

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

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MEETING OF THE NATIONAL ORGANIC
STANDARDS BOARD (NOSB)

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THURSDAY

NOVEMBER 5, 2009

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The National Organic Standards
Board convened at 8:00 a.m. in the Monroe and
Jefferson Rooms of the Washington Plaza Hotel,
located at 10 Thomas Circle, N.W., Washington,
D.C., Jeffrey W. Moyer, Chairperson,
presiding.

MEMBERS PRESENT:

JEFFREY W. MOYER, Chairperson

DANIEL G. GIACOMINI, Vice Chairperson

JULIE S. WEISMAN, Secretary

RIGOBERTO I. DELGADO

STEVE DeMURI

KRISTINE ELLOR

KEVIN ENGELBERT

BARRY FLAMM

KATRINA HEINZE

BEA E. JAMES

HUBERT J. KARREMAN

TRACY MIEDEMA

JOSEPH R. SMILLIE

STAFF PRESENT:

MILES McEVOY

VALERIE FRANCES

MARK BRADLEY

SHANNON NALLY

RUIHONG GUO

VALERIE SCHMALE

J.D. MELVIN

ROBERT POOLER

JUDITH RAGONESI

TAMMIE WILBURN

ANDREW REGALADO

TONI STROTHER

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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Adjourn

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

2 8:06 a.m.

3 CHAIRMAN MOYER: Good morning,
4 everybody. We're going to get your meeting
5 started. The board meeting of the NOSB
6 meeting of November 5th is back in session.

7 I'd like to say that we have just
8 spent the past two days listening to public
9 comment, hearing from board members and
10 committee chairs, committee members on the
11 work that they've been doing over the last six
12 months. All of our information has been
13 posted online for the general public to
14 review. We have seen all the written comment.
15 And at this point in time we're ready to
16 present our information from each committee to
17 the Board for final vote.

18 At this point in time what I'm
19 going to do is turn the Board over to the
20 Policy Development Committee chair, Barry
21 Flamm to present his items for vote.

22 Barry, the floor is yours.

1 MEMBER FLAMM: Thank you, Jeff.

2 CHAIRMAN MOYER: I'm sorry. Just
3 one moment, Barry. Chair recognizes Valerie
4 Frances from the Program.

5 MS. FRANCES: One business we
6 didn't we didn't take of yet was the
7 acceptance of the May 2009 voting results.

8 CHAIRMAN MOYER: Thank you,
9 Valerie. You're right. We were going to do
10 that this morning. We had changed our agenda
11 and I had forgotten that, so I appreciate
12 that.

13 Before you make your presentation,
14 Barry, I'm going to call on Secretary Julie to
15 present that for a vote.

16 SECRETARY WEISMAN: Yes, normally
17 we vote during the Secretary's report on the
18 first day of the meeting to accept the voting
19 results from the previous meeting, which would
20 have been last May's meeting. And that was
21 something that we had done just prior to the
22 start of the meeting on Tuesday by the

1 Executive Committee. The Executive Committee
2 accepted the voting record I believe
3 unanimously. And so I move now that the full
4 Board accept those voting results as the
5 record of the votes at last spring's meeting.

6 CHAIRMAN MOYER: There's a motion
7 on the floor. Do I hear a second?

8 MEMBER KARREMAN: Second.

9 CHAIRMAN MOYER: Hue Karreman
10 seconds. And discussion on those voting
11 records from May?

12 (No audible response.)

13 CHAIRMAN MOYER: Hearing or seeing
14 none --

15 VICE-CHAIR GIACOMINI: Mr.
16 Chairman?

17 CHAIRMAN MOYER: Chair recognizes
18 Dan.

19 VICE-CHAIR GIACOMINI: Yes, I
20 would just like it put in the record at this
21 time I think it would be appropriate to say
22 that some of those votes were very

1 complicated. So if someone is looking for
2 those through this set of transcripts, please
3 make note that you might want to go back and
4 look at the actual transcripts and make sure
5 that you're seeing all the real issues and
6 exactly what was being voted on, rather than
7 just the summary on the voting record sheet.

8 CHAIRMAN MOYER: Thank you, Mr.
9 Vice-Chair. You're correct, it was a
10 complicated vote on several of those items.
11 That is noted in the transcript.

12 Now we have a motion and a second.
13 We've had some discussion. Any further
14 discussion?

15 (No audible response.)

16 CHAIRMAN MOYER: I call for the
17 vote. We'll just do it with a aye or a nay.

18 All those in favor, say aye.

19 ALL: Aye.

20 CHAIRMAN MOYER: Opposed, if any?

21 (No audible response.)

22 CHAIRMAN MOYER: Thank you, Julie.

1 That passes.

2 Now, Barry, the floor is back to
3 you.

4 MEMBER FLAMM: Thank you, Jeff.
5 Good morning, everyone.

6 Yesterday the Policy Development
7 Committee presented a group of four
8 recommendations for consideration by the
9 Board. And with the permission of the Chair,
10 we would like to, as we have done in the past,
11 combine these into one vote as changes to the
12 Procedure and Policy Manual.

13 The four action items are a change
14 in Section 3.

15 I can't really see what's up
16 there, so if I'm out of sync, Valerie, let me
17 know.

18 Section 3 included changes in the
19 secretary duties and clarification of the role
20 of the executive director.

21 Section 5 was a systematic review
22 with a number of changes, if you have any

1 question on what those changes were yesterday.
2 And there was some small more or less
3 editorial changes that were made yesterday
4 during the discussion, and those are reflected
5 up on the board.

6 Section 6 involved several
7 important changes, including a change and
8 surveys to reflect legal requirements and
9 policies of OMB and the Department of
10 Agriculture. A clarification on proxies and
11 a totally new section on procedures for
12 contacting elected officials and inviting them
13 to the meeting.

14 And finally, was an addition to
15 the materials criterion checklist to include
16 biodiversity. And this proposal was approved
17 last year in the May meeting, the whole
18 package. I have a friendly amendment from the
19 floor that makes a correction and more clearly
20 reflects the intent of the addition to the
21 criterion.

22 Kevin, are you prepared to offer

1 the friendly amendment?

2 MEMBER ENGELBERT: Yes, I am. On
3 the biodiversity criteria, on the second
4 recommendation you have the qualifier and you
5 add in "and biodiversity." And I think that
6 your intention to make sure that all three of
7 those criteria are met to make sure that it's
8 consistent with biodiversity. But on category
9 1, No. 3, I think your intent is to get a yes
10 or a no vote. You want to have "if
11 biodiversity is impacted or the environment is
12 impacted," and you don't want to have to have
13 both of them impacted to get a no vote.

14 So I would offer a friendly
15 amendment that to category 1, No. 3, change to
16 read, "Is the substance harmful to the
17 environment or biodiversity."

18 MEMBER FLAMM: Thank you. I have
19 discussed this with our committee and we agree
20 to your friendly amendment to change "and" to
21 "or." Thank you.

22 CHAIRMAN MOYER: I think we need a

1 motion to accept that friendly amendment.

2 MEMBER FLAMM: Oh, okay. We do
3 want a friendly amendment in the --

4 CHAIRMAN MOYER: You don't?

5 MEMBER FLAMM: Yes. Okay. Mr.
6 Chair, I move that the Board approve the group
7 of four recommendations that we just
8 presented.

9 MEMBER JAMES: Second.

10 CHAIRMAN MOYER: We have a motion
11 on the floor and a second. Is there any
12 discussion on these three items as a group?
13 We are voting on them as a group.

14 VICE-CHAIR GIACOMINI: Three or
15 four?

16 CHAIRMAN MOYER: Four, I'm sorry.
17 All four items we're voting on as a group.

18 (No audible response.)

19 CHAIRMAN MOYER: Hearing no
20 discussion, I will call for the vote, starting
21 with Hue.

22 MEMBER KARREMAN: Yes.

1 CHAIRMAN MOYER: Kevin?

2 MEMBER ENGELBERT: Yes.

3 CHAIRMAN MOYER: Tina?

4 MEMBER ELLOR: Yes.

5 CHAIRMAN MOYER: Katrina? I'm

6 sorry. Rigo?

7 MEMBER DELGADO: Yes.

8 CHAIRMAN MOYER: My seating chart

9 is out of order.

10 Katrina?

11 MEMBER HEINZE: Yes.

12 CHAIRMAN MOYER: Dan?

13 VICE-CHAIR GIACOMINI: Yes.

14 CHAIRMAN MOYER: Julie?

15 SECRETARY WEISMAN: Yes.

16 CHAIRMAN MOYER: Steve?

17 MEMBER DeMURI: Yes.

18 CHAIRMAN MOYER: Barry?

19 MEMBER FLAMM: Yes.

20 CHAIRMAN MOYER: Bea?

21 MEMBER JAMES: Yes.

22 CHAIRMAN MOYER: Tracy?

1 MEMBER MIEDEMA: Yes.

2 CHAIRMAN MOYER: Joe?

3 MEMBER SMILLIE: Yes.

4 CHAIRMAN MOYER: And the chair

5 votes yes. Motion passes. Thirteen yes; zero

6 no; two absent; no abstentions or recusals.

7 Is there any other business,

8 Barry, for this Board from the Policy

9 Committee?

10 MEMBER FLAMM: Not at this time,

11 Mr. Chair.

12 CHAIRMAN MOYER: Okay. Thank you.

13 Joe, we turn the Compliance,

14 Accreditation and Certification Committee

15 program over to you.

16 MEMBER SMILLIE: Thank you, Mr.

17 Chair. The Certification, Compliance and

18 Accreditation Committee has two

19 recommendations on the table. We have not

20 made any changes to these recommendations.

21 The public input has generally been favorable

22 and we'd like to move these forward.

1 So I would like to move that the
2 NOSB adopt the guidance recommendation,
3 clarification of voluntary retail
4 certification.

5 MEMBER JAMES: Second.

6 CHAIRMAN MOYER: We have a motion
7 on the floor from the chairman and we have a
8 second. Is there discussion on the retailer
9 certification category in front of the Board?
10 Katrina?

11 MEMBER HEINZE: When we talked
12 about this yesterday, what I heard is that
13 this is really a series of questions or things
14 that need to be thought about to develop
15 guidance to strengthen the voluntary retailer
16 certification to address some concerning
17 practices that are being seen in retailing,
18 and really to get the Program's attention that
19 some more work in the retailer arena is
20 needed. Did I understand that correctly?

21 MEMBER SMILLIE: It's not simply a
22 series of questions. There certainly were a

1 number of questions in there, but there's also
2 some very strong guidance points.

3 CHAIRMAN MOYER: Katrina, follow
4 up? No?

5 Any other questions or points of
6 discussion?

7 Katrina?

8 MEMBER HEINZE: So I should say I
9 am concerned with what we see at retailers.
10 I'm just not sure this is the right approach.
11 I would rather see focus on enforcement in the
12 retail environment by the Program. And I
13 think one of the public comments we heard
14 yesterday said that this focuses on that
15 portion of the retailers who are trying to do
16 the right thing. And my bigger concern is all
17 those other folks who haven't even thought
18 about what they need to do for organics.

19 CHAIRMAN MOYER: The Chair
20 recognizes Joe.

21 MEMBER SMILLIE: Well, no, I think
22 it brings the attention -- even though the

1 title is Voluntary Retail Certification, I
2 think through the clarification of that
3 voluntary practice it will become clear to all
4 retailers that they have to be in compliance,
5 whether they seek a certification or not. So
6 I believe this is the first step. By
7 clarifying that, we will get the attention.
8 And again, time is of the essence here. We
9 want to bring this to the attention. And
10 again, it's a guidance. It doesn't require a
11 technical correction or a rule change. It
12 simply gives direction to the NOP for their
13 forthcoming guidance document.

14 CHAIRMAN MOYER: Katrina?

15 MEMBER HEINZE: I am struggling
16 with this one, obviously. Really, there's
17 like, I don't know; I'm not going to have my
18 numbers exactly right, 50,000 traditional
19 retail outlets in the United States, like 190,
20 if you go to non-traditional outlets. It's
21 hard to imagine that we're really going to get
22 at all of those versus the relatively few who

1 have chosen voluntary certification.

2 CHAIRMAN MOYER: Chair recognizes
3 Bea.

4 MEMBER JAMES: That's the point.
5 That because there is a lack of clear value
6 and understanding with the majority of
7 retailers, that this guidance document, as I
8 stated yesterday, from the public comment that
9 was given by the Oregon Tilth for not only
10 looking at strengthening the voluntary retail
11 certification and the marketing of the USDA
12 Organic Seal, which is one of the things that
13 definitely needs to be clarified, but to
14 develop education for both platforms. So that
15 hypothetically speaking, let's say that the
16 OTA and Oregon Tilth and the NOP, NOSB, work
17 together to develop some educational platforms
18 for retailers to become one, either educated
19 about what voluntary retail certification can
20 add, the value that it can add, how it can
21 strengthen their retail so that they can
22 educate their consumers better, but that they

1 could, through this education, have some kind
2 of a diploma-ready certificate that said that
3 they have gone through education, they
4 understand how to handle organic products at
5 retail. Or they could go to the gold
6 standard, which is to become voluntarily
7 certified.

8 So there is a lot of development
9 to do on all of the different possibilities to
10 bring forth more options to retailers. And
11 that's really the starting point of this
12 recommendation and a lot of the issues that
13 were brought up on there, one, talk about some
14 of the things that absolutely have to be
15 clarified under voluntary retail
16 certification. No doubt guidance needs to be
17 written on some of the issues that I brought
18 up, you know, like the cheese and marketing of
19 organic, just calling things organic in a
20 perishable department when you're not
21 processing or handling, all of those kinds of
22 things. Those have to be handled and a

1 guidance needs to be brought out by that. And
2 in addition to that there needs to be
3 education developed for retailers, and that's
4 what this guidance document is bringing
5 forward.

6 CHAIRMAN MOYER: Chair recognizes
7 Dan.

8 VICE-CHAIR GIACOMINI: Yes, I
9 think this document is great. You know, there
10 are three predominant places where the
11 consumer touches organic, and it's usually not
12 on the farm. It's generally in the press, at
13 a farmer's market and at the retail. And when
14 we hear all the stories of, you know, big box
15 store X getting, you know, a complaint filed
16 on them for bad signage and we see, you know,
17 the things that all the people in this room
18 see of misrepresentation of the seal and
19 advertising and everything else, I think
20 something like this, I think it's really the
21 right way to go.

22 CHAIRMAN MOYER: Chair recognizes

1 Steve.

2 MEMBER DeMURI: Katrina, I fully
3 agree with you on the enforcement, your
4 enforcement idea there. But, I think this is
5 a separate but highly-related subject. And
6 whether we pass this or not, or whether this
7 has even been written, we should still be
8 asking the Program to step up enforcement.
9 And hopefully with their additional staff
10 coming up here in the next year, they'll be
11 able to do that.

12 CHAIRMAN MOYER: Katrina?

13 MEMBER HEINZE: Thank you, Steve.
14 I agree. To me this is really about
15 enforcement. I worry about the list of
16 priorities that Miles gave us at the beginning
17 of this meeting, the five or six other new
18 priorities we're going give at this meeting.
19 And just how do we ask the Program to balance
20 that out and which is more important. You
21 know, is retailer cert more important? Is
22 animal welfare more important? Is personal

1 care more important? It's trying to be
2 judicious about how we use our resources.
3 Thank you.

4 CHAIRMAN MOYER: Thank you,
5 Katrina.

6 I should mention that in
7 conversations with Miles, and we are looking
8 at planning a strategic planning session for
9 later, for early in 2010, and I think at that
10 point in time this Board in consult with the
11 Program will work on setting those priorities.
12 And so I think we'll have a voice and some
13 input there, and I look forward to that, as I
14 know the rest of the Board does.

15 Chair recognizes Dan.

16 VICE-CHAIR GIACOMINI: I certainly
17 agree with you, Katrina, on that issue of
18 priorities. I think though that as we are two
19 separate bodies in a certain respect, we each
20 need to move ahead with what we can. And I
21 would not want this Board to wait until
22 something is on the top of the NOP priority

1 list before we gave them what to act on. This
2 is in front of us now. I think it's a good
3 recommendation. I think it's doing a lot of
4 the right things. And even if it comes in at
5 No. 15, it's now on their list. And I don't
6 think we should wait until they're ready to
7 put it up at No. 3 or No. 5 before we give
8 them a recommendation. This Board has acted
9 on it. The committee's done a wonderful job.
10 I think, you know, waiting until they're ready
11 for it is not really going to improve the
12 recommendation any, necessarily.

13 CHAIRMAN MOYER: Chair recognizes
14 Miles from the Program, Miles McEvoy.

15 MR. McEVoy: Good morning. Yes, I
16 think it's important to give the Program
17 guidance. Just because we have priorities
18 doesn't mean that we're not going to address
19 other issues as well. So having this guidance
20 will help us to determine our next steps. We
21 have top priorities, but there's a lot of
22 other things we'll be doing as well. So I

1 think this would be helpful.

2 CHAIRMAN MOYER: Thank you, Miles.

3 Appreciate that. Chair recognizes Bea.

4 MEMBER JAMES: I just want to
5 point out that the diversity of the Board
6 allows certain individuals who may not
7 necessarily be able to hunker down on
8 materials and handling, and livestock and
9 crops, to be able to develop other very
10 important things that apply to making sure
11 that organic stays strong. And that at
12 retail, that's the final communication piece
13 to the consumer. That's where all the rubber
14 meets the road. And if we are not consistent
15 and we don't try to elevate and embrace
16 retailers to see the value in doing their best
17 possible job of educating consumers and being
18 educated themselves, then we kind of miss the
19 mark with how we communicate to our consumers.

20 So there is a retailer
21 representative on the Board as part of the
22 diversity of what we all bring to the table,

1 and I think that there's opportunity for other
2 projects to run parallel at the same time
3 we're working on other priorities.

4 CHAIRMAN MOYER: Chair recognizes
5 Katrina.

6 MEMBER HEINZE: So I don't
7 disagree with anything that's being said.
8 It's more the approach. I would feel much
9 more comfortable with a guidance document that
10 addressed some of these questions. I guess
11 I'm more perplexed by a document that doesn't
12 say what needs to happen. It's asking
13 questions. I'm must more perplexed by the
14 approach we've taken. You know, so I'm trying
15 to on the fly here think of an example.

16 CHAIRMAN MOYER: Chair recognize
17 Joe.

18 MEMBER SMILLIE: I understand what
19 you're saying and it's not a perfect document.
20 But we don't want to let perfect be the enemy
21 of good, same old story. So, yes, we could
22 take more time and answer those questions now,

1 but I think we've gotten some of the answers
2 in public comment. And once again, we're not
3 writing a regulation. We're not even writing
4 a guidance document. But we want to get it to
5 the Program and I'm sure they can polish it up
6 and put it into a guidance document format.

7 It would have been better, agreed,
8 to present them with a fully-fleshed out
9 guidance document with all the questions
10 answered. I think we've gone far enough,
11 being that it is again, a guidance document to
12 a guidance document. I think we're okay with
13 it. But I understand your point; it's well-
14 taken.

15 CHAIRMAN MOYER: Thank you,
16 everybody, for that discussion. Is there any
17 further discussion on this item?

18 (No audible response.)

19 CHAIRMAN MOYER: We have a motion
20 and we have a second. We've had discussion.
21 I'm going to call for the vote. Are there any
22 conflicts of interest on this particular item?

1 (No audible response.)

2 CHAIRMAN MOYER: Hearing none,

3 I'll start the vote with Kevin.

4 MEMBER ENGELBERT: Yes.

5 CHAIRMAN MOYER: Tina?

6 MEMBER ELLOR: Yes.

7 CHAIRMAN MOYER: Rigo?

8 MEMBER DELGADO: Yes.

9 CHAIRMAN MOYER: Katrina?

10 MEMBER HEINZE: No.

11 CHAIRMAN MOYER: Dan?

12 VICE-CHAIR GIACOMINI: Yes.

13 CHAIRMAN MOYER: Julie?

14 SECRETARY WEISMAN: Yes.

15 CHAIRMAN MOYER: Steve?

16 MEMBER DeMURI: Yes.

17 CHAIRMAN MOYER: Barry?

18 MEMBER FLAMM: Yes.

19 CHAIRMAN MOYER: Bea?

20 MEMBER JAMES: Yes.

21 CHAIRMAN MOYER: Tracy?

22 MEMBER MIEDEMA: Yes.

1 CHAIRMAN MOYER: Joe?

2 MEMBER SMILLIE: Yes.

3 CHAIRMAN MOYER: And the Chair

4 votes yes.

5 MEMBER KARREMAN: I didn't get to

6 vote.

7 CHAIRMAN MOYER: I apologize.

8 Hue?

9 MEMBER KARREMAN: I don't think

10 it's going to matter, but yes.

11 CHAIRMAN MOYER: Twelve yeses; one

12 no; two absent. The motion passes.

13 Thank you, Joe. Your next item?

14 MEMBER SMILLIE: Again, the next

15 item, a recommendation solving the problem of

16 mislabeled organic personal care products.

17 We've got a very short

18 recommendation here. And again, the purpose

19 of the recommendation is to spur action. We

20 recognize very clearly that this is the first

21 of many, many steps that have to be taken in

22 this area. But we want to get it on the

1 record immediately at this meeting and ask for
2 the Program to take up its mantle. We believe
3 it is their responsibility to set a clear
4 direction on this issue. If they don't want
5 to, we want to hear that; if they want to, we
6 want to hear that. We want action on this
7 one.

8 What action is to be taken and how
9 long that action will take, it's going to be
10 a while, obviously, but we want to get
11 started. And that's the entire purpose, if
12 I'm not misreading it, Tracy, of this
13 document.

14 So I would like to move that the
15 NOSB adopt the recommendation solving the
16 problem of mislabeled organic personal care
17 products.

18 CHAIRMAN MOYER: We have a motion
19 on the floor. Is there a second?

20 MEMBER FLAMM: I second.

21 CHAIRMAN MOYER: Barry seconds.
22 Is there discussion on this particular item?

1 I'm sorry, Dan?

2 VICE-CHAIR GIACOMINI: Yes, I
3 agree with the principle of this
4 recommendation to get the Program to take a
5 stand. But at the same time, if the Program
6 doesn't want to enforce this, even if they
7 followed everything we did, they wouldn't have
8 to enforce it. And if they want to enforce
9 it, they don't need this. So I don't really
10 believe that this will do what you're trying
11 to achieve.

12 No. 2, to use something we have
13 from our experience, we dealt for years with
14 the issue of classification of materials. It
15 came to a head and it came to a major
16 discussion with the Material Working Group
17 because of the face that it had with yeast.
18 Yeast was really a significant face to put on
19 that issue for a large part of the time. And
20 I think, at least in my opinion of watching
21 the group and watching that discussion
22 develop, when we were focused on the face, we

1 didn't make progress on the problem. And I'm
2 concerned here that again the personal care is
3 the face of the non-food-use issue. And I
4 wish the committee had focused on this more on
5 the problem of how we're handling non-food-use
6 issues, rather than just going after the face,
7 because we still seem to have that problem.

8 So, and specifically in the
9 document, really the part that bothers me is
10 putting the personal care into the categories,
11 into the 100(a), 102 and 311. You know, I
12 don't want that to have to become a list of
13 things. I don't think it's necessary. I
14 think we could have done it through the type
15 of language that's used in 300, which I would
16 have much preferred to see that.

17 And I think also something for us
18 to consider would be -- I think the definition
19 was great in the 300. And then just like Joe,
20 you've always talked about it, come in with
21 607 as a non-food use synthetic category. But
22 I'm not comfortable at all putting personal

1 care and creating the precedent of needing a
2 list on all of those things.

3 CHAIRMAN MOYER: Chair recognizes
4 Tracy.

5 MEMBER MIEDEMA: Thanks, Dan, for
6 sharing that.

7 We're doing something even a
8 little more basic than that, and we're
9 attempting to bring some clarity where there
10 is disarray in both the business arena and in
11 the consumer arena. And by speaking to the
12 Program, we want categories approached with a
13 real regulatory stance and not sort of a
14 series of guidance documents on the Web for
15 something as broad as a category.

16 So to your point, you know, they
17 can already enforce what's out there right
18 now, well, that's very debatable actually.
19 Since there's nothing in the rule that
20 references non-food or the way we've put it
21 here with personal care, I like the idea of
22 the non-food. This is just a starting point.

1 It's going to take a long time for this to
2 work its way through.

3 But the Program needs something
4 that they can act against, and companies need
5 something that they can build on. And right
6 now there are three electronic documents that
7 the Program has produced on this category.
8 They don't necessarily even tie to one
9 another. There's a bit of contradiction in
10 the position. And so our attempt here, again,
11 is really to bring clarity where there's some
12 disarray. We didn't try to build a monument
13 on top of a foundation. What we're trying to
14 do here is just start with the foundation.

15 CHAIRMAN MOYER: Chair recognizes
16 Joe.

17 MEMBER SMILLIE: Again, I agree
18 with Tracy. And I understand your construct,
19 the way you're thinking, but the consumer
20 doesn't see it that way. They don't see it as
21 like we have to solve the issue of non-food
22 items under organic. They see personal care.

1 I mean, yes, we're dealing with the face and
2 it's the face that the consumer has to deal
3 with. And it's one of the most egregious ones
4 out there right now. So I think in taking
5 that approach, it's more appropriate in this
6 case. I do understand your construct.

7 And as far as the idea of how
8 we're going to handle it, that's down the
9 road. My personal preference is to create
10 that section and incur the wrath of consumers
11 for adding synthetics to the list, which is
12 one of the big bugaboos in this approach, is
13 that we're going to maybe add synthetics, so
14 the Board's going to be petitioning for
15 synthetics. And that's why I do like the idea
16 of creating a separate standard, because we
17 can really be clear that these synthetics are
18 for personal care only. It's not that we're,
19 you know, diluting the standard. It's we're
20 creating a new standard for personal care
21 products.

22 But that's, again, as Tracy said,

1 we're just trying to build the foundation
2 here. We're not putting the sills on even
3 yet.

4 CHAIRMAN MOYER: I'm glad to hear
5 that's the direction that your committee is
6 thinking and moving, Joe, with the creation of
7 a separate portion of the standard to separate
8 that out.

9 MEMBER SMILLIE: I want to be
10 clear, that's my opinion.

11 CHAIRMAN MOYER: I understand.

12 MEMBER SMILLIE: That's not the
13 committee direction yet. We're waiting to see
14 how to proceed.

15 CHAIRMAN MOYER: Chair recognizes
16 Katrina.

17 MEMBER HEINZE: I'd be interested
18 in understanding from the Program what happens
19 if we pass this recommendation? What are the
20 next steps? Because it's, in my opinion, not
21 something that can be turned into regulation.
22 So does it just die a short quick death, or

1 what happens?

2 CHAIRMAN MOYER: Chair recognizes
3 the Program. Miles?

4 MR. McEVoy: Yes, that's a good
5 question. As I said earlier, we have to study
6 this particular issue. There are some
7 jurisdictional issues that we need to
8 understand, and I would say that it gives us
9 more guidance. It gives us more information
10 about where the Board would like the Program
11 to go on personal care products. Whatever we
12 do has to be in line with our current
13 authority and working with FDA and FTC in
14 terms of where our authority starts and ends,
15 and where theirs are and collaborating with
16 them. So this gives us some direction in
17 terms of what you all want to see the Program
18 do.

19 What we will do with it, is we'll
20 take it and work with it and meet with OGC and
21 the FDA, and see what we can do with these
22 recommendations, and report back to you in the

1 spring.

2 CHAIRMAN MOYER: Chair recognizes
3 Katrina.

4 MEMBER HEINZE: So what if what we
5 really wanted you to look at, to Dan's point,
6 is misuse of the word "organic?" Because I,
7 like Julie, did notice those two dry cleaners
8 that somehow are organic, and you see it lots
9 of different places. And so today the problem
10 is personal care. It will be some other
11 misuse of the word. Because what I'd really
12 like to hear back from you guys is how do we
13 stop that.

14 MR. McEVROY: That's a good
15 question. There is the NOP complaint process,
16 so for anything that you feel that is
17 mislabeled or violating the organic standards,
18 I really encourage people to file complaints.
19 That's one way for us to look into whether or
20 not there's a violation and then take the
21 appropriate action to change the label, get it
22 off the market, if there is a violation. So

1 we're always doing that.

2 There are situations where there
3 are questions about our authority, but if we
4 have a complaint about it, then we have
5 something that will eventually work out.
6 Sometimes, as you have seen, it takes a while
7 if there is lack of clarify in the
8 regulations.

9 MEMBER HEINZE: Thank you.

10 CHAIRMAN MOYER: Thank you, Miles.

11 MS. NALLY: May I add to that?

12 CHAIRMAN MOYER: Shannon from the
13 Program?

14 MS. NALLY: We are also working
15 with FTC, just initially starting to work with
16 FTC to help define our jurisdiction, because
17 they would be able to deal more with the use
18 of organic in the term, like organic dry
19 cleaning where it does not pertain to an
20 agricultural product. So that would fall into
21 their jurisdiction on marketing and
22 advertising. And they are currently working

1 on some green guides as it relates to organic.

2 CHAIRMAN MOYER: Thank you,

3 Shannon.

4 Any other questions from the Board

5 for Joe?

6 I had one question, Joe.

7 MEMBER SMILLIE: Sure.

8 CHAIRMAN MOYER: I'm just

9 wondering what your reaction is to the public
10 comment we heard yesterday from Farah Ahmed in
11 regards to language of the FDA, all the things
12 that we heard. I'm just wondering what your
13 reaction is. We just heard that the FDA will
14 impact what we do.

15 MEMBER SMILLIE: Yes. I really
16 love interacting with them. This is going to
17 be fun. Because they're a trade association,
18 so remember their current position may not be
19 their eventual position. That's their current
20 position.

21 I think that my own personal
22 opinion is that that's their interpretation.

1 See, the FDA doesn't say that. They reference
2 INCI, and INCI says that. So I wouldn't call
3 it an FDA position myself. But, we'll see.
4 It's going to be fun to go down that road and
5 see how the PCPC -- I mean, politically
6 correct, politically correct. I mean, how
7 could they be wrong? How they react. Because
8 once, I think, we get some clarity in the
9 personal care market and manufacturers, you
10 know, the big time manufacturers, as well as
11 TerrEssentials and Brauner, start seeing that
12 there's some stability and some clarity in the
13 personal care world, I think they're going to
14 get very interested in organic. And I think
15 we'll see their position change as we give
16 them more clarity in the marketplace.

17 CHAIRMAN MOYER: Yes, this was my
18 first introduction into the INCI or inky-dinky
19 dictionary, so I had not heard of that before.
20 So either one.

21 MR. McEVROY: That's about a
22 spider, Jeff.

1 CHAIRMAN MOYER: Chair recognizes
2 Julie.

3 SECRETARY WEISMAN: Yes, just
4 briefly to follow on. We have already seen
5 that phenomenon happen. FEMA, not the
6 emergency management agency, but the Flavor
7 and Extract Manufacturers Association, has
8 already been through that where as more of
9 their bigger members began to be stakeholders
10 in organic, they realized that they really had
11 to change their policy to reflect what their
12 stakeholders wanted. And I am sure, Joe, that
13 you are right.

14 CHAIRMAN MOYER: Thank you, Joe
15 and Julie, for that.

16 Any other questions or comments?

17 (No audible response.)

18 CHAIRMAN MOYER: Then I will --
19 thank you, Kevin.

20 MEMBER ENGELBERT: Well, I
21 appreciate all the work you've done. And
22 thinking about the point that Dan made, would

1 you consider, for example, in 205, 102, the
2 use of the term "organic?" Instead of saying
3 "any agricultural product including personal
4 care products," would you consider saying "any
5 agricultural product including any non-food
6 products" and become more inclusive right from
7 the start? You know, I'm not pressing it. I
8 just want your opinion on that right now.

9 CHAIRMAN MOYER: Chair recognizes
10 Tracy.

11 MEMBER MIEDEMA: I hear what
12 you're saying, Kevin, and it sounds like a
13 sensible first step on the surface. We don't
14 have the body of knowledge yet for these other
15 non-food categories to sort of make a broad-
16 sweeping all-inclusive. You know, to go back
17 to my foundation building analogy, we only
18 have some depth in knowledge in one area of
19 this non-food space. So I don't think our
20 committee is comfortable kind of expanding it
21 into all food. And again, you know, going
22 back to the real impetus behind this

1 recommendation, it's to make a statement to
2 the Program that the continuation of, you
3 know, every few years issuing an electronic
4 guidance document as the category spirals out
5 of control is not a sustainable path. That's
6 really what we're trying to do here.

7 MEMBER ENGELBERT: Thank you. I
8 understand that, and I agree. I just wanted
9 to get your opinion. And this can send a
10 message to the rest of the industry that's
11 using these agricultural products and for non-
12 food items. You know, the thumb that's
13 sticking up that gets the attention, if it's
14 dealt with, there's likely to be another thumb
15 stick up that, you know, violates the consumer
16 trust in such a manner also.

17 CHAIRMAN MOYER: Chair recognizes
18 Julie.

19 SECRETARY WEISMAN: Yes, I guess
20 the important thing about having this
21 discussion, and I'm wondering if there's a way
22 that it can be immortalized more in a more

1 clear way, is that even though we have
2 envisioned this for personal care proactively
3 -- I'm not being most articulate, but in other
4 words, I feel like is there a way that we can
5 make it clear that we don't intend this
6 treatment of personal care -- it's really a
7 prototype for all non-food. Because I do
8 think that we have enough collective
9 experience on the Board on this particular
10 moment in time that we are able to take the
11 30-foot view and see the train wrecks coming.

12 And I think that's what the value
13 of what Dan and Kevin have to say. And it may
14 be that it's practical and it's the most
15 expedient to get action to happen to have this
16 be focused on the personal care, because
17 there's already very recognizable egregious
18 stuff going on out there. But we don't want
19 to have to reinvent this wheel for every
20 single category that comes down the pike. And
21 maybe saying this in the record is sufficient
22 to do that, but I'm afraid five of us are

1 going to go off and then another five are
2 going to go off, and in three years, or four
3 years, or five years who's going to remember
4 that this is where we meant to go?

