGADO: Julie.

7 MS. WEISMAN: No.

8 MR. DELGADO: Dan.

9 MR. GIACOMINI: No.

10 MR. DELGADO: Jeff.

11 MR. SMILLIE: No.

12 MR. DELGADO: Bea.

13 MS. JAMES: No.

14 MR. DELGADO: Jerry.

15 MR. DAVIS: No.

16 MR. DELGADO: And the chair votes

17 no.

18 MR. MOYER: Mr. Chairman, you have

19 14 noes and zero yeses, and one absent.

20 MR. DELGADO: The noes have it, and

21 the motion to list pelargonic acid in Section

22 205.601(e)(1) of the list is lost.

1 The next item.

2 MR. DAVIS: The next material is
3 ammonium nonanoate, which does involve a
4 change - excuse me just a moment - which we
5 presented yesterday as a change, so we can
6 proceed. I don't need to go over that again.
7 Just a nomenclature change. It was originally
8 an ammonium salts of fatty acid, which is what
9 showed on the meeting notice. The petitioner
10 asked it be changed to ammonium nonanoate. We
11 did that nomenclature change and also added
12 the CAS number on the recommendation.

13 This material is a soap-based
14 herbicide. It does fit the classification.
15 And because of that, that is part of our
16 explanation on the recommendation. We put in
17 there that since this material is a soap-based
18 herbicide, the current listing in
19 205.061(b)(1) as annotated would apply to this
20 material which was part of their request is
21 initially, it was only the potassium salts of
22 fatty acids that were listed prior to this.

1 And they wanted their ammonium salts of fatty
2 acids considered the same.

3 Again, we made our presentation
4 yesterday and have not changed our - as a
5 committee changed our stance on this, and
6 would move that the board adopt the
7 recommendation for to add ammonium nonanoate
8 CAS number 63718-65-0 to be allowed as
9 herbicides in organic crop production - excuse
10 me - yes that is the way the petition reads.
11 They want it for all crop production, not just
12 farmstead maintenance.

13 So the motion is to add ammonium
14 nonanoate to be on the national list as
15 herbicide in organic crop production on the
16 national list 205.601.

17 MR. DELGADO: Is there a second?

18 MR. MOYER: I'll second that.

19 MR. DELGADO: It is moved and
20 seconded to add ammonium nonanoate as a
21 herbicide in organic crop production, CAS
22 number specified by the chair and listed on

1 Section 205.601(b)(1) of the list.

2 Discussion? Jeff?

3 MR. MOYER: Point of clarification.

4 Jerry, according to what our working committee
5 came to the conclusion, this material can
6 already be used for farmstead maintenance.

7 MR. DAVIS: Correct.

8 MR. MOYER: As it is it already is
9 on the list and can be used. What they are
10 petitioning for is to now use it on all crop
11 land.

12 MR. DAVIS: Yes, to use it within
13 crops.

14 MR. MOYER: Yes.

15 MR. DELGADO: Any questions on that
16 clarification? Dan?

17 MR. GIACOMINI: I understand,
18 Jerry, I understand you are not a regulation
19 writer, but how do you envision that - I mean
20 is understanding how this would be listed,
21 does that matter - Barbara, I guess, I'll ask
22 you the question.

1 The request is - they are looking
2 at it under (b)(1), and (b)(1) is specifically
3 for homestead. It seems it would have to be
4 in a separate section besides (b)(1) if it was
5 going to get generally used.

6 DR. ROBINSON: Correct. I mean if
7 you want - what, the petition is to add it,
8 say, to be used as an herbicide.

9 MR. DAVIS: No restriction.

10 DR. ROBINSON: So you'd be changing
11 the annotation?

12 MR. DAVIS: Essentially, yes.

13 DR. ROBINSON: Yes, and then of
14 course we'd be resetting the clock.

15 MR. GIACOMINI: Well, but they
16 don't want all herbicide soap based. They are
17 specifically only requesting their substance.
18 And they are specifically - they are not
19 wanting this annotation anyway to the overall
20 group.

21 DR. ROBINSON: What does the
22 current annotation say?

1 MR. GIACOMINI: Well, the current
2 annotation is listed under B, which is, as
3 herbicides, weed barriers, as applicable. And
4 then one is herbicide soap based for use on
5 farmstead maintenance, roadway ditches, right
6 of way, closing perimeters, and ornamental
7 crops.

8 I'm just confused how this - not
9 that it really matters to us - but I'm not
10 clear how this would be listed if it did pass.

11 MR. DELGADO: Jeff?

12 MR. MOYER: Well, you bring up a
13 very good point, Dan. I mean as a committee
14 reviewing this material there is no allowance
15 in the material for using soaps on crops.

16 MR. GIACOMINI: There is an
17 allowance within OFPA though.

18 MR. MOYER: It's not stated within
19 OFPA. It just says soap-based herbicides
20 allowed. It says, for farmstead maintenance.
21 And then we look at what the rule is trying to
22 say. We are looking at a system that is based

1 on a set of production practices, not on
2 products. So there are many other things you
3 can use, and we state those in our evaluation
4 of the petition.

5 There is no allowance in the rule
6 for -

7 MR. GIACOMINI: Well, there is a
8 restriction. In OFPA there is no restriction.

9 MR. MOYER: In the rule there is no
10 allowance.

11 MR. GIACOMINI: Right, there is no
12 place currently to put it.

13 DR. ROBINSON: It's being used as
14 an herbicide.

15 MR. GIACOMINI: Yes, but not within
16 any of those qualifying -

17 MR. MOYER: But not in crops.

18 DR. ROBINSON: On ornamental crops.

19 (Simultaneous speakers.)

20 MR. DELGADO: Point of order.

21 MR. DAVIS: In OFPA soap-based
22 herbicides is a potentially exemptable

1 synthetic material. That's all they say about
2 it. The previous board dealt with one form of
3 a soap-based herbicide previously and added it
4 to the list based on OFPA, with that
5 annotation restricting it to noncrop or no
6 crop use only.

7 So we don't want to get confused
8 between what OFPA says versus what is in the
9 regulations.

10 DR. ROBINSON: OFPA - set aside
11 OFPA, that is the authorization. In order to
12 put it on the national list it had to be in
13 the law, okay? That is the criteria. Now
14 under the regulations there is an allowance
15 for soap-based herbicides. The use is for
16 farmstead maintenance and ornamental crops.
17 And these are herbicides. It is to be used as
18 an herbicide. What has the petitioner asked
19 for?

20 MR. DAVIS: They want to use it -
21 to have that restriction removed.

22 DR. ROBINSON: Without restriction.

1 Without restriction. So you are in effect
2 considering a soap-based herbicide without
3 restriction? All right, so that is what you
4 are being asked to vote on.

5 MR. MOYER: That's a synthetic
6 soap-based herbicide, yes.

7 DR. ROBINSON: Sure.

8 MR. MOYER: It's a synthetic
9 herbicide.

10 DR. ROBINSON: That's what you are
11 voting.

12 MR. DELGADO: Tracy.

13 DR. ROBINSON: Now you can do that.
14 You are not being asked to replace something
15 here - whatever - you can just vote on that.

16 MR. DELGADO: Tracy.

17 MS. MIEDEMA: It seems like the
18 regulation has laid a contour to OFPA already
19 , and that that clearly guides our way on this
20 petition, that it cannot be used on food, and
21 on organic crop production. It's very clearly
22 contoured to be as Barbara said ornamentals

1 only.

2 DR. ROBINSON: And to some extent
3 what you could be saying, the regulation
4 already permits soap-based herbicides to be
5 used on ornamental crops. You are being asked
6 whether or not you want to expand the use of
7 soap-based herbicides. You could - in effect
8 you could say, well, there is already an
9 allowance; we don't need to expand it any
10 further. Or: yes you do want to expand it.
11 That is the question before you.

12 MR. DELGADO: Hugh.

13 MS. FRANCES: Although the
14 petitioner did narrow the question to not all
15 soap-based herbicides but just theirs.

16 MR. DAVIS: That will invite other
17 forms of the soaps and fatty acids to say,
18 okay, us too.

19 MR. DELGADO: Any other questions
20 or comments? Bob?

21 MR. POOLER: Bob Pooler, National
22 Organic Program. A couple of points of

1 clarification here.

2 MR. DELGADO: Use a microphone.

3 MR. POOLER: A few points of
4 clarification here. I believe with the
5 annotation that is currently listed in the
6 regulation reflects EPA's restrictions, and
7 that's why that particular annotation was
8 inserted into the regulations.

9 The question is, the question to
10 you is, did the petitioner get an additional
11 allowance from the EPA, and I don't know if
12 that information is within that petition or
13 not, and the petitioner is not in the room to
14 answer that question.

15 MR. DELGADO: So just to clarify,
16 the petitioner does not have that allowance
17 from the EPA?

18 DR. ROBINSON: I don't know that,
19 and that is something I assume that you - that
20 I have not received.

21 MR. DELGADO: Question from Gerry

22 MR. DAVIS: I'm unclear on what Bob

1 was just saying. Are you talking about the
2 mishap with the listing as approved for
3 organic on the product label. Or are you
4 talking about just general crop usage for
5 nonorganic purposes?

6 MR. POOLER: Well, EPA restricts
7 herbicides, soap-based, for farm use
8 maintenance and for ornamental products. That
9 was the EPA's restrictions on soap-based
10 herbicides.

11 MR. DAVIS: Historically.

12 MR. POOLER: Historically.

13 MR. DAVIS: And you are saying that
14 is what covered the initial board's - that was
15 part of the consideration for why they put
16 that annotation on there?

17 DR. ROBINSON: Correct; this is
18 EPA's restriction.

19 MS. ELLOR: I'd like to request
20 Emily Brown Rosen to address the board on the
21 subject.

22 MR. DELGADO: Emily, if you could

1 approach a microphone.

2 MS. ROSEN: Emily Rosen, PCO. The
3 petitioner's label, I don't know, it should be
4 in your packet, it's this product Razor. They
5 do have a label that says for use on crop
6 production. Originally I think in '95, when
7 the board first looked at soaps, there was not
8 a label for crop production. But this one
9 has a label on crop production.

10 And also the Razor label says that
11 EPA approved it for organic production, even
12 though that was a mistake.

13 MR. DELGADO: Valerie?

14 MS. FRANCES: If I may offer or
15 submit a comment by a couple of commenters and
16 attached to regulations.gov comments that you
17 may have reviewed, or EPA did this, and it was
18 brought up because people were concerned about
19 it, not because they were in favor of it, but
20 a concern..

21 MR. DELGADO: Jerry, any comments?

22 MR. DAVIS: I think it's very clear

1 what we face here. Bob did clarify that the
2 reason for the original annotation which is
3 new information to me and the committee, I
4 believe, we did not go over that, the new
5 information that we are receiving is that that
6 annotation for noncrop usage only was based on
7 a previous EPA restriction for all crops,
8 organic or not, and that is in a period of
9 time changed to where for conventional crops
10 there is now a labeled usage of this within
11 crops, and that's what - probably why we are
12 being asked to consider the change for
13 organic. It's up to the board to decide if
14 they think that is a valid request.

15 MR. GIACOMINI: Does that affect
16 the Crop Committee's desire to proceed with
17 this motion or potentially to withdraw it?

18 MR. DAVIS: It doesn't prompt - you
19 either withdraw it - but it does definitely
20 provides new information that we did not
21 include within our recommendation, historical
22 information on where the original annotation

1 came from.

2 MR. DELGADO: Do you think there
3 is a need to withdraw the recommendation now
4 and study it further? That's Dan's question.

5 MR. GIACOMINI: Can I do it
6 differently?

7 MR. DELGADO: Yes.

8 MR. GIACOMINI: Mr. Chairman, I
9 move that we postpone the vote on this matter
10 until after the Crops Committee has a chance
11 to review the EPA listing on this issue.

12 MR. DELGADO: We have a motion
13 pending, so we will have to -

14 MR. GIACOMINI: The motion pending
15 is a general motion. This is a superseding
16 motion that if it's seconded it would go for
17 a vote.

18 MR. DELGADO: Okay, do we have a
19 second? The motion is for later discussion.
20 No second? Proceed. Steve, you have a
21 question.

22 MR. DeMURI: Just because the EPA

1 changes its position it doesn't change OPFA's
2 position.

3 MR. DAVIS: The only change that I
4 see that's new is that perhaps, and I don't
5 know this for a fact unless someone in the
6 audience was actually there at the NOLB
7 meeting where this was approved, as annotated.
8 We don't know if the - we don't know if the
9 original board - if it had been allowed for
10 crop usage how they would have voted, whether
11 they would have annotated it that way, or if
12 it's only annotated that way as a result of
13 the EPA restriction, just as a matter of
14 course.

15 As far as I know what the
16 committee believes about this material, and we
17 really vetted it and went over and over it,
18 it's another material that got considered
19 twice. It's not like we haven't gone over it
20 a lot. The reason question still remains:
21 this new information is interesting. It might
22 color the vote a little bit and change

1 people's mind, but still the basic question is
2 the same. Should we allowed general use of
3 soap-based herbicides within organic crops.

4 MR. FLAMM: The committee carefully
5 reviewed this material and I don't think this
6 information from Bob would change our decision
7 whatsoever. The impacts, the criteria we went
8 through, I don't think would change at all.

9 MR. DAVIS: That's what I just - I
10 appreciate you backing me up on that. The
11 rest of the Crops Committee is free to chime
12 in.

13 MR. DELGADO: Kevin.

14 MR. ENGELBERT: I would chime in
15 also, and it doesn't change my opinion at all.
16 I'd also like to read a quote from Barbara
17 Robinson from a year ago, at an NOSB meeting,
18 when we were considering sodium carbonate or
19 oxyhydrate, our original crop recommendation
20 was to not approve that for admission. We
21 moved during a meeting that could substitute
22 for copper sulfate in rice production. And we

1 all know the consequences of the continued of
2 copper sulfate.

3 And Jeff made a statement that the
4 Crops Committee tends to be prejudiced toward
5 putting synthetics on the national list. And
6 that was just simply our position. And
7 Barbara replied: I really want to applaud the
8 committee for exactly what you did. I
9 understand and the board should be prejudiced
10 against synthetics. That is the nature of -
11 that your charge by law. You are supposed to
12 be prejudiced against putting synthetics on
13 the national list. I hope you are.

14 We take that to heart.

15 (Simultaneous speakers.)

16 MS. MIEDEMA: I'd like to call the
17 question.

18 MR. DELGADO: Calls the question.

19 The question is on the motion to
20 list ammonium nonanoate on section
21 205.601(b)(1) with applications described by
22 the chair of the Crops Committee.

1 And we'll start taking the vote
2 with none other than Tracy.

3 MS. MIEDEMA: No.

4 MR. DELGADO: Joe.

5 MR. SMILLIE: No.

6 MR. DELGADO: Barry.

7 MR. FLAMM: No.

8 MR. DELGADO: Hugh.

9 MR. KARREMAN:

10 MR. DELGADO: Kevin.

11 MR. ENGELBERT: No.

12 MR. DELGADO: Jennifer.

13 MS. HALL: No.

14 MR. DELGADO: Steve.

15 MR. DeMURI: No.

16 MR. DELGADO: Julie.

17 MS. WEISMAN: No.

18 MR. DELGADO: Dan.

19 MR. GIACOMINI: Yes.

20 MR. DELGADO: Jeff.

21 MR. MOYER: No.

22 MR. DELGADO: Bea.

1 MS. JAMES: No.

2 MR. DELGADO: Jerry.

3 MR. DAVIS: No.

4 MR. DELGADO: Tina.

5 MS. ELLOR: No.

6 MR. DELGADO: And the chair votes

7 no.

8 MR. MOYER: Mr. Chairman, you have

9 13 noes, one yes, and one absent.

10 MR. DELGADO: The noes have it, and

11 the motion to list ammonium nonanoate on

12 Section 205.601(b)(1) of the list for uses

13 described by the chair of the Crops Committee

14 is lost.

15 MR. DAVIS: That concludes our

16 presentation.

17 MR. DELGADO: That concludes the

18 documents presented by the Crops Committee.

19 (Simultaneous speakers.)

20 MR. DELGADO: And that earns us the

21 right for a lunch break. We'll resume at 1:00

22 o'clock so we can continue on with livestock

1 followed by handling.

2 Thank you.

3 (Whereupon, the above-entitled
4 matter went off the record at
5 11:41 a.m. and resumed at 1:03
6 p.m.)

7 MR. DELGADO: Board members, please
8 take your places. We are about to resume the
9 next portion of our meeting. We seem to be on
10 schedule, very surprised and happy.

11 Before we proceed I would like to
12 make a special parentheses here to recognize
13 a very special person on our team. On behalf
14 of the organic community, Paula and board
15 members, we'd like to recognize our esteemed
16 executive director, Valerie Francis.

17 (Applause.)

18 MR. DELGADO: Let's move on to our
19 next topic. But before that, it is my
20 understanding that the chair of the Materials
21 Committee would like to make a special motion;
22 is that the case?

1 MR. GIACOMINI: Mr. Chairman, I
2 move to reconsider the vote on the listing of
3 tetracycline.

4 MR. SMILLIE: Second.

5 MR. DELGADO: It is moved and
6 seconded to reconsider the vote on
7 tetracycline.

8 MR. FLAMM: Discussion? Mr.
9 Chairman, would you please explain the
10 reasoning for that?

11 MR. GIACOMINI: We have new
12 information regarding possible action on this
13 petition that we think is worth considering at
14 this time.

15 MR. DELGADO: Can we have
16 background about the new information? And I
17 would request the program to address that.

18 MR. GIACOMINI: Do we want to
19 address that now or do we want to do that at
20 the point in time that that further motion is
21 made, the motion to reconsider?

22 MR. DELGADO: To reconsider, we'll

1 do that and then we'll go on to vote that if
2 the motion passes.

3 Any questions? Are we ready for
4 the question on the motion? The question is
5 on the motion to reconsider tetracycline.

6 This is the vote that we just
7 took. Is there any doubt on the part of the
8 board as to what we are doing?

9 Okay, and the question is on the
10 motion to reconsider the vote on tetracycline.

11 And I'll start the vote with Joe.

12 MR. SMILLIE: Yes.

13 MR. DELGADO: Barry.

14 MR. FLAMM: We're not going to have
15 an explanation of why we are doing that?

16 (Simultaneous speakers.)

17 MR. DELGADO: Once again we are
18 going through the motion to reconsider
19 evidence on tetracycline.

20 Once we have approved the motion,
21 if it is approved, then we will continue on to
22 reconsider the motion and do the vote again.

1 That's where we are.

2 It is the understanding -

3 (Simultaneous speakers.)

4 MR. FLAMM: Abstain.

5 MR. DELGADO: We'll continue then

6 with Hugh.

7 MR. KARREMAN: Yes.

8 MR. DELGADO: Kevin.

9 MR. ENGELBERT: No.

10 MR. DELGADO: Jennifer.

11 MS. HALL: Yes.

12 MR. DELGADO: Steve.

13 MR. DeMURI: Yes.

14 MR. DELGADO: Julie.

15 MS. WEISMAN: Yes.

16 MR. DELGADO: Dan.

17 MR. GIACOMINI: Yes.

18 MR. DELGADO: Jeff.

19 MR. MOYER: Yes.

20 MR. DELGADO: Bea.

21 MS. JAMES: Abstain.

22 MR. DELGADO: Jerry

1 MR. DAVIS: Yes.

2 MR. DELGADO: Tina.

3 MS. ELLOR: Yes.

4 MR. DELGADO: Tracy.

5 MS. MIEDEMA: Yes.

6 MR. DELGADO: And the chair votes

7 yes.

8 MR. MOYER: Okay, Mr. Chairman, we

9 have 11 yeses and one absent and two

10 abstentions.

11 MR. DELGADO: The yeses have it,

12 and the motion is agreed to.

13 MR. GIACOMINI: Mr. Chairman.

14 MR. DELGADO: Let us just confirm

15 that we have the right number here.

16 The yeses have it, and the motion

17 is agreed to.