5 CHAIRMAN MOYER: Chair recognizes
6 Tracy.

7 MEMBER MIEDEMA: Since we're
8 predicting what we think might happen, I
9 believe, if I were to predict, the passage of
10 this recommendation would simply move this
11 topic from having no place on the priority
12 list at NOP to having some appropriate place.
13 I don't think it's necessarily appropriate for
14 it to be in the top ten, but maybe it's
15 important for it to be in the top 20. And if
16 we opt not to speak to the Program that we
17 think this is an area where clarity needs to
18 be brought, I don't think it will make the
19 radar screen.

20 CHAIRMAN MOYER: Katrina?

21 MEMBER HEINZE: So similar to our
22 last discussion, I'm struggling with this idea

1 of recommending rule change that we know isn't
2 ready to be implemented as a way to get a
3 priority on the Program's list. I think there
4 is a different mechanism to do that, whether
5 it's, you know, passing a recommendation that
6 we want the Program to come back and give us
7 a report at our spring meeting, whether it's
8 the broader language suggestions that have
9 been made, because I do think those could, you
10 know, have more long-term legs. I just
11 struggle with this idea of we know it's not
12 right, so we're going to vote for it because
13 we want it to be on their priority list. Just
14 seems like there should be a better mechanism.

15 CHAIRMAN MOYER: Chair recognizes
16 Tracy.

17 MEMBER MIEDEMA: Well, I guess I'm
18 going to take exception to that we know it's
19 not right part. We heard from a lot of
20 commenters that they most definitely do think
21 that this is the right step. It may not be
22 inclusive enough. And some of other tools you

1 reference, maybe task forces, discussion
2 documents, we've got about 60 of those in the
3 hopper. This is one way of speaking very
4 directly to the Program.

5 We know rulemaking has a long way
6 to go and this is step one. This is way to
7 take a definitive step one, as opposed to kind
8 of a toe wading in. Things have really
9 started spiraling, guys. You know, when we
10 have the word "organic" being used with -- and
11 any set of rules are okay underneath that
12 word. That's where we're at right now. And,
13 you know, I would urge us to bring some
14 clarity here through this tool, this
15 particular tool.

16 CHAIRMAN MOYER: Chair recognizes
17 Joe.

18 MEMBER SMILLIE: Yes, I feel very
19 strongly about that, too, Katrina. No more
20 guidance documents. No more postings on the
21 question and answer. We need definitive
22 action and I think rule changes are going to

1 be required. The category is huge. It's
2 confusing. And once again, it's our word and
3 I think we need to act dramatically to protect
4 it.

5 CHAIRMAN MOYER: Chair recognizes
6 Bea.

7 MEMBER JAMES: I would just second
8 what Joe just said. You know, I do think it's
9 important to recognize that there are other
10 types of products that could potentially fall
11 under this area, such as cottons and textiles,
12 like we talked about. But personal care is
13 one of the largest areas for the natural and
14 organic consumer. You know, when you go into
15 a retail store, generally you're going into a
16 pretty big department that is staffed, when
17 you look at these items. And to think that
18 they're just kind of not really floating one
19 way or another between the FDA and the USDA
20 for regulating is very confusing for
21 everything else that is being sold in the
22 store. And there needs to be some really

1 clear direction for these manufacturers so
2 that consistent labeling and use of the term
3 "organic" is in front of the consumer.

4 CHAIRMAN MOYER: Thank you, Bea.

5 We have a motion on the floor.

6 We've had a second. We've had discussion.

7 Are there any other questions or comments
8 before I call for the vote?

9 (No audible response.)

10 CHAIRMAN MOYER: Then I'm calling
11 for the vote.

12 Is there a conflict of interest
13 before anybody votes?

14 (No audible response.)

15 CHAIRMAN MOYER: Hearing none, we
16 will start the voting with Tina.

17 MEMBER ELLOR: Yes.

18 CHAIRMAN MOYER: Rigo?

19 MEMBER DELGADO: Yes.

20 CHAIRMAN MOYER: Katrina?

21 MEMBER HEINZE: Yes.

22 CHAIRMAN MOYER: Dan?

1 VICE-CHAIR GIACOMINI: No.

2 CHAIRMAN MOYER: Julie?

3 SECRETARY WEISMAN: Yes.

4 CHAIRMAN MOYER: Steve?

5 MEMBER DeMURI: Yes.

6 CHAIRMAN MOYER: Barry?

7 MEMBER FLAMM: Yes.

8 CHAIRMAN MOYER: Bea?

9 MEMBER JAMES: Yes.

10 CHAIRMAN MOYER: Tracy?

11 MEMBER MIEDEMA: Yes.

12 CHAIRMAN MOYER: Joe?

13 MEMBER SMILLIE: Yes.

14 CHAIRMAN MOYER: Hue?

15 MEMBER KARREMAN: Yes.

16 CHAIRMAN MOYER: Kevin?

17 MEMBER ENGELBERT: Yes.

18 CHAIRMAN MOYER: And the Chair

19 votes yes. One no, twelve yeses, two absent.

20 The motion passes.

21 Thank you, Mr. Chairman. Is there

22 any other business before the Board?

1 MEMBER SMILLIE: No.

2 CHAIRMAN MOYER: Thank you. Then
3 I will turn the mike over to Dan with
4 Materials.

5 VICE-CHAIR GIACOMINI: Thank you,
6 Mr. Chairman.

7 The Materials Committee has one
8 document for voting this morning, the
9 nanotechnology document. We do have some
10 proposed amendments that we did not finalize
11 within committee, so we would need to do that
12 here. Do you want us to make the changes that
13 we've talked about and then make the motion,
14 or make the motion of the current doc
15 recommendation and then amend?

16 CHAIRMAN MOYER: I would suggest
17 we make our changes first and then vote on it.

18 VICE-CHAIR GIACOMINI: Okay.

19 CHAIRMAN MOYER: So let's just put
20 it up as a discussion document here to
21 discuss.

22 VICE-CHAIR GIACOMINI: Katrina, do

1 you have a comment?

2 CHAIRMAN MOYER: Chair recognizes
3 Katrina.

4 MEMBER HEINZE: Since the
5 committee hasn't voted on it, do any
6 amendments have to happen through the motions,
7 because the recommendation from the committee
8 is this?

9 VICE-CHAIR GIACOMINI: I can go do
10 this easy.

11 CHAIRMAN MOYER: We'll make it as
12 a motion then?

13 VICE-CHAIR GIACOMINI: Okay. I
14 move to accept the document on nanotechnology
15 in organic production processing and
16 packaging.

17 CHAIRMAN MOYER: Is there a second
18 for that?

19 MEMBER ENGELBERT: I'll second.

20 CHAIRMAN MOYER: We have a motion
21 and a second. Discussion? Dan?

22 VICE-CHAIR GIACOMINI: I would

1 like to present a friendly amendment. First
2 one, Valerie, is in the definition to change
3 that to "300," to add the word "engineered" at
4 the beginning of the definition. In 105(h),
5 to add "primary packaging."

6 Right above you. Right there.

7 Okay. You already got that.

8 301(8) to add "primary packaging."

9 And then to change "(g)" to "(h)."

10 Right there. No, within that same
11 one. Eight.

12 And, Mr. Chairman, the person
13 making the motion accepts that friendly
14 amendment.

15 CHAIRMAN MOYER: Thank you, Dan.
16 Appreciate that.

17 We have a motion on the floor. We
18 have a second. We have some amendments to
19 that document. Is there any discussion on the
20 document as it's amended?

21 Tina?

22 MEMBER ELLOR: I have a couple of

1 concerns with this, and I'm much more in line
2 with the minority opinion, although, you know,
3 if of course we're not given that choice, I'll
4 probably support it. But, I have a couple of
5 concerns about the definition and some
6 comments that we had. And I got the websites
7 that they suggested, ASTM and some other
8 regulatory, you know, bodies that define
9 nanotechnology as 100 or under. And I'd like
10 us to take some time to find out what the
11 recognized definition in their industry is of
12 nanotechnology. I guess, that's one concern.

13 And the other concern is that I'm
14 completely out of my depth here. I know what
15 nanotechnology is. I'm familiar with some of
16 the applications. But for the most part, I
17 really don't know much about it. And I think
18 that the minority opinion prohibits it without
19 completely slamming the door shut. But, I
20 understand the sentiment, the vast amount of
21 sentiment is behind this recommendation.

22 CHAIRMAN MOYER: Dan?

1 VICE-CHAIR GIACOMINI: Yes, we
2 were looking at a number of potential options
3 of really over working the definition here
4 today, of which we were not quite comfortable
5 with doing. But as far as the size goes, as
6 I've studied the issue, I think what we're
7 going to find is people will set definitions
8 and then someone will find nanotechnology at
9 a bigger size. They'll increase the size and
10 the definition and people will find
11 nanotechnology at a bigger size. I fully
12 expect nanotechnology to be up at 500 soon,
13 when they find something at that size that has
14 unique properties.

15 So in that respect, the other
16 possibility was pulling it back, reworking the
17 document. And along with that is one comment
18 in the hallway to me was a recommendation to
19 pull back but yet submit a separate motion
20 that says that we endorse the principle of not
21 having nanotechnology in organic, but to
22 rework the document. But in surveying both

1 the committee and the Board, the predominant
2 seemed to be that they wanted to move ahead
3 with this document. So that's where we are.

4 CHAIRMAN MOYER: Tina?

5 MEMBER ELLOR: There's just one
6 more concern I have about the term
7 "engineered." I think that's a great
8 addition, but engineered is a pretty broad
9 category. And I want to make sure that those
10 things like, you know, things that are
11 homogenized, why is homogenization not an
12 engineered? I mean, what you're doing is
13 making the particles smaller. I'm a little
14 bit concerned about the vagueness of that.
15 It's a great addition. It's definitely an
16 improvement. But, I'm a little bit concerned
17 about that as well.

18 CHAIRMAN MOYER: Chair recognizes
19 Joe.

20 MEMBER SMILLIE: Yes, again, some
21 of the arguments to me are convincing, but I
22 also favor the minority report. One of the

1 reasons especially is I've got a great deal of
2 faith in the NOSB to deal with this issue as
3 it comes up and I don't think we know enough
4 about it. I was telling the story of my
5 favorite mentor, which was Scott Nearing, once
6 addressed a crowd of rabid anti-nuclear
7 hippies saying that he didn't know if nuclear
8 power was right or wrong, and we were all
9 aghast. Here was our hero telling us he, you
10 know, might support nuclear power. He said,
11 "But I do know one thing for sure, I know that
12 we aren't ready to handle it yet."

13 So I'm of the opinion also, I
14 don't want to close that door completely. I
15 want to prohibit it, but I would like to be
16 able to look at it as it comes up.

17 My follow-up question, which I
18 think your document is trying to answer, is
19 the packaging issue. Because originally it
20 said "packaging," and now you've changed that
21 to "primary packaging." Is there a standard
22 universal time for primary packaging? Does

1 that mean packaging that comes into contact
2 with the food?

3 That's what it means? Okay.

4 VICE-CHAIR GIACOMINI: Industry
5 standard term.

6 CHAIRMAN MOYER: Chair recognizes
7 Steve. Steve, go ahead. Say that again?

8 MEMBER DeMURI: Primary packaging
9 would be the packaging that actually touches
10 the food. For instance, in a bin of tomato
11 paste, the liner would be the primary package.
12 The wooden bin on the outside would be a
13 secondary package.

14 MEMBER SMILLIE: Okay. Well, that
15 does answer one of my concerns, because I'm a
16 big fan of RFID. And if the electronic
17 circuitry of nanotechnology could give us
18 readouts not only of origin, identity, value,
19 scales, all these wonderful things for the
20 tracking of food, and perhaps an indication of
21 pathogens, I don't want to ban that. I'm very
22 interested in that. And that seems to answer

1 that question and it certainly moves me along
2 the way to supporting the recommendation.
3 But, I also just feel that the minority
4 recommendation gives us a little more
5 flexibility while prohibiting it, but allowing
6 it on a case-by-case basis.

7 CHAIRMAN MOYER: Chair recognizes
8 Dan.

9 VICE-CHAIR GIACOMINI: Yes, you
10 know, you always hear the line in real estate,
11 location, location, location. I think the
12 mantra here can be timing, timing, timing.
13 You know, the major focus of this comes from
14 the fact that we're seeing what's happened to
15 the GMO issue in having to deal with vaccines.
16 You know, I certainly don't want to see that
17 train wreck down the road either. In
18 surveying the committee and the Board, the
19 predominance was to let them move ahead with
20 this. I don't think that this document
21 failing is in any way an indication that we
22 don't support the prohibition of

1 nanotechnology and that we would not then keep
2 it on the workplan for the Materials Group.

3 CHAIRMAN MOYER: Chair recognizes
4 Joe.

5 MEMBER SMILLIE: Yes, I totally
6 agree with you. If it was a case of, you
7 know, the first motion failing and then the
8 second motion failing, I would be aghast that
9 I didn't vote for the first motion. You know,
10 how it all plays out I can't determine, but my
11 own personal opinion is I definitely want to
12 pass one of the two, but I would prefer No. 2.
13 But again, you never know how things work out.
14 So that's the intent.

15 CHAIRMAN MOYER: Chair recognizes
16 Katrina.

17 MEMBER HEINZE: I have two things.
18 The first is I concur with Steve that
19 "primary" is an industry standard language for
20 that packaging. I do not know if it's
21 regulatory language. And the twain often do
22 not meet. So that's just something to be

1 considered.

2 The other is, what I'm hearing is
3 there are a number of people who prefer the
4 minority opinion and so I don't know
5 procedurally the proper way to vote on that
6 first. So do I --

7 CHAIRMAN MOYER: You can't.

8 MEMBER HEINZE: Well, but we could
9 make -- hold on. I'm thinking out loud. We
10 can amend this motion, right?

11 CHAIRMAN MOYER: Yes.

12 MEMBER HEINZE: So in theory;
13 we're not doing this now, but in theory I
14 could offer some motion to amend this, the
15 result of which would be the minority opinion.
16 We could see if it's accepted. We could vote
17 on it. Is that not correct?

18 CHAIRMAN MOYER: Chair recognizes
19 Dan.

20 VICE-CHAIR GIACOMINI: That would
21 be correct. I think as we bring this up to a
22 vote in the current form with the current

1 recommendation, the Board is telling us
2 whether they want the minority opinion. If we
3 are going to pull back, if we're going to go
4 to the minority opinion, I would much prefer
5 that the Material Committee took that as the
6 direction they want to go and make sure that
7 they get it all right, and we bring it back
8 and do it at the next meeting, rather than
9 trying to cobble it in within what we have.

10 CHAIRMAN MOYER: Chair recognizes
11 Kevin.

12 MEMBER ENGELBERT: I'd just like
13 to remind the Board that we need to be
14 cautious in our approach to nanotechnology.
15 Consumers look to organic to be the most pure
16 food possible, and I'm not sure that we're
17 ever going to fully understand nanotechnology,
18 ever. And the recommendation as stated
19 technically doesn't close the door on
20 nanotechnology forever. If at some point in
21 the future there is some type of
22 nanotechnology that is deemed to be 100

1 percent safe for humans, the environment,
2 manufacture, waste disposal, everything, it
3 would be hard to do, but it would be able to
4 be brought back to the table to the existing
5 Board and dealt with.

6 I agree with the comments we heard
7 from the public that it's a mistake to
8 consider a nanotechnology synthetic so that it
9 can be dealt with on a case-by-case basis,
10 because there are too many individual cases,
11 in my opinion. And I think at this point in
12 time, given that it's so new, I think the
13 prudent approach is to say we simply don't
14 want it right now.

15 CHAIRMAN MOYER: Chair recognizes
16 itself. I agree with Kevin. I think that
17 making a real firm stand on nanotechnology, it
18 doesn't stop us in the future from doing
19 something if we need to, if we absolutely need
20 to. But it does make a very strong comment to
21 the consuming public that these types of
22 technology are not going to be found in their

1 food products when they're certified organic.
2 We did the same thing GE, and I know that
3 there could be down the road some products
4 that might be beneficial to the environment,
5 that might be beneficial to human health
6 somewhere. But we took a strong stand. We
7 did it with biosolids, we did it with lots of
8 materials that could in some way, shape or
9 form be proven to be useful down the road.
10 And I think consumers recognize that. It
11 makes it very clean and easy to say this food
12 product line doesn't contain that.

13 I have Barry, and then Dan, and
14 then Tina.

15 MEMBER FLAMM: Thank you, Mr.
16 Chair. You just said everything I was going
17 to say, only better.

18 CHAIRMAN MOYER: Thank you, Barry.
19 Chair recognizes Tina. I'm sorry,
20 Dan and then Tina.

21 VICE-CHAIR GIACOMINI: The
22 definition we have right now is very much in

1 line with a number of the other definitions
2 around. It may not match exactly some of the
3 alternatives that were presented by some
4 commenters, but it's in line with many of the
5 other definitions of nanotechnology around the
6 world. It's very close to Canada. One of the
7 people participating in the negotiation
8 reviewed it and actually liked our changes
9 better than theirs. It may not be perfect,
10 but in the way that we're doing this document,
11 I think it's adequate. Perfect kills the
12 good, you know?

13 If we go to the minority opinion,
14 I think the definition of nanotechnology
15 becomes even more critical, because it's only
16 if it fits in within that definition is it
17 synthetic and has to be reviewed? A lot of
18 people may say it's real critical in what
19 we're doing now, and that's true, and it may
20 need improvement. But I think in the minority
21 opinion's version it's even more critical, and
22 I would really want us to really review and

1 nail down and get that absolutely the best we
2 possibly can.

3 CHAIRMAN MOYER: Chair recognizes
4 Tina, then Katrina, then Tracy.

5 MEMBER ELLOR: I'm actually very
6 much behind this and I'm mostly comfortable
7 with it. My concern is; and I respect all the
8 homework you obviously did to come up with
9 this, is that it's not going to knock out, you
10 know, those natural things that we already do
11 and have been doing for a long time. So you
12 know, as long as I can be assured of that, all
13 those small particles that exist in our
14 environment already and exist in our food
15 already aren't going to be somehow affected.

16 CHAIRMAN MOYER: Dan for a
17 response to that?

18 VICE-CHAIR GIACOMINI: One of the
19 considerations we added, and I won't make the
20 amendment, but I'll throw it out to the Board.
21 One of the considered we had was adding to the
22 definition that substances created in

1 processes allowed in organic production and
2 handling do not qualify as nanotechnology.

3 MEMBER ELLOR: That would be
4 great.

5 CHAIRMAN MOYER: If you want to
6 consider an amendment to that, go ahead, Tina.

7 I have Katrina and then Tracy.

8 MEMBER HEINZE: Dan, I
9 respectfully disagree on your evaluation of
10 the definition. So if we exclude nanotech, I
11 think the definition is more important,
12 because you're going to have food processors
13 who may have certifiers who look at that
14 definition and say you're homogenizing, or
15 you're milling, or you're whatever it is, and
16 you're doing engineering and you're creating
17 nanoparticles because they have unique
18 properties. And so what you're doing is now
19 excluded and not allowed. And with this
20 recommendation there is no path for those
21 handlers to use that technology, technology
22 that consumers want us to be using because it

1 has properties they want in their food, often
2 with regards to mouth feel and texture. So I
3 think there the definition is more important
4 because we're going to have different people
5 reading the definition differently.

6 If we go with my proposed minority
7 opinion, it gives us flexibility as a Board to
8 evaluate and say, no, that's not within the
9 intent of that definition.

10 CHAIRMAN MOYER: Chair recognizes
11 Tracy.

12 MEMBER MIEDEMA: Since the
13 Handling Committee had some diversity of
14 opinion, can't we as a Board pass a
15 recommendation that acknowledges that range
16 and accept and vote on a recommendation that
17 includes a minority opinion?

18 CHAIRMAN MOYER: I'm not a
19 parliamentarian, but I don't think so.

20 MEMBER DELGADO: Mr. Chairman?

21 CHAIRMAN MOYER: You can't have
22 two opinions that you voted on.

1 MEMBER DELGADO: Mr. Chairman?

2 CHAIRMAN MOYER: Chair recognizes

3 Rigo.

4 MEMBER DELGADO: The purpose of
5 having this discussion is to come up with a
6 specific recommendation. The things you're
7 proposing would be conflictive, so it will not
8 be something definite. So that would be the
9 argument. The options we have if Katrina
10 wishes to present an amendment to replace some
11 of the language, we should do that and vote on
12 it and see how the Board feels about it. And
13 if it's approved, then we go back to the
14 original motion. If it's rejected, then we
15 consider the motion that is before the floor.

16 CHAIRMAN MOYER: But we have to
17 have a definite opinion when we're done.

18 I have Hue and then Katrina.

19 Hue?

20 MEMBER KARREMAN: Rigo said what I
21 wanted to say, because I'm thinking of the
22 aquaculture document that's coming out. We

1 have a minority opinion on that I just want to
2 make sure that the mechanism, the hinge point
3 is there in case the majority doesn't pass
4 that the minority would be -- it's in place,
5 that mechanism?

6 MEMBER DELGADO: Yes.

7 MEMBER KARREMAN: Okay.

8 CHAIRMAN MOYER: Thank you.

9 Katrina?

10 MEMBER HEINZE: I'm not sure on
11 the right language, so again you're going to
12 have to help me. I move to --

13 What's the right motion to defer
14 this until later in the day so I have time to
15 think about my amendment?

16 VICE-CHAIR GIACOMINI: Where do
17 you want to put it in the agenda?

18 MEMBER HEINZE: Well, I just need
19 a little bit of time, you guys.

20 VICE-CHAIR GIACOMINI: No, you
21 tell me.

22 CHAIRMAN MOYER: No, you have to

1 make a motion.

2 VICE-CHAIR GIACOMINI: Pick a time
3 that would be a good time and then we'll do
4 it. It's to postpone definitely.

5 MEMBER HEINZE: Right.

6 PARTICIPANT: Table.

7 VICE-CHAIR GIACOMINI: No, not
8 table. Postpone definitely.

9 MEMBER HEINZE: Postpone.

10 VICE-CHAIR GIACOMINI: You want to
11 do it after lunch?

12 MEMBER HEINZE: Yes.

13 VICE-CHAIR GIACOMINI: Okay.

14 MEMBER HEINZE: I would like to
15 postpone until after lunch.

16 VICE-CHAIR GIACOMINI: Postpone
17 until after lunch.

18 CHAIRMAN MOYER: The Chair will
19 accept that motion and this is definitely
20 postponed until --

21 VICE-CHAIR GIACOMINI: No, second
22 and vote.

1 CHAIRMAN MOYER: We have to vote
2 on that as an entire Board?

3 VICE-CHAIR GIACOMINI: Yes.

4 MEMBER HEINZE: I'll second.

5 CHAIRMAN MOYER: Thank you. We
6 accepted that motion. It's been seconded.
7 Can we vote with just a show of hands or an
8 aye or a nay? I think we can for this.

9 VICE-CHAIR GIACOMINI: Yes, and
10 it's --

11 CHAIRMAN MOYER: All those in
12 favor of definitely postponing this until
13 after lunch, respond with an aye.

14 ALL: Aye.

15 CHAIRMAN MOYER: Any opposed?

16 MEMBER FLAMM: No.

17 CHAIRMAN MOYER: One opposed and
18 one abstain. We had one abstention, one
19 opposed and eleven -- I apologize, two
20 opposed.

21 VICE-CHAIR GIACOMINI: We can't
22 have a number count with a voice vote.

1 CHAIRMAN MOYER: So we had some
2 opposed, but the ayes have it. It is --

3 MEMBER DELGADO: We can determine
4 the result, but not a count.

5 CHAIRMAN MOYER: The result is
6 that it is definitely postponed until after
7 lunch.

8 Thank you, Dan. Does that
9 conclude the Materials Committee work in front
10 of this Board at the moment?

11 VICE-CHAIR GIACOMINI: At the
12 moment.

13 CHAIRMAN MOYER: Thank you. I
14 will then turn the microphone over to the
15 Crops Committee. Tina, are you ready with
16 your Crops materials?

17 MEMBER ELLOR: Yes, the first one
18 on the agenda is manganese sulfate
19 monohydrate. And the Crops Committee
20 recommends that manganese sulfate monohydrate
21 as petitioned does not need to be considered
22 for addition to the National List since use of

1 this material is currently allowed through the
2 existing listing, Synthetic Substances Allowed
3 for Crop Production, 206.601(j)(6)(ii). And
4 I would like to make a motion that this
5 recommendation be accepted.

6 CHAIRMAN MOYER: I have a motion
7 on the floor. Is there a second.

8 MEMBER ENGELBERT: I'll second.

9 CHAIRMAN MOYER: We have a motion
10 and second. Is there discussion on this
11 material?

12 (No audible response.)

13 CHAIRMAN MOYER: Seeing or hearing
14 none, I call for a vote.

15 Is there a conflict of interest on
16 this material?

17 (No audible response.)

18 CHAIRMAN MOYER: Hearing none,
19 we'll start the voting with Rigo.

20 Oh, there is discussion?

21 MEMBER HEINZE: I just need to
22 have to catch up, just 30 seconds.

1 CHAIRMAN MOYER: Okay.

2 MEMBER HEINZE: Okay.

3 MEMBER JAMES: Jeff, can you
4 please restate what the motion is?

5 CHAIRMAN MOYER: I will ask Tina
6 to restate the motion.

7 MEMBER ELLOR: The Crops Committee
8 recommends that manganese sulfate monohydrate
9 as petitioned does not need to be considered
10 for addition to the National List since use of
11 this material is currently allowed through the
12 existing listing, Synthetic Substances Allowed
13 for Crop Production, 206.601(j)(6)(ii).

14 CHAIRMAN MOYER: Thank you. We'll
15 begin the voting with Rigo.

16 MEMBER DELGADO: Yes.

17 CHAIRMAN MOYER: Katrina?

18 MEMBER HEINZE: Yes.

19 CHAIRMAN MOYER: Dan?

20 VICE-CHAIR GIACOMINI: Yes.

21 CHAIRMAN MOYER: Julie?

22 SECRETARY WEISMAN: Yes.

1 CHAIRMAN MOYER: Steve?

2 MEMBER DeMURI: Yes.

3 CHAIRMAN MOYER: Barry?

4 MEMBER FLAMM: Yes.

5 CHAIRMAN MOYER: Bea?

6 MEMBER JAMES: Yes.

7 CHAIRMAN MOYER: Tracy?

8 MEMBER MIEDEMA: Yes.

9 CHAIRMAN MOYER: Joe?

10 MEMBER SMILLIE: Yes.

11 CHAIRMAN MOYER: Hue?

12 MEMBER KARREMAN: Yes.

13 CHAIRMAN MOYER: Kevin?

14 MEMBER ENGELBERT: Yes.

15 CHAIRMAN MOYER: Tina?

16 MEMBER ELLOR: Yes.

17 CHAIRMAN MOYER: And the Chair

18 votes yes. Zero; thirteen yeses; two absent.

19 The motion passes.

20 Thank you, Tina. You're next

21 material, please?

22 MEMBER ELLOR: This is the very

1 complicated peracetic acid. Let me just
2 reiterate. The history of this is that the
3 EPA changed the status of peracetic acid from
4 inert to active. And hydrogen peroxide
5 formulations, which are on the list, can't
6 exist without peracetic acid.

7 The petition is to take off all
8 the annotations, expand the use of peracetic
9 acid to pretty much everything. We, the Crops
10 Committee, were not comfortable with that, so
11 we recommended six to zero that we deny that
12 petition. But, in order to keep hydrogen
13 peroxide and peracetic acid, we need to make
14 some annotations. And Emily pointed out to me
15 this morning, and I think she's right about
16 this; I'd like to, you know, get some input,
17 that not only do we have to annotate the
18 peracetic acid listings, we now have to
19 annotate the hydrogen peroxide listings as
20 well to allow hydrogen peroxide as blended
21 with peracetic acid, because it only exists in
22 that form. If we don't do that, then we'll

1 lose hydrogen peroxide as a sanitizer in crops
2 and also as disease control.

3 So that said, we have two
4 documents. The first is denying the petition;
5 and I'll go through that in more detail. And
6 if we do that and once we've done that, we
7 have a second document up that would annotate
8 the peracetic acid listings. And also I think
9 we need to annotate the hydrogen peroxide
10 listings to keep those tools in sanitation and
11 pest control.

12 VICE-CHAIR GIACOMINI: Point of
13 order, Mr. Chair?

14 CHAIRMAN MOYER: Chair recognizes
15 Dan for a point of order.

16 VICE-CHAIR GIACOMINI: In lieu of
17 the discussion that we had yesterday, I would
18 like to ask the Program of whether changing
19 the annotation of a substance currently on the
20 National List that was not petitioned to
21 change the annotation is within proper
22 procedure.

1 CHAIRMAN MOYER: Chair recognizes
2 the Program.

3 MR. McEVROY: Well, it seems like
4 from what I understand from yesterday that
5 it's not proper procedure. However, the Board
6 earlier has voted to approve hydrogen
7 peroxide, and you're offering kind of a
8 clarification on an earlier approval. So I
9 think you could look at it both ways. So I
10 think what you should do is continue on.
11 You're using your best judgment to make a
12 recommendation. We'll get legal advice to see
13 how we can implement your recommendation. So
14 that's what I would suggest.

15 CHAIRMAN MOYER: I don't want to
16 enter into discussion if we don't have to, but
17 if have a point of order, Rigo?

18 MEMBER DELGADO: Just to add one
19 point to that. This is an amendment in
20 response to a petition, so we're finding some
21 issues. So when you deal with the lawyers,
22 please take into account that we're responding

1 to a petition and we're finding some issues
2 within the rule that we were trying to
3 correct. That's my point.

4 CHAIRMAN MOYER: Dan?

5 VICE-CHAIR GIACOMINI: I
6 appreciate Rigo for adding that, because with
7 all due respect to Miles, the way you just
8 said that was awful muddy in what you told us
9 yesterday regarding the Livestock
10 recommendations.

11 CHAIRMAN MOYER: Thank you.
12 Tina?

13 MEMBER ELLOR: Our concern as the
14 Crops Committee is that these are critical
15 tools in sanitation and disease control, and
16 we really feel like we don't want to lose
17 them. Also, it's our sentiment that peracetic
18 acid is far more innocuous than other things
19 that are used for the same purpose. And if
20 peracetic acid can be used for those in place
21 of, you know, chlorine and copper sulfate and
22 some other control and sanitation measures,

1 that we really do want to keep it.

2 But we were not in favor of
3 expanding the use, because it is a very broad
4 oxidizer. You know, I really don't accept
5 that you can kill only the bad guys and leave
6 the good guys intact. And with expanding use,
7 you could pretty much, you know, put it in
8 your irrigation system and have a constant
9 application to soil, if for some reason you
10 wanted to do that.

11 Kevin has a comment he'd like
12 to --

13 CHAIRMAN MOYER: If you're going
14 to make a motion, you should make a motion.

15 MEMBER ELLOR: Okay. Yes, sir.
16 The motion is to remove the annotations from
17 the listing for peracetic acid on National
18 List 205.601(a)(6) and 205-601(i)(7). That's
19 the motion on the table.

20 CHAIRMAN MOYER: Is there a second
21 to that motion?

22 MEMBER DELGADO: Second.

1 CHAIRMAN MOYER: We have a motion
2 and a second. Is there any discussion on this
3 material? I see Steve.

4 MEMBER DeMURI: More of a question
5 than a discussion. So we'll have multiple
6 motions to vote on?

7 MEMBER ELLOR: There will be two
8 motions to vote on.

9 MEMBER DeMURI: There won't be an
10 additional one for hydrogen peroxide as well?

11 MEMBER ELLOR: There may be. You
12 know, I need to look to our parliamentarians
13 for that. If we need to make those additional
14 changes to keep hydrogen peroxide by
15 annotating them to allow peracetic acid in
16 hydrogen peroxide, because they don't exist
17 one without the other, then I guess we will
18 need a motion for that as well.

19 CHAIRMAN MOYER: Point of
20 clarification. The first motion, Steve, is to
21 remove the annotation at the petitioner's
22 request.

1 MEMBER DeMURI: Okay.

2 CHAIRMAN MOYER: Depending how we
3 act on that motion, it will determine what we
4 have to do, whether we have a second motion or
5 not. Because if we vote to remove the
6 annotations, then it works. If we remove, as
7 the committee recommended, to not remove the
8 annotation, then we have to change the other
9 annotation.

10 Bea?

11 MEMBER JAMES: So it sounds like
12 everything is contingent on being able to make
13 an annotation as well in hydrogen peroxide?
14 That wasn't a part of the original agenda.
15 What happens if we're not able to make an
16 annotation on hydrogen peroxide?

17 VICE-CHAIR GIACOMINI: Mr.
18 Chairman?

19 CHAIRMAN MOYER: Chair recognizes
20 Dan.

21 VICE-CHAIR GIACOMINI: Right now,
22 the motion is simply to delete the annotation.

1 I think it would be prudent to deal with that
2 issue and that recommendation, and then we'll
3 move onto the correctness of the annotation
4 changes that we're looking at. Because if
5 this passes, we'll just move on.

6 CHAIRMAN MOYER: Right.

7 VICE-CHAIR GIACOMINI: If it
8 fails, then we'll look at what we need to do.
9 But I think clearing this would be a good
10 step.