18 And we'll start immediately with a

19 motion, tetracycline if that's the case. Are

20 you going to move that?

21 MR. GIACOMINI: I move to amend the

22 motion on the listing of tetracycline to read,

1 to change the annotation - the listing and
2 annotation of tetracycline to read:
3 tetracycline for use only in organic crop
4 production for fire blight control until
5 October 21st, 2012.

6 MR. DELGADO: Is there a second?

7 MS. MIEDEMA: Second.

8 MR. DELGADO: It is moved and
9 seconded to - and let me make sure that I
10 state this right - remove the annotation and
11 replacing that with, for use - tetracycline
12 for use only for fire blight control until
13 October 21st, 2012, as listed on the national
14 list, Section 205.601(I).

15 Is that correct?

16 MR. GIACOMINI: Yes.

17 MR. DELGADO: But we are replacing
18 that with the annotation that it can be used
19 only until October 21st, 2001. You have it
20 there? Great.

21 Any other questions. Barry.

22 MR. FLAMM: Does that mean that all

1 forms of tetracycline? And that changes the
2 current list? And how do we do that?

3 MR. DELGADO: Good question, dan.

4 MR. GIACOMINI: This motion to
5 change the annotation does a couple of
6 different things, how many depends on how you
7 add them up. The first thing that it does is,
8 it removes the qualifier of what type of
9 tetracycline can be used at this time.

10 The next thing that it does is, it
11 sets an expiration date for the use of
12 tetracycline in crop production for fire
13 blight control.

14 The implication of that is that it
15 pulls tetracycline out of the normal sunset
16 process, and - i.e. think Methionine - it is
17 now an expiration date for the use of
18 tetracycline for this use. It is not a sunset
19 item. And in order for it to continue use
20 after that date it would have to be re-
21 petitioned, as we do with methionine, as we
22 did at the last meeting.

1 Those are the things that this
2 amendment would accomplish.

3 MR. FLAMM: But just for the record
4 and for clarification, what we're voting on is
5 all forms of tetracycline that will have the
6 expiration date as listed; therefore, not
7 requiring the normal sunset process.

8 MR. GIACOMINI: It moves it out of
9 the normal sunset.

10 MR. FLAMM: Okay, so our vote would
11 be based on those conditions.

12 MR. GIACOMINI: The first vote is
13 the amendment to change the original motion.
14 If this fails we would then need to revote on
15 the original motion because we are looking to
16 reconsider it. So the first thing is whether
17 we are agreeing to change the original motion.
18 The next vote that will be required is to vote
19 on the new listing motion.

20 MR. FLAMM: But I think we ought to
21 be what's in the record, what we are intending
22 to do, so that it doesn't get changed down the

1 road somehow.

2 MR. DELGADO: Okay, so with the
3 comments of the materials chair, the intent is
4 clear.

5 Would you like to add another -
6 just as a comment. Kevin?

7 Can you repeat that, we are having
8 problems hearing you?

9 MR. ENGELBERT: I'm just concerned
10 about the process that we're going through
11 putting it back on the table after it has
12 already been voted down.

13 MR. DELGADO: Hugh followed by
14 Judy.

15 MR. KARREMAN: Let me ask this. If
16 we are opening this back up, can we - I
17 apologize for my scratchy voice today - okay,
18 we put the date whatever it is something 2012,
19 I mean technically right now could we make it
20 2010?

21 MR. GIACOMINI: The date - we could
22 make it any date we want. The date chosen is

1 the expiration date of the current sunset.

2 MR. KARREMAN: So in other words if
3 this is alive and well right now it may not be
4 shortly. If I were to make an amendment to
5 make it die in 2009. I mean is that possible
6 to do at this time if we are opening this back
7 up? I just wanted to know that.

8 MR. DELGADO: Bea.

9 MS. JAMES: I support Hugh's
10 suggestion.

11 MR. DELGADO: You haven't made an
12 amendment, have you?

13 MR. KARREMAN: I just wanted to
14 know if it's possible. I did not make an
15 amendment. I just wanted to know if it was
16 possible.

17 MR. DELGADO: Hugh.

18 MR. KARREMAN: All right, I will
19 make an amendment. I will move that
20 tetracycline's expiration date be changed from
21 what's showing on the screen, if you could
22 show that please, Valerie, from October 21st,

1 2012, to December 31st, 2009.

2 MR. DELGADO: Dan?

3 MR. GIACOMINI: I don't oppose it,
4 but I think it's worth a board vote on that,
5 so I'll say no.

6 MR. DELGADO: Okay. So we have a
7 friendly amendment. Is there a second?

8 MS. JAMES: I second it.

9 MR. DELGADO: It has been moved and
10 seconded to amend the motion by striking out
11 the date of 10/21/2012 by December 31st, 2009.

12 Discussion? Jerry?

13 MR. DAVIS: I can appreciate the
14 board members who really would like to see
15 this material be off the list. I do not think
16 that is fair to the pear growers to - unless
17 they supposedly should have been, could have
18 been, maybe found some other alternatives by
19 now but they haven't. They are in their
20 infancy in the alternate control measures, and
21 they could really use the extra time to get it
22 done.

1 MR. DELGADO: The program, followed
2 by Joe.

3 DR. ROBINSON: Well, now you are
4 going to veer off into some other areas, once
5 you do this. Now you - a couple of things.
6 Number one, if you do this, and you are
7 successful just as a practical matter you are
8 pushing the program on the rulemaking side of
9 things, 2009.

10 And number two, the original
11 tetracycline was on until 2012, even if we
12 were successful in getting the rule out, first
13 of all we'd have to answer to OGC as to now
14 why we are doing that, and then you are liable
15 to get a lot of push back in public comment
16 for why you are interfering with an existing
17 annotation there. It looks a little arbitrary
18 and capricious on that side. Whereas before
19 you were just taking advantage of an
20 opportunity to do what - to eliminate a
21 synthetic that you don't what on the list.

22 So - yes.

1 MR. DELGADO: Joe followed by Hugh.

2 MR. SMILLIE: I agree with what
3 Gerry and Barbara have got to say. I think
4 that the key, though, that's going too far,
5 it's not being fair. Think about the
6 methionine, that's an example, I think about
7 this case. And we are going to act
8 judiciously. We all agree we want it to go,
9 but I don't think we should use this to push
10 back. We've got 2012 already. We are
11 sticking with 2012. We're just leveling the
12 playing field. But then we get a drop-dead
13 date, which is better than where we were
14 before.

15 MR. SMILLIE: I agree with that,
16 and if possible, I guess I will withdraw that
17 amendment, if that's parliamentary --
18 possible, and stick with the date that we have
19 here to allow the growers to hopefully find
20 substitutes for that material prior to the end
21 of 2012.

22 MR. DELGADO: Do you agree to

1 withdraw the motion?

2 MR. KARREMAN: I am withdrawing the
3 motion. If it is possible.

4 MR. DELGADO: It is possible. You
5 have to have agreement of the second to do so.
6 Any pressure?

7 MS. JAMES: I feel a lot of
8 pressure, because I don't see what the benefit
9 is of us making this change and reopening it
10 if we -

11 MR. DELGADO: Tina?

12 MS. ELLOR: The benefit would be
13 that it would no longer be subject to the
14 normal sunsets, and it would drop off. To me,
15 that's a pretty significant benefit.

16 MS. JAMES: Well, I guess in my
17 short time in observing sunset, things don't
18 just drop off. And there's no point in not
19 agreeing to go ahead and withdraw it, because
20 if everybody else is saying, let's do it, it'd
21 be a waste of a vote. So I accept that.

22 MR. DELGADO: It is withdrawn, and

1 we're going back to the original motion of
2 October 21st of 2012.

3 MR. KARREMAN: Is that date,
4 correct date, program?

5 MR. DELGADO: It's been confirmed
6 by the director.

7 Tracy, you had a question there?

8 Any other questions on this motion
9 to amend? And I have to clarify that. Your
10 motion was to amend the --

11 MR. GIACOMINI: The recommendation.

12 MR. DELGADO: -- the
13 recommendation. So, and I want to make sure
14 I understand, because your motion to amend the
15 recommendation presented by the Crops
16 Committee, once it's amended, we'll have to do
17 --

18 MR. GIACOMINI: We vote on the new
19 recommendation as amended.

20 MR. DELGADO: Perfectly stated, and
21 we'll do that.

22 So ready for the question. The

1 question is on the amendment - on the motion
2 to amend by adding the - by adding
3 tetracycline for fire blight control only on
4 the national list 205.601(I) until October
5 21st, 2012.

6 And we'll start our vote with
7 Barry.

8 MR. FLAMM: Could you please
9 restate the motion?

10 MR. DELGADO: We are voting to
11 consider a motion to amend the recommendation
12 of the Crops Committee by adding October 21st,
13 2012, as -

14 MR. FLAMM: And eliminating the -

15 MR. DELGADO: - and eliminating
16 the different forms of tetracycline.

17 MR. KARREMAN: And eliminating
18 sunset too.

19 MR. FLAMM: And all forms of
20 tetracycline will be subject to this
21 expiration date?

22 MR. DELGADO: As it's stated in the

1 motion, you will have that expiration.

2 MR. FLAMM: And that expiration
3 date is?

4 MR. DELGADO: October 21st, 2012.

5 MR. FLAMM: I just want to make
6 sure it's in the record.

7 MR. DELGADO: Any questions from
8 the rest of the board?

9 We'll start with the vote. Barry?

10 MR. FLAMM: I vote yes.

11 MR. DELGADO: Hugh.

12 MR. KARREMAN: Yes.

13 MR. DELGADO: Kevin.

14 MR. ENGELBERT: Abstain.

15 MR. DELGADO: Kevin abstain was the
16 last one?

17 Jennifer.

18 MS. HALL: Yes.

19 MR. DELGADO: Steve.

20 MR. DeMURI: Yes.

21 MR. DELGADO: Julie.

22 MS. WEISMAN: Yes.

1 MR. DELGADO: Dan.

2 MR. GIACOMINI: Yes.

3 MR. DELGADO: Jeff.

4 MR. MOYER:

5 MR. DELGADO: Bea.

6 MS. JAMES: Yes.

7 MR. DELGADO: Jerry.

8 MR. DAVIS: Yes.

9 MR. DELGADO: Tina.

10 MS. ELLOR: Yes.

11 MR. DELGADO: Tracy.

12 MS. MIEDEMA: Yes.

13 MR. DELGADO: Joe.

14 MR. SMILLIE: Yes.

15 MR. DELGADO: And the Chair votes

16 yes.

17 MR. MOYER: Mr. Chairman, we have

18 13 yeses, one abstention, and one absent.

19 MR. DELGADO: The motion to amend

20 is agreed to. Now we can go on to a

21 discussion of the recommendation as amended.

22 (Simultaneous speakers.)

1 MR. GIACOMINI: We have amended the
2 recommendation. Now we have to vote on the
3 amended recommendation.

4 MR. DELGADO: It's procedure so,
5 Mr. Chairman would you like to submit the
6 amended motion.

7 MR. GIACOMINI: It is on the record
8 as - the motion has been made as it is.

9 MR. DELGADO: Without amending,
10 before we amended it.

11 MR. GIACOMINI: The motion is in
12 play. The motion is on the table already.

13 MR. DELGADO: The motion is on the
14 table. So we don't have to present it to the
15 board. Our parliamentarian here is stating
16 that we have it before the board. So we have
17 discussion -- it has been stated. Now the
18 motion is to set - to list tetracycline -
19 adding tetracycline for fire blight control
20 only on the national list 205.601(I) until
21 October 21st, 2012. That's the motion.

22 Questions?

1 MR. GIACOMINI: Clarification, is
2 that the proper wording for the program to
3 recognize that as an annotation change,
4 saying, adding rather than - and that it's any
5 kind of a separation.

6 DR. ROBINSON: We'll just change --
7 we understand it. It just changes the
8 annotation. We got it.

9 MR. DELGADO: Questions? Jerry.

10 MR. DAVIS: Why is the 2012 date
11 not attached to the part directly --

12 MS. FRANCES: It's just formatting.

13 MR. DAVIS: No, I mean why is it
14 not part of that upper sentence?

15 MR. GIACOMINI: She just rewrote it
16 under your other vote.

17 MS. FRANCES: That was an earlier
18 committee vote.

19 MR. DAVIS: Okay, I get you. It's
20 not going to show in two places when we're
21 done. That's my question.

22 MS. FRANCES: I mean, obviously

1 you're going to give me a final version of
2 this.

3 MR. GIACOMINI: It'll only have one
4 line saying what it is not.

5 MS. FRANCES: We'll get all this
6 right.

7 MR. DELGADO: Ready for the
8 question?

9 The question is on the motion to
10 add tetracycline for fire blight control only
11 on the national list Section 205.601(I) until
12 October 21st, 2012.

13 And we'll start our vote with
14 Hugh.

15 MR. KARREMAN: Yes.

16 MR. DELGADO: Kevin.

17 MR. ENGELBERT: Abstain.

18 MR. DELGADO: Jennifer.

19 MS. HALL: Yes.

20 MR. DELGADO: Steve.

21 MR. DeMURI: Yes.

22 MR. DELGADO: Julie.

1 MS. WEISMAN: Yes.

2 MR. DELGADO: Dan.

3 MR. GIACOMINI: Yes.

4 MR. DELGADO: Jeff.

5 MR. MOYER: Yes.

6 MR. DELGADO: Bea.

7 MS. JAMES: Yes.

8 MR. DELGADO: Jerry.

9 MR. DAVIS: Yes.

10 MR. DELGADO: Tina.

11 MS. ELLOR: Yes.

12 MR. DELGADO: Tracy.

13 MS. MIEDEMA: Yes.

14 MR. DELGADO: Joe.

15 MR. SMILLIE: Yes.

16 MR. DELGADO: Barry.

17 MR. FLAMM: Yes.

18 MR. DELGADO: And the chair votes

19 yes.

20 MR. MOYER: Mr. Chairman, we have

21 13 yeses, one abstention, and one absent.

22 MR. DELGADO: The ayes have it and

1 the motion is agreed. Right.

2 Well, that concludes our
3 discussion and presentation on crops related
4 materials, and we are free to continue on with
5 livestock, and Dr. Karreman.

6 LIVESTOCK COMMITTEE

7 MR. KARREMAN: Thank you, Mr.
8 Chairman.

9 We have - our first action item
10 we're going to vote on here today will be the
11 proposed fish feed and related management
12 issues. It is posted up there on the board,
13 on the screen. Beside the colors aren't
14 exactly right.

15 But anyway, first I'd just like to
16 say last night the Livestock Committee had a
17 meeting after we all had convened, or the
18 audience did. We had another two hour meeting
19 between 9:00 and 11:00 to discuss aquaculture.
20 And I just want to say that the livestock
21 committee is an excellent excellent team. I
22 mean we all really did well.

1 And I don't know if this will
2 pass, but it is really a pleasure to work with
3 everybody and the good collegiality and
4 constructive input.

5 So with that said we did take into
6 account input, written input, up to the time
7 of this meeting, public comment, everything.
8 And the only changes, we made a couple of
9 changes that in our view tighten this up even
10 further. And we can go through them.

11 They were passed by the committee
12 last evening.

13 So one thing we did was we changed
14 the kind of minor thing, off, wherever it says
15 aquatic livestock we changed it to be aquatic
16 animals. That was something the AWG wanted,
17 and we thought that was pretty neutral, we
18 did.

19 And then on to page let's see, the
20 recommendation itself. I'm scrolling down on
21 my computer, I apologize. If you could go to
22 page four, Valerie, the recommendation.

1 We didn't do too much with it.
2 Actually on page six we inserted a letter, M,
3 and this had to do with basically testing for
4 environmental contaminants, that unfortunately
5 fish in the ocean and farming, and whatnot,
6 can be exposed to, just as regular livestock
7 I think can as well. But anyway we reinserted
8 what the AWG wanted to have in there. It's
9 not much different from what we had, but it's
10 what the AWG wanted in there, as well as what
11 the Ocean Conservancy wanted in there, so we
12 put that in.

13 And then letter N we added in so
14 that it is very peculiar that fish meal and
15 fish oil cannot be derived from forage
16 fisheries nor or non-organic aquatic feed
17 products not specifically allowed in this
18 section. Okay? So that was another addition.

19 Okay, besides little aquatic
20 animal insertions there. Okay, on page eight
21 -- yes, Jennifer.

22 MS. HALL: My question here is

1 whether or not we want to strike forage
2 fisheries, because further edits will show
3 that we actually strike their availability
4 totally.

5 MR. KARREMAN: For clarity's sake,
6 you're saying, right?

7 MS. HALL: Right.

8 MR. KARREMAN: Okay, for clarity
9 and technicality, yes.

10 Okay, so then on page eight,
11 regarding the potential labeling of fish,
12 potentially certified organic fish, from using
13 the step-down fashion that we have - we have
14 shown - we want to propose a label that says,
15 environmentally responsible wild-caught fish.
16 The environmentally responsible is from the
17 Ocean Conservancy, that term. That's George
18 Leonard's group that he's with now.

19 And then more aquatic animal
20 insertions there.

21 So on 612(a) essentially we were
22 just tightening it up with aquatic animal

1 insertions again. And then the exception --
2 okay, so 612(a) is -- I'll read that.

3 612 says, non-synthetic substances
4 prohibited for use in organic aquatic animal
5 production.

6 The following non-synthetic
7 substances may not be used in organic aquatic
8 animal production: A, fish meal and fish oil
9 from wild caught fish and other wild aquatic
10 animals except if produced from
11 environmentally responsible food grade wild
12 caught fisheries and fed in the following
13 step-wise levels, a maximum combined total of
14 25 percent during one year, one through five,
15 after this regulation is implemented. A
16 maximum combined total of 15 percent during
17 the year six through eight, and a maximum
18 combined total of 10 percent during the year
19 nine through 10, and a maximum combined total
20 of 5 percent during the year 11 and 12.

21 And the rest stays the same. And
22 that was from the Ocean Conservancy, so it's

1 not like 25 percent, 25 percent, but it's all
2 a combined number.

3 MS. HALL: Sorry, one more
4 question. Since we are explicitly saying non-
5 synthetic substances that are not allowed, do
6 we want to add the forage fisheries?

7 MR. KARREMAN: Sure, we can do
8 that. I mean it is already in there in a
9 sense but we can explicitly say that.

10 MS. HALL: I mean that is our
11 intent?

12 MR. KARREMAN: That is our intent,
13 and it should be explicit in there.

14 Sorry, okay, for 612(b), where it
15 says, B to Z reserved, Jennifer is suggesting
16 that we have 612(b) to reiterate that feed
17 from foraged fisheries is prohibited. From
18 612 itself the whole heading is non-synthetics
19 that are prohibited from use. So in a sense
20 we don't need it, but we can put it in.

21 MS. HALL: That's up to you. If
22 you feel it's clear.

1 MR. GIACOMINI: I don't think we
2 need it there, but if you don't want it in the
3 other place that's fine.

4 MR. KARREMAN: That's fine with me.
5 Are there other livestock people? Okay, just
6 for clarity and reinsertion. Okay.

7 Well, that is the document.

8 So the motion on the floor then is
9 to accept the proposed organic aquaculture
10 standards for fish feed and related management
11 issues as presented here at this time.

12 MR. MOYER: I'll second.

13 MR. DELGADO: Jeff seconds, Hugh
14 moved, and it is moved and seconded.
15 Discussion?

16 Steve.

17 MR. DeMURI: How would the
18 committee define environmentally responsible?

19 MR. KARREMAN: I think that is
20 mentioned earlier in the document before the
21 recommendation itself in the background. In
22 the discussion section I think.