11 CHAIRMAN MOYER: We have a motion
12 on the floor. It's seconded. We're in
13 discussion.

14 Tina, you have a point?

15 MEMBER ELLOR: So let me try to
16 clear up what this would mean. If we accept
17 this petition use, then it opens up the door
18 for peracetic acid to be used across the board
19 in plant disease control in a very broad base
20 of applications. Gerry had a definite -- and
21 I can read his email to you, really felt that
22 it had the potential to be abused in

1 agriculture quite a bit, so that you could be
2 constantly applying peracetic acid. And, you
3 know, the petitioner's argument was; and I did
4 read through it pretty carefully, that it
5 would be just killing the bad stuff. And as
6 a biologist, as a microbiologist, I don't
7 accept that. I think that you'll kill the
8 good stuff, too.

9 CHAIRMAN MOYER: Chair recognizes
10 Dan.

11 VICE-CHAIR GIACOMINI: Removing
12 the annotation would allow for unlimited use
13 in unlimited amounts, correct?

14 MEMBER ELLOR: Correct.

15 CHAIRMAN MOYER: Okay. We have a
16 motion on the floor. We have a second. Is
17 there any further discussion of this item?

18 Chair recognizes Bea.

19 MEMBER JAMES: I just want to make
20 sure, we're voting then to not accept the
21 removal of the annotation?

22 VICE-CHAIR GIACOMINI: No, we are

1 voting to remove the annotation. So if you
2 want to keep the annotation, you vote no.

3 CHAIRMAN MOYER: Chair recognizes
4 Tina.

5 MEMBER ELLOR: A vote yes would be
6 voting to expand the use of peracetic acid.
7 A vote no would be to not expand the use of
8 peracetic acid.

9 CHAIRMAN MOYER: Okay. We have a
10 motion on the floor. We have a second. Any
11 further discussion?

12 (No audible response.)

13 CHAIRMAN MOYER: If not, I'm going
14 to call for the vote.

15 Is there any conflict of interest
16 on this material?

17 (No audible response.)

18 CHAIRMAN MOYER: Hearing none, we
19 will start the voting with Katrina.

20 MEMBER HEINZE: No.

21 CHAIRMAN MOYER: Dan?

22 VICE-CHAIR GIACOMINI: No.

1 CHAIRMAN MOYER: Julie?
2 SECRETARY WEISMAN: No.
3 CHAIRMAN MOYER: Steve?
4 MEMBER DeMURI: No.
5 CHAIRMAN MOYER: Barry?
6 MEMBER FLAMM: No.
7 CHAIRMAN MOYER: Bea?
8 MEMBER JAMES: No.
9 CHAIRMAN MOYER: Tracy?
10 MEMBER MIEDEMA: No.
11 CHAIRMAN MOYER: Joe?
12 MEMBER SMILLIE: No.
13 CHAIRMAN MOYER: Hue?
14 MEMBER KARREMAN: No.
15 CHAIRMAN MOYER: Kevin?
16 MEMBER ENGELBERT: No.
17 CHAIRMAN MOYER: Tina?
18 MEMBER ELLOR: No.
19 CHAIRMAN MOYER: Rigo?
20 MEMBER DELGADO: No.
21 CHAIRMAN MOYER: And the Chair
22 votes no. Thirteen noes, zero yeses, two

1 absent. The motion fails.

2 Your next item, Madam Chairperson?

3 MEMBER ELLOR: The next item, the
4 motion as it stands now is to amend the
5 annotations from the listings for peracetic
6 acid on National List 205-601(a)(6) and
7 205.601(i)(7) to add the words in each section
8 "permitted in hydrogen peroxide formulations
9 at concentrations of no more than five
10 percent." That's the motion on the table.

11 CHAIRMAN MOYER: I have a motion
12 on the table. Is there a second?

13 MEMBER DELGADO: Second.

14 CHAIRMAN MOYER: We have a motion
15 and a second. Now we have discussion.

16 Tina?

17 MEMBER ELLOR: And this is what;
18 and I think that Emily and Rigo brought this
19 up yesterday, we, I think, would need to
20 annotate the peracetic acid listings, and let
21 me go through those just quickly. In
22 addition, we need to annotate not only the

1 peracetic acid listings, but also the hydrogen
2 peroxide listings, because one doesn't exist
3 without the other. And I think we don't want
4 to lose hydrogen peroxide as disease control
5 and sanitation.

6 So hydrogen peroxide appears on
7 601. It appears in two places. On 205.601(a)
8 as algicides, disinfectant and sanitizer,
9 including irrigation system cleaning systems
10 for hydrogen peroxide. It also appears on
11 205.601(i) as plant disease control, hydrogen
12 peroxide.

13 So we may need to amend those to
14 say "hydrogen peroxide may be blended with
15 peracetic acid."

16 CHAIRMAN MOYER: Chair recognizes
17 the Program, Miles McEvoy.

18 MR. McEVoy: Yes, I don't think
19 you need to amend hydrogen peroxide. OMRI and
20 WSDA have registered a number of hydrogen
21 peroxide products and this issue has not come
22 up. So I don't see why you would need to

1 amend that. It's not part of the petition.
2 It doesn't seem to be an issue. It's
3 something that just came up. We can look into
4 it and get back to you on it, but I wouldn't
5 say -- don't take this one on.

6 MEMBER ELLOR: I think what's
7 changed is the EPA's designation of peracetic
8 acid as an active. It was considered an
9 inert. It was reclassified as an active. And
10 the hydrogen peroxide formulations don't exist
11 without peracetic acid. But, since you're the
12 man in charge, I'm going to take your word for
13 it that we don't need to annotate hydrogen
14 peroxide.

15 CHAIRMAN MOYER: Question then:
16 Does that make this entire motion not
17 necessary? I mean, because the goal of this
18 motion was to protect hydrogen peroxide.

19 MEMBER ELLOR: Well, also
20 peracetic acid, but not in unlimited use.

21 CHAIRMAN MOYER: Correct.

22 MEMBER ELLOR: All right. Oh,

1 you're right. I do see what you mean. And
2 let's think this through. I think is what
3 Kevin was trying to say to me before. Yes,
4 that we can reject the petition to expand
5 usage but keep the current usage in place.

6 CHAIRMAN MOYER: And that's what
7 we just did with the past vote.

8 MEMBER ELLOR: And that's what we
9 just did.

10 CHAIRMAN MOYER: This vote is to
11 protect hydrogen peroxide.

12 MEMBER ELLOR: Right. So if you
13 don't feel like we need to protect hydrogen
14 peroxide, then we don't need to go down this
15 road either.

16 MR. McEVROY: Well, there's a
17 difference of opinion.

18 MEMBER ELLOR: Okay. All right.

19 MR. McEVROY: And I think that
20 really you should hear from OMRI or Zea or --

21 MEMBER ELLOR: Okay. Can we do
22 that, please?

1 CHAIRMAN MOYER: The Chair would
2 recognize, if they'd come to the podium, both
3 Dave Decou and Zea. If you'd like to come to
4 the podium to respond? We appreciate your
5 background and your knowledge here. And if
6 you can state your name for the transcriber.

7 MR. DECOU: Dave Decou from OMRI.

8 MS. SONNEBAND: Zea Sonneband from
9 CCOF.

10 CHAIRMAN MOYER: You guys got to
11 change heights, because you only got one mike.

12 MS. SONNEBAND: Do you want me to
13 go first?

14 CHAIRMAN MOYER: Well, it will be
15 easier for you to bend over than for her to
16 jump, I'm sure.

17 MS. SONNEBAND: Okay. My
18 interpretation of this is you do need to take
19 the vote on peracetic acid, because right now,
20 peracetic acid on a list is only allowed for
21 fire blight. And you want to change the
22 peracetic acid annotation so that it can be

1 listed along with hydrogen peroxide on the
2 list. You do not need to change the
3 annotation for hydrogen peroxide, because it's
4 already on the list for disease control and
5 once peracetic acid is on, the two things can
6 be blended together in a formulation.

7 MEMBER ELLOR: Okay.

8 MS. SONNEBAND: So that's my
9 opinion. But I think you do, because
10 peracetic acid has specific limitations
11 already, so that annotation does need to be
12 changed.

13 CHAIRMAN MOYER: Thank you, Zea.
14 I think that goes a long way in helping.

15 Dave?

16 MR. DECOU: I agree with Zea. I
17 think there's a misunderstanding that some of
18 you have on the Board. Peracetic acid used in
19 disease control is controlled by EPA, and they
20 have strict limitations on what levels it can
21 be applied at. It's not like it can be put on
22 the ground in unlimited quantities, besides

1 the fact that it would probably cost too much
2 for most people to even be interested in that.
3 So you know, don't assume there aren't other
4 regulations that apply to it. If it's applied
5 under disease control under the crops area,
6 it's got a strict limitation on how much can
7 be applied at the application rate. I mean,
8 what I'm talking about is not in the container
9 at some concentration, but the concentration
10 when it's applied to the crop.

11 MEMBER ELLOR: Right, and I
12 believe that that top limit is 100 parts per
13 million, or 200?

14 MR. DECOU: Depends on the
15 situation, but it's no more than 200 parts per
16 million.

17 MEMBER ELLOR: Okay. And we were
18 aware of this, and Gerry communicated to us
19 that, you know, putting 200 parts per million
20 out in the soil over a period of time would
21 not be an acceptable use for us. And I think
22 we all agree with that.

1 MR. DECOU: Okay.

2 MEMBER ELLOR: But I definitely
3 appreciate that.

4 MR. DECOU: But it is strictly
5 limited at this point, yes.

6 MEMBER ELLOR: Right. Okay.

7 CHAIRMAN MOYER: Thank you, Dave
8 and Zea.

9 The Chair would recognize Emily
10 for a further point of clarification, Emily
11 Brown-Rosen. If you'd state your name.

12 MS. BROWN-ROSEN: Emily Brown-
13 Rosen, PCO. I disagree with Zea. I mean, I
14 look at the list and the way it's organized.
15 You know, Section (a) is algicides,
16 disinfectants. And you're voting to change
17 peracetic acid for use in disinfecting, to
18 also be allowed to be mixed with hydrogen
19 peroxide. Then, you are voting to change
20 peracetic acid under Section (i), which is
21 plant disease control, and that's only for use
22 to control fire blight bacteria.

1 So if you want to preserve the
2 current use of peracetic acid which is
3 normally found in a natural stasis with
4 hydrogen peroxide, which is under No. 4,
5 hydrogen peroxide, you know, just plain for
6 plant disease control, it seems to me as a --
7 you know, maybe I'm a more literal reader of
8 the categories of the list, that that's where
9 it needs to go.

10 Hydrogen peroxide I think can and
11 is applied alone sometimes. You know, people
12 use straight hydrogen peroxide, you know,
13 like, maybe not even labeled products, but
14 it's out there, I believe. But, it's also
15 used in -- I think what you meant to say, all
16 peracetic acid is blended, I mean, naturally
17 with hydrogen peroxide. So it's just not
18 captured under straightforward plant disease
19 control. So that's why I recommended that.
20 I mean, you know, maybe you could delay this
21 later and get more opinions, or legal
22 opinions. But, I just think that down the

1 road, if we want to allow one of these
2 products for a late blight or the ones they
3 use in greenhouse oxidate, the label says
4 fungicide disease control. It doesn't say,
5 you know, disinfecting equipment and seed, or
6 you know, it would be stretching the use that
7 you've approved. This says for use to control
8 fire blight bacteria.

9 MS. SONNEBAND: And with hydrogen
10 peroxide.

11 MS. BROWN-ROSEN: Yes. Yes.

12 (Off-mic comment.)

13 MS. BROWN-ROSEN: Yes. Okay.

14 But then it can only be used on fire flight
15 under No. 7.

16 MS. SONNEBAND: No. Well, and/or.

17 MS. ROSEN-BROWN: Okay. So she's
18 thinking that the restriction on fire blight
19 is not really a restriction only to the fire
20 blight, which I would disagree with.

21 MS. SONNEBAND: Well, no, that's
22 what they're going to change. They're going

1 to say not just fire blight, but also with
2 hydrogen peroxide.

3 CHAIRMAN MOYER: No, that's not
4 correct, Zea.

5 MS. SONNEBAND: You don't think
6 that's what they were getting to in that?
7 Okay. Case closed.

8 CHAIRMAN MOYER: Okay. Thank you,
9 folks. We appreciate that input.

10 We have a motion on the floor. We
11 have a second. We are still in discussion.

12 The Chair recognizes Dan.

13 VICE-CHAIR GIACOMINI: I really
14 disagree with, not necessarily in the intent,
15 but I really disagree with what you're doing
16 with this annotation under the section of
17 plant disease control where you're adding all
18 of these other things that are not plant
19 disease control. If you want to add the use
20 of peracetic acid for more things, it goes in
21 another section.

22 CHAIRMAN MOYER: No, that's not

1 what we're trying to do.

2 VICE-CHAIR GIACOMINI: The
3 proposed annotation is to change it to -- oh,
4 for (a)(6). I'm sorry, (i)(7). Okay. My
5 mistake.

6 CHAIRMAN MOYER: Thank you, Dan.
7 Any other points of clarification?
8 Tina?

9 MEMBER ELLOR: I find I'm still
10 perplexed.

11 CHAIRMAN MOYER: Join the crowd.

12 MEMBER ELLOR: Yes, I --

13 PARTICIPANT: Okay. I didn't see
14 the two -- there are two annotation changes.

15 MEMBER ELLOR: Oh, well, maybe
16 Katrina can straighten this out.

17 CHAIRMAN MOYER: Chair recognizes
18 Katrina.

19 MEMBER HEINZE: Okay. You put a
20 lot of good thought into this before the
21 meeting. Don't let yourself get muddled up.
22 So all you're trying to do is add the

1 annotation "permitted in hydrogen peroxide
2 formulations at concentration of no more than
3 five percent" --

4 CHAIRMAN MOYER: Right.

5 MEMBER HEINZE: -- so that the
6 peracetic acid can still be used.

7 CHAIRMAN MOYER: Well, and so that
8 hydrogen peroxide can still be used.

9 MEMBER HEINZE: Right.

10 CHAIRMAN MOYER: It protects
11 hydrogen peroxide, which we don't --

12 MEMBER HEINZE: You're not adding
13 any uses.

14 CHAIRMAN MOYER: Okay.

15 MEMBER HEINZE: You're not
16 changing any uses. This is just about
17 reacting to this EPA change.

18 CHAIRMAN MOYER: Thank you,
19 Katrina. I do think that clears things up and
20 I think --

21 MEMBER HEINZE: I think it's
22 straightforward.

1 CHAIRMAN MOYER: -- we are
2 confusing ourselves.

3 MEMBER HEINZE: But given that, we
4 did have a lot of discussion yesterday about
5 concentration, and I'm wondering if the
6 committee had time to talk about that.

7 CHAIRMAN MOYER: Chair recognizes
8 Tina.

9 MEMBER ELLOR: Yes, and this is
10 something once again that Gerry, who's an
11 incredibly conscientious researcher, looked
12 into. And he called several manufacturers and
13 found that these products contain, you know,
14 more or less than five percent, but most of
15 them containing about five percent.

16 So if you're using peracetic acid
17 and you need to figure out, you know, your
18 final dosage which is regulated to 100 or 200
19 percent, then we didn't feel like we needed to
20 make that recommendation. But we didn't want
21 to see formulations -- okay.

22 CHAIRMAN MOYER: Chair recognizes

1 Katrina.

2 MEMBER HEINZE: So the petitioner
3 in their written public comment talked about
4 one product they sell that is 12 percent
5 peracetic acid, but is used at such a dilution
6 that its application is actually lower -- or
7 the concentration at end use is lower than the
8 five percent solution. So that's where I get
9 a little bit confused. I can pull that up if
10 --

11 MEMBER ELLOR: No, I do understand
12 that; and if the Crops Committee could jump in
13 here and help me out here, we were all a
14 little bit perplexed by this, but I did send
15 Gerry an email to say where did you get that
16 number? And I think you're right, since we
17 have defeated expanding the use and the
18 concentration is regulated by other agencies,
19 that we may not need that. Because, you know,
20 instead of shipping all the water around or
21 whatever at the five percent, you know -- so,
22 I'm fine with --

1 CHAIRMAN MOYER: Yes, I think our
2 comment there, the goal was to make sure that
3 we didn't shift the emphasis away from the
4 hydrogen peroxide to just having a little bit
5 of hydrogen peroxide with a lot of peracetic
6 acid. The goal was to set a number in there
7 so that you couldn't shift the ratio of the
8 components.

9 MEMBER HEINZE: So you're trying
10 to avoid 80 percent peracetic acid?

11 MEMBER ELLOR: Right.

12 CHAIRMAN MOYER: Exactly.

13 MEMBER ELLOR: Right.

14 MEMBER HEINZE: I got it.

15 MEMBER ELLOR: Thank you, Jeff.

16 MEMBER HEINZE: That's very
17 helpful.

18 CHAIRMAN MOYER: The Chair
19 recognizes Kevin, then Dan.

20 MEMBER ENGELBERT: Yes, just to
21 build on that a little bit, that's exactly
22 what we're trying to do. When we talked in

1 committee about our concerns about expressing
2 this in parts per million instead of a
3 percentage; and I brought that up, Gerry was
4 adamant that we stay with a percentage basis
5 in the final formulation of the hydrogen
6 peroxide/peracetic acid mixture so that there
7 could be no abuse and have higher
8 concentrations than you should. And, you
9 know, this is his area of expertise. They use
10 these formulations and he said this is the
11 proper way to approach this problem.

12 CHAIRMAN MOYER: Chair recognizes
13 Dan.

14 VICE-CHAIR GIACOMINI: I have the
15 utmost respect for Gerry on all these issues
16 and I agree with Tina that he's a thorough
17 researcher. But, it seems that you have two
18 concerns here. One is letting the peracetic
19 acid be used in that concentration at, you
20 know, potentially higher rates than the
21 hydrogen peroxide. But if we understand what
22 Dave said, the maximum amount of peracetic

1 acid is already controlled by other agencies.
2 In response to that statement, Tina, you said
3 and your concern is that that number is too
4 high to be in the following of organic
5 principles, essentially.

6 So I respect Gerry's opinion, but
7 I'm still wondering why we don't have a 100-
8 part-per-million limit on the application
9 rate, rather than just the control of the
10 proportion of it to hydrogen peroxide in the
11 batch, but they're able to use it at EPA
12 levels that you're saying the committee does
13 not feel is too high for organic.

14 MEMBER ELLOR: I'm going to defer
15 to Barry on this.

16 CHAIRMAN MOYER: The floor is
17 turned over to Barry.

18 MEMBER FLAMM: You know, there's
19 two questions here. The first one is
20 peracetic acid and we voted not to expand that
21 use. The other is we're talking about
22 hydrogen peroxide now, and as we understand

1 it, that isn't produced without having a
2 component of peracetic acid. We believe that
3 hydrogen peroxide is a very valuable tool and
4 we didn't want to inadvertently take that off
5 the list. We're essentially trying to keep
6 things at status quo. And now it seems like
7 this discussion is focusing back on peracetic
8 acid levels. Well, we've already voted. We
9 don't want to expand that. We're worried
10 about the risk of widespread use of peracetic
11 acid. I think Jeff had said, we don't want
12 there to be subterfuge of using hydrogen
13 peroxide as a cover for what essentially
14 becomes a peracetic acid.

15 So Gerry's examination was find
16 out what really is happening in these
17 products, and the five percent limit is what
18 he discovered is the limit. But, we're now
19 shifted over to hydrogen peroxide and we keep
20 drifting back to re-discussing levels of use
21 and so forth of peracetic acid. That's not
22 the question now. It's hydrogen peroxide and

1 what are the content of peracetic acid now
2 occurring in this product.

3 CHAIRMAN MOYER: Chair recognizes
4 Kevin.

5 MEMBER ENGELBERT: I'll do my best
6 to address your concerns, Dan. We're
7 proposing an annotation for a five-percent
8 limit on mixtures with peracetic acid in
9 hydrogen peroxide, period. That's the limit.
10 That will keep the application rates of the
11 peracetic acid onto the crop levels at 100
12 parts per million or lower. Because of the
13 chemical relationship between the two, you
14 can't get above that with that percentage in
15 the formulations of the two products together.
16 That's the way Gerry explained it to us, that
17 this is the proper approach, because you're
18 not going to apply -- we're not amending
19 peracetic acid to be applied individually.
20 This is an annotation for it to be mixed at a
21 certain percentage level with hydrogen
22 peroxide. And then you have to bear in mind

1 that hydrogen peroxide comes in different
2 strengths also, 35, 50 percent, 3 percent, or
3 whatever.

4 CHAIRMAN MOYER: Thank you, Kevin.

5 We have a motion on the floor. We
6 have a second. Is there any further
7 discussion? If not, I'd like to call for the
8 vote.

9 And, Tina, if you would restate
10 the motion, and please state what a yes or no
11 vote entails.

12 MEMBER ELLOR: Okay. Motion to
13 amend the annotations from the listings for
14 peracetic acid on the National List
15 205.601(a)(6) and 205.601(i)(7) to add the
16 words in each section, "permitted in hydrogen
17 peroxide formulations at concentrations of no
18 more than five percent."

19 And to sum up, a yes vote would
20 keep these tools in the organic toolbox
21 without expanding the use of peracetic acid.

22 CHAIRMAN MOYER: Thank you, Madam

1 Chairperson.

2 Is there a conflict of interest
3 from any board member on this material?

4 (No audible response.)

5 CHAIRMAN MOYER: Seeing no show of
6 hands, we will begin the vote and we will
7 begin with Dan.

8 VICE-CHAIR GIACOMINI: Yes.

9 CHAIRMAN MOYER: Julie?

10 SECRETARY WEISMAN: Yes.

11 CHAIRMAN MOYER: Steve?

12 MEMBER DeMURI: Yes.

13 CHAIRMAN MOYER: Barry?

14 MEMBER FLAMM: Yes.

15 CHAIRMAN MOYER: Bea?

16 MEMBER JAMES: Yes.

17 CHAIRMAN MOYER: Tracy?

18 MEMBER MIEDEMA: Yes.

19 CHAIRMAN MOYER: Joe?

20 MEMBER SMILLIE: Yes.

21 CHAIRMAN MOYER: Hue?

22 MEMBER KARREMAN: Yes.

1 CHAIRMAN MOYER: Kevin?

2 MEMBER ENGELBERT: Yes.

3 CHAIRMAN MOYER: Tina?

4 MEMBER ELLOR: Yes.

5 CHAIRMAN MOYER: Rigo?

6 MEMBER DELGADO: Yes.

7 CHAIRMAN MOYER: Katrina?

8 MEMBER HEINZE: Yes.

9 CHAIRMAN MOYER: And the Chair
10 votes yes. I believe that's zero noes, 13
11 yeses, two absent. The motion passes as
12 presented.

13 Madam Chairperson, your next item?

14 MEMBER ELLOR: Our last material,
15 I'm going to turn over to Rigo to handle,
16 because he did the major work on that. Am I
17 allowed to do that at this point?

18 CHAIRMAN MOYER: You certainly
19 are. Thank you.

20 Chair recognizes Rigo.

21 MEMBER DELGADO: Thank you very
22 much, Madam Chair.

1 Wonderful. Thank you very much.

2 I promise I did write all this, but it was so
3 long ago last night that I remember much of
4 it.

5 The Crops Committee evaluated
6 hydrogen chloride which is a substance used
7 for delinting cotton seed. This is a sunset
8 material. And it's explained yesterday, we
9 looked at alternatives, information on
10 alternative technologies and alternatives
11 products. We found none. And we also looked
12 into additional information on unknown effects
13 of this substance, and we found none.

14 So therefore, we recommend that it
15 continues to be listed. And at this point, I
16 would like to move to list hydrogen chloride
17 as annotated in Section 205.601(n).

18 CHAIRMAN MOYER: Thank you. We
19 have a motion to relist this sunset item. Is
20 there a second?

21 MEMBER HEINZE: Second.

22 CHAIRMAN MOYER: Katrina seconds

1 it. We have a motion and a second to relist
2 this sunset item. Is there any discussion?

3 (No audible response.)

4 CHAIRMAN MOYER: Seeing or hearing
5 none, I will call for the vote.

6 Is there a conflict of interest by
7 any board member on this material?

8 (No audible response.)

9 CHAIRMAN MOYER: Seeing no show of
10 hands or hearing nor voice, I will call for
11 the vote starting with Julie.

12 SECRETARY WEISMAN: Yes.

13 CHAIRMAN MOYER: Steve?

14 MEMBER DeMURI: Yes.

15 CHAIRMAN MOYER: I apologize, I'm
16 out of order here. Barry?

17 MEMBER FLAMM: Yes.

18 CHAIRMAN MOYER: Bea?

19 MEMBER JAMES: Yes.

20 CHAIRMAN MOYER: Tracy?

21 MEMBER MIEDEMA: Yes.

22 CHAIRMAN MOYER: Joe?

1 Joe's absent.

2 Hue?

3 MEMBER KARREMAN: Yes.

4 CHAIRMAN MOYER: Kevin?

5 MEMBER ENGELBERT: Yes.

6 CHAIRMAN MOYER: Tina?

7 MEMBER ELLOR: Yes.

8 CHAIRMAN MOYER: Rigo?

9 MEMBER DELGADO: Yes.

10 CHAIRMAN MOYER: Katrina?

11 MEMBER HEINZE: Yes.

12 CHAIRMAN MOYER: Dan?

13 VICE-CHAIR GIACOMINI: Yes.

14 CHAIRMAN MOYER: And the Chair

15 votes yes. We have zero noes, twelve yeses,

16 three absents. The motion passes and the

17 material is relisted.

18 Are there any other items before

19 this Board, Madam Chairperson?

20 MEMBER ELLOR: No.

21 CHAIRMAN MOYER: Thank you. At

22 that point, I believe what we'll do is we'll

1 take a 15-minute recess and we will reconvene
2 here at approximately 10 after 10:00. Thank
3 you.

4 (Whereupon, the above-entitled
5 matter went off the record at 9:54 a.m. and
6 resumed at 10:18 a.m.)

7 CHAIRMAN MOYER: Meeting is called
8 to order. We're back in session. We're in
9 the process of running through our petitions
10 and our voting. And at this point in time
11 we're reading to turn the microphone over the
12 Livestock Committee.

13 Dr. Karreman, if you will?
14 (Off-mic comment.)

15 CHAIRMAN MOYER: I apologize?
16 (Off-mic comment.)

17 CHAIRMAN MOYER: Certainly. Chair
18 recognizes Joe.

19 MEMBER SMILLIE: Did I miss the
20 pots? The containers? We're not --

21 VICE-CHAIR GIACOMINI: Moved to
22 discussion, Joe.

1 MEMBER SMILLIE: Oh, it was.

2 VICE-CHAIR GIACOMINI: The
3 document itself was discussion.

4 MEMBER SMILLIE: I'm sorry. Thank
5 you.

6 CHAIRMAN MOYER: The greenhouse
7 and container? Yes, that's a discussion
8 document.

9 PARTICIPANT: The greenhouse
10 document was a discussion, correct? Yes.

11 CHAIRMAN MOYER: Yes, that's a
12 discussion document.

13 PARTICIPANT: There was an error
14 in the agenda.

15 CHAIRMAN MOYER: You get to vote
16 next time. It will come back, yes.

17 Okay. We're just waiting for the
18 chair of the Livestock Committee to get his
19 computer fired up.

20 MEMBER KARREMAN: All right.
21 Livestock Committee's recommendations are
22 actually are not in the correct order I saw on

1 the paper we have for voting. How do you want
2 to do it by? Do you want to do what's on the
3 agenda schedule, or by the paper? I don't
4 care.

5 CHAIRMAN MOYER: I'd like if you'd
6 follow our voting sheet, if that's possible.

7 MEMBER KARREMAN: By the paper?

8 All right. So our first material
9 is eprinomectin.

10 Is that up there, Valerie? Not
11 yet? Okay. That's all right. I'm also
12 getting there. Got them in order here, guys.

13 Okay. The Livestock Committee --
14 how do you do a negative again? I'm going to
15 state what the motion is.

16 CHAIRMAN MOYER: Yes.

17 MEMBER KARREMAN: And that's it.
18 Yes. Okay.

19 So the motion for eprinomectin is
20 to add eprinomectin to 7 C.F.R. 205.603.
21 That's it.

22 CHAIRMAN MOYER: Is there a second

1 to that motion?

2 MEMBER MIEDEMA: Second.

3 MEMBER ENGELBERT: I'll second.

4 CHAIRMAN MOYER: I'm sorry, Tracy
5 had it first.

6 We have a motion and a second to
7 list or add eprinomectin to the National List.
8 Is there any discussion on this item?

9 (No audible response.)

10 CHAIRMAN MOYER: If you could, Mr.
11 Chairman, give us what the committee vote was
12 on that?

13 MEMBER KARREMAN: Sure. The
14 committee vote was zero in favor of the
15 listing, seven opposed to listing, no absent,
16 no abstentions.

17 CHAIRMAN MOYER: Thank you. Is
18 there any discussion there on that item?

19 (No audible response.)

20 CHAIRMAN MOYER: Hearing none,
21 seeing no show of hands, I'm ready to call for
22 the vote.

1 Is there any conflict of interest
2 on this material?

3 (No audible response.)

4 CHAIRMAN MOYER: Hearing none, are
5 we prepared to vote?

6 (No audible response.)

7 CHAIRMAN MOYER: Okay. We will
8 start the vote with Steve.

9 MEMBER DeMURI: No.

10 CHAIRMAN MOYER: Next I have
11 Barry.

12 MEMBER FLAMM: No.

13 CHAIRMAN MOYER: Bea?

14 MEMBER JAMES: No.

15 CHAIRMAN MOYER: Tracy?

16 MEMBER MIEDEMA: No.

17 CHAIRMAN MOYER: Joe?

18 MEMBER SMILLIE: No.

19 CHAIRMAN MOYER: Hue?

20 MEMBER KARREMAN: No.

21 CHAIRMAN MOYER: Kevin?

22 MEMBER ENGELBERT: No.

1 CHAIRMAN MOYER: Tina?

2 MEMBER ELLOR: No.

3 CHAIRMAN MOYER: Rigo?

4 MEMBER DELGADO: No.

5 CHAIRMAN MOYER: Katrina?

6 MEMBER HEINZE: No.

7 CHAIRMAN MOYER: Dan?

8 VICE-CHAIR GIACOMINI: No.

9 CHAIRMAN MOYER: Julie?

10 SECRETARY WEISMAN: No.

11 CHAIRMAN MOYER: And the Chair

12 votes no. I believe that's 13 noes, zero

13 yeses, two absent. That motion fails to pass.

14 Your next item, Mr. Chairman?

15 MEMBER KARREMAN: All right. The

16 next recommendation which is on the agenda

17 approved by the Program was to be on the

18 agenda here is the recommendation change to

19 205.603(f), the excipients. It is to clarify

20 wording. The change would be in the first

21 line -- well, I'll read you what the

22 recommendation is, how's that?

1 CHAIRMAN MOYER: Thank you.

2 MEMBER KARREMAN: All the better?

3 The recommendation is this: For 205.603(f),
4 excipients only for use in the manufacture of
5 animal health care products used to treat
6 organic livestock when the excipient is
7 identified by the FDA, is generally recognized
8 as safe, approved by the FDA as a food
9 additive, included in the FDA review and
10 approval of a new animal drug application or
11 new drug application; or approved by the
12 Animal and Plant Health Inspection Service of
13 the USDA, otherwise known as APHIS.

14 The committee vote was seven in
15 favor, zero opposed, zero abstentions, zero
16 absent.

17 CHAIRMAN MOYER: So is that your
18 motion? Did you make a motion?

19 MEMBER KARREMAN: I move to
20 recommend this for vote.

21 MEMBER ELLOR: I second.

22 CHAIRMAN MOYER: We have a motion

1 on the floor as stated. We have a second.

2 Discussion on listing excipients?

3 Julie?

4 SECRETARY WEISMAN: I just had one
5 question. How did this recommendation fit
6 within the context of the question that was
7 brought up yesterday about technical
8 corrections? I know some were okay and some
9 were not, but I don't remember which ones.

10 CHAIRMAN MOYER: Chair recognizes
11 Miles McEvoy from the Program.

12 MR. McEVoy: Yes, this one's fine.
13 No problems.

14 SECRETARY WEISMAN: Okay.

15 CHAIRMAN MOYER: Thank you for
16 that clarification.

17 Chair recognizes Dan.

18 VICE-CHAIR GIACOMINI: Hue, can
19 you reread the first line of what you're
20 recommending? Are we including the health
21 care, or did you drop that?

22 MEMBER KARREMAN: I will reread

1 the recommendation that we're voting on, which
2 is motioned and seconded now. To change
3 205.603(f), excipients only for use in the
4 manufacture of animal health care products
5 used to treat organic livestock when the
6 excipient is -- and the rest of the lines.

7 VICE-CHAIR GIACOMINI: Okay.

8 MEMBER KARREMAN: Is that okay?

9 CHAIRMAN MOYER: It's okay with
10 me. It's your motion.

11 Any points of discussion?
12 Katrina?

13 MEMBER HEINZE: So this is really
14 that you're adding the items in italic?
15 Nothing else, right?

16 MEMBER KARREMAN: Correct. It's a
17 clarification.

18 MEMBER HEINZE: Yes.

19 MEMBER KARREMAN: Reason is that
20 back when they were looking at it in 2002, the
21 transcripts of October 18th, I think, or
22 October 20th, 2002, page 297, line 22, Mr.

1 Sieman was talking about excipients in
2 medications and not just drugs. So I think
3 there's always been this nebulous-type
4 wording, needing clarification. And through
5 rule making process, it became drugs. Okay?
6 But in the Board's discussions; and I have the
7 transcripts right here, they were talking that
8 is drugs, medications back and forth.

9 MEMBER HEINZE: A little bird just
10 whispered in my ear and said we're not voting
11 on what it says up there?

12 MEMBER KARREMAN: It has been
13 corrected.

14 MEMBER HEINZE: Oh. I take that
15 back.

16 CHAIRMAN MOYER: Thank you,
17 Katrina.

18 The Board recognizes Valerie
19 Frances from the Program.

20 MS. FRANCES: There had been some
21 discussion about putting the words "animal
22 drugs or health care products" yesterday. And

1 so I had put that up as a placeholder and as
2 a reminder perhaps.