1 MR. DELGADO: Jim, I believe what
2 you are looking for is in - Jim.

3 MR. MOYER: In section 205 and 252
4 L and M, those discuss that.

5 MR. KARREMAN: Okay, and therefore,
6 Steve, that document that Jeff is talking
7 about is a net-pen document.

8 MR. MOYER: It's right here.

9 MR. KARREMAN: Oh, sorry.

10 MR. MOYER: If you look at L, it
11 discusses -

12 MR. KARREMAN: Yes, correct.

13 MR. DELGADO: Steve, is that clear.
14 We have Jeff followed by Dan.

15 MR. MOYER: Yes, just to respond to
16 Steve's question again, I think what we're
17 trying to do is avoid the word sustainable and
18 sustainability, because those words have a lot
19 of baggage. That can mean many things to many
20 people. Environmentally responsible is not
21 completely cool; we understand that. But it
22 certainly looks like a duck and quacks like a

1 duck and we think we know it when we see it
2 kind of thing. And it really does address the
3 word environmental, which is what we were
4 trying to get at.

5 MR. DELGADO: Dan.

6 MR. GIACOMINI: I'd just like to
7 touch on that other amendment; where did you
8 put that one? The one that Jennifer changed?
9 Regarding the restriction - there we go, that
10 one - it came to our attention as we were
11 working on this, actually we just sort of
12 remembered, at the aquaculture symposium one
13 of the presenters that was a researcher, they
14 had done work on the 12 and 12, fish meal and
15 fish oil, research, and almost all his work
16 unaccounted to that but in addition was a
17 certain percentage of I believe it was squid
18 meal. And we just wanted to make sure that
19 those kind of soft issues were taken care of
20 and not considered potential loopholes down
21 the line.

22 MR. DELGADO: Thank you, Dan.

1 Any questions?

2 MS. JAMES: I'm just wondering if
3 the committee could respond to how much public
4 comment there was with the opposition of wild
5 feed? I think I counted 14 witness-submitted
6 comments from the public who all adamantly
7 opposed that. And then we also heard
8 yesterday that there were a lot of petitions
9 that were signed in opposition to that.

10 MR. KARREMAN: I'll try to answer
11 that. Basically we believe at the Livestock
12 Committee that we are promulgating OFPA, the
13 section that talks about wild seafood. This
14 is the promulgation of that part of the Act,
15 and it is only to be - and we believe we have
16 outlined it well here, bright line around it -
17 that it's only to be considered for the
18 byproducts of edible fish, and it shall never
19 be for, as outlined in our document here,
20 never shall wild caught be considered as
21 primary food for humans. It's only to feed
22 certified - potentially certified organic fish

1 to help the industry get going.

2 And there is one thing that is
3 pretty important to consider, and that is, a
4 lot of fish need marine oils in their diet,
5 and even if only vegetarian type raised fish
6 are used in the future to provide -- their
7 byproducts to provide feed for certified
8 organic more piscivorous fish, that they will
9 not be providing essential lipids that those
10 piscivorous fish need. And that's something
11 that I don't think was taken into account by
12 the commenters that were talking about that
13 issue.

14 MR. DELGADO: Any other questions?
15 Ken?

16 MR. GIACOMINI: I think I'd like to
17 continue on with Hugh's statement there
18 regarding the fish oil. If you don't do the
19 test fish oil, they won't have fish oil;
20 they'll have something else. If you give fish
21 corn oil, they pretty much have corn oil. So
22 if we want the organic fish to be fish and

1 provide the benefits in the human diet that
2 people are eating then we have to provide that
3 to them. We did consider that and all the
4 comments that were made. We reviewed as many
5 of them as we could, and we certainly can't do
6 anything other than take the number of
7 signatures at face value.

8 But those have been part of the
9 ongoing discussion from the day we started
10 this process, and the day each one of us
11 entered it, that's pretty much the first set
12 of questions we asked.

13 And for the most part the
14 information provided in those arguments at
15 this meeting did not constitute any new
16 information that we have not considered in our
17 own deliberations.

18 MR. DELGADO: Kevin.

19 MR. ENGELBERT: I also would like
20 to expound on this for the whole board. The
21 day - I believe the day after I was lucky
22 enough to be appointed to the NOSB, the new

1 members of the livestock committee received
2 emails from Hugh, telling us, you've got to
3 read through this. This aquaculture issue is
4 huge. It takes a long time to get up to
5 speed. And in the nearly three years that I
6 have been studying this we have never had one
7 presentation from anyone telling us how we can
8 get these marine oils and these lipids into
9 organic production in any other way.

10 We have bounced off every possible
11 wall and direction that we could think of, and
12 this is the only solution that appears to be
13 viable by the program. And we have tried to
14 take a long term approach to this. We are not
15 trying to deceive the public. If people don't
16 want to buy these certified organic products
17 that have been fed wild fish they don't have
18 to. But in 12 years from the time of
19 implementation there will be certified organic
20 fish on the market that have been fed nothing
21 but certified organic feed.

22 We couldn't find any other way to

1 get to that point and improve the conditions
2 of the aquaculture industry. It seemed to be
3 our only option. We have never been presented
4 with another viable one. We are confident in
5 the work that we have done. We think we have
6 reached, again, without patting ourselves on
7 the back, we think we have reached the best
8 possible conclusion.

9 MR. DELGADO: Bea.

10 MS. JAMES: Well, first of all I
11 respect how much work and time has gone into
12 this recommendation. I would like to hear
13 from the committee how to address consumer
14 perception of organic fish not being fed
15 organic food. But that I think at the end
16 point of where this product is going to go is
17 what we end up having to address, what we end
18 up trying to communicate to the consumer that
19 the USDA organic really does mean organic, but
20 I'm sorry, this is different, and it doesn't
21 have organic feed.

22 And I know you need this time

1 stretch, but there is - you say you weren't
2 proposed any possible scenarios on the fish
3 oil, but there is the action of not having
4 this organic fish. That is another option.

5 MR. DELGADO: You want to respond
6 to that? Go ahead, Kevin.

7 MR. ENGELBERT: I agree. But we
8 don't know what the program will do. We don't
9 know for sure that this is a viable option,
10 but this is the best that we have been able to
11 come up with. And what the program does with
12 it after this, after consulting with their
13 lawyers and everything, that will be the final
14 determining factor.

15 MS. JAMES: Well, just to respond
16 to that really quickly, I would say that the
17 program relies on us to help bring forward
18 something that we think is credible in the
19 eyes of the consumer. And if we are not ready
20 to be able to do that, that's when we get them
21 in trouble. So we are putting forward
22 something to them and asking them to make the

1 final decision with their lawyers on whether
2 or not we can really do this as organic.

3 So -

4 MR. DELGADO: Jeff, followed by
5 Dan.

6 MR. MOYER: Well, I had another
7 comment, but I will quickly respond to Bea, in
8 that if you look at 205.301 - I'm sorry, 203,
9 we did put in there that this material that is
10 fed in with this system must be labeled as
11 such so that consumers - at least it's as
12 transparent as we can make it so that
13 consumers know they are presumably ingesting
14 some wild-caught material through the organic
15 process. So that they are made aware that we
16 did not want it to be slipping through in some
17 way that we are somehow being perceived as -
18 I don't want to say duping, but not being
19 fully forthright in the labeling.

20 So we are requiring that this
21 material be labeled at the point.

22 MS. JAMES: I want to respond to

1 that. As a retailer, that is what we - if
2 that passes, that is going to be a very
3 difficult thing to have to confront the
4 natural food stores. There is so much
5 confusion around organic fish in the first
6 place, and how we educate them on the
7 differences between sustainable and organic
8 and non-organic, that that - it's a setup for
9 really pointing the finger at, we are coming
10 forward with saying something is organic when
11 it is truly - I mean livestock doesn't get
12 away with this in a lot of their areas, and I
13 think that we need to be careful about what we
14 are doing with fish when there are other
15 criteria that the consumer expects around what
16 the final product is really -

17 MR. DELGADO: Dan.

18 MR. MOYER: Well, the point I
19 wanted to make is, it relates to this feed
20 document, and it's going to relate again to
21 the net-pen document, and that is, that these
22 standards we feel at least at the Livestock

1 Committee level are extremely difficult for
2 the livestock - for the aquatic animal
3 industry to meet and adhere to. This is not
4 going to be an easy breeze walkthrough that we
5 have created - I don't think - at least we
6 didn't attempt to try to create something.
7 And we're hearing push back from the AWG quite
8 a bit that this is going to be tough if they
9 can even do it. And they think they can, but
10 it's difficult. And I want to be fair to the
11 committee to say we have gone well out of our
12 way to try to find something that they could
13 possibly do but was not by any stretch of the
14 imagination easy. And just to respond to your
15 comment on feed, I do think the consumers are
16 going to decide ultimately if this is a doable
17 system or not.

18 MR. DELGADO: Dan.

19 MR. GIACOMINI: A couple of things.
20 Number one, to follow on in the part of the
21 discussion that Kevin had regarding the fish
22 oil, on the fish meal side the alternatives we

1 were presented with were either cholesterol
2 slaughter byproducts or significant amounts of
3 synthetic amino acids. Neither one of those
4 seemed viable or acceptable to anyone in any
5 part of the industry.

6 Regarding the label I think I was
7 probably the person on the committee who was
8 the least comfortable with the label, not that
9 I have any problem with what this label says,
10 but what it's not saying. Because if you have
11 any of these fish and you don't feed them fish
12 meal and fish oil, the diet they are getting
13 is not a natural diet. So we are having a
14 label that is making something look - in order
15 to be transparent we are having a label to
16 explain what something is and how the consumer
17 may want to consider that; at the same time we
18 don't have a label that says - what the
19 meaning of the other side is.

20 So I understand what you're
21 saying, Bea, and it's just one of those
22 things. We are trying to be transparent. We

1 are trying to be up front. We don't even know
2 if it will fly with legal. But we did the
3 best we could.

4 MR. DELGADO: Julie.

5 MS. WEISMAN: Yes, and actually I'm
6 not on the committee, so you asked for an
7 answer from someone on the committee. But I
8 feel because I am not on the committee it
9 helps me take a step back. And when we talk
10 about terrestrial organic agriculture, there
11 are organic products. There is also - we
12 struggle often around the issue of consumer
13 perception. But there is not, for instance,
14 a guarantee that organically farmed products
15 will be pesticide free. We just aren't going
16 to do anything - we are going to do the least
17 amount possible to make a worse problem than
18 exists in conventional agriculture.

19 And I think consumers,
20 notwithstanding all the comments that we have
21 heard, and there have been many many of them,
22 I do also feel like there are a large group of

1 consumers who may not be as vociferous, who
2 would much rather have a choice of these -- or
3 organically raised fish according to a
4 standard like this than having to buy
5 conventional fish.

6 MR. DELGADO: Jennifer.

7 MS. HALL: This is not new but just
8 kind of a rephrasing of it. Because I
9 completely hear Bea and the consumer end of
10 it. And so I would start with our original
11 intent to try and establish a label in lieu of
12 there not being one and that being confusing,
13 because there are other products with an
14 organic label that is not USDA, so trying to
15 find one that delivers that expectation while
16 also still being quite rigorous.

17 So on the feed end where we did
18 end up is exactly how Dan said, that our
19 overriding desire is to try and establish as
20 much of a natural diet as possible, given that
21 there is no supply to do that effectively
22 right now, trying to phase that in. And I

1 will admit, I am the champion of the label
2 from a consumer perspective of trying to be
3 transparent in that. So there isn't an
4 explosion when that gets uncovered, and then
5 there is like this whole, "Oh my gosh, you
6 duped us again."

7 And so giving them the choice up
8 front, and hopefully that the education piece
9 being that our number one priority being that
10 they have a natural diet, and that we are
11 fighting that in so many other arenas where
12 organic is trying to bring animals back to
13 that, and that this is a new regulation
14 overall. So we saw an opportunity to make it
15 fairly strong, and over time get better at it.

16 MR. DELGADO: Bea.

17 MS. JAMES: Okay, going back to
18 Dan, I guess I respectfully agree to disagree
19 around the recommendation. And that I think
20 I -- maybe my position is truly representing
21 a lot of what we heard from consumers, and
22 that saying that the best we can do is not a

1 standard for organics. That organic standards
2 are organic standards and if we can't meet
3 those then we shouldn't put forward a
4 recommendation saying, here is an organic
5 standard, because then it is truly not.

6 In response to Julie, saying that
7 consumers want this instead of nothing at all,
8 our consumers want organic, and if we don't
9 provide them with what we know is true to be
10 organic according to regulations, then to
11 Jennifer's point, there will be an explosion -
12 - I think we got a little piece of that here
13 at this meeting.

14 So I'm just raising a red flag. I
15 think that the recommendation has a lot of
16 really excellent components to it, but maybe
17 perhaps it's not for all kinds of fish, and
18 that we really need to look at managing a
19 recommendation that, no matter how long it
20 takes, that will truly provide in the end an
21 organic product labeled as organic that's
22 organic.

1 MR. DELGADO: Dan followed by Joe.

2 MR. GIACOMINI: One of the things
3 that we did a number of years ago when we
4 first started looking at fish oil, and I think
5 it's relevant to any explosions and other
6 things that can happen, was "That's the
7 response from the rest of the industry, and
8 how you feel about this." And frankly, in all
9 this time we really haven't heard any.

10 So I think that is a significant
11 aspect.

12 The other part of what organic is
13 organic and all these things, I mean even the
14 things that we have dealt with in the last two
15 meetings, we don't have labels on everything,
16 on any parts of the industry that have been
17 allowed to use tetracycline, which is an
18 antibiotic, which is probably -- while there
19 is the big three in the rule, there's also
20 probably the big three for the consumer, and
21 that is one of theirs.

22 We don't have a label in any part

1 of the poultry industry that they are adding
2 synthetic methionine.

3 I think you know I think some of
4 that is real and some of that becomes created.

5 MS. JAMES: Are you suggesting that
6 that is what we need?

7 MR. SMILLIE: Tell me if I'm
8 mistaking what you said. The regulations were
9 created by the NOP out of OFPA with our input.
10 In OFPA there exists from what I understand
11 grounds to create an organic aquaculture
12 regulation. When the NOP with NOSB advice
13 created the current regulation, they for
14 whatever reasons didn't choose to make the
15 aquaculture regulation.

16 Now it's come up. They are asking
17 for our advice to go back to OFPA and create
18 an organic regulation for aquaculture.

19 So to say that this recommendation
20 doesn't meet the regulation, that would be
21 correct, because the regulation didn't include
22 aquaculture. But this regulation goes back to

1 OFPA and with our advice gives the program
2 something so that they can create an organic
3 aquaculture regulation.

4 MS. JAMES: Well, I get that, but
5 we're talking about the standard itself.

6 MS. MIEDEMA: What I really like
7 about in this recommendation and also the net-
8 pen recommendation is that it does bring us to
9 a crossroads finally. And it's a vastly
10 improved version of aquaculture for both the
11 feed and and for the net-pen situation. And
12 if what we can do is tremendously raise the
13 bar, we've seen this in terrestrial
14 agriculture, where the conventional folks
15 really take a page from our book.

16 And we have the opportunity to
17 tremendously raise the bar. And to know, it's
18 not perfect. Just like aspects of terrestrial
19 organic farming are not perfect. We drive
20 tractors full of diesel, etcetera. And that's
21 real life; that's real food production. But
22 at least we now have the opportunity at this

1 crossroads to build a vastly improved, yet
2 imperfect, version of aquaculture or decide
3 not to have organic aquaculture. We can
4 decide that today too.

5 If we don't think we want to go
6 with something that is less than perfect then
7 we can say no today. But it seems like we
8 have actually arrived here, and we can move
9 this forward.

10 MR. KARREMAN: I guess Bea, in
11 response, to being right out of the retail on
12 the floor there, 2107(c), wild seafood, in the
13 Organic Food Production Act, in general,
14 notwithstanding the requirement of Section
15 2107(a)(1)(a) requiring products be produced
16 only on certified organic farms, the Secretary
17 shall allow through regulations promulgated
18 after public notice and opportunity for
19 comment wild seafood to be certified for label
20 as organic.

21 Wait wait, let me just add on,
22 sorry. And we are limiting that to not only

1 the byproduct of human grade fish, we are
2 recycling it. And we think that is
3 environmentally responsible. We feel that
4 this, what I've just stated from OFPA fits,
5 and we are doing exactly what the NLSB is
6 supposed to do on anything regarding OFPA.

7 I don't understand. I guess I
8 just see the cup half full, not half empty.

9 DR. ROBINSON: As I said to you
10 earlier today on the multi-site
11 recommendation, let me just say one more time,
12 and particularly in this case, you know, we
13 asked you to develop or to propose standards,
14 which you appear to be close to doing.

15 You can continue to work on these;
16 that's true. You can also give it to the
17 program, and we may - yes, there is
18 controversy with this; that's clear and that
19 is evident. If you are not satisfied with
20 your work at this point you can pull it back.
21 You can also give it to the program. We can
22 proceed for example with an ANPR, and an

1 advanced notice of proposed rulemaking.

2 You know we aren't going to rush
3 out the door with this thing in a week. You
4 know us. We obviously move at glacial speed
5 and sometimes not that fast.

6 An ANPR, asking the industry,
7 asking consumers, should we proceed with
8 rulemaking, should we not, you have given us
9 grist for the mill.

10 Again, I guess what I'm saying is,
11 maybe you should set aside the issue of should
12 we or should we not; that is the program's --
13 actually that is our responsibility. That's
14 the question we then go out and ask on
15 everyone's behalf, should we open up this
16 rule.

17 You provided suggestions. The
18 question is not done by a long shot.

19 MR. GIACOMINI: Okay, I wanted to
20 respond to something Joe said and clarify what
21 Hugh just read.

22 First of all fish were not

1 included in OFPA 90; fish were included in a
2 later amendment. In the later amendment fish
3 used for food were added as a part of the
4 livestock definition in OFPA, okay.

5 Then, from what Hugh read, the
6 promulgation of the consideration of wild
7 seafood to be considered as organic. We need
8 to be clear what we are doing here. That is
9 not what we are doing. What we are allowing
10 as feed for organically raised fish is the
11 trimmings from environmentally sourced wild
12 caught fish within the same category that wild
13 caught fish have been considered from the
14 inception of the rule, and that is, as a non-
15 agricultural. We are listing it in the
16 section of 612, which is the same as 602 and
17 604, the restriction of non-ag. What we are
18 doing is initially allowing a significant part
19 of the diet, granted, to come from this source
20 with a step down to the point that is actually
21 probably more restrictive than it would be if
22 we had just left it out.

1 Is that -- do you understand what
2 we are saying? We are allowing 25, but we are
3 actually getting to the point where it may be
4 zero, even though it stays, never becoming
5 certified organic wild caught. We are never
6 saying that. We are saying that this wild
7 caught from this group of fish is non-ag, and
8 it only that small part of it is allowed as
9 feed.

10 MR. DELGADO: Jennifer followed by
11 Hugh.

12 MS. HALL: Small correction on what
13 Ann just said, and that is where we are
14 allowing it is as a nonsynthetic, not as a
15 non-ag.

16 MS. JAMES: I wanted to respond to
17 Barbara's comments, because yes, I totally and
18 fully trust when our recommendations go into
19 the hands of the program that they are
20 meticulously gone through so that a final
21 recommendation is put forward that represents
22 what the industry wants.

1 I do feel somewhat protective
2 about how recommendations from us are given to
3 you because I think we are seen as giving you
4 the beginning starting point of that
5 deliberation. And if we are telling you that
6 here is a proposal for you to create an
7 organic product that's not fed organic feed,
8 that in essence we are telling you that that's
9 acceptable. And I'm just - I know I'm in a
10 minority here, but I'm just saying that for
11 me, from a consumer standpoint, that that
12 would be unacceptable. And I think that's
13 what we saw in comments from consumers as
14 well.

15 MR. DELGADO: Any other questions?

16 MR. MOYER: I just wanted to follow
17 up on what Tracy is saying in that even if we
18 vote this down, farm-raised fish are going to
19 take place. Consumers say they want that
20 product; they are buying it today. This
21 standard that we are proposing here on both
22 the feed and the net-pens sets the bar

1 extremely high, and I agree with Tracy, what
2 it will do hopefully is drive the conventional
3 market in this direction, because they are
4 going to see how high this standard is. And
5 if there is a preference shown in the
6 marketplace for this product, they will have
7 to begin to move in this direction.