3 CHAIRMAN MOYER: Thank you,
4 Valerie.

5 Chair recognizes Dan.

6 VICE-CHAIR GIACOMINI: Yes, Hue,
7 based on that discussion, it currently just
8 says "drugs." We talked within committee of
9 going to animal health care products. Is that
10 inclusive enough of drugs? We talked one time
11 of adding "drugs or animal health care
12 products."

13 MEMBER KARREMAN: I think it's
14 fully inclusive.

15 CHAIRMAN MOYER: Point of
16 clarification. Hue, it now says "animal
17 health care products." That is correct.

18 MEMBER KARREMAN: That's one of
19 the changes.

20 CHAIRMAN MOYER: Yes.

21 MEMBER KARREMAN: That is correct,
22 Mr. Chair. That's the change. That's the key

1 change, as well as the semicolon at the end,
2 "or approved by APHIS."

3 CHAIRMAN MOYER: Chair recognizes
4 Mile McEvoy from the Program.

5 MR. McEVY: Animal health care
6 products do not appear to be defined in the
7 regulations. Animal drug is defined in the
8 regulation. You want to think about that.

9 CHAIRMAN MOYER: Hue?

10 MEMBER KARREMAN: Then I would
11 suggest that perhaps the term generally
12 probably recognized in Webster's Dictionary,
13 "medications" is not specifically a drug as
14 FDA sees it. But let's say over-the-counter
15 lotion that you'd put on your skin, that would
16 be a medication as well?

17 CHAIRMAN MOYER: I would direct
18 that back to the Program. Is "medications"
19 defined?

20 MR. McEVY: No, "medications" is
21 not defined.

22 CHAIRMAN MOYER: Thank you. Chair

1 recognizes Dan.

2 VICE-CHAIR GIACOMINI: I would
3 like us to add the words "drug or" back into
4 there, and then recommend to the Livestock
5 Committee to put this on top of their work
6 plan and come back with a definition of animal
7 health care products for the next meeting.
8 And I'll make that motion, if that sounds
9 reasonable.

10 MEMBER KARREMAN: May I ask a
11 question?

12 CHAIRMAN MOYER: Chair recognizes
13 Hue.

14 MEMBER KARREMAN: So Dan, are you
15 saying that we take action on this and then we
16 put on the work plan to define animal health
17 care products?

18 VICE-CHAIR GIACOMINI: Yes.

19 CHAIRMAN MOYER: Yes, later this
20 afternoon we'd put that on a work plan.

21 MEMBER KARREMAN: I can agree with
22 that.

1 CHAIRMAN MOYER: But you'd have to
2 put the word "drugs" back in there.

3 MEMBER KARREMAN: Okay.

4 CHAIRMAN MOYER: And that would
5 take an amendment.

6 MEMBER KARREMAN: Fine. Who wants
7 to make an amendment? Can I amend myself?

8 CHAIRMAN MOYER: Yes.

9 VICE-CHAIR GIACOMINI: I did.

10 CHAIRMAN MOYER: Any doctor can
11 self-amend them self. Yes, right? Or self-
12 medicate, or whatever.

13 Chair recognizes Dan.

14 VICE-CHAIR GIACOMINI: I move that
15 we add "drugs or" before animal health care
16 products.

17 CHAIRMAN MOYER: Point of order,
18 Miles. Thank you.

19 MR. McEVROY: Yes, "drugs" is
20 already in the existing regulations, so that's
21 not an addition. The only think you would be
22 adding is the "animal health care products"

1 part as an addition.

2 CHAIRMAN MOYER: I see.

3 MEMBER KARREMAN: Technically, it
4 would be "or animal health care products."

5 VICE-CHAIR GIACOMINI: Wait.
6 Question.

7 CHAIRMAN MOYER: Question from
8 Dan.

9 VICE-CHAIR GIACOMINI: That's
10 correct, but the motion before this Board
11 right now is as he states it, and in order to
12 get it back to what we said, we need to amend
13 this motion.

14 CHAIRMAN MOYER: Right.

15 VICE-CHAIR GIACOMINI: Not that.
16 So we're trying to get this language back into
17 this motion.

18 CHAIRMAN MOYER: Does the person
19 who made the motion and the second accept that
20 friendly amendment?

21 MEMBER KARREMAN: I accept a
22 friendly amendment like that, sure.

1 MEMBER ENGELBERT: First I'd like
2 to -- sorry.

3 CHAIRMAN MOYER: Tina, do you
4 accept that? You were the second on that?

5 MEMBER ELLOR: Yes.

6 CHAIRMAN MOYER: I'm sorry, Tracy
7 was the second on that? Do you accept that
8 friendly amendment?

9 I thought it was Tina. That's
10 what I thought.

11 MEMBER ELLOR: Yes, I accept it.

12 CHAIRMAN MOYER: You accept it?
13 Okay. We have accepted that.

14 Kevin, point of discussion?

15 MEMBER ENGELBERT: Yes, I'd just
16 like to ask anybody on the Board or in the
17 audience, is there anyone that would argue
18 that a drug is not an animal health care
19 product?

20 CHAIRMAN MOYER: I'm not inclined
21 to bring everybody from the room to the
22 podium, but if anybody on the Board wants to

1 address that?

2 Chair recognizes Bea, and then

3 Hue.

4 MEMBER JAMES: Isn't "drug"

5 defined -- I mean, would that bring the FDA

6 definition in?

7 And secondly, the FDA obviously --

8 I don't know if health care products would

9 fall under that, so they might be two separate
10 things.

11 Anyway, Hue?

12 CHAIRMAN MOYER: Chair recognizes

13 Hue.

14 MEMBER KARREMAN: I would agree

15 with you, Bea, in that the term "drug," as I

16 was mentioning yesterday during the

17 discussion, you cannot give drugs per se to

18 non-sick organic animals. Okay? And it's two

19 different terms. The FDA has regulatory

20 approval over drugs and animal health care

21 products, but they look at drugs differently

22 perhaps than animal health care products that

1 are over-the-counter, and they're under
2 regulatory discretion, not needing NADAs. And
3 it's the excipients in those animal health
4 care products that fall under regulatory
5 discretion by the FDA, which this whole
6 recommendation is trying to address.

7 CHAIRMAN MOYER: Chair recognizes
8 Julie and then Kevin.

9 SECRETARY WEISMAN: I'll pass.

10 CHAIRMAN MOYER: Julie passes.
11 Kevin?

12 MEMBER ENGELBERT: Well then, I'd
13 also like to point out that in the list of
14 definitions in the National Rule "drugs" is
15 not defined either.

16 VICE-CHAIR GIACOMINI: Animal drug
17 is. I just asked Miles if that was a problem.
18 He said he didn't think so.

19 CHAIRMAN MOYER: Okay. We have a
20 motion on the floor. We have a friendly
21 amendment to that motion. Is there more
22 discussion? Bea?

1 MEMBER JAMES: So Dan, if I heard
2 you correctly, you guys are going to take back
3 and create a definition for animal health care
4 products? Is that what I heard?

5 VICE-CHAIR GIACOMINI: Yes.

6 CHAIRMAN MOYER: That's what you
7 heard.

8 VICE-CHAIR GIACOMINI: It's not
9 quite the same problem as with personal care.

10 MEMBER JAMES: Thanks for picking
11 up on my vibe.

12 CHAIRMAN MOYER: A question for
13 the Program: Does that makes sense to you?
14 I see some discussion over there.

15 MR. McEVoy: Yes, that sounds
16 good.

17 CHAIRMAN MOYER: Okay. Thank you.

18 Okay. We have a motion on the
19 floor. We have a second for that. We have a
20 friendly amendment.

21 Hue, since you made the motion, if
22 you could reread it one more time and tell us

1 what a yes or no vote means, I think we're
2 ready to go.

3 MEMBER KARREMAN: Okay. So the
4 recommendation now is: 205.603(f), excipients
5 only for use in the manufacture of drugs or
6 animal health care products used to treat
7 organic livestock when the excipient is
8 identified by the FDA as generally recognized
9 as safe, approved by the FDA as a food
10 additive, included in the FDA review and
11 approval of a new animal drug application or
12 new drug application; or approved by APHIS.

13 A vote yes would be to make this
14 change. A vote no would be to not make the
15 change. That's what you asked me to say, how
16 it would --

17 CHAIRMAN MOYER: Yes.

18 MEMBER KARREMAN: Okay.

19 CHAIRMAN MOYER: Thank you.

20 Chair recognizes Kevin.

21 MEMBER ENGELBERT: Then I'd like
22 to offer another friendly amendment and add

1 the word "animals" in front of drugs, because
2 "drugs" is not defined in the National Rule,
3 but "animal drugs" is.

4 CHAIRMAN MOYER: Does the person
5 who made the motion and seconded it accept
6 that friendly amendment?

7 MEMBER KARREMAN: Not sure.
8 Because of a mechanism by which all these
9 medicines and their excipients were placed on
10 the list originally, the Animal Medicinal Use
11 Drug Clarification Act of 1996, which allows
12 the use NDAs, or new drug approvals, for
13 animals if there's no approved drug for them.
14 So to limit it to animal drugs would be too
15 constrictive, especially for some of the
16 things that have already been placed on the
17 list.

18 CHAIRMAN MOYER: Point of
19 discussion, Dan?

20 VICE-CHAIR GIACOMINI: Can you
21 take a look at that in light of the actual
22 definition of "animal drug" that we have here

1 in the regulation?

2 Do you want me to read that, Mr.

3 Chairman?

4 CHAIRMAN MOYER: Yes, that's fine.

5 VICE-CHAIR GIACOMINI: "Animal

6 drug" is defined as, "Any drug as defined in

7 Section 201 of the Federal Food, Drug and

8 Cosmetic Act, as amended, 21 USC 321, that is

9 intended for use in livestock, including any

10 drug intended for use in livestock feed, but

11 not including such livestock feed."

12 MEMBER KARREMAN: Still, I would

13 have reservations because there could be a

14 NDA, new drug approval, which is for humans

15 that might be used in livestock. The NADAs

16 are officially approved for the species that

17 they're labeled for. If we look at

18 butorphanol, which is on the list, it's only

19 listed for horse and deer.

20 And I guess this was a confusion

21 way back when, and I guess I would just like

22 to keep it the way it is.

1 CHAIRMAN MOYER: Thank you. Two
2 more points of discussion. Dan and then
3 Katrina.

4 VICE-CHAIR GIACOMINI: Yes, I
5 think it's under the section of livestock
6 already, and it's been this way without a
7 problem for three years. I would think if a
8 problem came up, the NOP would be able to deal
9 with it without us having to take action, I
10 would certainly hope. Because I think the
11 intent of what that says is and what it's
12 doing is very clear. So I see Miles shaking
13 his head, slightly; I'll qualify that. You
14 know, I would rather keep something that has
15 not caused a problem rather than potentially
16 something that would add qualifiers and cause
17 a problem.

18 CHAIRMAN MOYER: Chair recognizes
19 Katrina.

20 MEMBER HEINZE: I concur with what
21 Dan said.

22 CHAIRMAN MOYER: Thank you. We

1 have a friendly amendment on the floor that
2 has been rejected by the petitioner. Do you
3 wish to make that an unfriendly amendment?

4 (No audible response.)

5 CHAIRMAN MOYER: Thank you. That
6 amendment dies for lack of a second.

7 We're back to the original
8 petition as just read by Hue. Again, I
9 believe we're prepared to vote on that.

10 Is there a conflict of interest on
11 that material?

12 (No audible response.)

13 CHAIRMAN MOYER: Then we will
14 begin the voting with Bea.

15 I apologize. Barry?

16 MEMBER FLAMM: Yes.

17 CHAIRMAN MOYER: Bea?

18 MEMBER JAMES: Yes.

19 CHAIRMAN MOYER: Tracy?

20 MEMBER MIEDEMA: Yes.

21 CHAIRMAN MOYER: Joe?

22 MEMBER SMILLIE: Yes.

1 CHAIRMAN MOYER: Hue?

2 MEMBER KARREMAN: Yes.

3 CHAIRMAN MOYER: Kevin?

4 MEMBER ENGELBERT: Yes.

5 CHAIRMAN MOYER: Tina?

6 MEMBER ELLOR: Yes.

7 CHAIRMAN MOYER: Rigo?

8 MEMBER DELGADO: Yes.

9 CHAIRMAN MOYER: Katrina?

10 MEMBER HEINZE: Yes.

11 CHAIRMAN MOYER: Dan?

12 VICE-CHAIR GIACOMINI: Yes.

13 CHAIRMAN MOYER: Julie?

14 SECRETARY WEISMAN: Yes.

15 CHAIRMAN MOYER: Steve?

16 MEMBER DeMURI: Yes.

17 CHAIRMAN MOYER: And the Chair

18 votes yes. I have zero noes, 13 yeses, two

19 absent. The motion passes.

20 Thank you, Mr. Chairman. Next

21 item on your agenda.

22 MEMBER KARREMAN: Okay. Next item

1 looks to be vaccines. The Livestock Committee
2 had a meeting last night, and due to the
3 discussion phase of our meeting yesterday, we
4 are proposing to amend the recommendation that
5 was posted. Would you like to hear that
6 recommendation as it stands for this vote?

7 CHAIRMAN MOYER: Yes.

8 MEMBER KARREMAN: The corrected
9 one out of committee is --

10 CHAIRMAN MOYER: Yes, voted on in
11 committee.

12 And if you could put that up
13 there, Valerie? Do you have it?

14 Oh, she doesn't have the new
15 correction.

16 MEMBER KARREMAN: No, it's a one-
17 liner.

18 CHAIRMAN MOYER: Okay. Thank you.

19 MEMBER KARREMAN: Yes. Ready?

20 All right. So under 105(e), it
21 should say, "Excluded methods, except for
22 vaccines, provided that" -- which is in the

1 language that already exists -- "provided that
2 vaccines manufactured without the use of
3 excluded methods must be used if available."

4 CHAIRMAN MOYER: Thank you.

5 MEMBER KARREMAN: That's it.

6 CHAIRMAN MOYER: Would you put
7 that in the form of a motion, please?

8 MEMBER KARREMAN: So then, the
9 Livestock Committee recommends that 205.105(e)
10 be amended to read that -- you want me to read
11 the whole 105?

12 CHAIRMAN MOYER: No.

13 MEMBER KARREMAN: Okay. Then (e),
14 excluded methods, except for vaccines,
15 provided that vaccines manufactured without
16 the use of excluded methods must be used if
17 available.

18 CHAIRMAN MOYER: Thank you. Is
19 there a second to that?

20 MEMBER ELLOR: I'll second.

21 CHAIRMAN MOYER: Tina seconds it.

22 Discussion, Joe?

1 MEMBER SMILLIE: I'd like to
2 propose a friendly amendment that we add the
3 word "commercial" in front of "available" --
4 "commercially."

5 MEMBER KARREMAN: I accept that.

6 CHAIRMAN MOYER: Hue accepts that.

7 Tina, do you accept that?

8 MEMBER ELLOR: I also accept that.

9 CHAIRMAN MOYER: We accept that
10 friendly amendment.

11 If you would post that -- put that
12 word up there, Valerie? You already have it.
13 Thank you.

14 MEMBER KARREMAN: Is that
15 acceptable to the Program, the use of that
16 term in that form?

17 CHAIRMAN MOYER: Chair recognizes
18 Miles to answer that question.

19 MR. McEVROY: Yes, sure. I mean,
20 this is your recommendation and if it's a
21 problem, then we'll let you know.

22 CHAIRMAN MOYER: Thank you.

1 Points of discussion on this? I have Katrina
2 and Barry. Katrina?

3 MEMBER HEINZE: I am not familiar
4 with how the previous provided that language
5 that referenced 600(a), what that did. So is
6 it a problem that it's gone? I'm okay if you
7 just say the answer is no.

8 MEMBER KARREMAN: Do you want to
9 know then what it says right now? I mean, as
10 it stands right now?

11 MEMBER HEINZE: No. So the
12 current listing says, "provided that the
13 vaccines are approved in accordance with
14 205.600(a)." And 600(a) says, "The following
15 criteria will be utilized in the evaluation of
16 substances ... (a) synthetic and non-synthetic
17 substances considered for inclusion on -- need
18 to be evaluated using these criteria."

19 So I'm wondering if that's
20 language that needs to be kept or not. I
21 totally support the changes you made. I'm
22 just wondering if it's a problem that we lost

1 the language that was there. I'm not familiar
2 enough with it to know.

3 CHAIRMAN MOYER: Thank you,
4 Katrina. Hue?

5 MEMBER KARREMAN: Let me back up
6 here for a second. Okay. I don't know how to
7 answer that, I guess.

8 CHAIRMAN MOYER: Chair recognizes
9 Dan.

10 VICE-CHAIR GIACOMINI: The route
11 of approval in the regulation right now is
12 through 105 to 600(a) then onto the respective
13 section. And the listing in the respective
14 section has always been the very generic
15 biologic vaccines. It's the fact that that
16 was not qualified as non-GE that created some
17 of the confusion where it deviated from what
18 appeared to have been the intent in the
19 preamble.

20 To pull out of that hole without
21 going in and manipulating the National List is
22 the recommendation from the Program was to go

1 this route and make that separation.

2 There is concern that the
3 allowance of genetically modified currently is
4 within the listing of 603(a)(4), and that the
5 separation that's caused by this
6 recommendation really pulls the GMO part of
7 the vaccines out of the National List. I'm
8 not sure if someone came back in and pulled
9 out -- in a sunset someday down the road -- if
10 they pulled out (4) and said we're not going
11 to renew sunset on (4), I'm not sure that
12 would disallow the use of GMO vaccines without
13 going in and altering 105.

14 MEMBER HEINZE: Thank you. That's
15 helpful.

16 CHAIRMAN MOYER: Thank you, Dan.
17 I wish I could say I understood all that, but
18 I don't. But I'm glad Katrina did.

19 Any other questions or pieces of
20 discussion on this item? I apologize, Barry.

21 MEMBER FLAMM: Hue, I appreciate
22 what the committee has done in looking at more

1 of a middle ground approach. I did think I
2 heard in some of the discussion including
3 conditions of not only other alternatives, but
4 also a condition of some emergency that really
5 makes it important enough to take this, what
6 I consider a large step, in using a GMO
7 material -- that the needs and benefits, you
8 know, outweigh that risk.

9 Did the committee discuss this
10 part of the modification?

11 CHAIRMAN MOYER: Dan -- I'm sorry,
12 Hue?

13 MEMBER KARREMAN: Yes, that was
14 part of the whole thinking process, Barry.
15 That's definitely a part of the whole impetus
16 for this. Okay? Is that, if there is some
17 outbreak of some foreign disease on U.S. soil,
18 we're going to need something quick and it's
19 mostly likely these days going to be
20 genetically engineered vaccine, okay, in the
21 face of an outbreak to use it to protect the
22 other animals.

1 But right now, as it stands,
2 currently; and I went through this on the
3 discussion yesterday, I read off; and I still
4 owe the court reporter the names specifically
5 spelled out, a lot of the vaccines; there's
6 like 32 or 38, and many of them happen to be
7 -- there's only one right now made for a
8 specific condition and it happens to be GE,
9 genetically engineered. So we did totally take
10 into account the specter of some foreign
11 disease happening here on U.S. soil, without
12 a doubt. But there's also already being used
13 currently vaccines which there is no
14 alternative to.

15 So are you recommending anything
16 at this point?

17 CHAIRMAN MOYER: Chair recognizes
18 Barry.

19 MEMBER FLAMM: Well, I'm much more
20 persuaded by a national emergency, animal
21 emergency, that it's worth taking this step
22 and using it. I'm still unconvinced and very

1 nervous about committing and authorizing what
2 would become a routine use of GMO vaccines.
3 And I know it's in use right now, but we're
4 authorizing it now. And that seems to me to
5 make a difference.

6 CHAIRMAN MOYER: Chair recognizes
7 Dan and then Hue.

8 VICE-CHAIR GIACOMINI: Yes, Barry,
9 I look at that situation of the emergency
10 situation. If you look at how governments
11 typically respond, they don't declare
12 emergency when it starts to rain. They only
13 declare the emergency after the flood has
14 occurred.

15 When we look at the situation of
16 the large hurricane in the South; and I'm not
17 trying to compare this to a hurricane
18 situation, but, you know, the response that
19 sometimes we're able to get in dealing with
20 those kind of situations is not always
21 adequate to the local area. And I would hate
22 to see how many animals would have to die

1 again, and businesses forced out, you know,
2 liquidated, before the proper channels were
3 approved.

4 CHAIRMAN MOYER: Thank you, Dan.
5 I have Hue.

6 MEMBER KARREMAN: Just for an
7 example here, on the list there's only one
8 vaccine that is genetically engineered for
9 avian influenza H9N2 at this point. So during
10 the autumn flyway right now, if some birds
11 were migrating through; and this is
12 theoretical, but let's say there's AI outbreak
13 with H9N2 it was found. That vaccine is here.
14 It's genetically engineered. You know, so
15 maybe it blends the two for you.

16 As far as the routine use, you
17 know, what we're trying to say is that you
18 must use vaccines from -- what's the wording?
19 Except for vaccines -- that they're
20 manufactured without the use of excluded
21 methods and they must be used if available.
22 You have to. So you know, I don't see it as

1 a routine use-type thing. Even if it's once
2 a year on a vaccine, I don't consider that
3 routine. But, you have to look for the
4 conventional, if you will, vaccines at this
5 point still. This does help in those times
6 when there isn't any other one, or when
7 there's an emergency.

8 CHAIRMAN MOYER: Chair recognizes
9 Julie.

10 SECRETARY WEISMAN: Yes, I'm just
11 following up on Dan's comment, which is I
12 think there's a reason why the phenomenon
13 happens that official declarations of outbreak
14 or emergency come from government, at whatever
15 level; federal, municipal, state, come after
16 the fact. Because for a great many of these
17 the purpose of making such a declaration is to
18 release funds to clean up the mess. And so,
19 they're not really intended to be proactive.
20 I'm not saying across the board, but that's a
21 lot of the use of those. And so I don't feel
22 confident that they would be sufficient to

1 head off the kind of situation that Hue's
2 describing.

3 CHAIRMAN MOYER: Chair recognizes
4 Barry.

5 MEMBER FLAMM: Well, I think there
6 is provisions for emergency, and we're facing
7 the same thing with a human population right
8 now where there was planning ahead. I don't
9 quite agree that we don't do advanced planning
10 and stocking.

11 I appreciate what the committee
12 has done, but I just don't think it's strong
13 enough to, you know, satisfy the concerns I
14 have and that people and commenters who have
15 expressed great concern by expanding GMO use.

16 CHAIRMAN MOYER: Chair recognizes
17 Joe.

18 MEMBER SMILLIE: A couple
19 questions and then a comment.

20 The makeup of the Handling
21 Committee, how many people were on it?
22 Livestock.

1 CHAIRMAN MOYER: Seven.

2 MEMBER SMILLIE: Seven? And what
3 was the vote on this?

4 CHAIRMAN MOYER: Seven to zero in
5 favor of listing.

6 MEMBER SMILLIE: That's troubling.
7 Because, you know, I really respect their
8 work, I really respect their knowledge, but
9 yet I do have concerns and I'm the one who
10 said I hate to have consumers define what
11 organic means. However, I mean, just looking
12 at it from an entirely different perspective,
13 the fallout from this is a sizeable fallout.
14 I don't necessarily believe that's informed
15 opinion, if we take this action. In fact, I
16 believe it not to be informed. I think it's
17 the kind of opinion though that whether it's
18 right or wrong, whether it wants to understand
19 the reasons why we passed it, I doubt it. I
20 don't think that the media or the reaction
21 will be an informed reaction. It will be an
22 emotional knee-jerk reaction that I think is

1 fairly predictable, you know, that this Board
2 allowed. And I am fearful of the damage that
3 that will cause us, you know?

4 So that's one of the political
5 concerns that I have. I realize it's entirely
6 political. It's not a technical or regulatory
7 concern. It's a political concern, but I also
8 think that we live in that arena and we have
9 to take that into consideration when we make
10 a vote on this.

11 And it troubles me also that the
12 voting pattern is going to start over here.
13 I really wish it would start over there.
14 Because I take leads from people on this
15 Board; I'm not going to deny it. And I'm very
16 concerned with this.

17 I'm wondering, can we find a way,
18 would the committee consider tabling this?
19 Would the committee consider sending it back
20 to committee so we can get, you know, more
21 study, that we can do more education so we can
22 hopefully get for a more informed public

1 reaction? I don't know. This one really,
2 really bothers me.

3 CHAIRMAN MOYER: I have a Hue, and
4 then Julie, Dan, Katrina, Tina, Tracy. I got
5 a bunch. Hue?

6 MEMBER KARREMAN: Being that there
7 are, in general, still conventional vaccines,
8 Joe, out there, I would consider that. But it
9 better be darn high on the priority of any
10 workplan. And consumers have to know that
11 they're being used already, which they are.
12 And, you know, I'll be the one out there
13 saying that, if needed, when I'm off this
14 Board, even louder.

15 CHAIRMAN MOYER: Chair recognizes
16 Julie.

17 SECRETARY WEISMAN: I would not be
18 in favor of tabling this. I would like to
19 quote a fellow board member who can identify
20 themselves if they wish, but I think it was
21 said very eloquently to me, I think the other
22 night, that this is one of those situations

1 where as a board is that we're going to lose
2 either way. That's what's going to happen.
3 And I almost want this to be on the record
4 proactively that we know we're going to lose
5 either way.

6 Because on the one hand, it's
7 going to be on the record now that not only
8 going forward, but there have already been GM
9 being used for livestock emergencies. And if
10 we don't take action on this and there is an
11 outbreak, then we're going to be called out on
12 the carpet for not having been proactive and
13 anticipating. So we are veterans to what
14 sometimes feels like the capricious eye of the
15 public that we are trying to protect. We're
16 not strangers to that, and this is going to be
17 one of those situations.

18 CHAIRMAN MOYER: I will also
19 mention that, I believe, it's the only place
20 in the rule where excluded methods are allowed
21 for -- it mentions them as allowed for
22 vaccines. So people foresaw what was

1 happening prior to us getting here and
2 recognize that this is the direction we may be
3 heading.

4 Chair recognizes Dan.

5 VICE-CHAIR GIACOMINI: Yes, I'll
6 echo what Julie said in responding to Joe, in
7 that we're going to lose either way, Joe. And
8 the alternative to this motion as we saw it,
9 where it's taken care of in one sweep and one
10 press coverage, is that we have two options:
11 We will either be looking at individual
12 petitions for GMO vaccines to be added to the
13 list, which could be literally at every
14 meeting, or we would at the very least be
15 looking at classes of vaccines, which would
16 also be -- what is there, five or six, which
17 would not able to be done at all and would be
18 every meeting probably for the next three
19 years.

20 So I think that alternative, if
21 that is the A number one concern, that when
22 you're looking at, you know, damage control,

1 this may be bad, but the other would be huge
2 and continuing.

3 CHAIRMAN MOYER: Chair recognizes
4 Katrina.

5 MEMBER HEINZE: Please don't table
6 your recommendation. I don't see this as a
7 lose-lose. Our job on the NOSB is to be
8 thoughtful, to understand the complexity of
9 these situations, and to make decisions,
10 balancing very difficult conflicting
11 requirements. And I think you guys have made
12 a very compelling argument for why, one, these
13 vaccines are in use. The regulation has
14 allowed them, to the point made by Jeff. And
15 that the animals need them.

16 CHAIRMAN MOYER: Chair recognizes
17 Tina.

18 MEMBER ELLOR: And I think I can
19 speak for Jennifer, too, you know, remembering
20 back to our committee discussion, we see this
21 as an animal welfare issue. And I think Kevin
22 said publicly that this is a lose-lose. And

1 quite honestly, I'd rather lose this way than
2 to see animals suffering because bureaucracy
3 is moving too slowly and, you know, not in
4 their direction. I just don't find that
5 acceptable.

6 So I would like us not to table
7 this and I'm very much in favor of it.

8 CHAIRMAN MOYER: Chair recognizes
9 Tracy.

10 MEMBER MIEDEMA: I want to put a
11 statement on the record as a consumer
12 representative and direct this comment
13 specifically to two of our most vocal consumer
14 organizations who I know are here in the
15 gallery.

16 The current practice right now is
17 that GMO vaccines are being used. They've
18 been being used for a number of years. The
19 passage of this recommendation restricts GMO
20 vaccines in that it creates a path forward
21 whereby non-GMO vaccines can be developed.
22 It's actually a win for consumers in the long

1 run. The practice right now is GMO vaccines.
2 And I would plead with you that this doesn't
3 become characterized as the doors have been
4 thrown open for GMOs, but rather that we are
5 creating a commercial availability clause and
6 allowing for the development of non-GMO
7 vaccines.

8 CHAIRMAN MOYER: If it were
9 appropriate to applaud, I would.

10 Bea?

11 MEMBER JAMES: Well, I think just
12 consumer perception that we're using vaccines
13 at all is probably one of the concerns that's
14 out there, as far as consumer perception.
15 Some people are aware that it's GMO, but
16 traditionally I would just say the practice
17 and use of vaccinations within the natural
18 industry is sometimes just within question on
19 its own.

20 But, what I wanted to ask Hue is,
21 the argument about an emergency for use, and
22 this recommendation kind of setting the stage

1 for making that acceptable, if this
2 recommendation, let's say, doesn't pass and
3 there was an emergency outbreak, do you think
4 that that would prohibit what needed to happen
5 with vaccinations? I mean, wouldn't it just
6 trump and it would happen anyway?

7 MEMBER KARREMAN: I believe our
8 understanding is that there is a -- what's the
9 term, "derogation," at .672, I believe, where
10 the Secretary, you know, can make that happen.
11 But those animals are out of production for a
12 year. They can re-transition. It's the one
13 place where they can re-transition. I'm
14 sorry, if it's not 672, but Jim brought it up,
15 Jim Riddle brought it up and we were aware of
16 that. But, our committee felt that when
17 you're taken out of organic production for a
18 whole year, you're done, especially with the
19 conventional, let's say, milk price right now.
20 And that would just be an economic
21 catastrophe.

22 MEMBER JAMES: Taken out of animal

1 production because of the fact --

2 MEMBER KARREMAN: Out of the
3 organic production.

4 MEMBER JAMES: Because of the
5 vaccination?

6 MEMBER KARREMAN: Any prohibitive
7 material, yes.

8 MEMBER JAMES: But they're already
9 doing it. You said that everybody's already
10 using vaccination.

11 MEMBER KARREMAN: That's a good
12 question, Bea. So what do we do with all
13 these animals that have gotten a prohibitive
14 material at this point? It's equal to giving
15 them penicillin, technically, legally, what's
16 been going on for the last seven years. I'm
17 not opposed to it. I'm just saying that you
18 bring up a very good question. What do we do
19 with all these animals that got a vaccine just
20 yesterday that happened to be genetically
21 engineered? What do we do with them? They've
22 technically been given a prohibitive material.

1 It's not an emergency.

2 Let me just say that I think

3 Tracy's point is excellent. Because what

4 we're actually doing here is saying to the

5 world right now, you know, for the last seven

6 years that's got to stop. You have to use

7 conventional vaccines unless they're not

8 commercially available. Right now you can go

9 pick the genetically engineered vaccine and

10 say I want to use that one when there's nine

11 other ones for the same disease which are

12 conventional, but you want to use that one.

13 Now we're saying, no, can't do that. You got

14 to use one of those other nine instead of the

15 genetically engineered one. I think that's an

16 excellent point.

17 And by the way, a vaccine

18 manufacturer was not petitioning this. Okay?

19 This is coming up from the field. It is

20 entirely an animal welfare topic and issue.

21 So I just want to make that point. And I

22 think it is good we're addressing this as a

1 board and I withdraw the consideration of
2 tabling it.

3 CHAIRMAN MOYER: Thank you. Chair
4 recognizes Rigo.

5 MEMBER DELGADO: I would applaud
6 Tracy as well, and also echo what Hue was
7 saying. We actually avoided this issue for
8 several years. We've been discussing it
9 lightly at the committee level, but the GE
10 term scared us away for a number of years, and
11 we had very good excuses. We had agriculture,
12 we had other topics.

13 But the thing is that -- and you
14 know very clearly, you know what our dilemma
15 is. On one side we have possibly a pandemic,
16 and the other one is damage to the brand. We
17 were very much aware of that, on the horns of
18 the dilemma, but we had to make a stand. We
19 had to move forward. It's not enough to sweep
20 it under the rug and hope that it will fix
21 itself. These are products that have been
22 used for several years. If we do not

1 recognize that, they will be affecting a
2 number of producers. And we have to move
3 forward.

4 We do have limitations in the data
5 that we have, and I know we like to follow the
6 motto that in God we trust, all others bring
7 data. Well, we don't have it perfectly here,
8 but I think that this is a good first step
9 towards obtaining that data and making sure
10 that things work.

11 CHAIRMAN MOYER: Thank you, Rigo.
12 Chair recognizes Joe.

13 MEMBER SMILLIE: It is 672, just
14 for the record. And I appreciate very much
15 the leadership of the Livestock Committee and
16 the comments of fellow board members.

17 CHAIRMAN MOYER: Thank you, Joe.
18 Chair recognizes Dan.

19 VICE-CHAIR GIACOMINI: Thank you,
20 Mr. Chairman. Yes, again echoing appreciation
21 of Tracy's comments and full support of those.

22 Bea, in your question regarding

1 what would happen if this fails, this
2 recommendation, even if it fails, is not an
3 endpoint. It's part of the path and we would
4 shift paths slightly to do that. The status
5 quo right now, as I understand it from the
6 last meeting, was that the Program has said
7 that the status quo continues until you guys
8 reach an agreement. Unless they changed that
9 policy, their status quo policy would be to
10 keep the status quo. So the use of them would
11 be allowed until we would resolve it in some
12 other way. I mean, they would have to come
13 out and say, no, we're stopping this policy
14 and it's no longer allowed, period.