8 And I think if our goal is to -
9 part of our goal is to improve the environment
10 this certainly goes a long way toward doing
11 that.

12 It's like if we vote this down
13 there will be no fish being fed. They will be
14 fed, and they will be fed in net pens. So
15 this raises the bar very high.

16 MR. DELGADO: Any other comments,
17 questions? Are we ready for the question?

18 The question is on the motion to
19 approve the document titled, "Proposed Organic
20 Aquaculture Standards, Fish Feed and Related
21 Management Issues.

22 MS. FRANCES: Question - I'm sorry

1 to interrupt.

2 MR. DELGADO: Yes.

3 MS. FRANCES: I went through, and
4 you had not corrected every aspect of this
5 document in regards to the use of the term,
6 environmentally responsible food-grade wild-
7 caught fish, in all the little label cases in
8 the 301, and I went through with that - I
9 don't want to interrupt as I'm doing this - I
10 just wanted to clarify that I did that.

11 MR. MOYER: It was late at night.

12 MS. FRANCES: I understand.

13 MR. DELGADO: And it was the intent
14 of the committee.

15 MS. FRANCES: Yes, sorry.

16 MR. DELGADO: Thank you for that.
17 Going back to putting the motion is to approve
18 the document titled, "Proposed Organic
19 Aquaculture Standards, Fish Feed and Related
20 Management Issues" as described by the chair
21 of the Livestock Committee.

22 And we'll start our vote with

1 Kevin.

2 MR. ENGELBERT: Yes.

3 MR. DELGADO: Jennifer.

4 MS. HALL: Yes.

5 MR. DELGADO: Steve.

6 MR. DeMURI: Yes.

7 MR. DELGADO: Julie.

8 MS. WEISMAN: Yes.

9 MR. DELGADO: Dan.

10 MR. GIACOMINI: Yes.

11 MR. DELGADO: Jeff.

12 MR. MOYER: Yes.

13 MR. DELGADO: Bea.

14 MS. JAMES: No.

15 MR. DELGADO: Jerry.

16 MR. DAVIS: Yes.

17 MR. DELGADO: Tina.

18 MS. ELLOR: Yes.

19 MR. DELGADO: Tracy.

20 MS. MIEDEMA: Yes.

21 MR. DELGADO: Joe.

22 MR. SMILLIE: Yes.

1 MR. DELGADO: Barry.

2 MR. FLAMM: Yes.

3 MR. DELGADO: And the chair votes
4 yes.

5 MR. KARREMAN: This chair votes not
6 at all though.

7 MR. DELGADO: Yes, Hugh.

8 MR. MOYER: Mr. Chairman, we have
9 13 yeses, one no, and one absent.

10 MR. DELGADO: Then the motion is
11 agreed.

12 MR. KARREMAN: Thank you, Mr.
13 Chair. The next topic is the other document
14 for dealing with aquaculture today, "Proposed
15 Organic Aquaculture Standards for Net-Pens and
16 Related Management Issues."

17 Once again this was worked on a
18 little bit last night. We don't believe there
19 is substantive changes; more just kind of
20 tightening of things, raising the bar higher.
21 Again, really good input from Carrie
22 Brownstein, George Leonard at the Ocean

1 Conservancy, public comment, and the AWG,
2 taking that into account, areas highlighted in
3 blue are what we added since we talked about
4 this at the discussion yesterday.

5 The first one, Valerie, is on page
6 five of 10, I believe, under the section
7 253(c), the producer of organic aquaculture
8 products must not -- (7) whether or not
9 diseased fish are treated they may not be sold
10 as organic. Does that need some syntax
11 changes? But the idea is that you just cannot
12 sell diseased fish as organic, whether or not
13 they are treated.

14 The next addition we put in to
15 clarify things for the act is under point two
16 54 aquaculture living conditions, the first
17 sentence saying, a comprehensive integrated
18 predatory management plan which employs non-
19 lethal deterrence as the first course of
20 action shall be developed and implemented as
21 part of the organic system plan.

22 And we added under there on (b)(3)

1 we added - okay I'll read three altogether:
2 lethal measures may be taken only when
3 predators threaten human safety or are
4 necessary for predator welfare, and must
5 include appropriate documentation. Lethal
6 measures must be in compliance with local laws
7 and the laws of the United States.

8 And this is what we added last
9 evening: there is an absolute prohibition on
10 predator mortality if the species is listed
11 nationally or globally as vulnerable,
12 endangered or critically endangered, i.e.
13 present on the IUCN red list.

14 Yes, Valerie?

15 MS. FRANCES: What does IUCN -

16 MR. FLAMM: International Union for
17 Conservation of Nature.

18 MR. DELGADO: Barry, could you
19 repeat that?

20 MR. FLAMM: It stands for
21 International Union of Conservation of Nature.
22 Actually the name is a little -- the official

1 name now is longer, but anybody would know --
2 conservation of nature.

3 MR. KARREMAN: And number four
4 right below that, the next number is four, we
5 added number four. This would be underwater
6 acoustic deterrent devices of any kind shall
7 not be permitted. I guess I'll have to watch
8 where they site pens or whatever with the
9 navy.

10 The document is for net pens,
11 okay, so everybody should keep that in mind;
12 it's not for ponds or containment tanks.

13 The next part we added to clarify
14 something was at 255(g)(1), little "I", Becky
15 Goldberg mentioned this. We made a
16 performance target of recycling, a minimum of
17 50 percent of all nutrients which we did hear
18 from public comment is possible but very
19 difficult but possible. And we added in
20 nitrogen and phosphorous.

21 MR. GIACOMINI: We should delete
22 the "all."

1 MR. KARREMAN: Say what?

2 MR. GIACOMINI: We should delete
3 the "all" for quantifying as nutrients such as
4 nitrogen, phosphorus.

5 MR. KARREMAN: Okay, yes. So let's
6 delete "all" in front of nutrients and put
7 nitrogen and phosphorous. Should we just have
8 50 percent of nitrogen and phosphorous.

9 Going down to K(2), this is where
10 it gets more specific on open water net-pens.
11 And this number two here, just so people know,
12 is that this is so that conventional industry
13 right now uses a lot of Atlantic salmon in the
14 Pacific. This here number two will prohibit
15 that. It would have to be Pacific salmon in
16 the Pacific only, okay? So just want to -- go
17 ahead.

18 MR. GIACOMINI: Pacific salmon in
19 the Pacific that have not been significantly
20 bred out of captivity.

21 MR. KARREMAN: So let me read it
22 then. That's why we put this in here, so

1 we're not getting what's happening in the
2 conventional industry at all.

3 Number two, only native fish of
4 local genotype shall be cultured. Non-native
5 species or native species with significant
6 genetic divergence compared to wild stock,
7 i.e. due to selective breeding or other
8 processes, may not be certified as organic if
9 produced in net-pens. Operations with escapes
10 greater than 0.5 percent of cultured stock
11 within each containment device over the course
12 of the growing season shall have their organic
13 status revoked.

14 That's pretty clear I think. All
15 right?

16 The next section -

17 MR. DELGADO: Question from the
18 program.

19 MR. MATTHEWS: If we could go back
20 up to what you were just doing.

21 MR. KARREMAN: You don't like that
22 "revoked."

1 MR. MATTHEWS: No, no, operations
2 with escapes greater than a half a percent of
3 cultured stock within each containment device
4 - I could read that to mean 5 percent each.
5 Are you saying that - half a percent of each.
6 Just clarify for me, if they've got 10
7 containment devices, what would trigger the
8 revocation.

9 MR. DELGADO: Hugh?

10 MR. KARREMAN: I know the intent
11 there. I mean maybe revocation is too strong
12 a word for what we are creating here. But go
13 ahead.

14 MR. MOYER: I think what we've done
15 is, we have got the wrong word in there.
16 Instead of saying, within each, it should say,
17 within any. If it said within any containment
18 device, then it's the individual containment
19 device that we are concerned with. So you
20 can't have one containment device that's
21 leaking, and seven others are all good. I see
22 what you are getting at. Each should be any.

1 MR. KARREMAN: All right, so let's
2 tighten that up. The next area would be --

3 MR. MOYER: Hugh, while you are
4 still back on that other spot, we should
5 mention that there was concern and discussion
6 among the group talking about the native fish
7 and genotype rule, because it pertains
8 specifically to some other fish that could be
9 raised in net pens. Net pens aren't only in
10 the salmon. I mean there are other fish in
11 other bodies of water. They could be in bays,
12 they could be in lakes, they could be in
13 rivers, could be in other areas. I think
14 there was concern about that, and maybe we
15 want to discuss that further.

16 I mean the idea of not being able
17 to raise tilapia anywhere but Egypt or
18 wherever they came from is a little
19 disconcerting.

20 MR. KARREMAN: It is, but then the
21 tilapia people can come back and ask for what
22 they need.

1 MR. MOYER: Well that was our
2 discussion yesterday that who's going to come
3 back? You have heard me saying that it's
4 certainly possible that those could still come
5 back to us and say, "Okay, there is no room
6 for us in here." I suppose that could be
7 done. But that discussion did take place at
8 length.

9 MR. DELGADO: Okay, that's a good
10 clarification. Can we continue with a
11 description?

12 MR. KARREMAN: Okay, (7)(i): If a
13 species of aquatic plants and animals are
14 used, they must be native species or local
15 genotypes, and that has to do with the
16 recycling of nutrients.

17 Number (8), farm level effluents
18 and the potential influence of other aquatic
19 farms must be shown not to exceed the natural
20 assimilative capacity of the surrounding
21 ecosystem.

22 Number (9), in all cases benthic

1 habitats surrounding net-pens, not just below
2 net pens, surrounding them - must be shown to
3 have significant measurable changes in
4 chemistry and biodiversity. To not have -- I
5 apologize. To not have.

6 And I do believe that would
7 complete the document and the changes we made
8 last night. Yes.

9 MR. DELGADO: So would you like to
10 make a motion?

11 MR. KARREMAN: Yes, I move that the
12 "Proposed Organic Aquaculture Standard for
13 Net-Pens and Related Management Issues" be --
14 I move that we vote on that.

15 MR. DELGADO: Is there a second?

16 MR. MOYER: I'll second it.

17 MR. DELGADO: There's a second to
18 approve this document entitled "Proposed
19 Organic Aquaculture Standards for Net-Pens and
20 Related Management Issues."

21 Discussion? Questions? Barry.

22 MR. FLAMM: From my standpoint, and

1 from an ecological, biodiversity conservation
2 standpoint, this is the most important
3 decision that we're facing at this meeting.
4 And I recognize there has been a tremendous
5 amount of work done on this, but I have a
6 great reservation about net-pens themselves in
7 terms of the risk involved, the biological
8 risk. I have particular concerns with net-
9 pens in marine environments, but most
10 concerned with the consequences to the salmon
11 fisheries.

12 And I'm just wondering what
13 consideration the committee most recently made
14 of perhaps this initial go-round of
15 restricting or limiting at least net-pens to
16 certain species in certain areas where the
17 environmental risks are less.

18 MR. DELGADO: Jeff.

19 MR. MOYER: Yes, Barry, I think the
20 committee was extremely sensitive to that
21 discussion, and we've been working on it as
22 you know for years. If you look at Section

1 205.255(k), we do specifically try at least to
2 discuss the location of these net-pens, making
3 it we felt an extremely high bar for anyone to
4 come into an organic operation of this type to
5 adhere to.

6 We also are aware of course that
7 we have no control over the conventional net-
8 pen industry, and those are existing or
9 growing without this type of high bar standard
10 that again we are putting in front of the
11 board.

12 Our goal would be that down the
13 road those conventional net-pens would have to
14 begin to adhere to this standard if they
15 intend to sell fish into the market.

16 So if you read that, we are very
17 sensitive to that, and did try to take the
18 environment and the location of those pens
19 into consideration. It's going to be
20 difficult to locate them and satisfy this
21 rule.

22 MR. DELGADO: Dan.

1 MR. GIACOMINI: Yes, just to be a
2 little more specific, Barry, under that item,
3 (k), number one, affects where we could put
4 the net-pens, specifically out of the
5 migratory routes. I believe it's the new
6 number two specifies what they can put in the
7 net-pens, native species not bred to be
8 significantly different than the native
9 populations.

10 Then we have the recycling issues.
11 We did the disease issues, the anti-fouling,
12 we've done -- we could not come up with a
13 reasonable way that we felt we could justify
14 to say, okay, everything but salmon. So we
15 worked extensively to make it as -- if salmon
16 can do it within these regulations these come
17 as close to satisfying all the arguments --
18 most of the arguments that we heard that we
19 could conceive.

20 MR. DELGADO: Jennifer.

21 MS. HALL: I would like to echo
22 some of Jeff's comments, and actually as the

1 squeaky wheel on the committee, really, I'm
2 grateful for the sensitivity that has been
3 shown in this document, and it's ever-
4 increasing strength, and I'm glad that there
5 are portions of the aquaculture industry with
6 what has been passed so far that can get into
7 action.

8 That said, I still really wrestle
9 with the difficulty between deciding between
10 tighter control of inputs and outputs that are
11 a component of closed containment systems,
12 versus a desire for aquatic animals to have
13 their most natural environment, and the ever-
14 increasing demand for seafood overall, versus
15 protecting the environment.

16 And despite the strong controls
17 that are in place in this recommendation, at
18 the end of the day there still is waste added,
19 and more aquatic species considered predators
20 that could be potentially killed as a result
21 of the presence of net-pens.

22 And I am not comfortable at this

1 point with that being considered certified
2 organic net-pens, and I would prefer to start
3 a little bit slower and allow the whole
4 industry time to begin the certifier and
5 producer community to gain some experience and
6 perhaps add a member to the board who brings
7 some expertise to the area.

8 And while I do believe the
9 recommendation improves conditions from
10 present reality, and I know that is not going
11 to stop, I cannot in good conscience
12 incentivize more of it by putting a seal of
13 organic on it.

14 MR. DELGADO: Any other comments or
15 questions?

16 Bea?

17 MS. JAMES: Well, I have a question
18 for Hugh, because he is the champion behind
19 committee standards, what your position would
20 be for net-pens for fish? I mean do you see
21 that as a place where they would be exercising
22 their natural behavior?

1 MR. KARREMAN: Well, I think more
2 than in containment tanks. And that's already
3 allowed. But I actually was thinking earlier
4 in discussions, I think a year or more now,
5 stocking density for the net-pens. And yet we
6 were -- we've learned from the people in the
7 industry that apparently very very light
8 stocking densities are not -- I forget the
9 reason - good for the health of the fish. I
10 forget what it was, to be honest, Bea.

11 Schooling behavior, okay, yes. So
12 I kind of said, "Okay, fine." And I'll be
13 honest, I've kind of been on the fence with
14 the net-pens, but the way this document is
15 written now, especially with what we put in
16 last night, like Dan was saying, we can't
17 really say -- maybe we could say, no salmon,
18 but this is pretty tight. And like you can't
19 site pens in a migratory route; that cuts out
20 that whole Broughton Archipelago that we
21 talked about so much in the symposium. There
22 will not be certified organic net-pen salmon

1 or any net-pens probably in that area, from
2 this, from what we put in.

3 So you know, and then like
4 Jennifer was saying, I have to kind of balance
5 out the wild caught, everyone -- there is a
6 growing demand for fish in the world. What
7 are we going to do, just overfish the wild
8 caught out there? And then the other end of
9 the spectrum is, you know, the conventional
10 net-pens which don't look too good.

11 And so I do believe this strikes a
12 balance in the favor of the environment, and
13 as far as -- back to what you were saying, I
14 apologize, the humane treatment of the fish,
15 net-pens -- I've used this before in public
16 comment with someone -- it does help you
17 manage those fish better than just wild
18 caught. It's a perimeter that you say, okay,
19 that's that unit, we can really manage them
20 and watch them and check for them, pull fish
21 out and look at how they are doing. So I
22 think it really does help with the health of

1 the animals. Stocking density I was in favor
2 of, but I don't know, it's not good for the
3 schooling behavior, I guess.

4 MR. DELGADO: Jeff.

5 MR. MOYER: Well, just to address
6 that, if you look at 205.254(a)(2) three
7 little i's, we do address stocking densities
8 right there. We talk about under the living
9 conditions appropriate population or biomass
10 densities as recommended by species. So each
11 species would have individual stocking
12 densities that fit within their own cultural -
13 - natural cultural behavior that promotes the
14 behaviors of limited aggressiveness, dominant
15 behavior, you can read it for yourself.

16 But we do address that in there by
17 each species. And further up in that
18 document, in 205.254(a), just "a" in general
19 we talked about the living conditions in the
20 organic system pen, how that has to work into
21 accommodating the health and natural behavior
22 of fish. In two we talk about the need for

1 exercise, their normal swimming behavior.

2 So I think we have tried our best
3 to accommodate all of those natural living
4 conditions.

5 MR. KARREMAN: But as far as you
6 know 254(a)(2)iii, the -- maybe we could
7 insert something at this point that the least
8 possible stocking density should be done. I
9 don't know.

10 MR. KARREMAN: Yes, I like
11 appropriate.

12 MR. DELGADO: Kevin.

13 MR. ENGELBERT: I am personally
14 convinced that with this document we are not
15 creating net pen capos. We are not creating
16 concentrated animal feeding operations through
17 these net pens. It will not be allowed.

18 MR. DELGADO: Bea.

19 MS. JAMES: Would you consider not
20 pushing this recommendation, this part of the
21 recommendation forward for further work?

22 MR. KARREMAN: To be honest, Bea, I

1 want to have a vote on this document. If it
2 passes, it does; if it doesn't, it doesn't.
3 We have worked on this for eight years with
4 Agriculture as the NOSB. This I really don't
5 think -- you could give us the next 20 years,
6 Bea, and go around and around in the room with
7 everybody and everything, but we really
8 thought about this a lot of different ways,
9 and there is -- the short answer is no.

10 MR. DELGADO: Dan.

11 MR. GIACOMINI: I think the no A is
12 that we did talk about this, the option to not
13 take this to a vote is putting it on a shelf
14 for probably at least two years. With the
15 make up of the livestock committee right now
16 really feels that they have done -- we've done
17 what we can on it, and we don't see a lot of
18 progress being made to continue working on it.
19 In consideration for the manpower that it
20 takes to work on this project and the other
21 issues regarding livestock that are not being
22 dealt with.

1 And I think that until there would
2 be a fairly significant turnover of members on
3 the livestock committee, I am not sure it
4 would be worth the time as compared to other
5 issues to just turn it over again and try to
6 come back next time.

7 MR. DELGADO: Barry.

8 MR. FLAMM: I agree with what Dan
9 and Hugh said about the vote. I think there's
10 been a tremendous amount of work, and I
11 appreciate the efforts last night to try to
12 make this more environmentally sensitive.

13 I think the vote comes down to how
14 much risk the committee wants to take.
15 Because there are in this system
16 environmental, ecological and risk to
17 biodiversity.

18 And I wish that we were only
19 talking about starting a net-pen industry. Of
20 course it's already there, and this proposal
21 no doubt vastly improves what is going on. So
22 I'm torn with the fact that maybe this -- I

1 mean this will make -- the organic part would
2 make things better and less environmentally
3 impact -- so that is very compelling.

4 On the other hand from an organic
5 standpoint, the high bar that we have on all
6 things organic, this in my opinion doesn't
7 meet that, and frankly I don't think
8 especially for -- I never can pronounce
9 anadromous. What is it? It sounds like I'm
10 talking about love rather than fish that go
11 upstream to spawn. But in any case, salmon
12 and steelhead and those kind of fish, I don't
13 know if they would ever fit this.

14 I'm a great supporter of
15 aquaculture, and for certain systems, I've
16 been around it in tilapia and carp and all
17 these things, and they are really an important
18 protein source. But this net-pens in marines
19 and open waters really bothers me, and I don't
20 know if I could -- no matter how long you
21 worked on it I don't know if I could in due
22 conscience ever vote for it.

1 But I'm torn, because I know this
2 is going to do a better job than maybe, as
3 Tracy said, it will pull the other system
4 along. But I guess I have to stay with the
5 high bar, and if we can't do what we think is
6 right for organic, then it shouldn't be
7 labeled organic.

8 MR. DELGADO: Tracy.

9 MS. MIEDEMA: Mr. Chair, I'd like
10 to call for the question.

11 MR. DELGADO: I was hoping you
12 would.

13 MS. MIEDEMA: But I realize there
14 are other colleagues of mine in line.

15 MR. DELGADO: Dan.

16 MS. FRANCES: I have a question I
17 would like to ask the livestock committee. In
18 your preparation, up until the creation of
19 this document before posting it, you were
20 considering language on the genotype and
21 origin of aquatic animals in fact going back
22 to the hatchlings, and that you did not want

1 to do this part just yet because there was so
2 much more to consider.

3 And I just wonder if you really
4 are ready to do this one little section, K(2).

5 MR. GIACOMINI: We discussed that.
6 We did have an overall consideration for the
7 origin of livestock for all of aquaculture
8 that we were considering up that point which
9 we pulled out. This is a specific aspect
10 relative to net-pens. This is not an overall
11 origin of livestock, origin of aquaculture
12 animals. It's just specific, so it is in
13 addition to what we currently have, which is
14 from some metamorphic stage. This is not
15 changing that aspect. It's merely saying what
16 the genetic background of the animals that go
17 into the net-pens is going to be, and we did
18 not feel that that was out of bounds in
19 dealing with specifically the net-pen issue.

20 Regarding, Barry, I go through
21 many of the same things that you - concerns
22 that you have with this, Barry, and I hear all

1 of the public comment regarding organic
2 principles, and we can make a list of 1,000
3 organic principles, but for me it comes down
4 to one thing, and that is, the overall
5 sometimes gradual sometimes quick improvement
6 of the way things are now.

7 And if organic farming can make
8 those improvements from over conventional
9 farming and conventional agriculture and
10 conventional aquaculture, I am very
11 comfortable with even small progress that is
12 being made.

13 MR. DELGADO: Hugh.

14 MR. KARREMAN: I guess I would ask
15 you, Barry, and Bea and Jennifer, is it the
16 net-pens themselves - I kind of know your
17 answer, Jennifer, from us talking - but is it
18 the net-pens themselves, or is it the salmon
19 net-pens which we have heard loud, loud and
20 clear. Because if it's the salmon net-pens we
21 can make a deal happen, but if it's net-pens
22 in general that is a philosophical change that

1 we just won't be able to bridge I think.

2 MR. FLAMM: Hugh, as I said before,
3 I do have a problem generally with net-pens,
4 but I think those are -- many of those are --
5 can be dealt with. I don't believe in the
6 salmon pen they can be dealt with. So I will
7 separate the two. Am I making myself clear,
8 that if salmon was adequately addressed or
9 eliminated I would have much less trouble with
10 the net-pens.

11 MS. HALL: For me it is definitely
12 net-pens overall, and their environmental
13 impact on the fragility of the marine system.

14 MR. DELGADO: Bea.

15 MS. JAMES: I would second that.

16 MR. DELGADO: So in conclusion, in
17 answer to your question, we do have two who
18 would vote on concern about the concept of
19 net-pens and a third who would assent.

20 MR. FLAMM: Well, I do have
21 concerns about net-pens. I'm saying that that
22 would have to be addressed on an individual

1 species, and practices might deal with those.
2 But I can't see it being dealt with at all in
3 salmon fish.

4 MR. DELGADO: Is that a call to any
5 action, or can we proceed with voting.

6 MR. KARREMAN: No, that can go to
7 vote.

8 MR. DELGADO: The question is on
9 the motion to accept the document entitled,
10 "Proposed Organic Aquaculture Standards, Net-
11 pens and Related Management Issues as
12 described by the chair of the Livestock
13 Committee."

14 We will start the vote with
15 Jennifer.

16 MS. HALL: No.

17 MR. DELGADO: Steve.

18 MR. DeMURI: Yes.

19 MR. DELGADO: Julie.

20 MS. WEISMAN: Yes.

21 MR. DELGADO: Dan.

22 MR. GIACOMINI: Yes.

1 MR. DELGADO: Jeff.
2 MR. MOYER: Yes.
3 MR. DELGADO: Bea.
4 MS. JAMES: No.
5 MR. DELGADO: Jerry.
6 MR. DAVIS: Yes.
7 MR. DELGADO: Tina.
8 MS. ELLOR: Yes.
9 MR. DELGADO: Tracy.
10 MR. DELGADO: Yes.
11 MR. DELGADO: Joe.
12 MR. SMILLIE: Yes.
13 MR. DELGADO: Barry.
14 MR. FLAMM: No.
15 MR. DELGADO: Barry.
16 MR. FLAMM: No.
17 MR. DELGADO: Hugh.
18 MR. KARREMAN: Yes.
19 MR. DELGADO: Kevin.
20 MR. ENGELBERT: No.
21 MR. DELGADO: And the chair votes
22 yes.

1 MR. MOYER: We have four noes, 10
2 yeses, and one absent.

3 MR. DELGADO: The yeses have it,
4 and the motion is agreed to.

5 And does that conclude, Mr.
6 Chairman, with your topics?

7 MR. KARREMAN: Yes, thank you.

8 MR. DELGADO: Okay, we are somewhat
9 behind schedule, and we are going to move
10 right on to the Handling Committee with Ms.
11 Weisman.

12 Julie, do you need extra time?

13 MS. WEISMAN: Let's take a break
14 now, but it doesn't need to be 15 whole
15 minutes.

16 MR. DELGADO: Okay, let's break for
17 10 minutes, 10 real minutes.

18 (Whereupon, the above-entitled
19 matter went off the record at 2:45
20 p.m. and resumed at 3:03 p.m.)

21 HANDLING COMMITTEE

22 MR. DELGADO: Okay we are about to

1 start with our next topic, which is the
2 handling. Members of the body, please be
3 quiet.

4 We need to continue with our
5 agenda, conscious of the fact that we are
6 behind schedule.

7 And Ms. Weisman, if you will be so
8 kind as to proceed with the topics of the
9 Handling Committee.

10 MS. WEISMAN: We have some
11 materials that we have recommendations on.
12 Everyone heard discussions yesterday, and I'm
13 going to start with materials petitioned for
14 Section 205.605(b), non-agricultural materials
15 that are synthetic, the first of which is
16 calcium from seaweed.

17 And it was in brief the Handling
18 committee's recommendation is that calcium
19 seaweed derived, as petitioned, does not need
20 to be considered for addition to the national
21 list since the use of this material is
22 currently allowed through the existing listing

1 of nutrient minerals on the national list.

2 Also on 205.605(b) this
3 recommendation passed at committee, five yes,
4 zero no, there was one absent, and we heard
5 from the petitioner yesterday that the
6 petitioner even agrees, is satisfied with this
7 recommendation.

8 I do also want to mention that one
9 of the concerns raised by my fellow board
10 member was not wanting to set a precedent for
11 the interchangeability of synthetic and non-
12 synthetics, and we were assured that it is
13 only because of an FDA rule applying to this
14 category, nutrients and minerals, that this
15 what appears to us to be a non-synthetic is
16 covered under a category listed on synthetic
17 lists. So it would not apply to all of 605 to
18 address that concern.

19 So therefore, until -- I never get
20 these procedures right, but I always know Dan
21 or Rigo is going to get me right.

22 Are we ready for a motion?

1 MR. DELGADO: Yes, we are.

2 MS. WEISMAN: I move that we accept
3 the recommendation.

4 MR. DELGADO: Which is?

5 MS. WEISMAN: That calcium seaweed-
6 derived does not need to be considered for
7 addition to the national list, since its use
8 is already covered through existing listing.

9 MR. DELGADO: That is moved.

10 MR. MOYER: I'll second.

11 MR. DELGADO: It's moved and
12 seconded to agree that calcium seaweed derived
13 in this petition does not need to be
14 considered for addition to the national list
15 in Section 205.605(b).

16 That is what we are voting on. To
17 support the statement that we do not need to
18 list it, correct?

19 Discussion? Any questions? Are
20 we ready for the question?

21 The question is on the motion to
22 recommend that calcium seaweed derived as

1 petitioned does not need to be considered for
2 addition to the national list in Section
3 205.605(b), and we'll start with Steve.

4 MR. DeMURI: Yes.

5 MR. DELGADO: Julie.

6 MS. WEISMAN: Yes.

7 MR. DELGADO: Dan.

8 MR. GIACOMINI: Yes.

9 MR. DELGADO: Yes.

10 MR. MOYER: Yes.

11 MR. DELGADO: Bea.

12 MS. JAMES: Yes.

13 MR. DELGADO: Jerry.

14 MR. DAVIS: Yes.

15 MR. DELGADO: Tina.

16 MS. ELLOR: Yes.

17 MR. DELGADO: Tracy.

18 MS. MIEDEMA: Yes.

19 MR. DELGADO: Joe.

20 MR. SMILLIE: Yes.

21 MR. DELGADO: Barry.

22 MR. FLAMM: Yes.

1 MR. DELGADO: Hugh.

2 MR. KARREMAN: Yes.

3 MR. DELGADO: Kevin.

4 MR. ENGELBERT: Yes.

5 MR. DELGADO: Jennifer.

6 MS. HALL: Yes.

7 MR. DELGADO: And the chair votes

8 yes.

9 MR. MOYER: Mr. Chairman, there are
10 zero noes, 14 yeses, one absent.

11 MR. DELGADO: The ayes have it, and
12 the motion is agreed to. Let's continue on to
13 the next topic.

14 MS. WEISMAN: The next item on the
15 agenda is sodium chloride acidified, and that
16 was as we mentioned yesterday that is deferred
17 at this time. There will be no vote. And the
18 same is true for propionic acid. Those are
19 both high on our list of materials for - well,
20 they are on our list; they are definitely on
21 our list, our work plan.

22 MR. DELGADO: Let's proceed then

1 to the next item to vote on.

2 MS. WEISMAN: Right. Our next
3 item is ethylene for pears, also to be
4 petitioned for Section 205.605(b).

5 And this is actually a proposal to
6 amend the current listing of 205.605(b) which
7 is ethylene to include the post-harvest
8 ripening of pears. It currently reads,
9 tropical fruits and degrading of citrus. And
10 this would add to that annotation, the
11 ripening of pears post-harvest.

12 This is also something that we
13 have heard a lot of public comment about. A
14 lot of it has been in favor, but also valid
15 questions have been raised about the need to
16 add a synthetic for the purpose of extending
17 the marketing season. This material actually
18 passed at the committee level by a vote, five
19 yes, zero no, and there was one absent. So I
20 do put forward the motion now that the listing
21 of the ethylene on 205.605(b) be amended to
22 include the post-harvest ripening of pears.

1 MS. MIEDEMA: Second.

2 MR. DELGADO: It's moved and
3 seconded to amend the listing of 205.605(b) to
4 include ethylene for ripening of pears.

5 Discussion?

6 MS. HALL: Based on some of the
7 comments yesterday I question the necessity
8 for it from the perspective of, many of the
9 requests were based on improving the
10 experience at the consumer level, yet despite
11 a large supply, the same commenter also said
12 that they consistently sell out.

13 So I don't see where the problem
14 is right now.

15 MR. DELGADO: Any other questions
16 or comments? Jerry.

17 MR. FLAMM: While it's clear it's
18 not necessary for either pear production or
19 pear marketing or handling, as a pear grower
20 myself I never found it necessary to use
21 ethylene. Certain smaller growers don't have
22 the facilities. It's only a benefit perhaps

1 to some of the largest producers of pears, and
2 if anything it just gives an advantage to the
3 large over the small.

4 MR. DELGADO: Any other questions?
5 Tracy.

6 MS. MIEDEMA: I'm from a pear-
7 growing state, Oregon, and what I heard
8 yesterday is that there are 30 percent more
9 organic pear trees in transition. There is a
10 tremendous amount of fruit that all comes to
11 the market at the same time, and this
12 substance, which we heard yesterday, is
13 precisely the same thing that would show up if
14 you put your organic pears in a bag. It helps
15 these organic farmers who are committing to
16 converting more acreage to have a market to
17 sell their products.

18 And from a consumer perspective,
19 and as a mom that buys an enormous amount of
20 fruit for her kids' lunch bags, I really don't
21 plan well enough on Sunday night when I'm
22 grocery shopping to have pears in the lunch

1 bag on Monday morning. And all this sounds
2 really sort of petty or irrelevant until you
3 think about how consumers really behave out
4 there, and what we are trying to create, an
5 entire system from the organic farmer to the
6 consumer. And it seems like a very benign
7 tool to continue growing this organic crop.

8 MR. DELGADO: Julie.

9 MS. WEISMAN: I have a question,
10 actually, and I hoping some of the pear
11 growers in the room, someone will be able to
12 come forward. If extending the market -

13 MR. DELGADO: Can you state your
14 name, please?

15 MR. GONSALVES: Yes, my name is Ron
16 Gonsalves from Peshastin, Washington.

17 MS. WEISMAN: My question is, would
18 the extension of the marketing period for
19 organic pears if they were available in a more
20 usable form for more months of the year, would
21 that have any impact on the amount of organic
22 pears that maybe are coming from outside the

1 United States?

2 What market would it be taking
3 away from?

4 MR. GONSALVES: I don't think it
5 would take away from either market, because I
6 think right now the amount of pears that we
7 have we are marketing in basically a six-month
8 window, say a seven-month window. So as the
9 crops continue to grow as it was stated with
10 the production increasing in the transitional
11 acreage, what we intend to do is that we will
12 continue to market the northwest pears in that
13 same seven-month window. So as these crops
14 get larger we are not looking to extending the
15 marketing in the sense of taking pears further
16 into the spring. We are looking to - our
17 challenge would be to market increased volumes
18 of pears in that same seven-month window that
19 we are currently marketing pears into.

20 So following that seven-month
21 period is where we start to see the increase
22 in imported pears.

1 So we are really not taking away
2 from any market. We are actually looking to
3 market increased pears in that same window.

4 MR. DELGADO: Jeff.

5 MR. MOYER: Yes, we just heard
6 yesterday, and we heard yesterday, I believe
7 it was from you, that you are already selling
8 out of pears, and you are selling everything
9 you have currently.

10 MR. GONSALVES: Well, we do sell
11 out of pears. We sell out of as I mentioned
12 earlier, not to confuse the two items, but we
13 currently harvested the largest apple crop
14 ever in the Northwest, and we will sell all
15 the apples at the end of the season. We will
16 sell all the pears that we are currently
17 growing right now. But at the same time the
18 use of ethylene isn't to extend the marketing;
19 it's to enhance the quality of the pears that
20 we deliver to the market in the same market
21 window.

22 So we are not looking to change

1 the window at all; we are looking to - we are
2 looking to market a pear that's been enhanced
3 by conditioning the same way.

4 So I think there is some
5 confusion, and I think some of the letters
6 that were written that talked about extending
7 it, it was never the intention of the industry
8 to look to extend the marketing window of
9 pears, but actually to, the pears that are
10 currently being marketed in that seven-month
11 window, to enhance the pears that are
12 delivered to the retailer and ultimately the
13 consumer.

14 MR. DELGADO: Jerry - Kevin.

15 MR. ENGELBERT: I have two
16 questions. Are there currently organic pears
17 being imported into the United States during
18 the periods of the year that you do not have
19 organic pears available?

20 MR. GONSALVES: There is a
21 substantial amount of import, mostly coming
22 from South America, that begin arriving in

1 that April time period. So as the Northwest
2 pear crop dwindles, because our ability to
3 store - we are obviously able to store
4 conventional pears longer than we are able to
5 store organic pears. So as the organic pear
6 comes to an end in April, just due to
7 condition issues, the imports begin to show up
8 from South America. And we are beginning to
9 see increased volumes of imported pears. If
10 you are buying a pear - I would say if you are
11 buying a pear from May to August, more than
12 likely you are buying an imported pear.

13 MR. ENGELBERT: Do you know the
14 companies that import conventional pears into
15 the United States, what they produce their
16 ethylene from?

17 MR. GONSALVES: For imported pears?

18 MR. ENGELBERT: Yes.

19 MR. GONSALVES: I don't know with
20 any certainty that imported pears are being
21 conditioned prior to coming into the United
22 States. A lot of the retailers today, a lot

1 of your conventional retailers, as well as
2 your organic retailers, have the ability to
3 ripen pears on site in their distribution
4 centers.

5 So as pears are being delivered to
6 them, as pears are coming into the ports, the
7 imported pears, those pears are then delivered
8 to the distribution centers of your major
9 retailers, and conditioning is taking place on
10 site similar to bananas. Bananas are being
11 conditioned domestically as bananas arrive in
12 the country, and it's the same thing with
13 imported pears.

14 MR. DELGADO: Steve.

15 MR. DeMURI: My question was pretty
16 much answered by Kevin's question. But let me
17 ask it a different way. Certain times of the
18 year, are there organic pears and conventional
19 pears side by side, and the conventional pears
20 are of better quality, and you believe the
21 consumers are picking the conventional over
22 the organic because of that?

1 MR. GONSALVES: If the consumer
2 goes in there, the consumer has identified the
3 fact that their preference is a conditioned
4 pear, I do feel that, over time, that consumer
5 is going to buy the pear that they prefer,
6 which is a conditioned pear, over an organic
7 pear.

8 MR. DELGADO: Hugh.

9 MR. KARREMAN: So then I just heard
10 you say that bananas that are coming into this
11 country are conditioned with the ethylene once
12 they are here at the port? Is that correct?

13 MR. GONSALVES: Yes, that's
14 correct.

15 MR. KARREMAN: I thought the
16 ethylene was being used in the other countries
17 so that they would survive shipping to here.

18 MR. DELGADO: Joe, would you like
19 to clarify that?

20 MR. SMILLIE: You wouldn't want to
21 ripen them, and then ship them. You want to
22 ship them green, and then ripen them.

1 MR. KARREMAN: Okay, so basically
2 it's like the ethylene is being used already
3 in this country for certified organic bananas,
4 and you are asking for the certified organic
5 pears which would also be in this country.

6 MR. GONSALVES: Correct. If you had
7 an opportunity to visit a distribution center
8 of a major retailer in this country, you will
9 see all of them have onsite banana
10 conditioning rooms. And as far as
11 conventional pears, that is where the majority
12 of pears are being conditioned is on site at
13 distribution centers prior to going into
14 retail stores.

15 MR. DELGADO: Jim?

16 MR. MOYER: I'm just trying to
17 understand what the ramifications of this
18 whole thing might be. If what you're saying
19 is that the treatment with ethylene gets you
20 into the market earlier --

21 MR. GONSALVES: That's one of the
22 benefits, yes.

1 MR. MOYER: What does that do to
2 local tree-ripened fruit on a small scale?

3 MR. GONSALVES: Well again, you
4 have to take into it the the question that was
5 asked yesterday about the scope of the
6 industry. You know, I visited the Whole Foods
7 down the street this morning, and there was
8 Northwest pears in there. So our Northwest
9 pears are being distributed all across the
10 country. The fact that we have tree-ripened,
11 and pears don't really tree ripen, because of
12 the way that the climatic conditions -- they
13 don't really tree ripen.

14 So we've got to continue to have
15 markets for those pears, those small growers
16 that are growing and satisfying local fruit
17 stands. But at the same time, we're talking
18 about the Northwest pear industry that is
19 transitioning more fruit into the organic
20 arena, and is generating and growing more
21 organic pears that are being sold from coast
22 to coast domestically from the Atlantic to the

1 Pacific, to the north to the south, as well as
2 exported to Europe and to the UK.

3 So we are talking about a major
4 industry that is looking to utilize a tool
5 that is currently certified already for the
6 use of organic bananas and other tropical
7 fruit as well as citrus. We are just asking
8 to be included in there, because we do think
9 that it will benefit the industry in the long
10 run as well as provide the consumer an
11 enhanced product.

12 MR. MOYER: Quick follow up. You
13 don't see that that is going to displace - I
14 want to recognize the ramifications of my vote
15 on local pears, small scale local pear
16 growers.