15 The important point though that I
16 would like us to consider -- Valerie, if you
17 could put that back up, please, if it's not
18 there. I'm concerned and I'm doing this from
19 the standpoint of wanting to keep this as
20 narrow and as focused as possible. I
21 understand Joe's concern. We put in
22 commercial availability, did we not?

1 (Off-mic comment.)

2 VICE-CHAIR GIACOMINI: Okay.

3 Commercial availability is a factor of form,
4 quality and quantity. I think it's a mistake
5 in this case to go that route when a farmer
6 can go to a veterinarian and then reach the
7 decision we have this disease. There are five
8 vaccines available, three of them are non-GMO,
9 two of them are GMO. Gee, doc, what do I do?
10 I think you should use this particular DNA-
11 modified, whatever the different terms are, of
12 the GMO vaccines of the classes. I think you
13 should use that vaccine in this case.

14 I think we may be increasing the
15 use of allowing the form clause to come into
16 this in this situation. And I think we may be
17 safer in only allowing them to use non-GMO
18 versions by just saying "if it's available."

19 CHAIRMAN MOYER: Chair recognizes
20 Hue, and then Tina, and then Joe.

21 MEMBER KARREMAN: I would concur
22 with Dan, because I would say even though I am

1 a trained veterinarian, you know, I'm not
2 right in the mainstream and at the cutting
3 technological edge. I mean, I hardly use
4 vaccines. Okay?

5 Bea, just to your thing. Okay?

6 But, most veterinarians are
7 wanting to use the new thing all the time.
8 It's just the way medicine goes, whether
9 veterinary medicine, dental medicine, human
10 medicine. You're always going for the new
11 thing because of course, hey, it's supposed to
12 be better. I think with the form, function,
13 and whatever the other thing is, quantity on
14 the commercial terminology and the vet saying,
15 hey, use this new one; and the vet doesn't
16 care if it's genetically engineered or not, I
17 mean, but that's what he knows scientifically
18 is the best one right now compared to the
19 older ones, I think that it still should be
20 incumbent upon the farmer who is certified
21 organic to know to get the old conventional
22 one, if it's available. And that's on the

1 onus of the farmer, even though he can take
2 the veterinarian's advice, you know, at the
3 time.

4 CHAIRMAN MOYER: Chair recognizes
5 Tina.

6 MEMBER ELLOR: The reason why I
7 was in favor of adding "commercial
8 availability" is mostly the quantity issue.
9 In the case of an emergency, the quantity of
10 conventionally-produced vaccines may not be
11 available. But, if we could just do that with
12 "availability," then I'm fine with that, too.

13 CHAIRMAN MOYER: Chair recognizes
14 Joe.

15 MEMBER SMILLIE: Well, you know,
16 we've had on the Handling Committee some
17 experience with commercial availability. And
18 once again, it is the decision of the
19 certifier, remember, to determine whether
20 that's been met. You know, it's a two-step
21 process. And yes, it will require a certain
22 amount of knowledge and experience from the

1 certifier's side, but if they're accredited to
2 certify livestock operations, they're
3 accredited to have that knowledge and
4 experience in dealing with that.

5 You know, form, quality, quantity,
6 yes, it's available. It's in California.
7 It's going to take two weeks to get it there,
8 if there is some, and there may not be some.
9 It may be gone by the time you order. You
10 can't put people in a straightjacket like
11 that. And again, in some cases, you know, the
12 Handling Committee's experience has been it's
13 been abused; there's no question about it, but
14 we slowly tighten the vice on it and we slowly
15 get more knowledgeable about it. And we find
16 out that some people in Pennsylvania can get
17 that California vaccine. And other people
18 say, well, we can't get it. Well, excuse me,
19 this vet and those people got it. So you
20 know, the local certifier is going to be aware
21 of that.

22 So there are enforcement tools

1 there to put teeth in commercial availability.
2 It's not just like, oh, I don't have the form
3 or quality or quantity. Those days are gone.
4 We're much better at enforcing that. It's not
5 as nebulous as it used to be. And I think
6 it's a reasonable thing to place there and put
7 the burden on the ACAs to make sure that it's
8 not abused.

9 CHAIRMAN MOYER: Thank you, Joe.
10 I think that's a good clarification of that
11 point.

12 Barry?

13 MEMBER FLAMM: I think Joe pretty
14 much covered what I was going to raise. It
15 seems like, you know, the certifiers ought to
16 be -- if there are alternatives and they're
17 working, why haven't they been requiring this
18 all along? That's what puzzles me, that this
19 has been happening when I think it's fairly
20 clear that it exceeded anything that was
21 within what was acceptable in the organic
22 community. So that was my question, but Joe

1 covered it better than I did and the
2 complications of it. That's all I have.

3 CHAIRMAN MOYER: Chair recognizes
4 Bea.

5 MEMBER JAMES: Hue, do you have a
6 summary of the public comments that you got as
7 far as how many people were opposed and how
8 many people supported?

9 CHAIRMAN MOYER: Hue?

10 MEMBER KARREMAN: In a nutshell,
11 is that okay right now? Generally, there were
12 some chain letters. There was actually one
13 Excel spreadsheet with 2,783 names or
14 something with no statement on it, but I
15 figured from the group it was from it was
16 opposed. Okay? There were some other
17 consumers groups that said no.

18 And I guess on the other side of
19 the balance sheet, the certifiers that
20 certify, you know, farms and everything like
21 that, did not come out opposed to it. One
22 certifier kind of brought it to light, you

1 know, talked about it more in depth, but you
2 want me to name the certifiers that -- okay.
3 But they certify a lot of operations.

4 So on one side you have the
5 certifiers saying, you know, this is okay.
6 And I think the main reason I've always heard
7 certifiers say, when we talk about this, kind
8 of like, you know, on the side in general,
9 it's because it's for a preventive practice
10 that they haven't looked at vaccines more in
11 depth. There's a lot more burning issues, I
12 guess, and it's prevention of disease.

13 And, you know, I've talked to
14 inspectors and they see a vaccine on the
15 shelf, they're like it's a vaccine. You know,
16 it's not like there's penicillin and
17 gentamicin and all the other stuff on the
18 shelf. They see that, major big red flag.

19 So one side, a certifier is saying
20 yes, you know, this recommendation we support,
21 and on the other -- on the consumer side, the
22 ones that signed those chain letters, you

1 know, no.

2 CHAIRMAN MOYER: Chair recognizes
3 Kevin. I will remind the Board that we're
4 probably about an hour at least behind
5 schedule now, not that I'm pushing.

6 Kevin?

7 MEMBER ENGELBERT: As I sit here
8 conspicuously quiet, listening to everyone's
9 comments, yes, our board vote was seven-zero,
10 or our committee vote, but it was the hardest
11 vote that I've made on a committee, and this
12 is going to be the hardest vote that I make on
13 the NOSB, I'm sure. I'd like to vote twice,
14 once from heart and once from my head.

15 But on their committee
16 recommendation, Jennifer's logic weighed
17 heavily on my own decision. Like Joe said, he
18 looks to other people on the Board, so do I.
19 And when I'm in committee, I do the same
20 thing.

21 And I look at this situation on my
22 own farm, and one of the tenets of organic

1 agriculture is openness and transparency in
2 trying to get consumers to know their farm.
3 And we have seen that happen on our operation
4 tremendously. We have people in and out of
5 our farm all the time now with our retail meat
6 business and our burgeoning retail cheese
7 business. And I try to think what would
8 happen if we were faced with an emergency
9 right now, our cows were exposed to some type
10 of disease and we couldn't vaccinate them
11 unless we used an GMO.

12 I think our customers, without
13 exception, would say please save your animals.
14 We will still support you. I may be wrong,
15 but that's the way I read the public's
16 perception. The knee-jerk reaction is
17 absolutely known. But when you consider the
18 fact that operations would fail, their local
19 source of organic food would disappear, I
20 think in the end run they would probably say
21 do what you have to do to keep your operation
22 viable.

1 CHAIRMAN MOYER: Chair recognizes
2 Julie.

3 SECRETARY WEISMAN: I would like
4 to call the question -- what's the procedure
5 here?

6 CHAIRMAN MOYER: I have one more
7 commenter who had their hand up almost
8 identically timed to you, so I'll take that
9 and then I will call the question.

10 Bea, final comment, please?

11 MEMBER JAMES: I do think this is
12 an important subject. I know we're running
13 behind, but this is pretty critical.

14 Kevin, I guess where I struggle is
15 that from what I've heard from Hue as far as
16 current practices and what is currently
17 outlined for use of vaccinations, it doesn't
18 seem to me like you would not be able to have
19 that option to use vaccinations. If you
20 really needed them, it's already happening
21 anyway, and you would be able to do it. So
22 that's where I struggle, is that we're

1 creating more of a direction towards
2 vaccinations, even though there is a status
3 quo that is allowing it. So why would you
4 think that you couldn't treat your animals if
5 you needed to if you currently can it right
6 now anyway?

7 CHAIRMAN MOYER: Kevin?

8 MEMBER ENGELBERT: Because if we
9 don't pass this, then I wouldn't be able to
10 and retain my certified organic status. I'd
11 lose my milk market and our operation would
12 fail. Ninety-five percent of our income comes
13 from milk and it is sold to our co-op. So if
14 we had to vaccinate our animals with a GMO
15 vaccine to save them, we couldn't survive the
16 672 option of transitioning back for another
17 year. We'd be out of business.

18 CHAIRMAN MOYER: Okay. Dan?

19 VICE-CHAIR GIACOMINI: Also, Bea,
20 in the time it takes to go through all the
21 hoops to get a special approval, cows are
22 dead.

1 CHAIRMAN MOYER: Thank you. I'm
2 going to turn the floor over to Hue for one
3 last comment and then restate your motion.

4 MEMBER KARREMAN: Since the
5 question is being called, I would just like to
6 say for the record I think this has been an
7 excellent transparent discussion in public on
8 a critical issue, and we will vote however we
9 do. And I guess we'll leave it at that.

10 CHAIRMAN MOYER: Restate motion
11 and address which way a yes or no vote impacts
12 it.

13 MEMBER KARREMAN: The motion is to
14 amend 205.105(e), excluded methods, except for
15 vaccines, provided that vaccines manufactured
16 without the use of excluded methods must be
17 used if commercially available.

18 If you vote in favor of that, then
19 you do. You do. If you don't, then you
20 don't.

21 CHAIRMAN MOYER: Thank you, Yogi.

22 MEMBER KARREMAN: It's a

1 straightforward statement at that point.

2 CHAIRMAN MOYER: We have a motion.
3 It is on the floor. It was seconded. We had
4 our discussion. We will now call for the
5 vote.

6 Are there any conflict of interest
7 before we vote?

8 (No audible response.)

9 MEMBER KARREMAN: I don't know if
10 there's a conflict of interest with a
11 livestock operation that would use these
12 vaccines.

13 CHAIRMAN MOYER: You don't make
14 vaccines. No, I don't think the Board has a
15 problem with that, Kevin. Thank you for your
16 honesty.

17 MEMBER KARREMAN: Well, I tried to
18 get out of it.

19 CHAIRMAN MOYER: Yes. That was
20 pretty slick.

21 We will start the vote with Bea.

22 MEMBER JAMES: Great. No.

1 CHAIRMAN MOYER: Tracy?
2 MEMBER MIEDEMA: Yes.
3 CHAIRMAN MOYER: Joe?
4 MEMBER SMILLIE: Yes.
5 CHAIRMAN MOYER: Hue?
6 MEMBER KARREMAN: Yes.
7 CHAIRMAN MOYER: Kevin?
8 MEMBER ENGELBERT: Yes.
9 CHAIRMAN MOYER: Tina?
10 MEMBER ELLOR: Yes.
11 CHAIRMAN MOYER: Rigo?
12 MEMBER DELGADO: Yes.
13 CHAIRMAN MOYER: Katrina?
14 MEMBER HEINZE: Yes.
15 CHAIRMAN MOYER: Dan?
16 VICE-CHAIR GIACOMINI: Yes.
17 CHAIRMAN MOYER: Julie?
18 SECRETARY WEISMAN: Yes.
19 CHAIRMAN MOYER: Steve?
20 MEMBER DeMURI: Yes.
21 CHAIRMAN MOYER: Barry?
22 MEMBER FLAMM: No.

1 CHAIRMAN MOYER: And the Chair

2 votes yes. I believe we have two nos, 11

3 yeses and two absents. Motion passes.

4 Mr. Chairman, your next material?

5 MEMBER KARREMAN: Just a little

6 quick conclusion on that.

7 CHAIRMAN MOYER: Yes.

8 MEMBER KARREMAN: You know,

9 there's going to be more work for people to
10 look for vaccines which are not genetically
11 engineered. Just for everybody that voted yes
12 on that. Okay? It's going to be more work
13 for the certifiers, more work for the farmers,
14 which it should be. Case closed for now.

15 CHAIRMAN MOYER: Thank you, Mr.
16 Chairman. Your next material?

17 MEMBER KARREMAN: All right.
18 What's up? Let's see. Chlorhexidine. This
19 is a clarification, I guess. It's a
20 clarification. The current -- you want just
21 the recommendation right at to go? The
22 Livestock Committee recommendation.

1 CHAIRMAN MOYER: If you have a
2 preamble you want to talk about, you're
3 welcome to it. And if not, just read your
4 motion.

5 MEMBER KARREMAN: Well, the
6 original annotation on this is partly due to
7 my input. It says the current one, okay,
8 right up top is that chlorhexidine allowed for
9 surgical procedures conducted by a
10 veterinarian. Okay. That part of it, I was
11 consulted with by the NOP back in about 2000.
12 This was on the list when it came out in 2002.
13 And I got a phone call from an NOP staff
14 person saying, "Hey, Dr. Karreman, do you use
15 chlorhexidine?" And I said, "Yes, I use it
16 for surgery and surgical procedures." And I
17 wasn't asked further, like, well, do you use
18 it for anything else than that? Okay? So
19 that's how this one sentence got in here. But
20 chlorhexidine in general is used for a lot of
21 medical purposes of which surgery is one.
22 Anyway, so it's kind of a

1 clarification on something which goes way back
2 to 2000. Okay?

3 So the Livestock Committee
4 recommendation is to have 205.603(a)(6),
5 chlorhexidine allowed as a germicide for
6 medical and surgical procedures, allowed for
7 use as a teat dip when alternative germicides,
8 agents and/or physical barriers have lost
9 their effectiveness.

10 Committee vote was seven in favor
11 of this, zero opposed, zero abstained, zero
12 absent.

13 CHAIRMAN MOYER: Point of order.
14 I believe we heard conversation yesterday from
15 the Program that we could not take action on
16 these two materials. Am I mistaken?

17 MR. McEVoy: Yes, there certainly
18 was some discussion about that yesterday and
19 some confusion about that. It sounds like
20 what Hue is saying, it's a clarification. So
21 I would suggest that you take this up and
22 we'll take a look at it to see if there's a

1 violation of your process. And if there is,
2 we'll let you know.

3 What you heard yesterday, that
4 there very well could be that you're not
5 following your procedures, but there's no
6 specific petition here. But you're basing
7 your action on your good process that you've
8 gone through for the last six months or more
9 and possibly a misunderstanding about that.

10 CHAIRMAN MOYER: Yes.

11 MR. McEVROY: It sounds like there
12 is possibly a violation of procedure. And if
13 so, then it might not be valid to move forward
14 on this.

15 CHAIRMAN MOYER: Thank you from
16 the Program. Appreciate that clarification.
17 That was my understanding. But it sounds like
18 we will move forward with these.

19 Mr. Chairman, back to you.

20 MEMBER KARREMAN: Yes, I guess
21 depending on what you want to do, Mr. Chair,
22 I do have more preamble for the xylazine one,

1 in case that -- well, you're going to get it
2 anyway, but I want to --

3 CHAIRMAN MOYER: Yes.

4 MEMBER KARREMAN: Okay.

5 CHAIRMAN MOYER: Speaking only for
6 myself, this isn't the first rule I've ever
7 broken. It won't be the last.

8 If you want to make a motion then?

9 MEMBER KARREMAN: Okay. Well, the
10 motion is to change the current listing at
11 205.603(a)(6) to be, "chlorhexidine allowed as
12 a germicide for medical and surgical
13 procedures, allowed for use as a teat dip when
14 alternative germicidal agents and/or physical
15 barriers have lost their effectiveness."

16 CHAIRMAN MOYER: Is there a second
17 on that motion?

18 MEMBER ENGELBERT: I'll second.

19 CHAIRMAN MOYER: We have a motion
20 on the floor and a second. Discussion?

21 Chair recognizes Hue.

22 MEMBER KARREMAN: I'll just say

1 that we worked on this as a committee in
2 conference call in good faith from word from
3 the Program that we could. We asked
4 specifically if a committee could bring up
5 something to the board level, and the answer
6 was yes. Okay? Now, that was not in writing.
7 But I'm just saying we worked on this in good
8 faith, you guys, just so you know that, just
9 like we do everything.

10 CHAIRMAN MOYER: Chair recognizes
11 Dan.

12 VICE-CHAIR GIACOMINI: I think
13 it's reasonable to say on these next two items
14 that if we remember our process, we require a
15 two-thirds vote to pass and an abstention is
16 not counted as a vote. It's two-thirds vote
17 of the votes cast in the presence of a quorum
18 meeting. So I think it's reasonable to say
19 that if you disagree with this process, that
20 to vote no; and we will all assume that the
21 vote no is not necessarily a direct opposition
22 to the action to being taken in the motion.

1 If you only abstain, then you just
2 leave it up to the rest of the group, which is
3 not exercising your right to state whether you
4 agree with anything to do with the process.

5 The current statement from the Program though
6 is that go ahead. If we say that you violated
7 the process, and then what we thought didn't
8 really matter, we'll come back to you if
9 there's a problem. But I think if you just
10 want to deal with it on the process issue,
11 you're better off voting no than abstaining.

12 CHAIRMAN MOYER: Thank you, Dan,
13 for that clarification on parliamentary
14 procedure.

15 So if you want to avoid going to
16 organic jail, I guess, you can vote
17 differently.

18 Joe?

19 MEMBER SMILLIE: I don't know if
20 that's parliamentary procedure or Dan's
21 opinion, but we'll leave it as it may be.

22 What was the committee vote on

1 this?

2 MEMBER KARREMAN: This was seven
3 in favor, zero opposed, zero absent, zero
4 abstained.

5 CHAIRMAN MOYER: Again, as Hue
6 mentioned, after very lengthy discussion, yes.
7 Steve?

8 MEMBER DeMURI: Was this subject
9 brought up within the committee, or were you
10 approached from some industry members that
11 asked for you to look at it?

12 CHAIRMAN MOYER: Chair recognizes
13 Hue.

14 MEMBER KARREMAN: Approached by
15 industry members out in the field. This is a
16 grass roots --

17 CHAIRMAN MOYER: Farmers.

18 MEMBER KARREMAN: Farmers and, you
19 know, people within the organic livestock
20 health care industry.

21 CHAIRMAN MOYER: Other discussion?

22 (No audible response.)

1 CHAIRMAN MOYER: Hearing none,
2 seeing none, we will proceed with a vote.

3 Before we do that, is there any
4 conflict of interest with this material?

5 (No audible response.)

6 CHAIRMAN MOYER: Hearing none and
7 seeing none, we will call for the vote
8 starting with Tracy.

9 MEMBER MIEDEMA: Yes.

10 CHAIRMAN MOYER: Joe?

11 MEMBER SMILLIE: Yes.

12 CHAIRMAN MOYER: Hue?

13 MEMBER KARREMAN: Yes.

14 CHAIRMAN MOYER: Kevin?

15 MEMBER ENGELBERT: Yes.

16 CHAIRMAN MOYER: Tina?

17 MEMBER ELLOR: Yes.

18 CHAIRMAN MOYER: Rigo?

19 MEMBER DELGADO: Yes.

20 CHAIRMAN MOYER: Katrina?

21 MEMBER HEINZE: Yes.

22 CHAIRMAN MOYER: Dan?

1 VICE-CHAIR GIACOMINI: Yes.

2 CHAIRMAN MOYER: Julie?

3 SECRETARY WEISMAN: Yes.

4 CHAIRMAN MOYER: Steve?

5 MEMBER DeMURI: Yes.

6 CHAIRMAN MOYER: Barry?

7 MEMBER FLAMM: Yes.

8 CHAIRMAN MOYER: And the Chair

9 votes yes.

10 MEMBER JAMES: And I vote yes.

11 CHAIRMAN MOYER: I apologize, Bea.

12 I believe we have zero nos, 13 yeses, two

13 absent. Motion passes.

14 Your next material, Mr. Chairman?

15 MEMBER KARREMAN: Okay. The next

16 material is xylazine and the committee

17 recommends that there is a -- and I'm going to

18 say clarification, you guys, and I'll explain

19 it in a minute, but a clarification to

20 withdraw the term "the existence of an

21 emergency" in the current listing as it is.

22 So that the recommendation for 205.603(a)(23)

1 would read, "xylazine, CAS No. 7361-61-7,
2 federal law restricts this drug use by or on
3 the lawful written or oral order of a licensed
4 veterinarian in full compliance with the
5 AMDUCA and 21 C.F.R. Part 530 of the Food and
6 Drug Administration Regulations. Also for use
7 under 7 C.F.R. Part 205, the NOP requires use
8 by or on lawful written order of a licensed
9 veterinarian and a meat withdraw period of at
10 least days after administering to livestock
11 intended for slaughter and a milk discard
12 period of at least four days after
13 administering to dairy animals."

14 CHAIRMAN MOYER: Thank you, Mr.
15 Chairman. You want to put that in the form of
16 a motion?

17 MEMBER KARREMAN: I move that we
18 accept that.

19 CHAIRMAN MOYER: Thank you. Is
20 there a second?

21 VICE-CHAIR GIACOMINI: Second.

22 CHAIRMAN MOYER: We have a motion

1 on the floor and a second. Is there
2 discussion on this material? Joe?

3 Hue, there's a question from Joe.

4 MEMBER SMILLIE: Hue, is this the
5 same situation as the previous material we
6 discussed, it came from the "field?"

7 MEMBER KARREMAN: Yes.

8 MEMBER SMILLIE: Okay.

9 MEMBER KARREMAN: Yes, without a
10 doubt. And -- go ahead, Joe. Sorry.

11 CHAIRMAN MOYER: Follow up, Joe?

12 MEMBER SMILLIE: I appreciate the
13 intent of the Livestock Committee in doing
14 this. I think in the future my recommendation
15 would be to urge the field to follow the
16 petition process. I think that even though
17 the intent is good and your ability to drive
18 it makes it more effective; and I don't know
19 if that's driven by your concern for the time
20 it takes for the petition process, in which
21 case we need to make our efforts of making the
22 petition process work quicker, but I think it

1 would behoove the Board to urge those people
2 to make the petition so that we can follow the
3 process more. I realize the intentions are
4 good, but it starts to sound like, you know,
5 this committee can make it happen faster if we
6 put it right into committee and don't go
7 through the petition process. The petition
8 process I think is there for a reason. But I
9 would like to hear your response to it.

10 CHAIRMAN MOYER: Yes, I think
11 there's some history with this material, if
12 you want to address that, Hue.

13 MEMBER KARREMAN: Yes, I was the
14 petitioner originally with Organic Valley and
15 Horizon Organic back in 2002. And I have
16 those transcripts on line here, which I want
17 to read from, because you're talking about
18 procedure and I would say that procedure was
19 not followed at that point by the Board.
20 Okay? Just hold on. Let me just read a
21 paragraph here on the background. Okay?

22 "Initially, xylazine was

1 petitioned such that it could only be used
2 'once in a lifetime' of an animal. Early on
3 during the voting motion to allow xylazine, a
4 friendly amendment to remove the annotation of
5 'once in a lifetime' was made by a board
6 member and the motion passed. Then through a
7 long discussion that was punctuated by a lot
8 of wonderings about how xylazine is used by
9 veterinarians, how the Board should not
10 interfere with the professional judgment of
11 veterinarians, and not wanting to allow any
12 synthetic to be used routinely, someone then
13 suggested through all the discourse that 'the
14 existence of an emergency' seemed to be what
15 the Board was trying to get at and the
16 annotation was then inserted. Whether an
17 official amendment to add such wording is
18 unclear." Okay?

19 So there was no motion actually
20 for that. It was inserted.

21 "It is also not clear if the
22 petitioner," me, "was asked by the Board if

1 the insertion was workable."

2 So we just had back in the last
3 section before Livestock, two people come up
4 here being asked about a motion, you know,
5 which way should it go and what not. The
6 petitioners were never asked about various
7 amendments that they were putting in with
8 xylazine back then.

9 Now I got to tell you, the next
10 material back -- it was Wednesday, September
11 18, 2002, and it's on pages 566 roughly
12 through like 569. The next material that came
13 up was butorphanol. Okay? And they did
14 actually call me, and maybe Leslie remembers
15 that, if you're in the room, Leslie, and other
16 people here might remember, but I was talking
17 into the phone and she was putting it up to
18 the microphone apparently so people could hear
19 and it could get recorded, something like
20 that.

21 They did call me as the petitioner
22 or for advice on butorphanol. They did not on

1 xylazine.

2 So I would just say that what
3 we're doing here is a clarification of
4 something which was not done properly seven
5 years ago. So you know, it's not railroad
6 something through. Truly, I mean, xylazine
7 passed; it's on the list. Okay?

8 Also, you know, as it's written in
9 the first part of the main paragraph before
10 the annotation, it says, "to use by or on the
11 lawful written or oral order of a licensed
12 veterinarian." And then in the annotation it
13 says, "use by or on the lawful written order
14 of a licensed veterinarian." That was
15 actually taken out by motion.

16 Anyway, like I said in the
17 background here, it was a very interesting
18 transcript to read, and I won't bore you with
19 it unless you say we'd want to hear it. It's
20 very interesting.

21 CHAIRMAN MOYER: Yes, my point was
22 that it was a petitioned material; it did go

1 through that process. It just got goofed up
2 and we're trying to clean it up a little bit,
3 if we can. And the question was whether we
4 can use this process to clean it up. That's
5 the question where we're all going to organic
6 jail.

7 MEMBER KARREMAN: Right.

8 CHAIRMAN MOYER: Chair recognizes
9 Hue.

10 MEMBER KARREMAN: So just for the
11 record, for the Program, I want you to know,
12 this is a clarification by the petitioner of
13 the original petition, me, to clarify this.
14 Okay? That's just for the record. It's a
15 clarification.

16 CHAIRMAN MOYER: Thank you, Hue.

17 Any other discussion on this
18 particular material?

19 MEMBER DeMURI: Just a question.

20 CHAIRMAN MOYER: Steve?

21 MEMBER DeMURI: Any negative
22 public comment on this?

1 CHAIRMAN MOYER: Hue?

2 MEMBER KARREMAN: No, only praise.

3 CHAIRMAN MOYER: Thank you, Hue.

4 Any other comment from the board

5 members on this particular material?

6 (No audible response.)

7 CHAIRMAN MOYER: Hearing none,

8 seeing none, I will call for the vote.

9 Is there any conflict of interest
10 on this particular material?

11 MR. KARREMAN: Just to reiterate,
12 I mean, this is coming up from the field. I'm
13 not a manufacturer, but I'm obviously
14 passionate about it. But, it's got to get
15 corrected.

16 CHAIRMAN MOYER: I don't think the
17 Board has a problem with that. Thank you,
18 Hue.

19 Okay. We'll start the vote with
20 Joe.

21 MEMBER SMILLIE: Yes.

22 CHAIRMAN MOYER: Hue?

1 MEMBER KARREMAN: Yes.
2 CHAIRMAN MOYER: Kevin?
3 MEMBER ENGELBERT: Yes.
4 CHAIRMAN MOYER: Tina?
5 MEMBER ELLOR: Yes.
6 CHAIRMAN MOYER: Rigo?
7 MEMBER DELGADO: Yes.
8 CHAIRMAN MOYER: Katrina?
9 MEMBER HEINZE: Yes.
10 CHAIRMAN MOYER: Dan?
11 VICE-CHAIR GIACOMINI: Yes.
12 CHAIRMAN MOYER: Julie?
13 SECRETARY WEISMAN: Yes.
14 CHAIRMAN MOYER: Steve?
15 MEMBER DeMURI: Yes.
16 CHAIRMAN MOYER: Barry?
17 MEMBER FLAMM: Yes.
18 MEMBER JAMES: Yes.
19 CHAIRMAN MOYER: Tracy?
20 MEMBER MIEDEMA: Yes.
21 CHAIRMAN MOYER: And the Chair
22 votes yes. I have zero nos, 13 yeses, 2

1 absent. And the motion passes. And that was
2 the easy stuff.

3 Mr. Chairman, your next item on
4 the docket?

5 MEMBER KARREMAN: Okay. Livestock
6 Committee had a meeting last night, the
7 committee meeting which I already mentioned,
8 and actually it was mainly due to the animal
9 welfare to prepare it for today's voting. I
10 have sent everybody an email with the
11 attachment all cleaned up, all in black
12 letters now, not blue and red and strikeouts;
13 got everything out.

14 What we did at the committee
15 meeting was to, yes, make a few changes; a
16 few, not a lot. And while I'm looking them --
17 just briefly in a moment here, while I'm
18 getting to them, you know -- let's be honest
19 here, you know, we are definitely a board that
20 hears public opinion, and this is the most
21 easy way that people can state their public
22 opinion is to us, but, you know, the public

1 still gets dibs on things that go through the
2 federal process after we recommend something.

3 So this is a foundational-type
4 stepping stone or building block, I guess, for
5 animal welfare improvement. And the public
6 should understand fully that they will have
7 more public input if this passes.

8 So the first thing the committee
9 did was under 238(a), basically we wanted to
10 look towards the organic system plan. So (a)
11 now reads that, "The producer must include in
12 their organic system plan a list of practices
13 or procedures designed to improve health care
14 of the livestock operation, including," and
15 the list. So that is the overall arching
16 first statement of the health care standard at
17 238, that the organic system plan essentially
18 has to point out, describe, elucidate how
19 you're going to have your livestock health
20 care, and, you know, it's continual
21 improvement.

22 If you could go down to (c)(1)

1 under 238(c)(1), please?

2 Okay. The last sentence of
3 238(c)(1) is now saying, "Milk from animals
4 undergoing treatment with prohibited
5 substances or substances with a withholding
6 time cannot be sold as organic or fed to
7 organic livestock." That was inserted last
8 night. The "or substances with a withholding
9 time." Okay?

10 The next one -- change we made was
11 at 238(c)(9). Okay. Basically, we had to
12 restate something so we didn't have a double
13 negative. So "The producer must not" is the
14 heading for (c) up there, (9) "neglect to
15 identify and record treatment of sick and
16 injured animals in animal health records."
17 That cannot be neglected to be done.

18 And the only other two things we
19 did, which probably we'll breathe a sigh of
20 relief for most of the commenters, and it is
21 to give more time, is to take out all the
22 numbers in 239(c)(5)(i). So in 239(c)(5)(i),

1 we have taken out the numbers, but we have
2 left in the categories, and you'll hear later
3 on today that will be on the workplan of the
4 committee for next year to work up those
5 numbers with the rest of the industry for
6 mammals and avian species.

7 And then if you go down to 239(h),
8 there's the other table. That was dropped in
9 from the ACA's document, which we really
10 liked. And we took out the numbers there for
11 further -- and that's specifically for avian.
12 That will have to be reconciled with the other
13 table, truncate the other table. So it's just
14 mammal, let's say, and then avian for this
15 one. But those numbers can be worked up with
16 industry into the future. That's the changes.

17 So pretty much three minor changes
18 and then the two tables wiping away those
19 numbers for further work.

20 So I move that we accept this
21 document as shown on the screen and as you all
22 have at your computers.

1 MEMBER JAMES: Second.

2 CHAIRMAN MOYER: Thank you, Hue.

3 I have a second from Bea.

4 We have a motion on the floor and
5 a second. I'll entertain discussion on this
6 item. I'll start myself by saying I think the
7 Livestock Committee did demonstrate that they
8 can respond to public comment and still come
9 up with a very powerful and meaningful
10 document, leaving room for more public comment
11 and an opportunity for interaction to work on
12 the points that were of most difficult
13 discrepancy for all of us. So thank you to
14 all the fellow members of the Livestock
15 Committee.

16 Points of discussion? I see Steve
17 and then Barry.

18 MEMBER DeMURI: I'll echo what
19 Jeff just said. I commend you for responding
20 as quickly as you did.

21 One question I have is, you guys
22 studied the public comment probably closer

1 than I did. Was there any other public
2 comment opposed to this other than the
3 restrictions on the numbers you pulled out?

4 CHAIRMAN MOYER: Hue?

5 MEMBER KARREMAN: The only public
6 comment was generally pull it back for a draft
7 discussion document again, please. That was
8 really the --

9 CHAIRMAN MOYER: And most of that
10 was in regard to stocking recent numbers.

11 MEMBER KARREMAN: Yes, thank you,
12 Jeff.

13 CHAIRMAN MOYER: Chair recognizes
14 Barry.

15 MEMBER FLAMM: If I recall
16 correctly, there was quite a bit of interest
17 and support in the minority opinion,
18 especially Kevin's dealing with milking times
19 a day, which I lean toward supporting also.
20 And I'd like to hear from either you or Kevin
21 where you stand on that. I'd just like to add
22 one. In my conversations with people in

1 Montana, you know, they pointed out very much
2 in support of what Kevin recommended with a
3 caveat that perhaps that where robot systems
4 are available -- and I know they're expensive
5 -- but those that sort of mimic a natural
6 feeding, that that would be allowed and rather
7 than the restriction. But could either one of
8 you comment on that, please?

9 MEMBER KARREMAN: I'll cede the
10 floor to Kevin here in a moment, but I want to
11 let you know that also in the minority opinion
12 there was a part where; and it is in the final
13 document, we brought up that there is a need
14 for really good records about why animals are
15 sick, how many animals are leaving, that kind
16 of culling stuff and the reasons. So that did
17 come up from the minority opinion, but I'll
18 leave the rest to Kevin.