17 MR. GONSALVES: No, I don't see
18 where it would impact the small grower as well
19 as the grower who takes his fruit to the local
20 fruit stand to retail. I don't see that is
21 where it's going to challenge them.

22 MR. DELGADO: Okay, Jennifer.

1 MS. HALL: I just want to ask a
2 little bit more on this, because typically in
3 a marketplace the first one to market commands
4 the higher price, and people are anticipating
5 a product that has seasonality to it.

6 And do you not believe then that -
7 on a local grower level - that would
8 potentially not afford them some of that
9 premium?

10 MR. GONSALVES: No, because the
11 grower, I think that local grower, the local
12 fruit stand grower has a secure customer base.
13 I don't think we are looking to change his
14 opportunities as far as competing with him.
15 We're looking to be able to satisfy the
16 movement of a large volume of pears.

17 Because that local grower, if he's
18 a five or 10-acre grower, he is going to
19 continue to succeed. We have small growers
20 within our coop as I mentioned yesterday, we
21 have over 200 growers. We have small and
22 large growers within that mix.

1 Some growers, some small growers
2 choose to retail their apples or pears or soft
3 fruits at a fruit stand. Other small growers
4 choose to become part of the greater system to
5 where their fruit is all pooled with larger
6 growers and take advantage of that market as
7 well.

8 So the small and the large isn't
9 just from a fruit stand standpoint; it truly
10 is within the industry.

11 MR. DELGADO: Bea.

12 MS. JAMES: How many days of
13 ripening do you think that being able to use
14 ethylene would save the tree pears? Because
15 you still can't ship them when they are fully
16 ripe. Any grocery store is going to be
17 bringing them in when they are green enough
18 that they are not going to be damaged in
19 storage.

20 MR. GONSALVES: You've got to
21 remember what we are talking about as far as
22 this ethylene treatment is to trigger the

1 natural production of the ethylene that a pear
2 is going to be emitting itself. So again our
3 process is strictly a triggering mechanism as
4 opposed to a true ripening method.

5 So it takes three days in
6 treatment. The shelf life of that pear isn't
7 jeopardized in the sense that, the pear
8 doesn't arrive to the retailer in a ripened
9 state. The ripening begins - we trigger the
10 ripening, and the ripening begins over that
11 same - because again if we are shipping pears
12 from the West Coast to the East Coast, it's a
13 five-day travel time, that pear is beginning
14 that ripening process similar to what it would
15 be if it stayed in storage for that same 40-
16 day period.

17 MS. JAMES: So for clarification
18 then, the ethylene for pears is really used to
19 help increase and trigger so that the
20 sweetness -- is that correct?

21 MR. GONSALVES: It's used to
22 trigger the receptors, the natural receptors

1 that each pear and apple has - in this case,
2 pears - the natural receptor that then
3 triggers the release of its own internal
4 ethylene that continues the ripening process.
5 And that conversion is ultimately what it's
6 doing when it converts the starch to the
7 sugar, and that's where the sweetness comes in
8 as far as the pears.

9 MR. DELGADO: Any other questions?

10 Jennifer.

11 MS. HALL: Sorry, I just have one
12 last one. I do want to be careful, because
13 it's a product that is big for my area and I
14 want to support it. But I would just be a lot
15 more sensitive if you tell me you are sitting
16 on a mountain of unsold product. I just don't
17 see that for the expansion of a synthetic
18 application. So it's difficult for me, I have
19 to say.

20 MR. GONSALVES: Again, the
21 utilization of the ethylene is to trigger the
22 ripening so that we are able to deliver a pear

1 that is in a state of being able to ripen
2 sooner at the consumer level. The fact that
3 we are not looking to change the marketing
4 window, we are going to sell all of our pears
5 with or without ethylene, so I don't want to
6 confuse that element. I'm willing to say that
7 outright. We will sell all of our pears with
8 or without ethylene. We are looking to have
9 the use of ethylene to be able to enhance the
10 quality of the pear that is delivered to the
11 marketplace earlier in the season.

12 So we are not looking to modify
13 anything that we are currently doing. The
14 crops continue to grow. We will market those
15 crops with or without ethylene.

16 We are looking for the benefit of
17 the use of ethylene to be able to enhance that
18 pear to get a better quality eating pear to
19 the marketplace sooner than we would have.
20 It's used conventionally. The pears that you
21 are buying in retail on the conventional level
22 more than likely have been conditioned. All

1 of your bananas that you are buying have been
2 conditioned. All of your organic bananas that
3 you are currently buying have been
4 conditioned.

5 So we are looking to utilize it,
6 to utilize the tool of ethylene in the same
7 manner that bananas and tropical fruit are
8 currently utilizing ethylene in that manner.

9 MR. DELGADO: Joe.

10 MR. SMILLIE: So to grow the pear
11 market, you've got so much that you are going
12 to sell as organic, unconditioned or not. To
13 grow a market to those consumers who aren't
14 die-hard organic consumers, they are going to
15 judge the pear on the eating quality, not it's
16 ecological benefit. So therefore to grow the
17 pear market this tool will help consumers get
18 organic pears and help pear growers convert to
19 organic, is the way I look at it.

20 MR. DELGADO: Bea.

21 MS. JAMES: So just to also to go
22 off on what Joe is saying is that that then --

1 the organic pear then becomes more competitive
2 in quality with the conventional?

3 MR. GONSALVES: It allows that pear
4 to be -- the consumer that ultimately
5 purchases a conditioned pear could have that
6 opportunity in the organic arena similar to
7 what we are currently providing in the
8 conventional.

9 MS. JAMES: As a retailer, I can
10 tell you that is one of the biggest problems
11 we have with pears is the quality, even though
12 the organic consumer usually doesn't want to
13 trade down for the conventional. But the
14 quality oftentimes isn't there unless it is
15 from somebody who is local.

16 MR. GONSALVES: And as you all
17 know, we package to the same grade standards
18 that USDA regulates us in the same grade
19 standards whether we are packing conventional
20 or organic. So we are putting the same
21 product out there as far as appearance. It is
22 internal quality that we are trying to enhance

1 with having the utilization of ethylene on
2 organic pears similar to what we are doing
3 with conventional.

4 MR. FLAMM: Well, I wouldn't agree
5 that organic pears have a lower quality or
6 organic pears ripened without artificial
7 ethylene, and have less quality. As a
8 previous pear grower I will admit that growing
9 organic or non-organic pears and ripening
10 without the aid of ethylene takes a little
11 more time and a little more skill and it's a
12 little tricky. You've got to know your
13 species, and you have to know the timing.

14 But I think you can certainly do
15 it and have a high quality pear.

16 And in terms of Jeff's comment, I
17 certainly - in Montana the Washington pears
18 and apples can compete. It depends on the
19 year and the time, especially they compete in
20 the bigger marketplaces.

21 The same thing, you can develop
22 your niche markets if you work hard at it.

1 But still I think the small grower is being
2 put at a disadvantage.

3 MR. DELGADO: Jennifer.

4 MS. HALL: So if you come to market
5 earlier, you are - I recently eliminated
6 myself - but saying that organic would be able
7 to displace some conventional sales?

8 MR. GONSALVES: We sell to
9 retailers that handle both organic and
10 conventional. We sell to retailers that
11 handle just organic produce, but at the same
12 time it's enhancing the quality of the fruit
13 we are delivering. We are not doing it solely
14 to compete with the conventional, but it will
15 enhance the quality of the organic pear that
16 we are delivering to the marketplace.

17 And again, back to the small
18 grower-large grower, as a coop of 200 growers,
19 we have growers in our coop that are pooled
20 with larger growers, that are as small as the
21 growers that Jennifer is concerned with that
22 are currently satisfying fruit stands.

1 So it's a grower's independent
2 choice whether he wants to sell locally, or
3 whether that small grower wants to pool his
4 fruit with other growers that are then selling
5 across the whole domestic field, or even
6 export.

7 So the range of growers are still
8 out there, and the fact that we are a coop
9 that work with large growers, because of our
10 make up and the choice of what we have done,
11 we also service small growers that just choose
12 to do their retailing or their actual selling,
13 not their retail, but do their selling through
14 the coop as opposed to local fruit stands.

15 So we are supporting small growers
16 and large growers with our current makeup.

17 MR. DELGADO: Jerry followed by Bea
18 and I believe Steve also wants to make a
19 statement. Please identify yourself.

20 MR. KIHISTADIUS: My name's Dennis
21 Kihistadius. And I - Ron works basically at
22 the plant, and I get to go travel with

1 retailers. So I'd like to kind of address
2 what you are saying.

3 And you are exactly right: the
4 old-time produce men knew what to do with
5 pears. They took them out of the cooler
6 before they put them on the store shelf. I
7 mean they rotated the fruit, and they worked
8 like the fruit stands that's she talking
9 about. We don't have that expertise anymore.

10 And we are talking about getting
11 into retailers like - Bea likes to hear Wal-
12 Mart, but Wal-Mart does sell organics. And
13 they condition their pears when they come in.
14 And they literally have increased their pear
15 sales double digits in the past five years
16 because of this program. Kroger, Safeway, we
17 just don't have that expertise at store level
18 anymore.

19 So what we want to do, it's
20 basically priming the pump. We let the fruit
21 get a little bit of ethylene, and then we
22 basically, unlike the banana, we can put it

1 asleep with temperature. And we ship it to
2 the store cold. And this program is so that
3 when the fruit is on the store shelf, it warms
4 up and it starts to ripen, and then you get a
5 natural rotation as the store level, or if you
6 as the consumer take it home and put it in a
7 paper bag or put it on your shelf, as long as
8 you keep it out of the refrigerator, it will
9 ripen.

10 So we've lost this produce guy
11 that was there for 20 - 30 years. I mean in
12 high school I worked for a Super Value, never
13 knowing that I'd work with fruit after I got
14 through with the military. And it's just
15 amazing the expertise that we have lost that's
16 gone to either some of the fruit stands you
17 probably buy your fruit from. And these
18 people know their product. They know how to
19 do it. But the mass market that we are trying
20 to hit it's lost, it's gone. You got a kid in
21 high school working there.

22 MR. DELGADO: Jerry.

1 MR. DAVIS: Bartlett pears, what's
2 the rule there?

3 MR. KIHISTADIUS: Yes, Bartlett
4 pears and California -- I worked in both
5 industries. But the California growers'
6 fruit, when it's harvested, it's deed green.
7 It's hard as a rock. And it won't ripen for
8 21 days on its own even. So the University of
9 Davis, we work real close with Dr. Mitchum
10 there, found that if you can give them an
11 ethylene treatment, you can get them to the
12 market sooner. By that I mean, let's say they
13 harvest on June 30th, instead of waiting until
14 July 21st, when you will have an edible pear,
15 we can shorten that window down to maybe July
16 10th or July 12th. But it's really critical,
17 on the California river pears, especially the
18 Delta. Lake County, not so much, because of
19 their growing conditions.

20 MR. DAVIS: So that leads to my
21 next question of, overlap between winter pears
22 - marketing overlap that is - and the early

1 season small grower in there with Bartlett
2 pears.

3 MR. GONSALVES: Can I answer that?

4 MR. DAVIS: Yes, please.

5 MR. GONSALVES: Most of our pear
6 growers grow winter and summer pears as well,
7 because most of our Anjou pears, which is our
8 primary winter pears are being cross-
9 pollinated by the Bartlett pear. So most of
10 our growers that grow Anjous also grow
11 Bartlett. So the sensitivity of overlapping
12 the crops really becomes, what's evolved is a
13 consumer preference. And what is happening
14 is, on the conventional as well as the organic
15 side, we are selling winter pears earlier each
16 year, not to the detriment of summer pears,
17 but we are selling winter pears earlier each
18 year because the consumer preference is there
19 to have both pears available to it.

20 So consumers are purchasing one of
21 two different varieties of pears, and that's
22 where the expansion, and that's where the

1 growth is coming in to the pear dealers, the
2 consumers would buy one pear on a seasonal
3 basis, a Bartlett, until they ran out; then
4 they would buy a winter pear until late in the
5 season. The consumer's preference now is to
6 buy multiple varieties of pears, and when they
7 go into the store their purchasing habits have
8 changed in the sense that pears have become
9 much more of an accepted commodity for them.
10 So the consumer is looking for more than one
11 pear at a time, and that's what we are trying
12 to do by making winter pears available to them
13 earlier.

14 MR. DELGADO: Bea.

15 MS. JAMES: Just a couple of points
16 that I wanted to point out is that we are
17 talking about organic pears, and that a local
18 supplier may or may not be growing
19 organically. And if they weren't, then they
20 would be competing with conventional. And
21 then secondly I would - I know that we talk
22 about a level playing field. And so since we

1 do get bananas, and we have other categories,
2 this seems like more of a harmless entry to
3 add pears to that.

4 MR. DELGADO: Any other questions?

5 MR. KARREMAN: I think ethylene was
6 reviewed for tomatoes a long time ago. Is
7 Emily Brown Rosen here? She might know
8 something about that.

9 MS. ROSEN: Tomatoes?

10 MR. KARREMAN: Well, it was
11 reviewed previously.

12 MR. DELGADO: Emily? Any specific
13 questions, Hugh? Why it was rejected, that's
14 the question. For tomatoes.

15 MS. ROSEN: I think it was '95, '96
16 that they were looking at pears, tomatoes,
17 bananas. Tomatoes was rejected because it was
18 felt like it was used to artificially ripen
19 tomatoes, you know, so that poor quality
20 tomatoes would be shipped green, and not have
21 the benefit of ripening. Pears, they felt
22 like it wasn't necessary. Bananas, it was the

1 only way to get bananas shipped into this
2 country as a -- so that was where it seemed an
3 essential, necessary element. We did later
4 add the de-greening of citrus and the tropical
5 fruits came later in `99, and that was because
6 when they were doing bananas they also were
7 doing the mangoes and the papayas at the same
8 time in these gassing rooms. And it was the
9 same shipping problem coming into the country.
10 But pineapple was never approved for a -- I
11 think someone mentioned that it was mentioned
12 as a possible de-greening use in pineapple.
13 It did not have that use. It only is used in
14 crop production, you know, like a year ahead
15 of when you harvest the pineapples. And I
16 don't think avocados are actually approved
17 either, because they are considered a
18 subtropical fruit, not a tropical fruit.

19 I may it may something that is
20 done, but it shouldn't be.

21 MR. KIHISTADIUS: I worked in the
22 avocado industry for 7-1/2 years and they have

1 been doing it since `92, organic.

2 (Simultaneous speakers.)

3 MR. KARREMAN: This sounds a little
4 bit different than what tomatoes were kind of
5 looked at back then. It sounds like a little
6 bit different. You are not speeding up
7 ripening per se. I mean I don't want to go
8 into the details, but there are several
9 different - why it was rejected for tomatoes.

10 MR. GONSALVES: And I think what
11 you did mention in that same time period, `92
12 - `93 when pears were looked at previously and
13 said it wasn't necessary. The industry has
14 changed considerably, and the use of ethylene
15 on conventional pears was a minor
16 consideration back in that time period as
17 well.

18 The increase in the benefits that
19 have been evaluated with ethylene has really
20 taken place in the last five or six years.

21 MR. DELGADO: Conscious of the time
22 here, do we have any other questions? We are

1 ready for the question. The question is, on
2 the amendment of ethylene for ripening pears
3 for listing on Section 205.605(b), and we are
4 going to start our vote with Julie.

5 MS. WEISMAN: I'm going to stick
6 with my original vote, yes.

7 MR. DELGADO: Thank you. Dan.

8 MR. GIACOMINI: No.

9 MR. DELGADO: Jeff.

10 MR. MOYER: No.

11 MR. DELGADO: Bea.

12 MS. JAMES: Abstain.

13 MR. DELGADO: Jerry.

14 MR. DAVIS: Yes.

15 MR. DELGADO: Tina.

16 MS. ELLOR: Yes.

17 MR. DELGADO: Tracy.

18 MS. MIEDEMA: Yes.

19 MR. DELGADO: Joe.

20 MR. SMILLIE: Yes.

21 MR. DELGADO: Barry.

22 MR. FLAMM: No.

1 MR. DELGADO: Hugh.

2 MR. KARREMAN: Yes.

3 MR. DELGADO: Kevin.

4 MR. ENGELBERT: No.

5 MR. DELGADO: Jennifer.

6 MS. HALL: No.

7 MR. DELGADO: Steve.

8 MR. DeMURI: Yes.

9 MR. DELGADO: And the chair votes
10 yes.

11 MR. MOYER: Okay, we have five
12 noes, one abstention, and one absent, and nine
13 yeses. I stand corrected, it is eight.

14 MR. DELGADO: Okay, the motion to
15 amend for ethylene for ripening pears for
16 listing on Section 205.605(b) is lost. Let's
17 move on to the next topic. Julie.

18 MS. WEISMAN: Okay, next we have
19 algae - we'll start with chlorella --

20 MR. DELGADO: Julie.

21 MS. WEISMAN: Okay, the next
22 material is a petition for the algae

1 chlorella. That's how it was petitioned.

2 I do want to recognize that in the
3 future - it was actually chlorella powder.

4 And I want to recognize that we will make an
5 effort in the future to come up with the names
6 on these types of things.

7 And it was petitioned to add
8 powdered chlorella to Section 205.606 of the
9 national list. The petition failed. It was
10 zero yes, four no. There were two absent.
11 And it failed to be - basically we were aware
12 that there is certified organic chlorella
13 available, and the petition did not address
14 these specific organic chlorella and why it
15 could not be made into the form that the
16 petitioner required.

17 And so the recommendation failed
18 at the committee level.

19 So the motion is for -- to
20 recommend the listing of chlorella to Section
21 205.606 of the national list.

22 MR. DELGADO: Is there a second?

1 MS. JAMES: Second.

2 MR. DELGADO: It's been moved and
3 seconded to list algae chlorella powder in
4 Section 205.606 of the list.

5 Discussion? Ready for the
6 question?

7 The question is on the motion to
8 list algae chlorella powder in Section
9 205.606. And we will start the vote with Dan.

10 MR. GIACOMINI: No.

11 MR. DELGADO: Jeff.

12 MR. MOYER: No.

13 MR. DELGADO: Bea.

14 MS. JAMES: No.

15 MR. DELGADO: Jerry.

16 MR. DAVIS: No.

17 MR. DELGADO: Tina.

18 MS. ELLOR: No.

19 MR. DELGADO: Tracy.

20 MS. MIEDEMA: No.

21 MR. DELGADO: Joe.

22 MR. SMILLIE: Joe.

1 MR. DELGADO: Barry.

2 MR. FLAMM: No.

3 MR. DELGADO: Hugh.

4 MR. KARREMAN: No.

5 MR. DELGADO: Kevin.

6 MR. ENGELBERT: No.

7 MR. DELGADO: Jennifer.

8 MS. HALL: No.

9 MR. DELGADO: Steve.

10 MR. DeMURI: No.

11 MR. DELGADO: Julie.

12 MS. WEISMAN: No.

13 MR. DELGADO: And the chair votes

14 no.

15 MR. MOYER: Mr. Secretary, we have

16 14 noes, one absent.

17 MR. DELGADO: The noes have it, and

18 the motion to list algae chlorella powder in

19 Section 205.606 of the list is lost. Let's go

20 on to the next.

21 MS. WEISMAN: Okay, the next is the

22 second algae dumontiacaе was petitioned for

1 Section 205.605 or 606, and it failed - it was
2 determined - it was recommended by committee
3 for addition to 606, however it failed because
4 there was no information in the petition
5 addressing what the obstacle is to the
6 availability of organic.

7 Not to take up any more time, but
8 I just want to emphasize for future
9 petitioners to 606 that the committee feels
10 like it's really important that if you are
11 petitioning something and you are going to say
12 it's not available as organic, the petition
13 needs to include information on what the
14 obstacle is. So that 606 listing will be a
15 tool to move the organic industry forward, and
16 include -- and encourage the availability of
17 organic ingredients.

18 With that I recommend the addition

19 -

20 MR. DELGADO: You move?

21 MS. WEISMAN: I move to - I move
22 for the addition of algae dumontiaca powder

1 to Section 205.606 of the national list.

2 MR. DELGADO: Is there a second?

3 MR. SMILLIE: Second.

4 MR. DELGADO: Joe seconded, and the
5 motion has been moved and seconded to add
6 algae dumontiaca powder to the list on
7 Section 205.606.

8 Questions? Discussion? Ready for
9 the question?

10 The question is on the motion to
11 list algae dumontiaca powder in Section
12 205.606 of the national list, and we will
13 start our vote with Jeff.

14 MR. MOYER: No.

15 MR. DELGADO: Bea.

16 MS. JAMES: No.

17 MR. DELGADO: Jerry.

18 MR. DAVIS: No.

19 MR. DELGADO: Tina.

20 MS. ELLOR: No.

21 MR. DELGADO: Tracy.

22 MS. MIEDEMA: No.

1 MR. DELGADO: Joe.

2 MR. SMILLIE: No.

3 MR. DELGADO: Barry.

4 MR. FLAMM: No.

5 MR. DELGADO: Hugh.

6 MR. KARREMAN: No.

7 MR. DELGADO: Kevin.

8 MR. ENGELBERT: No.

9 MR. DELGADO: Jennifer.

10 MS. HALL: No.

11 MR. DELGADO: Steven.

12 MR. DeMURI: No.

13 MR. DELGADO: Julie.

14 MS. WEISMAN: No.

15 MR. DELGADO: Dan.

16 MR. GIACOMINI: No.

17 MR. DELGADO: And the chair votes

18 no.

19 MR. MOYER: Mr. Chairman, again, we
20 have 14 noes, zero yeses, one absent.

21 MR. DELGADO: The noes have it, and
22 the motion to list algae dumontiacae powder in

1 Section 205.606 of the list is lost.

2 Let's move on to the next.

3 MS. WEISMAN: Okay, the next
4 material that we are going to vote on was a
5 petition for - to add buck hull powder to
6 Section 205.606.

7 I think that there - that the main
8 issue here was that this was to be used to add
9 color to certified organic buck wheat noddles,
10 and I think it was very well presented
11 yesterday, so all I will say is that the main
12 issue for us was that there is certified
13 organic buck wheat noodles being manufactured
14 and sold in the United States. This was a
15 foreign - petitioner is a foreign manufacturer
16 of that product, who did not do a very good
17 job of explaining why they couldn't source the
18 material.

19 And it failed unanimously six no,
20 zero yes. There were no absent or
21 abstentions at the committee level.

22 So at this time I would like to

1 make the motion for the recommendation to add
2 buck hull powder to the national list on
3 Section 205.606.

4 MR. DELGADO: Is there a second?

5 MS. JAMES: Second.

6 MR. DELGADO: Bea seconds, and it
7 is moved and seconded to add buck hull powder
8 to the national list Section 205.606.

9 Discussion? Questions? Are we
10 ready for the vote? Tina, did you have a
11 question?

12 Okay, the question is on the
13 motion to add buck hull powder, black powder,
14 on the list Section 205.606.

15 We are ready to take our vote, and
16 we will start with Bea.

17 MS. JAMES: No.

18 MR. DELGADO: Jerry.

19 MR. DAVIS: No.

20 MR. DELGADO: Tina.

21 MS. ELLOR: No.

22 MR. DELGADO: Tracy.

1 MS. MIEDEMA: No.
2 MR. DELGADO: Joe.
3 MR. SMILLIE: No.
4 MR. DELGADO: Barry.
5 MR. FLAMM: No.
6 MR. DELGADO: Hugh.
7 MR. KARREMAN: No.
8 MR. DELGADO: Kevin.
9 MR. ENGELBERT: No.
10 MR. DELGADO: Jennifer.
11 MS. HALL: Yes.
12 MR. DELGADO: Steve.
13 MR. DeMURI: No.
14 MR. DELGADO: Julie.
15 MS. WEISMAN: No.
16 MR. DELGADO: Dan.
17 MR. GIACOMINI: No.
18 MR. DELGADO: Jeff.
19 MR. MOYER: No.
20 MR. DELGADO: And the chair votes
21 no.
22 MR. MOYER: Mr. Chairman, we have

1 14 noes, zero yeses, one absent.

2 MR. DELGADO: The noes have it, and
3 the motion to list buck hull powder, black
4 powder, on the national list Section 205.606
5 is lost, and we are ready to move on to the
6 next material.

7 MS. WEISMAN: The next material,
8 just for a point of order, it's black pepper
9 extract powder, and that's an error on my part
10 that it is not listed that way on the
11 committee recommendation. But I think it's
12 important to correct.

13 And this was - this petition like
14 the last few did not provide sufficient
15 information to demonstrate why this material
16 couldn't be obtained organically in the form
17 that this petitioner needed, because it was
18 again it was readily apparent to committee
19 members that organic pepper is being grown,
20 and also organic pepper extract is available.
21 And the petition did not even acknowledge the
22 existence of these materials much less why

1 they can't be - much less identifying the
2 obstacles to them being turned into the form
3 that they needed.

4 So this material also failed
5 unanimously at the committee level.

6 So at this time I'd like to state
7 the recommendation which is for the addition
8 of black pepper, extract powder, for listing
9 on Section 205.606 of the national list.

10 MR. DELGADO: It has been moved.

11 Is there a second?

12 MR. GIACOMINI: I'll second.

13 MR. DELGADO: It's moved and
14 seconded to add black pepper extract powder on
15 the national list Section 205.606.

16 Discussion? Ready for the
17 question? The question is on the motion to
18 list black pepper extract powder on the
19 national list Section 205.606, and we will
20 start our vote with Jerry.

21 MR. DAVIS: No.

22 MR. DELGADO: Tina.

1 MS. ELLOR: No.
2 MR. DELGADO: Tracy.
3 MS. MIEDEMA: No.
4 MR. DELGADO: Joe.
5 MR. SMILLIE: No.
6 MR. DELGADO: Barry.
7 MR. FLAMM: No.
8 MR. DELGADO: Hugh.
9 MR. KARREMAN: No.
10 MR. DELGADO: Kevin.
11 MR. ENGELBERT: No.
12 MR. DELGADO: Jennifer.
13 MS. HALL: No.
14 MR. DELGADO: Steve.
15 MR. DeMURI: No.
16 MR. DELGADO: Julie.
17 MS. WEISMAN: No.
18 MR. DELGADO: Dan.
19 MR. GIACOMINI: No.
20 MR. DELGADO: Jeff.
21 MR. MOYER: No.
22 MR. DELGADO: Bea.

1 MS. JAMES: No.

2 MR. DELGADO: And the chair votes
3 no.

4 MR. MOYER: Mr. Chairman, we have
5 14 noes, zero yeses, one absent.

6 MR. DELGADO: The noes have it, and
7 the motion to list black pepper extract powder
8 in Section 205.606 of the list is lost.

9 Let's move on to the next one.

10 MS. WEISMAN: Okay, now, in case
11 you were all starting to fall asleep here, the
12 next material is dried orange pulp.

13 Originally the committee voted no
14 because we felt that at the time the petition
15 did not really help us understand why this
16 material given a supply of organic oranges
17 being grown in this country why this material
18 could not be made organically.

19 And I think that - long story
20 short, the Handling committee met last night,
21 and we voted to reconsider. And we voted five
22 yes, zero no, for this material to reverse our

1 previous decision, because originally it was
2 a unanimous vote against listing.

3 The members of the Handling
4 committee that are here, it was now a
5 unanimous vote in favor of listing this
6 material on 606. And I think it's - we had a
7 few, and this is another good example of how
8 the public comment process works well and does
9 its job, because the petitioner was here. We
10 had an opportunity to ask a lot of questions,
11 get a lot of information over the period of
12 the last three days, or the two days that
13 preceded last night's vote.

14 So I would like to move now on a
15 recommendation to add dried orange pulp powder
16 to Section 205.606 of the national list.

17 MR. DELGADO: Is there a second?

18 MR. SMILLIE: Second.

19 MR. DELGADO: Joe seconds, and it
20 is moved and seconded to include orange pulp
21 dried on the national list, Section 205.606.

22 Discussion? Joe?

1 MR. SMILLIE: Yes, the reason why I
2 want to open this up is, we are coming - our
3 Handling committee was coming to the
4 conclusion that including - and I want to just
5 put this on the record; you've heard me say it
6 before - but we are coming to the conclusion
7 that listing things on 606 does spur the
8 growth of organic. And in that sense we fully
9 anticipate organic orange pulp to be on the
10 market, whether it includes slightly different
11 formulations, or whether this company sees the
12 opportunity to go organic.

13 By listing it we can replace
14 current conventional byproducts that are being
15 used and in the future have organic product in
16 place for the other processing industry.

17 MR. DELGADO: Okay, Jeff.

18 MS. WEISMAN: Thank you, because it
19 follows on Joe's point. I think the other
20 thing that was important for me to hear was
21 also that this is replacing - not just
22 conventional but synthetic materials. It will

1 be replacement, so I see this as an
2 opportunity even before it's there
3 organically, it will open up the possibility
4 that some synthetics we maybe won't have a
5 need for anymore.

6 MR. DELGADO: Jeff.

7 MR. MOYER: My question is for
8 either Julie or Joe. It seemed like yesterday
9 that I heard some discussion that what we are
10 actually certifying is a proprietary process.
11 That of course leads to a product. But it
12 brings up concerns in my mind based on what
13 Grace came up with later when she talked about
14 orange - it's just a little mixed up in my
15 head.

16 MS. WEISMAN: I think it happens a
17 lot in manufacturing that some very very
18 specific process will be patented, but it does
19 not mean, and I was certainly convinced
20 yesterday by Grace and a few other comments
21 that were made, that other people are in line
22 to make things that are very similar, and will

1 function in an identical way, even if it's not
2 by the patented process. It will be something
3 very close, and there will be competition in
4 the marketplace.

5 MR. SMILLIE: And our motion does
6 not include those patent-specific processes.
7 It's simply for dried orange pulp.

8 MR. DELGADO: Dan.

9 MR. GIACOMINI: I don't know if we
10 can go back to the transcript, or matter of
11 just clarify - I think I heard you say orange
12 pulp - dried orange pulp powder?

13 MS. WEISMAN: I don't have - it's
14 dried.

15 MR. GIACOMINI: So just orange pulp
16 dried?

17 MS. WEISMAN: I didn't pull it up
18 because - yes, and that -

19 MR. GIACOMINI: I heard correctly
20 when she said powder?

21 MS. WEISMAN: I meant to. Thank
22 you for that correction.

1 MR. DELGADO: Any questions?

2 Comments?

3 Are we ready for the question?

4 The question is on the motion to list orange
5 pulp dried on the list on Section 205.606, and
6 we will start our vote with Tina.

7 MS. ELLOR: Yes.

8 MR. DELGADO: Tracy.

9 MS. MIEDEMA: Yes.

10 MR. DELGADO: Joe.

11 MR. SMILLIE: Yes.

12 MR. DELGADO: Barry.

13 MR. FLAMM: Yes.

14 MR. DELGADO: Hugh.

15 MR. KARREMAN: Yes.

16 MR. DELGADO: Kevin.

17 MR. ENGELBERT: Yes.

18 MR. DELGADO: Jennifer.

19 MS. HALL: Yes.

20 MR. DELGADO: Steve.

21 MR. DeMURI: Yes.

22 MR. DELGADO: Julie.

1 MS. WEISMAN: Yes.

2 MR. DELGADO: Dan.

3 MR. GIACOMINI: No.

4 MR. DELGADO: Jeff.

5 MR. MOYER: Yes.

6 MR. DELGADO: Bea.

7 MS. JAMES: Yes.

8 MR. DELGADO: And the chair votes

9 yes.

10 Did I miss somebody? Sorry,
11 that's the second time. Gerry, you said?

12 MR. DAVIS: Yes.

13 MR. MOYER: Mr. Chairman, we have
14 13 yeses and one no and one absent.

15 MR. DELGADO: The ayes have it, and
16 the motion is agreed to.

17 Any other materials that we need
18 to discuss, Mr. Weisman?

19 MS. WEISMAN: That is not the last
20 recommendation on the Handling committee
21 agenda, but it is the last material.

22 We - I am - yes, I am pleased to

1 say that we are moving onto pet food after
2 what really has been too long a time, through
3 no fault of the pet food industry or the pet
4 food task force, who did very fine work very
5 early on and then kind of got sidelined in
6 light of other events that happened in the
7 organic industry. And I'm glad that we got
8 back to this, and I especially want to thank
9 Tracy Miedema who embraced this recommendation
10 and breathed life back into it. And for Emily
11 Brown Rosen and Nancy Cook who is not here for
12 helping us do that.

13 We are introducing this
14 recommendation after some - I hope I'm not
15 going out on a limb here saying relatively
16 minor edits that were made yesterday. So I
17 would just like to go ahead and move that for
18 the acceptance of this Handling committee
19 recommendation for the adoption of standards
20 for the production and labeling of organic pet
21 food.

22 MR. GIACOMINI: Second.

1 MR. DELGADO: It has been moved and
2 seconded, and our friends make a motion to
3 accept the document entitled Organic Pet Food
4 Recommendation as described by the chair of
5 the Handling committee.

6 Yes, questions? Tracy?

7 MS. MIEDEMA: I'll just go ahead
8 and point out the syntactical change we made
9 so that it is clear to everyone.

10 On page five, I inserted a pretty
11 klunky notation to the program in describing
12 how to - how 606 could be parsed to be very
13 clear. The -- potentially commercially
14 unavailable pet food only items should be
15 lined out in the program.

16 This is per the program's advice,
17 but in our recommendation, I -- let's see,
18 Valerie, it's in subpart B, 105. And why I'd
19 like some help with is just in pulling out the
20 way I had inserted this note. You can see
21 right there in call caps. And actually just
22 showing the way that the sections would be

1 labeled. It's the same thing that the program
2 suggested to us as a numerical name for the
3 sections.

4 And then, Val, can you flip to the
5 edits that we just received earlier today.
6 Did you include those earlier?

7 (Simultaneous speakers.)

8 MR. DELGADO: Why don't you
9 describe them?

10 MS. MIEDEMA: I'll just describe
11 them. Actually, Emily, would you please --
12 would you mind approaching, because it's going
13 to be hard for me to pull these out.

14 So let's get back to that section.
15 What we're simply doing is
16 translating the note that describes this to
17 actionable language.

18 Now while these guys are taking
19 care of business over there, I'll address one
20 other concern that was raised yesterday by
21 Urvashi Rangan about the inclusion of
22 slaughter byproducts. And after having a

1 conversation with her, and making sure she
2 understood that any items that comprise a
3 small portion, you know, this is either made
4 with or organic, any slaughter byproducts that
5 weren't organic would still have to be on 606.
6 So it doesn't open the door wide open for any
7 conventional slaughter byproducts. They would
8 still have to be listed on 606, one by one.

9 And after that conversation,
10 Urvashi said, okay. So I wanted to make sure
11 that we skip over that for now.

12 That was the only concern that I
13 heard in any of the public comments.

14 MR. DELGADO: Jeff.

15 MR. MOYER: Tracy, I was just
16 wondering if you could direct Valerie to point
17 out where it had the section that -- I know
18 Kevin and I wanted to make sure it was in
19 there about feeding pet food to livestock.
20 It's in there somewhere. I just want to double
21 check and make sure for my clarification.

22 MS. FRANCES: 237(b)7.

1 MR. DELGADO: Thank you.

2 Ready with those updates? Tracy,
3 could you describe those for us?

4 MS. MIEDEMA: You know, I don't
5 think we really need to belabor this.
6 Basically what we describe is the parsing of
7 606, and we made a notation in the document to
8 show it rather than describe it.

9 MR. DELGADO: So that's the extent
10 of the change?

11 MS. MIEDEMA: That's the extent of
12 the change.

13 MS. ROSEN: Including pet food, in
14 the title of 605. And the word including pet
15 food in the title of 606, and then 606 will
16 have a section A, allowed for all processed
17 products; and then B, allowed for pet food
18 only. So there would be no confusion where
19 you put things there.

20 MR. GIACOMINI: So 606 would say
21 all processed?

22 MS. WEISMAN: No, 606 will be now

1 divided into --

2 MR. GIACOMINI: But 606(a) will say
3 processed product?

4 MS. WEISMAN: That's what it's for.
5 Handling.

6 MR. DELGADO: Any other questions?

7 MR. GIACOMINI: I think I have one.

8 MR. DELGADO: Yes.

9 MR. GIACOMINI: I fully support the
10 document. I just want to make a quick
11 statement. There was one issue in this
12 document that I didn't like from the
13 beginning, and I think it's worth saying now.

14 The document, when it feels like
15 going to 603, it goes to 603. When it feels
16 like going to 605, it goes to 605. When it
17 feels like going to 606. I just wish the
18 document could have been structured to have a
19 little bit more - I understand why you did it.

20 MS. ROSEN: Yes, that was discussed
21 that maybe - I think what you are referring to
22 is having it all in one separate pet food

1 section as opposed to being -

2 MR. GIACOMINI: Yes, just so it's
3 not - you know, cruising through the
4 regulation, find something wherever you wanted
5 to find something.

6 MS. ROSEN: We had no problem with
7 it being reorganized like that, the pet food
8 task - this is just the way we did it, and if
9 the program wants to reorganize it for easier
10 reading by the industry or whatever, that can
11 be done.

12 MR. DELGADO: Richard, do you have
13 a question?

14 MR. MATTHEWS: Yes, clarification.
15 Is it intended for, A, all the products used
16 in A to also be used in pet food?

17 MS. MIEDEMA: Say it again, please.

18 MR. MATTHEWS: Are you intending
19 for all the materials in A to also be eligible
20 for use in pet food?

21 MS. MIEDEMA: There could be a pet
22 food item in A. B is pet food only.

1 MR. MATTHEWS: Okay, I just wanted
2 to clarify.

3 MR. DELGADO: Any other questions?

4 MR. MATTHEWS: And the reason why I
5 was clarifying that is because pet food is
6 also a processed product.

7 MS. MIEDEMA: Right, and that's
8 just to acknowledge the fact that cats are
9 obligate carnivores, and there are going to be
10 certain items that need to be in there as pets
11 only.

12 MR. DELGADO: Any questions?
13 So are we ready for the question?
14 The question is on the motion to approve the
15 document entitled Organic Pet Food as
16 described by the chair of the Handling
17 Committee.

18 And we'll start our vote with
19 Tina. I'm sorry, Tracy.

20 MS. MIEDEMA: Yes.

21 MR. DELGADO: Joe.

22 MR. DELGADO: Yes.

1 MR. DELGADO: Barry.
2 MR. FLAMM: Yes.
3 MR. DELGADO: Hugh.
4 (No response.)
5 MR. DELGADO: Kevin.
6 MR. ENGELBERT: Yes.
7 MR. DELGADO: Jennifer.
8 MS. HALL: Yes.
9 MR. DELGADO: Steve.
10 MR. DeMURI: Yes.
11 MR. DELGADO: Julie.
12 MS. WEISMAN: Yes.
13 MR. DELGADO: Dan.
14 MR. DELGADO: Yes.
15 MR. DELGADO: Jeff.
16 MR. MOYER: Yes.
17 MR. DELGADO: Bea.
18 MS. JAMES: Yes.
19 MR. DELGADO: Jerry.
20 MR. DAVIS: Yes.
21 MR. DELGADO: Tina.
22 MS. ELLOR: Yes.

1 MR. DELGADO: And the chair votes
2 yes.

3 MR. MOYER: Mr. Chairman, we have
4 13 yeses, one absent - I'm sorry, two absent.

5 MR. DELGADO: Can you restate that,
6 please.

7 MR. MOYER: Yes, we have zero noes,
8 13 yeses, and two absent.

9 MR. DELGADO: The ayes have it, and
10 the motion is agreed to. Very good.

11 Madam Chair, does that conclude
12 your participation?

13 MS. WEISMAN: That's all.

14 MR. DELGADO: Well, thank you very
15 much, and congratulations to all of the chairs
16 for the outcome of the voting, and we are
17 late.