19 MEMBER ENGELBERT: Well, to
20 briefly reiterate what I spoke of yesterday,
21 it's my belief from experience and talking
22 with our farmers, nutritionists, veterinarians

1 that forcing a dairy animal to be milked three
2 times a day is too high a price for an organic
3 animal to pay.

4 If you'd like me to go into all
5 the reasons why, I can do that, but I don't
6 consider that too prescriptive. The whole
7 organic rule is about giving farmers goals and
8 letting them reach them.

9 And while I understand that the
10 treatment of animals is of utmost importance
11 to maintaining their health, I also truly
12 believe that the methods and procedures, the
13 routines, the facilities and the environment
14 that we provide for the animals is even more
15 important. And it's a proven fact that cows
16 that are forced to be milked three times a
17 day, are fed large amounts of grain, they are
18 under far more stress, require far more
19 veterinary attention and they have far shorter
20 life spans.

21 Yes, they're extremely healthy to
22 be able to be milked three times a day and

1 consume all the grain that's required to do
2 that, but if you don't milk them three times
3 a day, you can still get high milk flows, good
4 production with either low or minimal or no
5 grain feeding based on your genetics.

6 But to take that extra step and
7 push them for their three times a day is very
8 disruptive to their natural cycles of life.
9 And, you know, I mean, even though they're
10 just cows, and some days I don't like cows,
11 they still deserve the right to lay down at
12 night and rest for as long as they naturally
13 desire to. That to me is part of exhibiting
14 their natural behavior. Not simply being able
15 to go out in the pasture and consume food and
16 interact with other animals and have the
17 majority of their diet be forage, they also,
18 in my opinion, deserve the right to not be
19 forced to be into a milking stall every eight
20 hours and pumped for all their worth for a
21 short amount of time and then be replaced.

22 CHAIRMAN MOYER: Follow-up from

1 Barry and then Dan.

2 MEMBER FLAMM: Mr. Chairman, I'd
3 like to propose an amendment, if you can tell
4 me when an appropriate time is to do that.

5 CHAIRMAN MOYER: Now's as good a
6 time as any. If you want to make a friendly
7 amendment, you're welcome to do that.

8 MEMBER FLAMM: I'd like to propose
9 an amendment to the animal welfare document --
10 and I won't get the words quite right and I'd
11 appreciate Kevin's help -- but essentially to
12 limit milking to two times a day, perhaps
13 except where robotic systems that mimic
14 natural feeding behavior is available. And if
15 that isn't quite the right way to say it,
16 maybe Kevin can help out.

17 CHAIRMAN MOYER: Well, there's a
18 friendly amendment made to you, Hue. Do you
19 accept that amendment?

20 MEMBER KARREMAN: There will be
21 discussion?

22 CHAIRMAN MOYER: Not if you and

1 Bea accept it. If you don't accept it, we'll
2 discuss it more.

3 MEMBER KARREMAN: I would like to
4 have discussion on it. What do I say then?

5 CHAIRMAN MOYER: Say no.

6 MEMBER KARREMAN: No.

7 CHAIRMAN MOYER: Okay. That
8 friendly amendment was rejected. Well, we
9 have to ask Bea?

10 Is there a second to Barry's
11 amendment?

12 (No audible response.)

13 CHAIRMAN MOYER: It's already been
14 rejected.

15 MEMBER FLAMM: I'm making an
16 unfriendly amendment.

17 VICE-CHAIR GIACOMINI: Right. In
18 the case of a friendly amendment, it's the
19 approval of the person making the amendment.
20 And the second, if that's accepted, it can
21 then come forth as an unfriendly amendment.

22 CHAIRMAN MOYER: Right. Okay.

1 Thank you.

2 VICE-CHAIR GIACOMINI: Which it is
3 then a motion to amend the main motion, which
4 requires a second and then discussion on
5 amending the main motion.

6 CHAIRMAN MOYER: That's correct.
7 So is there a second on Barry's amendment?

8 MEMBER JAMES: Barry, can you
9 repeat exactly what your -- it was a little
10 unclear.

11 MEMBER FLAMM: Sorry.

12 MEMBER ENGELBERT: Do you want me
13 to try?

14 MEMBER FLAMM: Yes, Kevin.

15 CHAIRMAN MOYER: Chair recognizes
16 Kevin for point of clarification.

17 MEMBER ENGELBERT: The unfriendly
18 amendment, Bea, would read under 205.238,
19 livestock health care practice standard (c),
20 the producer of an organic livestock operation
21 must not, (11) milk dairy animals more than
22 twice (two times) in any given 24-hour period

1 with the exception of a voluntary milking
2 routine that is provided by robotic milkers.

3 CHAIRMAN MOYER: Is there a second
4 to Barry's motion?

5 (No audible response.)

6 CHAIRMAN MOYER: Hearing none,
7 that motion dies.

8 Continue with discussion on the
9 original motion.

10 I'm sorry, did I miss something?
11 I didn't know if I missed a hand.

12 Okay. Continue discussion on the
13 original motion, on the original document.

14 MEMBER KARREMAN: I'm not sure
15 there's any more --

16 PARTICIPANT: Did Bea want to --
17 do you want to second that motion?

18 MEMBER JAMES: No.

19 MEMBER KARREMAN: I don't have any
20 more to say about that document.

21 CHAIRMAN MOYER: No, is there
22 other discussion from board members on this

1 particular motion?

2 (No audible response.)

3 CHAIRMAN MOYER: Hearing none, I
4 -- I'm sorry, I keep hearing whispering, so
5 I'm not sure if I'm -- I'm trying to look both
6 ways.

7 MEMBER SMILLIE: Can you clarify
8 whether they were in discussion on the
9 friendly amendment or --

10 CHAIRMAN MOYER: Your microphone.
11 Chair recognizes Joe.

12 MEMBER SMILLIE: Can you clarify
13 whether you're asking for is there any further
14 discussion on the failed amendment.

15 CHAIRMAN MOYER: I will. Thank
16 you. No, I'm asking for discussion on the
17 document itself, on the original proposal.
18 The failed amendment is failed. We're going
19 back to the original as proposed by Hue and
20 seconded by Bea, and is there discussion on
21 that particular document? Joe?

22 MEMBER SMILLIE: You're putting

1 forward a recommendation that calls for
2 stocking rates, and stocking rates aren't
3 included in it. I would think it might be
4 cleaner -- you know, I know you want to come
5 back with that, but if you're going to send a
6 recommendation in, it can't call for something
7 and then leave it blank. Wouldn't it be
8 better to just withdraw that section and add
9 it later?

10 CHAIRMAN MOYER: Chair recognizes
11 Hue and then Katrina.

12 MEMBER KARREMAN: So you mean the
13 blank tables? Joe, the blank tables?

14 MEMBER SMILLIE: Yes.

15 MEMBER KARREMAN: Just take the
16 tables out? I mean, we could do that. The
17 reason we did not is that so it is in there.
18 The data is to be done. And I think you
19 realize that, you know, that we want to get it
20 done, but we don't want it to just evaporate
21 away and not be addressed. And if we take the
22 table out with the categories, that could

1 happen.

2 CHAIRMAN MOYER: Chair recognizes
3 Katrina.

4 MEMBER HEINZE: Hue, correct me if
5 I'm wrong, but I believe there's precedent for
6 that approach from how you did aquaculture.

7 CHAIRMAN MOYER: Yes.

8 MEMBER HEINZE: Is that correct?

9 CHAIRMAN MOYER: Yes.

10 MEMBER KARREMAN: You mean like a
11 one, two and three punch?

12 MEMBER HEINZE: Right.

13 MEMBER KARREMAN: Yes.

14 MEMBER HEINZE: Isn't that what we
15 did with aquaculture, that you had -- no?

16 VICE-CHAIR GIACOMINI: No, the way
17 we did aquaculture is that the sections that
18 were left out were just stated as you can't do
19 this right now. The changes that we made then
20 with net pens and the nutrition, and now the
21 bivalves is essentially amending that original
22 motion. It's not done as an amendment from

1 this point of view. It's done through the
2 change, but it was in within that structure.
3 But it wasn't listed there as -- you know, if
4 we would have not come back with bivalves, it
5 would have been you never would have known the
6 difference. It would have just said "no
7 bivalves."

8 CHAIRMAN MOYER: But the bivalves
9 and net pens and all those things were kept in
10 as placeholders to finish up with at intent.
11 It was listed on the workplan.

12 Hue?

13 MEMBER KARREMAN: That's exactly
14 right. They were placeholders, at that's what
15 these tables are, are placeholders.

16 CHAIRMAN MOYER: Right. Knowing
17 that the document is not complete, Joe, until
18 those placeholders are filled. But we want to
19 get something --

20 PARTICIPANT: No, the document
21 could be complete without --

22 CHAIRMAN MOYER: Okay.

1 MEMBER SMILLIE: Well, it's a
2 minor technical point.

3 CHAIRMAN MOYER: I understand.

4 MEMBER SMILLIE: But it's more
5 than a placeholder. It's describing a format
6 that must be followed by further work. It's
7 not a placeholder for a possibility of a
8 different format.

9 CHAIRMAN MOYER: No, I understand.
10 Hue?

11 MEMBER KARREMAN: I didn't hear
12 much public comment saying yes or no to that
13 kind of table. It was in the numbers. Two
14 square feet, 1.8, 1.5. So I don't think it's
15 an absolute question of like that should not
16 be in there. It's more like, well, let's work
17 these fine tuned numbers.

18 CHAIRMAN MOYER: I apologize.
19 Chair recognizes Joe.

20 MEMBER SMILLIE: What I heard loud
21 and clear in the comments was, number one,
22 that in general people liked the document.

1 They didn't like the stocking rates. But what
2 I heard overwhelming was they were
3 uncomfortable with the amount of time they had
4 to comply with it. I think swine mentioned.
5 I think we had other people mentioning
6 different animal groups that had no comment at
7 all. And to me, we haven't heard from a large
8 part of the constituency on this. And my
9 feeling would be not to necessarily format it,
10 because, you know, maybe this format works for
11 swine or goats. Well, nothing works for
12 goats, in my experience. But, you know, it
13 seems just to me you're pre-deciding, you
14 know, the format, and we haven't heard from
15 large constituency groups on this yet.

16 CHAIRMAN MOYER: Chair recognizes
17 Kevin, then Hue.

18 MEMBER ENGELBERT: I agree, Joe,
19 we are prescribing format, because these are
20 the areas that we think need to be addressed
21 with the square footage requirements. As far
22 as the swine growers or any other operations

1 that we didn't hear from, we took that as a
2 sign that we got it right. The poultry people
3 were out here in force. This document has
4 been worked on for over a year and we don't
5 think it's our responsibility to wait for
6 other type of operations to decide to come to
7 the table and voice their opinion. We believe
8 that if they had strong concerns, we would
9 have heard from them. And as has been stated,
10 they will have plenty of time to voice their
11 concerns as this goes through the rulemaking
12 process with the NOP.

13 CHAIRMAN MOYER: Chair recognizes
14 Hue.

15 MEMBER KARREMAN: I agree just
16 with Kevin. And, you know, the ACAs said they
17 represent about 2 million birds as far as the
18 avian. And then I asked how many birds
19 certified organic poultry are there in the
20 U.S., and they said about 6 million. So
21 that's a fair amount, Joe, as far as being
22 represented for avian. And, yes, go ahead.

1 CHAIRMAN MOYER: Chair recognizes
2 Dan.

3 VICE-CHAIR GIACOMINI: Yes, I
4 agree with what Kevin and Hue are saying
5 regarding this, but I also see an issue with
6 Joe's point, but I'm going to come at it from
7 a little bit different side. I think the
8 intent of the Livestock Committee is to go
9 back and look at stock density. I think it
10 was fairly overwhelming the comments that we
11 did receive regarding the statement we had for
12 stocking the rate within the pasture. I think
13 we agreed to go along with that, not deal with
14 that until the pasture document came out. In
15 light of that spirit, I would like to submit
16 a friendly amendment to the maker of the
17 motion to delete the definition for "stocking
18 rate" from the proposal.

19 CHAIRMAN MOYER: We have a
20 friendly amendment on the table. Hue, as the
21 person who brought forward that motion, do you
22 accept that friendly amendment, or do you need

1 it restated?

2 MEMBER KARREMAN: Can I ask
3 something before I say if I accept it or not?

4 CHAIRMAN MOYER: Yes.

5 MEMBER KARREMAN: I mean, what
6 would that do, Dan?

7 VICE-CHAIR GIACOMINI: We're
8 giving the impression to the public in the way
9 we have structured this document that we plan
10 on coming back and dealing with stocking
11 density. By eliminating this, we are not also
12 potentially giving the impression that we plan
13 on coming back and dealing with stocking rate.
14 The question of whether we come back and
15 dealing with stocking rate would not come
16 before the Livestock Committee without seeing
17 what the pasture rule says. So it's based
18 more on the pasture rule than it is what we're
19 looking at here.

20 CHAIRMAN MOYER: There's a point
21 of discussion from Kevin on that friendly
22 amendment.

1 MEMBER ENGELBERT: I want to be
2 clear, Dan. You want to eliminate under terms
3 defined 205.2, stocking rate, a measurement of
4 the long-term carrying capacity of a pasture?

5 VICE-CHAIR GIACOMINI: Yes.

6 MEMBER KARREMAN: And that would
7 be essentially to cede the ground to the NOP
8 for the pasture rule until that time?

9 VICE-CHAIR GIACOMINI: Yes, and it
10 was only mentioned in the statement that we
11 made regarding that within pasture, which we
12 pulled out.

13 MEMBER KARREMAN: Okay. I accept
14 that.

15 CHAIRMAN MOYER: Bea, do you
16 accept that? You are the second on that.

17 MEMBER JAMES: Yes.

18 CHAIRMAN MOYER: Okay. We have a
19 friendly amendment that was made. It was
20 accepted by both who made the motion and the
21 second. And so that is now considered part of
22 the document.

1 Yes, Rigo?

2 MEMBER DELGADO: Just a
3 clarification. We do use the term "stocking
4 rates" throughout the document with the
5 amendment. But I'm looking at (c)(5), right
6 before the table, livestock section.

7 PARTICIPANT: Living condition?
8 I'm sorry, I don't have that version.

9 MEMBER DELGADO: Right before the
10 table. Here it is, stocking rates.

11 CHAIRMAN MOYER: While they're
12 looking at that, Chair recognizes Joe.

13 MEMBER SMILLIE: Yes, a friendly,
14 friendly, friendly reminder that the ACAs are
15 required by the National Organic Program to
16 tabulate results of their stocking densities
17 for their current clients, livestock clients.
18 So that should be an extremely wealthy source
19 of information to finalize some of these
20 issues.

21 CHAIRMAN MOYER: Yes, we agree.
22 And I think by moving this forward and not

1 delaying it, people will have actually six
2 months to respond to that, rather than 30 days
3 when we bring out the next regulation. And
4 so, what we're trying to do by moving this
5 forward and off of our plate onto the
6 Program's is to send the message out there
7 that here's the chart, here's what we're going
8 to fill in. You've got literally -- well,
9 apparently probably about six months to work
10 with us to get that in, rather than wait until
11 we post yet another document 30 days, because
12 everybody will still just have 30 days again,
13 just like they did this time to react. And
14 we'll just keep going around and around. So
15 that was the reason and the purpose for doing
16 that. And by leaving the chart in there, it
17 gave people the idea what we're trying to fill
18 in, we need help with those numbers. That was
19 the reasoning. We could argue whether it was
20 a good reason or not, but that was the reason.

21 Chair recognizes Hue.

22 MEMBER KARREMAN: Okay. From what

1 I understood from Rigo and Dan, and Kevin and
2 I looked at this also right now, under
3 239(c)(5) we have to simply change a word in
4 there from "stocking rates" -- got to strike
5 that and put in "stocking density." That's
6 just a typo, I guess.

7 CHAIRMAN MOYER: Yes, I don't
8 think we need an amendment to change that.

9 MEMBER KARREMAN: Now that we're
10 getting rid of "stocking rate" at this point.
11 Okay? That's for the indoor time when they're
12 not grazing at all.

13 CHAIRMAN MOYER: So that's a
14 friendly amendment by you?

15 Bea, do you agree?

16 (No audible response.)

17 CHAIRMAN MOYER: Bea's nod is
18 taken as a sign of agreement.

19 Okay. We have a document in front
20 of us. Any further discussion on that
21 document before we --

22 MS. FRANCES: I do have a

1 question.

2 CHAIRMAN MOYER: A question from
3 the Program. Valerie?

4 MS. FRANCES: 238(c)(1), that last
5 sentence.

6 CHAIRMAN MOYER: Yes?

7 MS. FRANCES: Where it was added
8 "substances with a withholding time can not be
9 sold." Forever?

10 CHAIRMAN MOYER: If you could read
11 that comment back for --

12 MS. FRANCES: It sounds like
13 forever to me. So I just wanted to --

14 MEMBER KARREMAN: No, no, no. So
15 that sentence as you have it, "Milk from
16 animals undergoing treatment with prohibited
17 substances or substances with a withholding
18 time cannot be sold as organic or fed to
19 organic livestock" would mean that if someone
20 were to need to use butorphanol or xylazine or
21 flunixin to relieve pain and suffering in
22 their animals, that they need to withhold milk

1 for, you know, six or seven or eight days.
2 Whatever is stated in 603 for those listings.
3 That milk cannot be fed to the calves during
4 that time. Since you can't sell it for
5 organic, you can't feed it to the calves
6 either. Okay? It's got to be dumped for
7 those six days, or whatever it is. That's
8 what it means.

9 Now, if they've been treated with
10 penicillin, that's a prohibited substance out
11 and out. The cow's going to be gone or the
12 pig or whatever, and you know, again, you
13 can't feed it to the calves.

14 CHAIRMAN MOYER: Thank you,
15 Valerie.

16 Chair recognizes Dan.

17 VICE-CHAIR GIACOMINI: I respect
18 where Valerie is coming from on this, because
19 she's a, you know, non-livestock person coming
20 from the voice of the public from the
21 perspective of public reading it. Do you need
22 until the withholding time has expired to

1 understand that?

2 CHAIRMAN MOYER: If additional
3 language makes it clearer, now is the time
4 to --

5 VICE-CHAIR GIACOMINI: Is that you
6 need?

7 MS. FRANCES: It did seem vague to
8 me. So it seemed like you were implying that
9 forever.

10 VICE-CHAIR GIACOMINI: Okay. So
11 "until the withholding time has expired?"

12 CHAIRMAN MOYER: Could you add
13 that language, please?

14 VICE-CHAIR GIACOMINI: Can we add
15 that? Hue? Bea, is that -- everybody agrees?
16 Okay.

17 CHAIRMAN MOYER: Hue's okay with
18 that and Bea as the second. Thank you.

19 That additional language has been
20 changed in the document and now I will call
21 for the vote.

22 Are there any conflicts of

1 interest on this?

2 (No audible response.)

3 CHAIRMAN MOYER: Hearing none,

4 seeing none --

5 VICE-CHAIR GIACOMINI: Wait.

6 CHAIRMAN MOYER: Comment by Dan.

7 VICE-CHAIR GIACOMINI: Hue, since

8 we're going to be working with this, can you

9 review -- Valerie, can you bring that back up?

10 And, Hue, could you just make a

11 quick look that she put that in the right

12 place?

13 CHAIRMAN MOYER: I can't read it

14 from here. The comment is it should be at the

15 end.

16 Chair recognizes Katrina.

17 VICE-CHAIR GIACOMINI: Animals

18 that are being treated.

19 MEMBER KARREMAN: Yes. Okay.

20 CHAIRMAN MOYER: Katrina? No?

21 MEMBER KARREMAN: Ready? Okay.

22 Here we go.

1 CHAIRMAN MOYER: Okay.

2 MEMBER KARREMAN: So it's going to
3 be two sentences. So it's cut.

4 So you got, "Milk from animals
5 undergoing treatment with prohibited
6 substances cannot be sold as organic or fed to
7 livestock," period.

8 PARTICIPANT: "Milk from
9 animals" --

10 MEMBER KARREMAN: Right. And
11 then, "Milk from animals treated with
12 substances" - Yes. Sorry. Actually, that
13 first sentence is good, Valerie. Whatever
14 you're highlighting, it should stay.

15 PARTICIPANT: She's copying it.

16 MEMBER KARREMAN: Oh.

17 PARTICIPANT: You didn't know you
18 could do that.

19 MEMBER KARREMAN: I didn't know.

20 PARTICIPANT: Five years and you
21 haven't --

22 MEMBER KARREMAN: What is that?

1 Copy and paste? What's that?

2 CHAIRMAN MOYER: He has gotten
3 track changes though, so --

4 MEMBER KARREMAN: All right.

5 CHAIRMAN MOYER: Okay. We have
6 our language.

7 MEMBER KARREMAN: Okay. So --

8 CHAIRMAN MOYER: I apologize. I
9 can't read it.

10 MEMBER KARREMAN: So ready for the
11 second sentence, Valerie?

12 "Milk from animals undergoing
13 treatment with substances having a withholding
14 time cannot be sold as organic or fed to
15 organic livestock until the withholding time
16 has expired."

17 CHAIRMAN MOYER: Is the chairman
18 of the Livestock Committee satisfied with that
19 language?

20 MEMBER KARREMAN: Yes.

21 CHAIRMAN MOYER: Okay. Tina has
22 an issue with it?

1 MEMBER ELLOR: No. Well, I just
2 had a comment from the gallery, through my
3 email. No?

4 CHAIRMAN MOYER: No.

5 MEMBER ELLOR: Can't go there?

6 CHAIRMAN MOYER: No, we're not
7 going there. I don't want to get in the habit
8 of just taking emails across the board from
9 people in the gallery.

10 I have a question from Bea.

11 MEMBER JAMES: Can you just reread
12 that, those two sentences as completed,
13 please?

14 MEMBER KARREMAN: And then I think
15 we're done this. Okay.

16 "Milk from animals undergoing
17 treatment with prohibited substances cannot be
18 sold as organic or fed to organic livestock."

19 "Milk from animals undergoing
20 treatment with substances having a withholding
21 time cannot be sold as organic or fed to
22 organic livestock until the withholding time

1 has expired." Okay?

2 It's basically saying if you treat
3 something with a prohibited like penicillin,
4 it's gone. Can't feed it to the calves. And
5 if you treat it with something that is on the
6 list but has a withholding time attached to
7 it, you can't feed it to the calves.

8 CHAIRMAN MOYER: Correct.

9 MEMBER KARREMAN: Or the young
10 stock, sorry.

11 MEMBER ENGELBERT: What if we say
12 "during the withholding period?"

13 MEMBER KARREMAN: Okay. Kevin's a
14 stickler. He's good for that. Last sentence
15 there, "Milk from animals undergoing treatment
16 with substances having withholding time cannot
17 be sold as organic or fed to organic livestock
18 during the withholding time." "During the
19 withholding time," That's it. Yes, and then
20 get rid of the "has expired." Yes.

21 Clear as mud? It's actually a lot
22 clearer. It's clear.

1 CHAIRMAN MOYER: Yes. Okay. I
2 think we have our motion on the floor. We had
3 a second. We had discussion. I'm now calling
4 for the vote. And appropriately so, we will
5 start the vote with Hue.

6 MEMBER KARREMAN: Thank you very
7 much. Yes.

8 CHAIRMAN MOYER: Kevin?

9 MEMBER ENGELBERT: Yes.

10 CHAIRMAN MOYER: Tina?

11 MEMBER ELLOR: Yes.

12 CHAIRMAN MOYER: Rigo?

13 MEMBER DELGADO: Yes.

14 CHAIRMAN MOYER: Katrina?

15 MEMBER HEINZE: Yes.

16 CHAIRMAN MOYER: Dan?

17 VICE-CHAIR GIACOMINI: Yes.

18 CHAIRMAN MOYER: Julie?

19 SECRETARY WEISMAN: Yes.

20 CHAIRMAN MOYER: Steve?

21 MEMBER DeMURI: Yes.

22 CHAIRMAN MOYER: Barry?

1 MEMBER FLAMM: Yes.

2 CHAIRMAN MOYER: Bea?

3 MEMBER JAMES: Yes.

4 CHAIRMAN MOYER: Tracy?

5 MEMBER MIEDEMA: Yes.

6 CHAIRMAN MOYER: Joe?

7 MEMBER SMILLIE: Yes.

8 CHAIRMAN MOYER: And the Chair

9 votes yes.

10 Thank you, Livestock Committee.

11 Tremendous amount of work. Well done.

12 Your next item? Bivalves. I

13 understand it's lunch time, but if we'd like

14 to get through Livestock if we could.

15 MEMBER KARREMAN: Is it already?

16 Wow.

17 PARTICIPANT: Bivalves for lunch?

18 MEMBER KARREMAN: Bivalves for

19 lunch.

20 CHAIRMAN MOYER: If you're buying.

21 MEMBER KARREMAN: The committee

22 recommends that the bivalve proposal; and I'm

1 not going read all of it, we recommend the
2 bivalve proposal as posted and the vote was
3 four to three. There, that's it.

4 CHAIRMAN MOYER: Is there a second
5 to that one?

6 MS. ELLOR: (No audible response.)

7 CHAIRMAN MOYER: Second by Tina.

8 The document was presented in its
9 entirety, the same way it was presented to the
10 Board yesterday. No changes or corrections.

11 Is there discussion? Chair
12 recognizes Joe.

13 MEMBER SMILLIE: I think it's an
14 excellent document. I think that it deserves
15 our support and I especially was interested --
16 I didn't feel good about the minority report
17 moving it inland. It seemed the exact
18 opposite direction that we really wanted to
19 go. We want to create a vibrant organic
20 aquaculture. I didn't think the minority
21 report would do that. And I think it's
22 impractical and untenable. I think the

1 Aquaculture Working Group has a done a great
2 document. And seeing now things starting to
3 change in the aquaculture world as the
4 Monteray Bay starts to swing behind organic
5 aquaculture and will start to overcome all
6 that, you know, incredibly negative reaction
7 we got in our original organic aquaculture
8 proposal. I think that the bivalve document
9 is leading the way to a more reasoned response
10 from some of these groups as we try to
11 differentiate the difference between organic
12 aquaculture and conventional aquaculture.

13 And I just wish that the document
14 now will go into the hands of the NOP and
15 will, in our February meetings, try and get
16 prioritized so that we can really start this
17 new industry. Because I think the concerns of
18 consumers right now are really paramount. We
19 really need to develop a sustainable healthy
20 organic aquaculture. The oceans are getting
21 depleted. We need to get a positive start on
22 this. And I want to be able to have sushi for

1 lunch and I want my grandchildren to be able
2 to have sushi for lunch.

3 So I think this is a wonderful
4 document and I think it deserves our support.

5 CHAIRMAN MOYER: I agree with what
6 you said, Joe, all except I don't want sushi
7 for lunch.

8 Chair recognizes Dan.

9 VICE-CHAIR GIACOMINI: Yes, I did
10 not put together the minority opinion on this.
11 I was one that voted against this
12 recommendation in committee. I think in my
13 review, from what I understood of the industry
14 and what we were putting together, I'll be
15 very honest, I probably coming into this -- or
16 at least going out of the committee vote; I'll
17 put it that way, I don't think at that point
18 in time there was anything that we would have
19 come up with as a recommendation for bivalves
20 that I would have agreed with. I would have
21 voted no on every version.

22 But, seeing public comment,

1 listening to public comment here, seeing the
2 absolute overwhelming silence of opposition to
3 this recommendation, seeing the support from
4 the Monterey Bay Aquarium and seeing how it
5 fits in with their document of the Super
6 Green, I will support this document. I'm
7 supporting this document. I'm in full support
8 of this document, even though I was probably
9 the most negative person regarding the
10 concept, the topic in committee.

11 CHAIRMAN MOYER: Thank you, Dan.

12 I would also want to acknowledge
13 the fine work of the AWG on pulling this
14 proposal together, for being here all through
15 the week. I know their comments, I guess it
16 yesterday, day before yesterday, certainly had
17 a huge impact on my opinion of where we're
18 going with this document. And I think Joe is
19 correct that this is an opportunity for
20 organic to really lead the way in the entire
21 aquaculture industry, and I think it's a proud
22 moment for everybody there.

1 The Chair recognizes Hue and then
2 Kevin.

3 MEMBER KARREMAN: Just really
4 briefly, I got to say that, you know, to get
5 it out of committee I voted for it and I could
6 go either way as it was, but with Sebastian
7 Bell's comments regarding what on land would
8 be like, I am all for the majority right now.

9 CHAIRMAN MOYER: Thank you, Hue.
10 Kevin?

11 MEMBER ENGELBERT: Yes, I'm one of
12 the minority opinions, and I'm not going to
13 apologize for that. I think it's important to
14 look at all aspects of this, and my concerns
15 remain with net pens the same as they did with
16 aquaculture. I'm very concerned about the
17 blurring of the lines between wild-caught and
18 organic. And, you know, I don't have serious
19 problems with the document, but enough that I
20 still don't want to support it.

21 CHAIRMAN MOYER: Thank you, Kevin.
22 I also was in the minority opinion on that as

1 well.

2 So any other questions or comments
3 before we call for the vote?

4 (No audible response.)

5 CHAIRMAN MOYER: Then I am
6 prepared to call for the vote.

7 Any conflicts of interest in this
8 item in front of us?

9 (No audible response.)

10 CHAIRMAN MOYER: Hearing none,
11 seeing none, I will call for the vote starting
12 with Kevin.

13 MEMBER ENGELBERT: No.

14 CHAIRMAN MOYER: Tina?

15 MEMBER ELLOR: Yes.

16 CHAIRMAN MOYER: Rigo?

17 MEMBER DELGADO: Yes.

18 CHAIRMAN MOYER: Katrina?

19 MEMBER HEINZE: Yes.

20 CHAIRMAN MOYER: Dan?

21 VICE-CHAIR GIACOMINI: Yes.

22 CHAIRMAN MOYER: Julie?

1 SECRETARY WEISMAN: Yes.

2 CHAIRMAN MOYER: Steve?

3 MEMBER DeMURI: Yes.

4 CHAIRMAN MOYER: Barry?

5 MEMBER FLAMM: Yes.

6 CHAIRMAN MOYER: Bea?

7 MEMBER JAMES: No.

8 CHAIRMAN MOYER: Tracy?

9 MEMBER MIEDEMA: Yes.

10 CHAIRMAN MOYER: Joe?

11 MEMBER SMILLIE: Yes.

12 CHAIRMAN MOYER: And the Chair

13 votes yes. I apologize.

14 MEMBER KARREMAN: I got forgotten

15 again. I talked enough.

16 CHAIRMAN MOYER: Hue. Hue. I

17 apologize. My mistake. Hue?

18 MEMBER KARREMAN: Yes.

19 CHAIRMAN MOYER: And the Chair

20 votes yes. Thank you, everybody. I think I

21 have two nos, eleven yeses, two absent. The

22 document passes.

1 I appreciate everybody's time.
2 Thank you, Livestock Committee. Does that end
3 your materials in front of this Board?

4 MEMBER KARREMAN: Yes, that's it
5 for this portion of the meeting. I just want
6 to say that I have really loved working with
7 the Livestock Committee. We are a really
8 great team and I'm going to miss it, but I'm
9 glad we got done what we did. Thank you.

10 CHAIRMAN MOYER: Thank you. I
11 have 12:25 or so. I think what we'll do is
12 we'll adjourn until 1:30 and we'll be back
13 then. Thank you, everybody.

14 (Whereupon, the hearing was
15 recessed at 12:25 p.m. to reconvene at 1:30
16 p.m.)

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22

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

2 1:38 p.m.

3 CHAIRMAN MOYER: This meeting is
4 back in session. I will call the meeting to
5 order and we'll start with the first order of
6 business, which was the deferred vote and
7 presentation on nanotechnology pending some
8 language change and a suggestion for a
9 friendly amendment.

10 So at this point, I'll turn the
11 meeting over to Dan as Materials chair. Dan,
12 where are we on nanotechnology?

13 VICE-CHAIR GIACOMINI: We were
14 going to take a break until after lunch for
15 Katrina to put together a recommendation based
16 on the intent of the minority opinion. If she
17 would please present that.

18 CHAIRMAN MOYER: Chair recognizes
19 Katrina.

20 MEMBER HEINZE: I appreciate
21 everyone's patience and indulgence as I worked
22 to come up with some language. So at this

1 time, I'd like to offer a friendly amendment.

2 CHAIRMAN MOYER: Go ahead. Please
3 do.

4 MEMBER HEINZE: Okay. A friendly
5 amendment with the changes as shown on the
6 screen. Would it be helpful if I emailed it
7 to people? Okay. Hang tight.

8 Okay. It is on its way.

9 So as you wait to receive that,
10 let me just, before I go through what I'm
11 presenting, let me give a little preview.

12 It is clear to me that consumers
13 do not want nanotech in their organic products
14 today. What we don't know is what they're
15 going to want in the future. So you know, the
16 really the science of nanotech, both with
17 regards to its benefits and its risks, is
18 really young today. So what I want to do is
19 to provide an option that delivers on what our
20 consumers want today, but gives them the
21 flexibility to change their mind as they learn
22 more.

1 I do believe that part of that is
2 causing us difficulty with the definition. I
3 think coming up with a good definition of
4 nanotech is elusive and has more debate. So
5 and what I'm offering, I'm offering a
6 definition that is broader than the
7 definitions currently in use internationally.
8 The reason for doing that is I think our
9 consumers have asked us to cast a wide net and
10 to capture anything in that net that might
11 meet their perception of what is nanotech.

12 Now in the process, we are
13 inadvertently going to capture things we
14 didn't mean to capture. So really my minority
15 opinion is about creating a pathway so that
16 those things that are inadvertently caught
17 have a process to continue to be allowed.
18 And, that as the science evolves, that we have
19 an opportunity to give our consumers the
20 benefits should they want them.

21 So with that, I'll move to the
22 language of the amendment.

1 So first, I modified some of the
2 language to say that "nanotechnology is
3 prohibited" -- so, this is kind of the
4 preamble language -- "is prohibited except
5 where reviewed by the NOSB and approved for
6 listing on the National List. Where use of
7 nanotechnology is required by law, the
8 specific material will need to be reviewed and
9 approved by the NOSB for listing on the
10 National List prior to use."

11 So I think it is important that
12 NOSB review and approval be our gatekeeper for
13 use of these materials.

14 Okay. So then, specifically under
15 terms defined, my recommendation is to, you
16 know, insert a definition of nanotech that
17 includes the word "engineered" that we spoke
18 about this morning and increases the size
19 scale to the 300 nanometer that we spoke about
20 this morning.

21 Then if you go down to 205.105,
22 which is allowed and prohibited substances,

1 methods and ingredients in organic production
2 and handling, I'm asking for an amendment,
3 whatever I'm doing, that "for products that
4 are sold or labeled as 100 percent organic,
5 organic or made with, the product must be
6 produced and handled without the use of
7 nanotechnology or products thereof, including
8 use in primary packaging except as provided in
9 205.601, 205.603 or 205.605." So can't be
10 used unless they're on the National List.

11 There is additional language that
12 I think is necessary for the made-with
13 category, and I cover this in 205.301, product
14 composition. And this is modifying language
15 that was in the majority opinion. So the
16 majority opinion had proposed -- if you look
17 down, Valerie, on 301, under the paragraph
18 that starts with (c), the third line from the
19 bottom, or fourth line. The sentence that
20 starts, "No ingredients." It says, "No
21 ingredients may be produced using prohibited
22 practices specified in paragraphs (f)(1), (2),

1 (3)," and I'm agreeing with the majority that
2 we add "and (8)."

3 So just to elucidate that for you
4 guys, 301(f)(1) is -- or what that would say
5 is, "All products labeled as 100 percent
6 organic or organic, and all ingredients
7 identified as organic in the ingredients
8 statement of any product must not (1) be
9 produced using excluded methods; (2) be
10 produced using sewage sludge; (3) be processed
11 using ionizing radiation." And then we add to
12 that the language in (8), "be processed using
13 nanotechnology except as provided in 205.601,
14 603 or 605. So an organic ingredient could
15 not be processed using those or be produced
16 using those things which we don't like.

17 So that is my friendly amendment.

18 CHAIRMAN MOYER: Okay. We have a
19 friendly amendment on the floor.

20 Dan, you made the original motion.
21 Do you accept that amendment?

22 VICE-CHAIR GIACOMINI: Mr. Chair,

1 I think it may need a little tweaking. I
2 agree with the proposed amendment, but I think
3 it's important at this stage to get the full
4 vote of the Board on this matter. So for that
5 reason, I reject it as a friendly amendment.

6 CHAIRMAN MOYER: Okay. The
7 amendment was rejected.

8 MEMBER HEINZE: So I offer it as
9 an unfriendly amendment.

10 VICE-CHAIR GIACOMINI: And I
11 second. I seconded her motion.

12 CHAIRMAN MOYER: Thank you Okay.
13 We have an unfriendly amendment on the floor
14 that was accepted by the person that made the
15 motion. We are now open for discussion on
16 that unfriendly amendment.

17 Is there discussion? I see
18 Barry's hand. Chair recognizes Barry.

19 MEMBER FLAMM: Just sort of a
20 point here. I can't really enter in this
21 discussion because I can't read this from here
22 and I've never gotten an email. And there's

1 just too much detail. I tried to follow
2 Katrina, but I can't make myself an
3 intelligent decision on whether I'm in favor
4 of the amendment or not. Sorry.

5 CHAIRMAN MOYER: Did I hear you
6 say, Steve, you could show it to him?

7 MEMBER DeMURI: No, I said I
8 didn't get the email either.

9 CHAIRMAN MOYER: Okay. Folks are
10 not able to see that board and read it. I
11 know myself I have trouble reading it. I
12 don't know what the best way to reconcile that
13 is.

14 MEMBER HEINZE: My apologies. I
15 think I need to send it in a different word
16 version. Is that my problem?

17 PARTICIPANT: No, I didn't get it
18 at all.

19 CHAIRMAN MOYER: They haven't
20 received it.

21 MEMBER HEINZE: Okay. So let's
22 see if we can fix. Hold on.

1 CHAIRMAN MOYER: Please bear with
2 the Board while we try to solve this technical
3 problem so that board members have the
4 opportunity to read the specific language.

5 While that's happening, are there
6 other points of discussion? Dan?

7 VICE-CHAIR GIACOMINI: Yes, I
8 support this direction that we're taking here.
9 Again, the timing of the issue coming up with
10 the vaccines, I would want to do everything we
11 can not to avoid that train wreck.

12 CHAIRMAN MOYER: Chair recognizes
13 Rigo and then Katrina.

14 MEMBER DELGADO: I'm just
15 questioning the purpose of having a vote on an
16 amendment. If you agree with that and you
17 want to hear what the Board has to say, why
18 not proceed with a normal vote of the items
19 that you agree with, which is the initial
20 motion?

21 CHAIRMAN MOYER: Dan, if you want
22 to clarify the procedure on our conversation

1 that we're having on the amendment or the full
2 document?

3 VICE-CHAIR GIACOMINI: I think
4 it's important to get the voice of the Board
5 on the version of this that they want to do.
6 It would be fairly cumbersome to accept the
7 amendment, have it rejected and have us to
8 come back with the other version.

9 MEMBER DELGADO: So essentially
10 you want to discuss the addition --

11 VICE-CHAIR GIACOMINI: Discuss the
12 fact of the change.

13 MEMBER DELGADO: -- in isolation?

14 VICE-CHAIR GIACOMINI: Vote on
15 whether we want to go with this route.

16 MEMBER DELGADO: Yes.

17 VICE-CHAIR GIACOMINI: If that
18 fails, then we just go right back to the other
19 version.

20 MEMBER DELGADO: Okay.

21 CHAIRMAN MOYER: That's correct.

22 MEMBER DELGADO: Thank you.

1 CHAIRMAN MOYER: Thank you, Rigo.
2 Appreciate that.

3 Chair recognizes Katrina.

4 MEMBER HEINZE: I know that this
5 is an emotional and difficult decision, and
6 that it is important that we respect the
7 voices of our consumers who said that they are
8 leery of this technology and they don't want
9 it today.

10 I want to be mindful of the fact
11 that science evolves and science is not always
12 bad. It brings us great things. I am aware
13 of people today who are researching nanotech
14 capability that would allow them to put in a
15 package a sensor that would say there are
16 pathogens in this package. Do not eat it. IT
17 is not good for you. And certainly that
18 technology does not exist today. But I do
19 hope that someday it does exist and I would
20 hate to see our organic products at a
21 disadvantage to non-organic products because
22 our consumers wouldn't have that assurance.

1 And that's just one example.

2 I also would not want that sensor
3 in the product that I feed my children, if I
4 didn't know it was safe. I just want to
5 create a path where we can thoughtfully make
6 those decisions.

7 CHAIRMAN MOYER: Thank you,
8 Katrina.

9 I would like to say that I
10 understand the ideas and the concepts that
11 this is bringing forward. At this meeting
12 alone and lots of other meetings that I've
13 attended, we've often heard the conversation,
14 and we heard it here in several different
15 instances about the fact that we're now trying
16 to close the barn door after the horse is long
17 out of the barn. This is an opportunity for
18 this Board to close the barn door while the
19 horse is still in the barn. We can open the
20 door later if we have to, albeit it would be
21 very difficult. If it was warranted, I think
22 it could be done.

1 I think that organic is currently
2 and should remain a bastion that people can
3 move towards in an effort to avoid; God
4 forbid, I don't want sensors in my food, no
5 matter who says it's safe, I can tell when
6 food is bad and when it's not bad. I don't
7 need nanotechnology to tell me that. Well, I
8 understand you can't sense salmonella or
9 something like that. I got you. I still am
10 not a proponent of putting nanotechnology into
11 the organic standard or creating a pathway, as
12 you described it, for that technology to
13 become part of what we're doing.

14 You could have made the same
15 argument with genetic modification or genetic
16 engineering. Clearly, I can envision where
17 somewhere down the road; not today, somewhere
18 down the road there could be science that has
19 benefit, and that benefit could be rewarding
20 to organic just as it is to conventional
21 agriculture or food production systems.

22 We've disallowed many different

1 things. I'm not in favor of cloning; I voted
2 against listing cloning as something we
3 accept. But I could clearly envision where
4 the science of cloning down the road could
5 lead to better breeding techniques or better
6 animals that would benefit the organic
7 industry as well. Yet we took a stand and
8 said that that's not what we want. I would
9 have to say that I am not favor of creating
10 that pathway and opening the door as wide as
11 this document would open it, and let's try to
12 maintain and keep organic as a safe haven for
13 people who want that particular food system.
14 And I would argue that with the growth of the
15 industry that we've seen over the years, more
16 and more people are heading in that direction,
17 not away from it.

18 As we hybridize the systems and
19 become more and more like conventional, the
20 line gets blurred and we run the risk of
21 losing consumers that just cannot clearly see
22 the difference between organic and a

1 conventional food supply.

2 I had Dan's hand up and then

3 Barry.

4 VICE-CHAIR GIACOMINI: Yes, just a
5 technical point. We've had this conversation
6 with the Program before. Just want to make
7 sure we clear it with them again. OFPA calls
8 for two-thirds on substance of issues. Those
9 generally in the past were considered the
10 recommendation. This is an amendment to the
11 recommendation and I believe in the past you
12 told us that that would only require the
13 typical majority to pass an amendment. Are
14 you standing by that?

15 MEMBER DELGADO: Point of order,
16 Mr. Chairman?

17 CHAIRMAN MOYER: Chair recognizes
18 Rigo, as they look for that answer.

19 MEMBER DELGADO: I'm sorry, I
20 think we can handle that. I believe we're
21 still doing Board business.

22 CHAIRMAN MOYER: We are.

1 MEMBER DELGADO: If you're asking
2 about procedures to vote on an item that
3 hasn't been released to the Program, then we
4 should settle those.

5 CHAIRMAN MOYER: Chair recognizes
6 Katrina, point of order.

7 MEMBER HEINZE: I think the
8 process is we would vote whether or not to
9 accept toe amendment, which is a simple
10 majority. If the amendment is accepted, we
11 still have to vote on the recommendation,
12 which would require a super majority.

13 MEMBER DELGADO: Exactly.

14 VICE-CHAIR GIACOMINI: And that
15 was my question to the Program --

16 CHAIRMAN MOYER: I believe that's
17 my understanding as well.

18 VICE-CHAIR GIACOMINI: -- that
19 this did not fall under the category of the
20 substantive motion as required by OFPA.

21 MEMBER HEINZE: But it would still
22 require one.

1 VICE-CHAIR GIACOMINI: Majority,
2 if that were the case, to pass the amendment.

3 CHAIRMAN MOYER: I believe the
4 outcome of that conversation was that for this
5 particular vote that we're going to do next,
6 we need only a simple majority to move it
7 forward as opposed to a two-thirds majority.

8 The Chair recognizes Barry.

9 MEMBER FLAMM: Thank you. By the
10 way, I still haven't seen the proposed
11 amendment, but in trying to follow Katrina, I
12 think this sort of substantially changes and
13 in fact, I think, undermines the original
14 proposal, which I completely support. I think
15 our statement on disallowing nanotechnology
16 ought to be clear and to the point and not
17 leave room at this time. I mean, that can be
18 changed in the future if it turns out, but
19 right now I think we will save ourselves a lot
20 of grief in the future if we just have a clear
21 policy. I think we've got in trouble on other
22 issues, GMO the biggest, by not taking a

1 stronger stand. And I don't want to see that
2 happen here.

3 So I support the majority of the
4 committee's proposal on nanotechnology. I
5 think changing that at this time without build
6 a really review and think about it is a
7 mistake. But the thrust of it, it weakens it,
8 it makes it less clear and I think the public
9 will not have a very clear understanding of
10 what we did and why we did it.

11 CHAIRMAN MOYER: Chair recognizes
12 Katrina, then Tina.

13 MEMBER HEINZE: I do understand
14 your position, Barry. I would want to remind
15 folks that this is the beginning of the
16 regulatory process, not the end of the
17 regulatory process. So it still needs to go
18 through, you know, the usual review and public
19 comment. So if there are tweaks or it doesn't
20 have the effect we want, it will get
21 addressed.

22 CHAIRMAN MOYER: So for that

1 reason, we could go back to the other -- Tina?

2 MEMBER ELLOR: I'd actually like
3 to speak in favor of the amendment. I think
4 that it takes a pretty strong stand and
5 because I'm not comfortable; and I don't know
6 if I ever will be, with my understanding of
7 nanotechnology and how it's applied, I'd
8 appreciate taking a strong stand against it.
9 And I'm still a little bit uncomfortable
10 about, you know, what's out there that we use
11 everyday and have for, you know, all of human
12 history that might be classified as
13 nanotechnology. So I really feel like this
14 amendment is kind of the best of both worlds.

15 CHAIRMAN MOYER: Hue, then Steve,
16 then Bea.

17 MEMBER KARREMAN: This is a
18 difficult one, kind of like the vaccine issue,
19 but I got to say that on that issue, that was
20 for living, breathing, sentient creatures to
21 relieve suffering and with just blanket
22 nanotechnology for use in, I don't know, other

1 ways than that. I don't know if I can go with
2 that. You all can call me a hypocrite, but
3 that's my reasoning, at least at this point.

4 CHAIRMAN MOYER: Thank you, Hue.
5 Steve?

6 MEMBER DeMURI: I like the
7 amendment. I think, Katrina, you did a good
8 job on it. It sends a clear message. The
9 door is shut and the only way people can open
10 is it is the NOSB. Everything will be looked
11 at. It's no different than synthetics that
12 we're looking at now. Somebody wants
13 something to be listed that maybe is produced
14 using that nanotechnology, then the NOSB would
15 have to approve it. So I believe the door is
16 shut.

17 CHAIRMAN MOYER: Thank you, Steve.
18 Chair recognizes Bea.

19 MEMBER JAMES: I couldn't read it,
20 but I'm reading it Tracy's cell.

21 CHAIRMAN MOYER: Thank you, Bea.
22 Julie?

1 SECRETARY WEISMAN: Yes, to Hue's
2 point, first that I also think that this is a
3 pretty strong stand and I am in favor of the
4 amendment. I think that there could be a
5 situation in the future that we, you know,
6 wouldn't think of right now where animal
7 welfare might be helped by some kind of
8 solution that includes nano. This is the
9 future. You know, I understand the
10 distinction that you make, because it's see in
11 the here and now, but 10 years ago or 20 years
12 ago, or however far back you have to go, you
13 could have made the same comment about your
14 vaccine issue.

15 CHAIRMAN MOYER: Chair recognizes
16 Barry.

17 MEMBER FLAMM: Quickly. Maybe
18 that's what worries me. I've already heard
19 all these things that are going to start
20 coming into our system before we even got this
21 approved. People are already thinking of
22 things that they could use it for, and that in

1 and of itself worries me.

2 CHAIRMAN MOYER: Thank you, Barry.

3 Chair recognizes Bea.

4 MEMBER JAMES: Katrina, can you
5 help me understand a little bit more about why
6 you want to leave the door open a little bit?

7 MEMBER HEINZE: Nanotechnology is
8 a very, very broad term, and so when I think
9 about it, there's such a broad range of what
10 it could be. Most of it will never be
11 compatible with organic, but there will be
12 things that are compatible once we know the
13 science. We don't know the science today.
14 There will be things that our consumers say
15 they want because the benefits outweigh the
16 risks. We will never zero risk. Even in
17 organic, we will never have zero risk. I
18 think our consumers should be given the credit
19 for being smart and knowing what they want.
20 We just don't today know what that's going to
21 be.

22 And so what I worry about is; to

1 back up and be really philosophical, I worry
2 about organic being the industry of no. We
3 are no synthetic chemicals. We are no
4 synthetic pesticides. We are no GMO. We are
5 no this, no that. But really not. We are a
6 processing standard where we try to take care
7 of the health of our consumers, the health of
8 our planet, the health of our animals. And
9 there are hard decisions to be made when we do
10 that. So what I worry about is someday in the
11 future when we say, wow, the benefits of this
12 outweigh the risks. We're facing this hurdle
13 where we branded for nanotech as bad, and I
14 think it's too early to brand it as bad. I do
15 not think it's too early to shut the door on
16 it, but I think it's too early to brand it as
17 bad.

18 CHAIRMAN MOYER: Chair recognizes
19 Bea.

20 MEMBER JAMES: I guess the
21 argument is that we don't have enough
22 information and we're assuming the better of

1 nanotechnology with your change, instead of
2 limiting because we don't know. And that's
3 where I struggle a little bit. And I also
4 don't think that organics is the world of no,
5 because look at everything that we've done to
6 try to keep it viable for all of our industry
7 and manufacturers with the National List and
8 everything else. And plus, if you look on the
9 positive side, the things that we do do are
10 incredible.

11 MEMBER HEINZE: I don't disagree
12 with that. I do disagree with the fact that
13 this amendment allows us to use nanotech. It
14 prohibits it. It closes the door on the use
15 of nanotech.

16 MEMBER JAMES: How does it do that
17 anymore than what it was before?

18 MEMBER HEINZE: Today, either way,
19 it's prohibited. This allows a path tomorrow
20 for someone who's got a technology that they
21 think is capable and they've got the science
22 for us to review it.

1 CHAIRMAN MOYER: The Chair
2 recognizes Tina; you had a comment, and then
3 Joe.

4 MEMBER ELLOR: Yes, and I'm not so
5 much worried about what's going on in the
6 future. I'm worried about my lack of
7 understanding about what's out there now
8 that's nanotechnology, like homogenization,
9 like milling. And honestly, I just don't know
10 what we might be prohibiting without leaving
11 a little bit of, you know, a crack in the
12 door. I don't want sensors in my food either.

13 CHAIRMAN MOYER: Chair recognizes
14 Joe.

15 MEMBER SMILLIE: Yes, I support
16 the amendment for all the reasons I've
17 mentioned, including faith in the NOSB to make
18 the right decisions down the road.

19 CHAIRMAN MOYER: Turn your mike on
20 please, Joe. Thank you.

21 MEMBER SMILLIE: I support the
22 amendment for all the reasons mentioned

1 before, including faith in the NOSB down the
2 road, you know, put it through the process
3 that everything else goes through.

4 I do want to remind Katrina though
5 on her statement that organic is the industry
6 of no and no synthetic pesticides, that's not
7 correct. We do allow synthetic pesticides.

8 I won't drag you through the pheromone mating
9 disruptive lesson again. And I think that's

10 one of the strengths of this industry, that
11 we're not just a no industry, that we don't
12 have that like incredibly sharp razor that
13 cuts off synthetic pesticides which is a
14 mating disruptive, which we knew about when we
15 made this regulation and we allowed in saying,
16 oh, this is a good synthetic pesticide. This
17 one really works, does no harm to the
18 ecosystem, meets all of our criteria in 600.

19 And I want to have that same availability for
20 material in the future if, in the wisdom of
21 the NOSB, it meets the criteria, which now
22 that it's placed where the amendment has

1 placed it, it must meet.

2 CHAIRMAN MOYER: Thank you.

3 Chair recognizes Hue, and then

4 Katrina. I think I have the order right.

5 MEMBER KARREMAN: Just wondering,

6 Katrina, how does your amendment -- you say it

7 doesn't allow nanotech, but, you know, the

8 door could be opened later. So what's the

9 difference between that and the majority?

10 Basically, the amendment is saying it's a

11 synthetic, you've got to petition. Is that

12 correct? I mean, is that essentially what

13 it's saying?

14 MEMBER HEINZE: That's what it

15 says.

16 MEMBER KARREMAN: Yes.

17 MEMBER HEINZE: It has to be on

18 the National List.

19 MEMBER KARREMAN: So it's

20 essentially just out there, it's got to be

21 petitioned like any other synthetic that ever

22 was and the majority coming out of the

1 committee is no? Is that correct?

2 MEMBER HEINZE: Yes, my view of
3 the majority is that it brands nanotech as
4 equivalent to GMO. And I think that is
5 premature.

6 MEMBER KARREMAN: That's what the
7 majority opinion says? I mean, it makes that
8 inference?

9 MEMBER HEINZE: I think that's the
10 effect. I think that's the effect. It's not
11 what that says.

12 CHAIRMAN MOYER: Chair recognizes
13 Rigo.

14 MEMBER DELGADO: I like the
15 amendment because you're not leaving the door
16 open entirely. Like Joe said, you're trusting
17 the process with the Program and the Board to
18 make the decision on whether a new technology
19 is useful and appropriate.

20 My question is, how do you
21 compare, Katrina, this approach to other
22 technologies like cloning and GE that we

1 absolutely closed the doors on those? I know
2 we have lack of information in those areas, as
3 well as nanotechnology. What is the big
4 difference between cloning and nanotechnology
5 that we should keep that door open to?

6 MEMBER HEINZE: Nanotechnology is
7 much broader, it encompasses a lot of
8 different things. Those other two very
9 specifically dealt with the science of
10 modifying the DNA, so are much more specific
11 in what they are. This can be physical
12 methods, chemical methods. The difference to
13 me is this technology is so new that we don't
14 really know what it includes and what it
15 doesn't include. So it's a little bit hard to
16 -- my initial reaction, to be honest, was I
17 didn't think the committee should be
18 addressing this because I don't think we know
19 enough to know what we're including and what
20 we're not including.

21 CHAIRMAN MOYER: Chair recognizes
22 Julie.

1 SECRETARY WEISMAN: Yes, I also
2 wanted to at least clarify; and I'm sure if
3 anyone disagrees with me, they'll let me know,
4 but I don't believe that what this amendment
5 does is just say that nanotechnology is a
6 synthetic and people can just petition it and
7 it will get the same consideration as any
8 other synthetic. I mean, if a petition came
9 before the next meeting for a nanotechnology-
10 produced ingredient, I don't think the Board
11 would have grounds to consider it yet. For
12 instance, if there are no standards for
13 judging it yet, I would say that some kind of
14 standard for evaluation would have to be
15 developed before this Board could even
16 consider such a petition. Just ask Grace.
17 I'm sorry.

18 CHAIRMAN MOYER: Chair recognizes
19 Dan.

20 VICE-CHAIR GIACOMINI: Yes, Joe,
21 you made a statement that you trust the Board.
22 I don't even always trust myself. And right

1 now I'm going to say something that probably
2 contradicts what I said this morning, after
3 thinking about it, that I can agree with how
4 Katrina countered what I was saying. One of
5 the problems we have with nanotechnology is
6 the definition. And we may catch things in
7 the definition that we have no intent of being
8 nanotechnology. Just like Katrina says, this
9 is part of what we're allowing to happen as a
10 way to let those things back in. They may
11 have been in all the time, but it's just a
12 matter of the processing issues.

13 CHAIRMAN MOYER: Chair recognizes
14 Hue.

15 MEMBER KARREMAN: Julie, you were
16 saying that hopefully there is some standard
17 or barrier, I guess, so it's not just a
18 petition coming in. I mean, you probably
19 haven't thought of that. But I mean I would
20 tend to agree with that for this amendment,
21 that there should be some extra hurdle perhaps
22 instead of just submitting, you know, a

1 petition, but I don't know what that would be.

2 CHAIRMAN MOYER: Chair recognizes
3 Julie.

4 SECRETARY WEISMAN: So are you
5 saying, Hue, that you would want to see some
6 additional language as part of this amendment
7 that specifies that, because right now it just
8 says "accept as allowed on 601, 603 and 605?"
9 And I guess I'm also wondering from the
10 Program's perspective if that's what's
11 required.

12 CHAIRMAN MOYER: Chair recognizes
13 Hue.

14 MEMBER KARREMAN: Just a quick
15 reply on that. He brought the idea up; I kind
16 of like it. I wasn't thinking of anything
17 specific.

18 CHAIRMAN MOYER: Chair recognizes
19 Barry, then Dan.

20 MEMBER FLAMM: This discussion
21 still reminds me so much of discussions on GMO
22 early. Just trust us. No telling what

1 wonderful world is going to open up, and it's
2 great, and all of a sudden we've got something
3 out of a box that we can't handle. And I
4 think most of us realize what consequences
5 there is. And the more I hear the discussion,
6 the more firm I become in my belief we
7 shouldn't do this. Because I think we don't
8 have standards and I can't imagine now how we
9 would handle a petition that came forward.
10 And I'm not sure based on discussion I would
11 trust the outcome, unlike Joe, because I think
12 we're admitted we don't know what's going on.
13 We don't know anything about it. That's what
14 several people say, and yet we would entertain
15 a petition? I mean, as soon as we pass this,
16 we're going to be entertaining some petitions.
17 And when that comes forward, what are we going
18 to do with them? Anyway, that's my comment.

19 CHAIRMAN MOYER: I have a question
20 for the committee. Would the committee
21 consider rescinding this motion for vote at
22 this point in time and taking it back to

1 rework it for the next meeting, given the
2 discussion that we're having here and the fact
3 that we are dealing with a subject matter and
4 a definition that we aren't fully all
5 comfortable with? I present that to you, Dan.

6 VICE-CHAIR GIACOMINI: No, I think
7 we'd proceed.

8 CHAIRMAN MOYER: Thank you.

9 Is there any other further
10 discussion on this unfriendly amendment? Dan?

11 VICE-CHAIR GIACOMINI: Question to
12 the Program. In the definition or somewhere
13 else, do we need to specifically identify the
14 products of nanotechnology as synthetic to
15 then say that except as listed on 601, 603,
16 605?

17 MR. McEV0Y: You're referring to
18 your recommendation that's up here now?

19 VICE-CHAIR GIACOMINI: Yes.

20 MR. McEV0Y: And can you repeat
21 the question?

22 VICE-CHAIR GIACOMINI: We define

1 nanotechnology and we say they're not allowed
2 unless listed in those sections, but we don't
3 specifically say that they're synthetic. But
4 we're saying they're prohibited unless they're
5 on the synthetic list. Is that adequate, or
6 do we need to make the statement these are
7 synthetics to make sure we've jumped through
8 all of the proper hoops?

9 MR. McEVoy: It seems like your
10 statement is that in order to allow
11 nanotechnology they'd have to be on the
12 National List. Right?

13 VICE-CHAIR GIACOMINI: They have
14 to be on the National List for synthetic.

15 MR. McEVoy: For synthetics? 601,
16 603, 605?

17 VICE-CHAIR GIACOMINI: These could
18 be agricultural products, for instance. If
19 the definition was too broad and it was flour
20 in milling, dust caused by milling, it would
21 be agricultural products and we're saying it
22 needed to be on the synthetic list. Do we

1 need to say that products of nanotechnology,
2 according to this definition, are synthetic?
3 Or is it covered well enough for you?

4 MR. McEVoy: Well --

5 VICE-CHAIR GIACOMINI: You
6 understand our intent?

7 MR. McEVoy: I understand your
8 intent. It looks like it's covered well
9 enough, but again, we'd have legal review to
10 make sure that it was.

11 VICE-CHAIR GIACOMINI: Okay.

12 CHAIRMAN MOYER: I have another
13 question. Maybe it's for you Dan, maybe it's
14 for the Program. This Board doesn't
15 necessarily review processes. We have
16 rejected other petitions in the past that were
17 process-oriented instead of ingredient or
18 material-oriented. If the process ends up
19 making not a material and not an ingredient,
20 but an actual item that is all 100 percent
21 from natural ingredients, they wouldn't even
22 have to come through this process unless it's

1 a completely excluded method.

2 VICE-CHAIR GIACOMINI: No, I don't
3 believe so. If they meet the terms of the
4 definition, it would be classified as
5 nanotechnology.

6 CHAIRMAN MOYER: But we're not
7 excluding nanotechnology.

8 VICE-CHAIR GIACOMINI: Yes, we
9 are. We're excluding nanotechnology unless
10 it's listed on 601, 603 and 605.

11 CHAIRMAN MOYER: That's for
12 materials. If it's not a material, it
13 wouldn't even have to come through this
14 process. You're not going to list on 601, 603
15 or 605.

16 VICE-CHAIR GIACOMINI: The
17 definition is --

18 CHAIRMAN MOYER: It's a process.

19 VICE-CHAIR GIACOMINI: No, the
20 definition is engineered substances, period,
21 of whatever kind, the result of the
22 technology.

1 CHAIRMAN MOYER: So if you used
2 your milling, for example, and you milled
3 wheat to an extremely fine, then that wheat
4 would be considered synthetic and have to be
5 put on the National List? I don't think so.
6 Just because of that process?

7 VICE-CHAIR GIACOMINI: No, I don't
8 believe our definition --

9 CHAIRMAN MOYER: You can't list it
10 there.

11 VICE-CHAIR GIACOMINI: -- includes
12 that.

13 CHAIRMAN MOYER: I don't either.

14 VICE-CHAIR GIACOMINI: But if
15 there are other types of things with ag
16 products that someone determines it to be a
17 product of nanotechnology, then it's
18 prohibited unless it's on the list.

19 CHAIRMAN MOYER: I have Katrina
20 and then Hue, but I'm going to back to my old
21 adage of closing the barn door when I have a
22 chance.

1 Katrina?

2 MEMBER HEINZE: I believe that the
3 definition we have, whether we go with my
4 amendment or the original recommendation, does
5 include wheat that has been milled to an
6 incredibly fine particle. And I believe if we
7 went with the majority opinion that it would
8 be prohibited.

9 Now, that being said, that may be
10 okay. Right? Because we've said we don't
11 understand the science. So what if that wheat
12 -- I don't think this is true, but what if
13 that wheat had some unique property? I think
14 what I've heard is that folks want us to
15 understand that.

16 CHAIRMAN MOYER: If I can respond
17 to that, I think what I've heard from the
18 public is they like their wheat just the way
19 it is and that, you know, the general public
20 has said to us close the door while you can.
21 I haven't heard one committee public comment
22 that said create an open path to allow this to

1 come in.

2 I have Rigo. I apologize. Hue

3 and then Rigo. I'm sorry.

4 MEMBER KARREMAN: We're having a

5 very thorough discussion here and just the

6 most recent part it seems like we're not even

7 agreeing on a definition and some basic

8 things. I mean, you're trying to, you know

9 define it and everything, but we're just not

10 on the same page almost. And I think maybe it

11 does need more work to be presented again next

12 meeting. I don't know. Just in the last few

13 minutes it seems we're devolving here.

14 CHAIRMAN MOYER: I have Rigo and

15 then Bea.

16 MEMBER DELGADO: I brought up the

17 same point as you were talking about, about

18 the incidental nanoparticles. And I thought

19 that after you added the word "engineered"

20 technology it eliminated those incidental

21 ones, the milling and the homogenization and

22 so forth. I hope that's the case and the

1 intent. So that's it.

2 CHAIRMAN MOYER: I appreciate
3 that, Rigo, but my comment was not based on
4 the fact that it would be incidental, but be
5 deliberate, that there would be some sort of
6 deliberate process without an actual
7 ingredient or material being created, but a
8 finished product.

9 I have Bea and then --

10 MEMBER JAMES: I would agree with
11 Hue. I'm really struggling with trying to
12 come to a consensus on something that we're
13 not clear on and don't have all the
14 information that we need. And if I had to
15 vote on this today, I would abstain. I'm not
16 in a position to make a decision.

17 CHAIRMAN MOYER: Again, I'll
18 present the question to the Materials
19 Committee. Are you willing to pull back this
20 document? We've been at it for an hour now.
21 I don't know that we've gotten too far. We've
22 got a lot of good information on the table,

1 but I'm asking the question.

2 VICE-CHAIR GIACOMINI: With the
3 agreement of the majority of the Materials
4 Committee, I would be willing to withdraw this
5 motion at this time.

6 CHAIRMAN MOYER: Can you poll your
7 committee?

8 VICE-CHAIR GIACOMINI: Kevin?

9 MEMBER ENGELBERT: I would be
10 willing to pull it also.

11 VICE-CHAIR GIACOMINI: Katrina?

12 MEMBER HEINZE: Yes.

13 VICE-CHAIR GIACOMINI: I vote yes.

14 SECRETARY WEISMAN: I would be
15 willing to pull.

16 VICE-CHAIR GIACOMINI: We withdraw
17 this motion.

18 CHAIRMAN MOYER: Thank you to the
19 Board for that lively discussion, to the
20 Program for your help, to Katrina for your
21 hard work over lunch. I certainly appreciate
22 that. I hope you had a chance to eat

1 something. But it is extremely interesting
2 and lively discussion. It is a very, very
3 important topic, I think we all see that, and
4 I appreciate your committee's hard work, and
5 you have more hard work ahead of you,
6 unfortunately. Thank you very much for that.

7 Boy, we all need a breath.
8 Exhale.

9 Well, if that wasn't enough for
10 you, Katrina, the Joint Handling and Materials
11 Committee recommendation on classification of
12 definitions is next on my docket. If you're
13 prepared, we will entertain that conversation.
14 Katrina?

15 MEMBER HEINZE: I am prepared.
16 And I never thought the words "classification
17 of materials might look easy after that" were
18 going to come out of my mouth, but hopefully
19 they will.

20 So, I have emailed earlier today;
21 so hopefully everyone has a copy of the
22 November '04-'09 modifications to our

1 recommendation.

2 And, Valerie, I think that's what
3 you are pulling up as well.

4 I want to thank the Board for
5 yesterday's discussion on this topic. And
6 then what I'd like to review today are changes
7 made by the joint committee. We met earlier
8 this week and voted on these changes and our
9 recommendation passed with five yes, one no,
10 one abstain and one absent.