18 Let's move on straight ahead to
19 the next topic which is election of new
20 officers. And following the procedures which
21 we approved this morning, our acting secretary
22 has prepared some ballots.

1 ELECTION OF NEW OFFICERS

2 MR. DELGADO: And the order of the
3 election will be as follows. I'm referring to
4 the policy and procedures manual, please
5 correct me if I'm not doing the right job.
6 But we will start with the elections of the
7 chair, followed by the vice chair after the
8 election, and finally the secretary.

9 Right now the secretary is
10 distributing ballots, and we will take
11 nominations. Our director will put those
12 nominations up on the screen. We will be
13 numbering those nominations, and that's how we
14 are requesting that you vote. If you approve
15 of nominee one, two or three, circle that
16 individual on the ballot, fold it, and we'll
17 collect those.

18 These do not have names. That's
19 why I'm asking the board members to observe
20 the list that we will be posting up there,
21 depending on the nominees for the position.

22 MS. FRANCES: Starting with the

1 chair, vice chair and the secretary, in that
2 order?

3 MR. DELGADO: Start with the
4 chairman. Once we vote on that position we'll
5 move on to the next one.

6 MR. KARREMAN: And are we -- is the
7 list -- she's going to type it as we say it,
8 right? It's not the email the other week?

9 MS. JAMES: Okay, so to clarify,
10 this new and improved organized process for
11 elections is that somebody will be nominated
12 by one of their colleagues, and Valerie will
13 type up nomination -- under chair, she'll say
14 chair one, and then she'll put the name.

15 So then you don't want to write
16 anything on here. You select the number of
17 the person in order of how Valerie puts it up
18 here for your vote, and then I'll collect
19 them. Does that make sense?

20 MR. DELGADO: And the whole intent
21 is to make this process somewhat more
22 professional and efficient. Any other

1 questions? And we don't have chads here, so -
2 - questions? Okay, Hugh.

3 At this point, then, we would like
4 to contemplate nominations for the chair.

5 MR. SMILLIE: I'd like to nominate
6 Tracy Miedema for chair.

7 MR. DELGADO: Very good. Tracy, do
8 you accept the nomination?

9 MS. MIEDEMA: I accept.

10 MR. DELGADO: Very good. Hugh?

11 MR. KARREMAN: I'd like to nominate
12 Jeff Moyer.

13 MR. DELGADO: Mr. Moyer, do you
14 accept the challenge?

15 MR. MOYER: I do.

16 MR. DELGADO: Okay, any other
17 names? Any questions?

18 MR. DAVIS: I nominate Dan
19 Giacomini.

20 MR. DELGADO: Dan?

21 MR. GIACOMINI: I would rather not
22 split the voting three ways.

1 MR. DELGADO: So Dan is declining
2 his name on the list.

3 So folks, there we have it. We
4 have the two candidates for the position of
5 chair. Please circle the one you are voting
6 for, and fold it, and we'll collect them.

7 After the votes are counted, we
8 will announce the person with the highest
9 number of votes, and the secretary will
10 discard the votes - the ballots, that is.

11 (Whereupon, the above-entitled
12 matter went off the record at 4:15
13 p.m. and resumed at 4:15 p.m.)

14 MR. DELGADO: Congratulations, Mr.
15 Jeff Moyer. You have been elected our new
16 chair.

17 (Applause.)

18 MR. DELGADO: We will now proceed
19 with the second position, the second officer's
20 position, which is the vice chair. And I
21 remind the board members that we can nominate
22 individuals that had already run for another

1 position.

2 So we'll turn the ballot at this
3 point. So at this point, we need a couple of
4 more.

5 (Simultaneous speakers.)

6 MR. DELGADO: Okay, at this point I
7 would like to entertain nominations for those
8 - the position of vice chair. We'll start
9 with Hugh.

10 MR. KARREMAN: I'd like to nominate
11 Dan Giacomini for vice chair.

12 MR. DELGADO: Dan Giacomini is
13 nominated.

14 Julie?

15 MS. WEISMAN: I would like to
16 nominate Tracy Miedema for vice chair.

17 MR. DELGADO: Tracy is nominated.

18 Any other nominees for this
19 position?

20 Dan, you're willing to run? And
21 Tracy? So there we have it, folks. Number
22 one will be Dan, and number two, Tracy.

1 So again.

2 (Whereupon, the above-entitled
3 matter went off the record at 4:18
4 p.m. and resumed at 4:20 p.m.)

5 MR. DELGADO: Congratulations to
6 our new vice chair, Mr. Dan Giacomini.

7 (Applause.)

8 MR. DELGADO: Our third position is
9 that of secretary, and I would like to
10 entertain nominations?

11 Bea.

12 MS. JAMES: I would like to
13 nominate Julie Weisman.

14 MR. DELGADO: Julie, do you accept
15 the challenge?

16 MS. WEISMAN: Yes.

17 MR. DELGADO: Dan.

18 MR. GIACOMINI: I nominate Rigo.

19 (Laughter.)

20 MR. DELGADO: I'm sorry, I have to
21 withdraw. I appreciate the honor. However,
22 I promised to help Julie - well, strike that

1 comment.

2 Any other nominations?

3 MS. JAMES: I would just like to
4 ask if Katrina expressed to you, Mr. Chair,
5 any --

6 MR. DELGADO: She has expressed her
7 wish not to run this year.

8 DR. ROBINSON: Mr. Chairman, I have
9 to go get my car out of hock, so I'm going to
10 leave you. I just want to say thank you all
11 once again for your service to the department.
12 And goodbye. I'll see you.

13 MR. DELGADO: Thank you very much
14 for all your support. And for secretary, we
15 only have one nominee. And we won't do it by
16 ballot. Okay, so by voice I guess we all
17 agree that it will be Julie, our new
18 secretary. And I want to congratulate her for
19 that.

20 (Applause.)

21 MR. DELGADO: Moving on to the next
22 topic is committee work plans, and we'll start

1 with those right away.

2 I warn the board members that we
3 are 45 minutes behind schedule, so this is our
4 chance to make sure that we finish on time.
5 And we'll start with Handling. Do you need
6 more time? You're still with materials? Why
7 don't we stay with materials then while we
8 give time to Julie to -

9 COMMITTEE WORKPLANS

10 MR. GIACOMINI: The items for the
11 workplan for the Materials Committee --
12 assuming I'm still Materials chair, Jeff.
13 Anyway, I guess that's still -- we'll work
14 that out.

15 Okay, in no particular order,
16 because these are all occurring at various
17 times and simultaneously, continuing work on
18 petitions and sunset items and as part of that
19 continuing work to work with the program on
20 old petitions that can be dealt with, would
21 come up, including the list received in public
22 comment.

1 Continuing to work on improving
2 the tracking system and level of communication
3 regarding petitions, and between the board and
4 the program.

5 And number three, working with the
6 materials working group and examining the
7 document that we have to see if there is
8 anything we can move forward on at the next
9 meeting, and continuing to work with the group
10 regarding the synthetic-nonsynthetic
11 questions.

12 Thank you, Mr. Chairman.

13 MR. DELGADO: Thank you. We move
14 on then to livestock.

15 MR. KARREMAN: Thank you, Mr.
16 Chair.

17 We will finish up on the bivalves,
18 and also embark upon the animal husbandry
19 animal welfare topic. And I guess poultry
20 outdoor access is kind of part of that.

21 And then there is one other thing
22 that has come up. I guess it would come under

1 things that happen out in the organic
2 community. It's a material type thing. So
3 the topic of vitamins and minerals used
4 therapeutically that are not feed additives,
5 but they are injectable. We would like to
6 look at that as a topic. So injectable
7 vitamins and minerals.

8 MR. DELGADO: Can you repeat that?

9 MR. KARREMAN: Injectable vitamins
10 and minerals for livestock.

11 Dan has something there?

12 MR. DELGADO: Clarification?

13 MR. GIACOMINI: Yes, the Livestock
14 Committee will be looking at that. It may
15 lead us to a point where a petition would need
16 to be submitted for listing on a national
17 list. We are just looking to - there are some
18 other vitamin and mineral issues that we are
19 sort of going to be grappling with in that
20 whole evaluation.

21 MR. DELGADO: anything else? Okay,
22 any questions for livestock?

1 I didn't ask the same about
2 materials. Any questions for the materials
3 chairman?

4 MR. SMILLIE: I just want to be
5 clear, Hugh, the aquaculture recommendation
6 that passed today which adds on to the
7 previous one, is that moving forward, or does
8 that have to sit and wait until the bivalve
9 piece is added.

10 MR. KARREMAN: I think the program
11 would have to answer that. But when we were
12 in discussion yesterday I specifically asked
13 that - whatever happened today, that what we
14 already worked in past March, 2007 starts
15 getting implemented, and then with what
16 happened today hopefully everything can. It's
17 not up to me; it's up to the program of
18 course.

19 MR. SMILLIE: But that is your
20 understanding?

21 MR. KARREMAN: The intent for us is
22 to get things started now.

1 MR. DELGADO: Any other questions?

2 Bea.

3 MS. JAMES: I'm sorry, Hugh. I
4 think I captured everything, but did you
5 mention humane standards for livestock?

6 MR. KARREMAN: Animal husbandry and
7 animal welfare.

8 MR. DELGADO: Any other questions
9 for livestock?

10 Okay, thank you very much. Joe?

11 MR. SMILLIE: Not necessarily in
12 order, we will prioritize however on our first
13 meeting, but certainly 100 percent on having
14 a recommendation for spring, a recommendation
15 hopefully in spring for biodiversity. We will
16 take up, and again the title is important,
17 retail criteria for certification. Retail
18 criteria for certification - or criteria for
19 retail certification is a better way of
20 putting it. Criteria for retail
21 certification, which as you know is currently
22 exempt or excluded from the regulation.

1 And the last item is peer review.

2 MR. DELGADO: Anything else?

3 MR. KARREMAN: That's it.

4 MR. DELGADO: Okay, any questions?

5 Let's move on then to crops. Mr. Davis.

6 MR. DAVIS: The Crops Committee
7 work plan will be - several petitioned
8 substances, kind of a group of several inert
9 materials, inerts and pesticides. Ethylene
10 glycol, tetramethyl decyne-diol,
11 polycaprolactone, isoparrifinic hydrocarbon,
12 those are the four inerts. And then glycine
13 betaine, peracetic acid, an to expand use
14 petition, and sulfurous acid.

15 Also we have several sunset
16 materials that are due to sunset in 2011. I
17 don't have them here to list. There's a short
18 list, not many.

19 Other recommendations we'll be
20 undertaking, we'll be working with in the
21 joint committee efforts on the biodiversity
22 document, and list for inerts and pesticide

1 formulation document also should be a joint
2 committee with materials I would guess, Dan,
3 don't you think, on the list for inerts and
4 pesticides?

5 MR. GIACOMINI: Oh, that just
6 sounds like a blast.

7 MR. DAVIS: We with our resident
8 mushroom specialist on board, in the crops
9 committee we are going to relook at mushroom
10 standards, and also revisit and continue the
11 work on soilless growing systems in
12 terrestrial plants. And that is all that is
13 on the work plan at this point.

14 MR. DELGADO: Any questions for the
15 chair of the crops committee?

16 Very good. Let's move on then to
17 Handling.

18 (Simultaneous speakers.)

19 MS. WEISMAN: So the Handling
20 Committee workplan is headed up by work on the
21 clarification of materials, definition of
22 materials on the national list, to now take

1 the hand off the materials working group on
2 the ag-non-ag suggestions that were made at
3 this meeting, and continue to participate in
4 their process as they start to delve into the
5 synthetic non-synthetic piece of materials on
6 the national list.

7 And then of course as always we
8 will continue to review petition materials,
9 and on 205.605 we're looking at lecithin
10 bleached, tissue for removal; we will be
11 looking at sodium chlorite acidified, for
12 which we now have the technical review that we
13 had asked for; and the same for proprionic
14 acid for which we now also have the technical
15 review. Yeast is still on the list, waiting -
16 I was going to say patiently, but not
17 patiently really, and shouldn't be patiently -
18 for the clarification of the Ag/Non-Ag before
19 we can move ahead with the status of that
20 petition.

21 And then on 606 we have a petition
22 for the removal of fluid lecithin - lecithin

1 fluid unbleached for removal. We still have
2 the petition for pectic low-methoxy non-
3 amidated, to be moved from 605 to 606.

4 And I think we requested the
5 technical review for that, and I think we will
6 wait for that. I think that is in the
7 pipeline.

8 And I also have - we have work to
9 do to refine our review of 606 materials,
10 specifically to work on clarifying - some
11 guidance to clarify the use of what we are
12 calling accessory ingredients in formulated
13 agricultural products. That came up when we
14 were adding colored materials onto 606 and
15 realizing that - what's in the marketplace may
16 be one form - something was petitioned with
17 what was considered a relatively benign
18 solvent or carrier, but that was actually
19 being manufactured in a variety of ways, so we
20 want to take a look at that.

21 We also just to give you a preview
22 we do have some new petition materials in the

1 pipeline that have already been handed off to
2 the - passed to the Handling committee.

3 For 605 we are looking at
4 glucosamine, and also propane as a processing
5 aid. That is going to be fun.

6 And then for 606 we now have a
7 petition for chicory root. And also for - in
8 the category of colors we have a petition for
9 red corn. We have a petition for myrrh
10 essential oil, and for wheat germ.

11 Then fourth item on our Handling -
12 you see we get big things off, but it seems
13 like - we also have materials that are for
14 sunset review in the fall of 2011. We have
15 nine items. The AMPR for this was already
16 published.

17 And for 605(a) we'll be looking -
18 we'll need to start looking at egg white
19 lysozyme, almalic acid and microorganisms.

20 For 605(b) we are looking at
21 activated charcoal, and Jerry I feel for you
22 with the pronunciations, cyclohexylamine,

1 diethylaminoethanol, and octadecylamine, and
2 those are boiler additives. Don't everybody
3 freak out; they are for boilers.

4 We also have paracetic acid and
5 sodium acid phosphate.

6 And also continuing to hover here
7 at the bottom of the list structure of the
8 national list, which I believe is going to be
9 part of working with this clarification
10 materials in the definition. It looks like we
11 may have some impact there.

12 Labor guidance, which I think is
13 also going to be impacted by this Ag/Non-Ag
14 definition. And food contact substances is
15 still on the workplan.

16 MR. DELGADO: Okay, questions for
17 the board?

18 Julie, is that it?

19 MS. WEISMAN: That's it.

20 MR. DELGADO: Okay, an impressive
21 list. Any questions for our chair? No?

22 MR. KARREMAN: I just wanted to add

1 something for livestock. Kevin brought up
2 here, when I said, we hardly ever have any
3 materials for livestock, after Julie has gone
4 through her list, and Jerry has gone through
5 his list. There may be some sunset materials;
6 I need to look at that. I apologize.

7 We're not used to looking at
8 materials on livestock, plain and pure.

9 MR. DELGADO: Okay, let's move on
10 to policy.

11 MR. FLAMM: Okay, what I read off
12 is what the committee agreed to and was
13 presented at the last committee meeting, so it
14 won't be new.

15 The first item is to clarify and
16 define the concept of priority for petitions.
17 I think that came up in our discussion - oh by
18 the way, this is for the policy and procedures
19 manual.

20 Continue the systematic review of
21 the policy and procedure manual. We are
22 looking at sections one and two - one and two

1 has already been done. Reviewing first
2 Section three, and with particular attention
3 to the discussion on meeting sites which is
4 discussed on page 15. Review section four
5 with particular attention to examining what is
6 now the assigned responsibilities of the
7 policy committee to determine whether those
8 are really what the board wants the policy
9 committee to be doing.

10 And then three is evaluation
11 criterion for - it's in the policy and
12 procedure manual on page 46, examine that to
13 see that it addresses biodiversity protection
14 needs as may be determined when we make
15 recommendations on the biodiversity paper. So
16 it'll be cross-checked to make sure it gets
17 into the proper place in the policy and
18 procedures manual.

19 Then under the new member guide --

20 MR. DELGADO: Does that include the
21 criteria?

22 MR. FLAMM: I'm sorry?

1 MR. DELGADO: Does that include the
2 criteria for the evaluation of the --

3 MR. FLAMM: Evaluation, excuse me -
4 - that's just -- there is no attention to it
5 specifically for biodiversity in that listing
6 on page 46.

7 In the new member guide it's
8 proposed to develop a glossary of acronyms for
9 the benefit of new members; and secondly, chat
10 room, if that's what we continue to call it,
11 procedures and restrictions be included in the
12 new member guide.

13 MS. FRANCES: Not chat board but
14 bulletin board.

15 MR. FLAMM: Bulletin board now. I
16 knew we had changed the name. That's all I
17 have.

18 MR. DELGADO: Any questions for the
19 chair of the policy committee?

20 Well, then that is it. That
21 concludes our points on workplans. And let's
22 move on to the next item which is other

1 business.

2 OTHER BUSINESS & CLOSING REMARKS

3 MR. DELGADO: Any other pending
4 issues that we should be considering? Board
5 members, this is our chance.

6 Yes, or closing remarks. But I
7 would like to first of all contemplate if
8 there is any other business that we need to
9 consider at this moment.

10 Okay, hearing none we will move on
11 to closing remarks.

12 And Bea?

13 MS. JAMES: I would like to thank
14 Rigo for his year of service as chair of the
15 board, and you stepped up and did an excellent
16 job.

17 MR. DELGADO: Thank you very much.

18 (Applause.)

19 MR. DELGADO: On that note, I guess
20 that's my cue, I would like to say it's been
21 a real honor. And I've been extremely
22 impressed by not only the work within this

1 group, the board - I think that was expected
2 when you are appointed at this level you are
3 expected to have the highest level of
4 professionalism by most of the press, by the
5 way the community, the organic community, is
6 willing to participate and come out and help
7 us. That public comment, that feedback, that
8 assessment of whatever we do, is unique. I
9 appreciate that enormously.

10 I want to thank our newly elected
11 chair for his advice and patience and comments
12 as well as Katrina's, the secretary. We will
13 - and Barry of course - we were having calls
14 every week on Mondays just to stay ahead of
15 the game. We hated pop quizzes; I think that
16 was the issue. And that demonstrated a level
17 of commitment that I have not seen very often.

18 I think we were successful - I
19 said this at the very beginning - we
20 implemented new changes that brought us to a
21 higher level. I think we are more efficient.
22 And that is for all of the work that all of

1 you have given. And I thank you for that.

2 I know I have 14 friends for life,
3 and many more from the public. And that is
4 fantastic for me.

5 So have a nice break. I
6 appreciate that. And if there are no other
7 comments from the public - yes.

8 MR. MATTHEWS: Just one thing. I
9 understand we want to have a board meeting in
10 April; is that right?

11 MR. DELGADO: We are looking at the
12 calendar. And the final date of that meeting
13 will have to be defined in the next executive
14 call -- actually the January executive call.
15 So that's an item to be voted on. Is that
16 correct?

17 MS. FRANCES: Not December.

18 MR. MATTHEWS: My only point is
19 that we are going to be coming into a time
20 when tourism will pick up again in the spring.
21 We often have difficulty in locating hotels.
22 So the sooner we know the better, so that we

1 can book a hotel as soon as possible.

2 MR. DELGADO: We do have a
3 tentative date in answer to that question. We
4 just need to go ahead and finalize it.

5 MR. SMILLIE: I think there's lots
6 of room out West.

7 (Applause.)

8 MS. FRANCES: On the meeting
9 questions, the January 7 call, if you are
10 really thinking in terms of April, you need
11 to have your agenda pretty much decided in
12 order to get it at all.

13 MR. DELGADO: Any other questions?
14 If that's the case, I would entertain a motion
15 to adjourn.

16 MR. DeMURI: Mr. Chairman, I move
17 we adjourn.

18 MR. DELGADO: Okay, this meeting is
19 adjourned. Please have a safe trip back home.
20 Thanks again. Happy Holidays.

21 (Whereupon, the above-entitled
22 matter concluded at 4:46 p.m.)

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