11 So before I review the comments,
12 you know, I want to say and acknowledge the
13 members of the joint committee. This
14 recommendation is really the combined work of
15 the committee. It represents hours of debate,
16 respectful points of difference and a focus on
17 finally making progress on this difficult
18 topic. And I am really very grateful to each
19 of you for the many calls we had and the
20 points you brought up.

21 So what you see in this document;
22 I'm not going to review on the whole document,

1 I'm just going to highlight the items that
2 have been added and read. Before I do that,
3 there are topics that we received in public
4 comment both this week or in the written
5 comments that led to us making changes to our
6 recommendation. Those are clarifying that CAS
7 numbers are just one way, but not the required
8 way to determine that a substance has changed
9 identity.

10 CHAIRMAN MOYER: Where
11 specifically --

12 MEMBER HEINZE: Hold on.

13 CHAIRMAN MOYER: Okay. Thank you.

14 MEMBER HEINZE: I'm just giving
15 you the big picture.

16 CHAIRMAN MOYER: Okay.

17 MEMBER HEINZE: We added some
18 language to clarify that agricultural is a
19 subset of non-synthetic. We fixed our
20 technical error on the definition of non-
21 agricultural. And finally, we added some
22 language to talk about what's included in the

1 term "products of naturally-occurring
2 biological processes."

3 There are also topics from public
4 comment for which we did not make changes, but
5 we added discussion in our intent to do
6 further work on these topics. And really, for
7 these topics it was clear from my presentation
8 yesterday and the discussion that ensued that
9 these changes that I presented that we were
10 considering were too much. They were
11 premature. So we need to pull back. We need
12 to have more discussion on them.
13 Specifically, that was about the soy lecithin,
14 bleached. We had been considering a change to
15 try to address that public comment and we
16 hadn't had time to think it through, so we're
17 pulling back on that.

18 So specifically, topics where
19 we're saying we need to do more work is the
20 impact on certified organic products, produced
21 in compliance with the rule, the effect of our
22 third guiding principle on products sourced

1 from organic, materials that undergo chemical
2 change either through normal processing or
3 through the use of a synthetic allowed on
4 605(b), and then also the public comments
5 asking for clarification on 270(c)(2).

6 Okay. So with that, that's kind
7 of the big picture. Let me go through
8 specifically the changes.

9 The first one is on page 6 in the
10 middle of the page. It is in red. It's the
11 third full paragraph. We added a paragraph
12 regarding our intent.

13 Mr. Chair, should I read the whole
14 change? Would that be useful?

15 CHAIRMAN MOYER: Yes, I would.

16 MEMBER HEINZE: Okay.

17 CHAIRMAN MOYER: Because some
18 folks are having difficulty seeing the board,
19 I would request that you would read that.

20 MEMBER HEINZE: Okay, so we added
21 a paragraph in the section on -- so, this is
22 the discussion section on synthetic/non-

1 synthetic. We added a paragraph that said,
2 "It is not our intent to reclassify as
3 synthetic products or ingredients that today
4 can be certified organic in full compliance
5 with the final rule. For example, certified
6 organic soy lecithin exists today. It is
7 manufactured from organic soybeans, physically
8 separated into oil and soybean meal. The
9 soybean oil is then hydrated with water or
10 steam and the lecithin gums are physically
11 separated. Certified organic bleached soy
12 lecithin can be manufactured by using less
13 than five percent hydrogen peroxide, which is
14 a synthetic allowed for use in certified
15 organic products, 205.605(b)."

16 So again, this is just discussion.
17 It speak to our intent. And then you'll see
18 me come back that topic a little bit later.

19 Oh, goodness. Okay. On page 7; I
20 was really hoping not to have to read this
21 whole thing, we added four paragraphs. I'll
22 read the beginning paragraph.

1 What this says is, "At the
2 November 3rd through 5th, 2009 NOSB meeting,
3 public comment was heard on two topics related
4 to classification of materials as either
5 synthetic or non-synthetic. The first was a
6 concern that the use of CAS numbers as an
7 example in the definition of substance was not
8 clear. We have modified the proposed
9 definition to address this concern."

10 And then I list both the original
11 recommendation and the new definition. Later
12 I will tell you what we changed.

13 "The second concern raised by
14 public comment at the November 2009 NOSB
15 meeting requested clarification on our
16 recommended third guiding principle and the
17 related definition for chemical change."

18 So public comment requested
19 clarification and then I list some of the
20 things that folks wanted clarification on.

21 "The joint committee intends to
22 further study these questions and address

1 them, if possible, during development of our
2 recommended guidance document with the NOP.
3 If not possible, we intend to have a further
4 recommendation specific to this topic at our
5 spring meeting."

6 CHAIRMAN MOYER: Thank you,
7 Katrina.

8 MEMBER HEINZE: So that captures
9 that first thing I talked about that we just
10 felt that that recommendation was premature.
11 We wanted to acknowledge that we had been
12 asked to clarify that. And so, we wanted that
13 in our document so that our intent was very
14 clear.

15 Okay. Again on that page in the
16 last paragraph we added two little words to
17 really get at the idea that agriculture is a
18 subset of non-synthetic. So we just said
19 that, "Materials that remain for
20 classification are all non-synthetic, either
21 agricultural or non-agricultural." So the
22 words added are "all non-synthetic."

1 Okay. On the next page, again in
2 the discussion for agricultural and non-
3 agricultural, and again speaking to public
4 comment received this week, we said that,
5 "Public comment was heard that questioned our
6 recommended definition of non-agricultural."
7 As we reviewed that, we realized that we had
8 inadvertently included the wrong definition in
9 our recommendation. So I list the current
10 definition, the definition we had proposed and
11 then the definition we intended to propose.

12 And then the final paragraph says,
13 "We believe that the comments that were
14 addressed to us would have been addressed had
15 we included the proper definition."

16 Okay. So that gets to the non-ag
17 definition that I said we did address.

18 On the next page, under the again
19 discussion of products of naturally-occurring
20 biological processes, we added a paragraph
21 that says, "Proper terminology for the
22 products of naturally-occurring biological

1 processes and the microorganisms that lie at
2 the heart of these biological processes has
3 been elusive. For the purposes of this
4 document, the term "products of naturally-
5 occurring biological processes includes the
6 microbiological organisms used in the process;
7 for example, yeast and bacteria."

8 And again, that is discussion.
9 Originally, when we wrote this document, it
10 was so important that all our thoughts and all
11 our debate got on paper. So as we made
12 revisions this week, we wanted to continue
13 with that so our intent was very clear, that
14 we create this historical document that
15 captures the history of this topic.

16 Okay. So finally, getting to our
17 actual recommendation. So everything else was
18 discussion. So this is page 11 under the
19 recommendation. Under guiding principles, we
20 added language under the third guiding
21 principle that says -- so this is copying our
22 scope language, "Materials that are

1 manufactured in full compliance with the final
2 rule are outside the scope of this principle.
3 Their status with regards to use in organic is
4 not affected by this recommendation."

5 CHAIRMAN MOYER: Would you repeat
6 that, please?

7 MEMBER HEINZE: Yes. "Materials
8 that are manufactured in full compliance with
9 the final rule are outside the scope of this
10 principle. Their status with regards to use
11 in organic is not affected by this
12 recommendation."

13 CHAIRMAN MOYER: Thank you.

14 MEMBER HEINZE: Okay. Under
15 proposed regulatory language, the definition
16 of non-agricultural substance, you'll see that
17 the definition that we intended to propose has
18 now been put in here. Just as a reminder,
19 this is a product. "Non-agricultural
20 substance is defined as a product such as a
21 mineral or atmospheric gas that does not
22 originate from agriculture. For the purposes

1 of this part, agricultural refers to the
2 production or handling of crops or livestock."

3 And that was a definition proposed
4 by the Material Working Group. We just copied
5 and pasted incorrectly.

6 Okay. Finally, under our
7 recommendation, for the definition of
8 "substance," we replaced -- it used to say "an
9 element, molecular species or chemical
10 compound that possesses a distinct identity
11 parenthetical e.g." We decided that in this
12 case we needed to make the e.g. more obviously
13 for example, so we said "for example," just so
14 no one missed it; "e.g.s" are easy to miss.
15 And then we used some broader words. So we
16 said "A distinct identify may be demonstrated
17 through the material having a separate CAS
18 number." And then in parenthetical, we added,
19 "In some cases the same material may have
20 multiple CAS numbers." We really wanted to
21 highlight this idea that this is just an
22 example. It is not definitive.

1 Okay. So that's it for the
2 recommendation.

3 I did want to highlight that the
4 next steps on this, this is not the end
5 result. The end result of this recommendation
6 is rule change which still needs to happen,
7 which is the definitions. But more
8 importantly it's the guidance document, the
9 document that will help everyone who has to
10 make these decisions make them consistently.

11 And so our next steps are we need
12 to ask the NOP to do the rule change and the
13 definitions that we're recommending, we need
14 to work with NOP staff to develop a guidance
15 document. They have committed to doing that
16 through their guidance document process, which
17 allows for public comment. I would propose
18 that if we can get that done at the spring
19 meeting, I think having it as an agenda item
20 so that we make sure that that public comment
21 is very transparent would be an important part
22 of this process.

1 We did add some language to this
2 section of the recommendation to get back at
3 the chemical change and guiding principle No.
4 3 and that 270(c)(2) that we said we were
5 going to work on.

6 Then there is a next step for how
7 should ACAs be classifying materials, and we
8 said today there should be no change. They
9 should be doing them as currently listed on
10 the National List and they should only begin
11 using this recommendation once it is codified,
12 for lack of a better word, in the guidance
13 document. Then we outline how we're going to
14 make the changes to the National List that
15 result from this recommendation and then we
16 ask for petitions on the products of
17 naturally-occurring biological processes so
18 that we can continue our work in that area.

19 So those are the changes made and
20 our recommendation. Should I entertain
21 questions on the changes first, or make a
22 motion?

1 CHAIRMAN MOYER: I would suggest
2 you make a motion.

3 MEMBER HEINZE: Okay. So I move
4 that the NOSB accept this document, period?

5 MEMBER HEINZE: As posted.

6 CHAIRMAN MOYER: As posted, yes.
7 Is there a second on that?

8 MEMBER KARREMAN: Second.

9 CHAIRMAN MOYER: You're going to
10 have to do rock, paper, scissors again,
11 because you all three at the same -- Hue
12 yelled the loudest, but Joe was right there.
13 You kids pick.

14 MEMBER HEINZE: I would entertain
15 questions.

16 CHAIRMAN MOYER: Yes, if there are
17 questions. But before there's questions, I
18 think to state that the work that went into
19 this was tremendous is an understatement.
20 It's unfair to say it in that light of tone,
21 because I mean, just reading over it and
22 listening to that language makes my head spin.

1 I don't see how anybody could
2 recite any one paragraph of that without
3 tremendous amounts of study. It is very
4 complex, very difficult to understand. And
5 not only people at this table, but people in
6 the room, people that couldn't make it to this
7 meeting that are outside of this audience
8 directly put in a lot, a lot of time, not only
9 in writing this but in thinking it through.

10 So whichever the vote goes, Katrina, you and
11 your team, Dan, everybody involved did a
12 tremendous amount of work and this Board and
13 the greater organic community appreciates it
14 whether they like the end result of the vote
15 or not.

16 So at this point in time, we'll
17 entertain questions. I see Dan's hand up
18 first.

19 VICE-CHAIR GIACOMINI: Thank you,
20 Mr. Chairman. Yes, regarding the work on
21 this, it was extensive. And with a year-and-
22 a-half of the Material Working Group, when we

1 finally brought it in it was the joint
2 committee of Materials and Handling, of which
3 Steve and I were the chairs, and we kind of
4 put our heads together and said one person
5 really needs to quarterback this thing and
6 that we both agreed that with her, all the
7 time she had put on this project through the
8 Material Working Group, I think she hit almost
9 all of those calls, if not all of them, that
10 we both agreed to talk Jeff into allowing her
11 to be the chair for this. And I think if I
12 made one good decision in the last year, that
13 was probably the best one.

14 We talked about on the last one
15 questioning ourselves and everything. I wish
16 I could give good examples. There's just
17 something that bothers me about the shrinking
18 of the non-ag/non-synthetic box. And, you
19 know, from my family with a little of Italian
20 still in them, it gives me agita. But I'm
21 questioning myself and I'm going to see how
22 the rest of the Board continues on this one.

1 CHAIRMAN MOYER: I think I also
2 wanted to acknowledge that there are two
3 finely-written minority opinions. The vote
4 was not unanimous on this decision coming out
5 of committee. I think both those minority
6 opinions have value and worth and should not
7 be discounted in our discussion here, if there
8 is any. And sometimes voting with your heart
9 or your head are two different ways to address
10 things, and I understand that completely.

11 Katrina?

12 MEMBER HEINZE: Thank you, Jeff,
13 for the good reminder that it is worth
14 highlighting that. Because you're not voting
15 on the changes we made as committee, you're
16 really voting on some, you know, fundamental
17 things to how we classify materials.

18 Before I say that, where I work we
19 call that being voluntold.

20 CHAIRMAN MOYER: Voluntold?

21 MEMBER HEINZE: Because I don't
22 remember being in the conversations where I

1 was asked to be chair.

2 CHAIRMAN MOYER: It's true. It
3 did come to me through a back door and --

4 MEMBER HEINZE: Yes. So like I
5 say, it's a good word, voluntold. That
6 happens to lots of us.

7 So to highlight, I want to
8 highlight the minority opinions. There are
9 two. The first; and I will paraphrase, but
10 certainly those who wrote them, jump in if I
11 don't paraphrase properly. The first has to
12 do with our definitions and guiding -- really
13 our definitions and how they manifest in
14 classifying the material as synthetic or non-
15 synthetic. Our definitions draw a fine line
16 through chemical change. If chemical change
17 does not happen and a synthetic is not present
18 in the final material at a significant level,
19 then the material is not synthetic. And, you
20 know, for the reasons we talked about
21 yesterday, the majority felt that that was the
22 right way to go.

1 The minority opinion feels that
2 that is too gray. We need a more black and
3 white approach to synthetic/non-synthetic and
4 that if a synthetic is used, the resulting
5 material should be synthetic. And again, for
6 the reasons we talked about yesterday, the
7 majority did not go with that minority
8 opinion.

9 The other minority opinion has to
10 do with what results from materials that are
11 non-synthetic and agriculturally-sourced. We
12 moved materials into being classified as
13 agricultural, so we shrunk non-synthetic. And
14 there is some concern about if there would be
15 effects to crops and livestock. The majority
16 of the committee was unable to think of
17 examples or circumstances where that would
18 occur, so did not go with that opinion, and we
19 did not hear public comment to that effect.

20 CHAIRMAN MOYER: Thank you,
21 Katrina.

22 More discussion on this item from

1 other board members? Chair recognizes Joe.

2 MEMBER SMILLIE: I think it's
3 important to point out that while we did
4 consciously and I think unanimously or by
5 consensus rule out the idea of an agricultural
6 synthetic, we very carefully crafted language
7 that I want to make sure everybody
8 understands.

9 Katrina uses words like "outside
10 the scope of the document," and now it's more
11 carefully clarified. This does not -- this
12 document is very clear that it allows a
13 certification process to occur in the cases
14 where something may be ruled a synthetic if it
15 complies with the regulation. So that was my
16 major deterrent in the development of this
17 document and I am now satisfied that that has
18 been dealt with, along with the issue of the
19 CAS numbers, which, you know, was an issue
20 also.

21 CHAIRMAN MOYER: Joe, would you be
22 willing to give the Board a possible example

1 of what you just described? Not to put you on
2 the spot, but --

3 MEMBER SMILLIE: Well, it depends
4 on --

5 CHAIRMAN MOYER: Joe, your
6 microphone?

7 MEMBER SMILLIE: It depends on the
8 ruling, but yes -- well, I hate the example;
9 it's the first one that comes to mind, but --
10 oh, no, I'm not going to go back to the toast
11 and eggs. Jeez, that's bringing back too many
12 painful memories. Toast is not a synthetic.
13 I'm not going there.

14 No, the glycerine, okay, that
15 could be a result of a synthetic process could
16 be certified as organic, glycerine.

17 CHAIRMAN MOYER: Glycerine?

18 MEMBER SMILLIE: Yes.

19 CHAIRMAN MOYER: Okay.

20 MEMBER SMILLIE: I also think
21 depending on how someone looked at it that a
22 soy protein isolate could be possibly,

1 depending on again, you know, origin and
2 process, depending on the ruling made. There
3 could be a ruling made that a soy protein
4 isolate could be synthetic. It also could be
5 certified.

6 CHAIRMAN MOYER: It would have to
7 go through the petition process, or not? No.

8 MEMBER SMILLIE: No.

9 CHAIRMAN MOYER: No, it would not.
10 Okay.

11 MEMBER SMILLIE: Correct. If it
12 met the regulation.

13 CHAIRMAN MOYER: Got you.

14 Chair recognizes Julie.

15 SECRETARY WEISMAN: Yes, I just
16 want to further clarify in a more generic way
17 what that whole concept of outside the scope
18 means is that we have this part of the rule
19 that defines what the composition of products
20 that are going to be sold as organic. 100
21 percent or -- which means 95 percent.

22 And so that means that once you

1 have met the formulation requirements, meaning
2 that at least 95 percent of the ingredients
3 are certified organic and anything that's in
4 that five percent or less is on the National
5 List and it has only undergone allowed
6 processes that whatever results from that
7 that's certified organic. And those are
8 outside of the scope of the document. And
9 part of what that does is create a preference
10 for materials that are sourced from certified
11 organic, something that is made from organic
12 ingredients and meets the composition
13 requirements.

14 I think I might have confused
15 people more. I'm looking at the faces around
16 the table.

17 CHAIRMAN MOYER: Thank you, Julie.

18 Any other discussion before we
19 call for a vote on this material -- on this
20 docket item?

21 (No audible response.)

22 CHAIRMAN MOYER: Okay. Are there

1 any conflicts of interest in this? Of course,
2 everybody has a conflict of interest, I
3 suppose, who worked on it.

4 Okay. We'll call for the vote.

5 The vote will start with Tina.

6 MEMBER ELLOR: Yes.

7 CHAIRMAN MOYER: Rigo?

8 MEMBER DELGADO: Yes.

9 CHAIRMAN MOYER: Katrina?

10 MEMBER HEINZE: Yes.

11 CHAIRMAN MOYER: I thought so.

12 Dan?

13 VICE-CHAIR GIACOMINI: Yes.

14 CHAIRMAN MOYER: Julie?

15 SECRETARY WEISMAN: I can't resist
16 quoting my teenage daughter who's in the room.
17 Duh? Yes.

18 CHAIRMAN MOYER: Thank you.

19 Steve?

20 MEMBER DeMURI: Yes.

21 CHAIRMAN MOYER: Barry?

22 MEMBER FLAMM: Yes.

1 CHAIRMAN MOYER: Bea?

2 MEMBER JAMES: Yes.

3 CHAIRMAN MOYER: Tracy?

4 MEMBER MIEDEMA: Yes.

5 CHAIRMAN MOYER: Joe?

6 MEMBER SMILLIE: Yes.

7 CHAIRMAN MOYER: Hue?

8 MEMBER KARREMAN: Yes.

9 CHAIRMAN MOYER: Kevin?

10 MEMBER ENGELBERT: No.

11 CHAIRMAN MOYER: And the Chair

12 votes yes. We have one no, 12 yeses, two

13 absent. This document passes.

14 Again, thank you to everybody who

15 worked so hard on this document.

16 Joe has a comment.

17 MEMBER SMILLIE: I also wanted to

18 add my two cents on what's becoming overblown

19 praise, but I just want to publicly

20 acknowledge Katrina's leadership on this

21 document. She cajoled, prodded, bribed,

22 inspired the committee members to stay at a

1 task that was extremely difficult, demanding
2 and mind numbing at times. And no matter how
3 many times we tried to get out of having
4 another meeting, she figured out some way to
5 make us do it. And the last bribe, I might
6 publicly -- was bringing coffee to the 7:00
7 meeting yesterday morning. That did it. So
8 a famous American once said, "By any means
9 necessary." And that's certainly the
10 leadership of Katrina. Earned her, you know,
11 the hurricane nomer that she's given.

12 CHAIRMAN MOYER: Katrina has the
13 last word.

14 MEMBER HEINZE: I do get the last
15 word. I'm getting far too much credit,
16 because many other people worked on this. But
17 one of the things we say where I work is that
18 working externally has far more rewards
19 sometimes than working internally. And thank
20 you for making that true.

21 CHAIRMAN MOYER: You're welcome.

22 Okay. Because we're well behind

1 in our time, we're going to continue to move
2 forward. If board members need to leave the
3 room for whatever reason, that will be
4 tolerated. We're going to jump right onto the
5 Handling Committee and move through those
6 materials before we take an official break.

7 So at this point, Steve, if you
8 and your committee are ready, we would
9 entertain a voting process on your Handling
10 Committee sunset materials.

11 MEMBER DeMURI: I am ready. Thank
12 you, Jeff. And I will go ahead and handle all
13 the materials, and then if we have any very
14 technical questions from anybody on the Board,
15 I'll defer some of those to the experts at the
16 table who did the investigation on these.

17 The first one is 205.605(a) item.
18 It's egg white lysozyme. And Tracy did a good
19 job yesterday of going through that substance.
20 I won't go through it in any detail at this
21 point, but I will mention that the committee
22 voted five yes, zero no, one absent to relist.

1 It was originally listed back in 2006. This
2 is a sunset item of course. And we did not
3 receive any new information since the time of
4 the original listing or during our
5 investigation that would have caused us not to
6 vote to relist it at this time.

7 So having said that, I would move
8 that we relist egg white lysozyme to
9 205.605(a).

10 CHAIRMAN MOYER: We have a motion
11 on the floor. Do I have a second?

12 SECRETARY WEISMAN: Second.

13 CHAIRMAN MOYER: You got to yell
14 faster Tracy. I got Julie for a second.

15 We have a motion and a second. Is
16 there any discussion on this material?

17 (No audible response.)

18 CHAIRMAN MOYER: Hearing none,
19 seeing no hands, we'll move forward with the
20 vote.

21 Are there any conflicts of
22 interest on this material?

1 (No audible response.)

2 CHAIRMAN MOYER: Again, hearing
3 none and seeing none, we will move forward
4 with the vote starting with Rigo.

5 MEMBER DELGADO: Yes.

6 CHAIRMAN MOYER: Katrina?

7 MEMBER HEINZE: Egg white
8 lysozymes, right? Yes.

9 CHAIRMAN MOYER: Dan?

10 VICE-CHAIR GIACOMINI: Yes.

11 CHAIRMAN MOYER: Julie?

12 SECRETARY WEISMAN: Yes.

13 CHAIRMAN MOYER: Steve?

14 MEMBER DeMURI: Yes.

15 CHAIRMAN MOYER: Barry?

16 MEMBER FLAMM: Yes.

17 CHAIRMAN MOYER: Bea?

18 MEMBER JAMES: Yes.

19 CHAIRMAN MOYER: Tracy?

20 MEMBER MIEDEMA: Yes.

21 CHAIRMAN MOYER: Joe?

22 MEMBER SMILLIE: Yes.

1 CHAIRMAN MOYER: Hue?

2 MEMBER KARREMAN: Yes.

3 CHAIRMAN MOYER: Kevin?

4 MEMBER ENGELBERT: Yes.

5 CHAIRMAN MOYER: Tina?

6 MEMBER ELLOR: Yes.

7 CHAIRMAN MOYER: And the Chair

8 votes yes. I have zero nos, thirteen yeses,

9 two absent. Your material passes.

10 Your next item, Mr. Chairman?

11 MEMBER DeMURI: Thank you, Jeff.

12 The next item is also a 205.605(a) item. It

13 is L-malic acid, originally listed in

14 September 2006. So it is scheduled to be

15 sunsetted in 2011, unless we take action to

16 relist it, which is what we're voting on

17 today, of course. No new information came to

18 our attention that would cause us not to

19 recommend relisting this material. At the

20 committee level it passed four yes, zero no

21 and two were absent.

22 So I will move for relisting of L-

1 malic acid to 205.605(a).

2 CHAIRMAN MOYER: We have a motion
3 on the floor to relist. Do I have a second?

4 SECRETARY WEISMAN: Second.

5 CHAIRMAN MOYER: Julie seconds
6 that. We have a motion and a second to relist
7 this material. Is there any discussion on
8 this material?

9 (No audible response.)

10 CHAIRMAN MOYER: Hearing none,
11 seeing none, we'll move onto a call for the
12 vote.

13 Any conflicts of interest on this
14 material?

15 (No audible response.)

16 CHAIRMAN MOYER: Again, hearing
17 none, seeing none, we will start the voting
18 process with Katrina.

19 MEMBER HEINZE: Yes.

20 CHAIRMAN MOYER: Dan?

21 VICE-CHAIR GIACOMINI: Yes.

22 CHAIRMAN MOYER: Julie?

1 SECRETARY WEISMAN: Yes.
2 CHAIRMAN MOYER: Steve?
3 MEMBER DeMURI: Yes.
4 CHAIRMAN MOYER: Barry?
5 MEMBER FLAMM: Yes.
6 CHAIRMAN MOYER: Bea?
7 MEMBER JAMES: Yes.
8 CHAIRMAN MOYER: Tracy?
9 MEMBER MIEDEMA: Yes.
10 CHAIRMAN MOYER: Joe?
11 MEMBER SMILLIE: Yes.
12 CHAIRMAN MOYER: Hue?
13 MEMBER KARREMAN: Yes.
14 CHAIRMAN MOYER: Kevin?
15 MEMBER ENGELBERT: Yes.
16 CHAIRMAN MOYER: Tina?
17 MEMBER ELLOR: Yes.
18 CHAIRMAN MOYER: Rigo?
19 MEMBER DELGADO: Yes.
20 CHAIRMAN MOYER: And the Chair
21 votes yes. Zero no, thirteen yes, two absent.
22 Your material passes.

1 Mr. Chairman, your next item?

2 MEMBER DeMURI: Thank you. The
3 next one is another 205.605(a) sunset item.
4 It is microorganisms, again originally listed
5 in September of 2006. Joe did a good job
6 yesterday of explaining this substance. The
7 TAP review was good. No new information came
8 to us that would cause us not to recommend
9 relisting this material. And at the committee
10 level it did pass five yes, zero no, one
11 absent.

12 So I move for the relisting of
13 microorganisms to 205.605(a).

14 MEMBER SMILLIE: Second.

15 CHAIRMAN MOYER: I was going to
16 ask for a second and we've got one. It's
17 almost like telepathic. You knew what I
18 wanted.

19 We have a motion and a second on
20 the floor for this material to relist
21 microorganisms. Is there any discussion from
22 the Board?

1 (No audible response.)

2 CHAIRMAN MOYER: Hearing none,

3 seeing none, I will call for the vote.

4 Any conflict of interest on this

5 material?

6 (No audible response.)

7 CHAIRMAN MOYER: Again, seeing

8 none and hearing none, we'll start the voting

9 process with Dan.

10 VICE-CHAIR GIACOMINI: Yes.

11 CHAIRMAN MOYER: Julie?

12 SECRETARY WEISMAN: Yes.

13 CHAIRMAN MOYER: Steve?

14 MEMBER DeMURI: Yes.

15 CHAIRMAN MOYER: Barry?

16 MEMBER FLAMM: Yes.

17 CHAIRMAN MOYER: Bea?

18 MEMBER JAMES: Yes.

19 CHAIRMAN MOYER: Tracy?

20 MEMBER MIEDEMA: Yes.

21 CHAIRMAN MOYER: Joe?

22 MEMBER SMILLIE: Yes.

1 CHAIRMAN MOYER: Hue?

2 MEMBER KARREMAN: Yes.

3 CHAIRMAN MOYER: Kevin?

4 MEMBER ENGELBERT: Yes.

5 CHAIRMAN MOYER: Tina?

6 MEMBER ELLOR: Yes.

7 CHAIRMAN MOYER: Rigo?

8 MEMBER DELGADO: Yes.

9 CHAIRMAN MOYER: Katrina?

10 MEMBER HEINZE: Yes.

11 CHAIRMAN MOYER: And the Chair

12 votes yes. Zero no, thirteen yes, two absent.

13 Your material passes, Mr. Chairman. Your next

14 item?

15 MEMBER DeMURI: Thank you. We're

16 moving quickly. Good.

17 CHAIRMAN MOYER: Yes.

18 MEMBER DeMURI: The next item is a

19 205.605(b) substance, activated charcoal.

20 First petitioned in 2002 and added to the

21 National List with annotation "only from

22 vegetative sources for use only as a filtering

1 aid." And that became effective on September
2 12, 2006, so it is subject to being sunsetted
3 in the fall of 2011, unless we take an action
4 here. No new information came to our
5 attention during your investigation of this
6 material. The original TAP was thorough, in
7 our estimation. At the committee level the
8 substance passed for relisting five yes, zero
9 no, and one absent.

10 So I move for the relisting of
11 activated charcoal with the annotation "only
12 from vegetative sources for use only as a
13 filtering aid" to 205.605(b).

14 VICE-CHAIR GIACOMINI: Second.

15 CHAIRMAN MOYER: We have a motion
16 on the floor to relist and we have a second
17 from Dan. You can tell we're getting tired.

18 Any points of discussion? Chair
19 recognizes Hue.

20 MEMBER KARREMAN: Just wondering,
21 so this would be coming off in 2011 if we
22 didn't take this action now?

1 MEMBER DeMURI: That is correct.

2 CHAIRMAN MOYER: That is correct.

3 MEMBER KARREMAN: Okay. So it's
4 November 2009. So there's two more years. So
5 it's going to have another five-year -- don't
6 get me wrong, I'm all in favor of the
7 material. It's more a question of the sunset.

8 CHAIRMAN MOYER: The process.

9 MEMBER KARREMAN: So 2011 and 2016
10 and then it will, you know, go through it
11 again?

12 MEMBER DeMURI: Right.

13 MEMBER KARREMAN: So what if,
14 okay, we take the vote now; which I hope it
15 passes, and within the next two years before
16 the first sunset some information comes about
17 that's like just catastrophic to activated
18 charcoal. What happens? Are we too soon
19 ahead to that deadline date by doing the vote?
20 I can see getting the work done. Just
21 wondering.

22 MEMBER DeMURI: Somebody would

1 petition, I would hope, to have it removed
2 from the list in that period of time.

3 CHAIRMAN MOYER: Yes, I think that
4 was Joe's comment. I had Joe's hand. I got
5 Dan's hand and then Katrina.

6 Dan?

7 VICE-CHAIR GIACOMINI: No --

8 CHAIRMAN MOYER: Chair recognizes
9 Katrina.

10 MEMBER HEINZE: I think it's not
11 just a matter of trying to get ahead of the
12 work, but trying to get ahead of the
13 regulatory time frame.

14 CHAIRMAN MOYER: Yes. That is
15 correct. Thank you, Katrina.

16 Okay. We have a motion on the
17 floor and we have a second. We've had some
18 discussion. Any further discussion?

19 (No audible response.)

20 CHAIRMAN MOYER: Hearing none,
21 seeing none, I'll call for the vote.

22 Is there a conflict of interest on

1 activated charcoal?

2 (No audible response.)

3 CHAIRMAN MOYER: Hearing none,
4 seeing none, the vote will begin with Julie.

5 SECRETARY WEISMAN: Yes.

6 CHAIRMAN MOYER: Steve?

7 MEMBER DeMURI: Yes.

8 CHAIRMAN MOYER: Barry?

9 MEMBER FLAMM: Yes.

10 CHAIRMAN MOYER: Bea?

11 MEMBER JAMES: Yes.

12 CHAIRMAN MOYER: Tracy?

13 MEMBER MIEDEMA: Yes.

14 CHAIRMAN MOYER: Joe?

15 MEMBER SMILLIE: Yes.

16 CHAIRMAN MOYER: Hue?

17 MEMBER KARREMAN: Yes.

18 CHAIRMAN MOYER: Kevin?

19 MEMBER ENGELBERT: Yes.

20 CHAIRMAN MOYER: Tina?

21 MEMBER ELLOR: Yes.

22 CHAIRMAN MOYER: Rigo?

1 MEMBER DELGADO: Yes.

2 CHAIRMAN MOYER: Katrina?

3 MEMBER HEINZE: Yes.

4 CHAIRMAN MOYER: Dan?

5 VICE-CHAIR GIACOMINI: Yes.

6 CHAIRMAN MOYER: And the Chair
7 votes yes. Zero no, thirteen yes, two absent.
8 Your material passes, Mr. Chairman. Next
9 item?

10 A question, Hue?

11 MEMBER KARREMAN: If I may, on the
12 activated charcoal. If it's on a food contact
13 list, okay, is that ever going to be allowed
14 right out for livestock use, or is that always
15 -- I'm just curious. You know, we've had this
16 question before and it's on this particular
17 material.

18 MEMBER DeMURI: If it's
19 petitioned. If they petition it.

20 MEMBER KARREMAN: Okay. Yes, it's
21 specific with the annotation you have, right?

22 CHAIRMAN MOYER: Yes.

1 MEMBER KARREMAN: Okay. All
2 right.

3 CHAIRMAN MOYER: Yes, it's
4 annotated.

5 MEMBER KARREMAN: Yes.

6 CHAIRMAN MOYER: You have to
7 petition to change that annotation.

8 MEMBER KARREMAN: I guess the
9 generic question is if something's on 605;
10 we've had that question in the past, can it be
11 used for --

12 CHAIRMAN MOYER: Chair recognizes
13 Dan.

14 VICE-CHAIR GIACOMINI: Yes, at
15 this point in time listing in 605 does not
16 qualify for use in livestock.

17 CHAIRMAN MOYER: Right. That's
18 right. You'd have to petition it for that.

19 VICE-CHAIR GIACOMINI: This
20 substance was petitioned for livestock, passed
21 by the Board and for whatever technical
22 difficulties did not get through rulemaking.

1 CHAIRMAN MOYER: Yes, you're
2 right. Thank you, Dan.

3 Mr. Chairman, your next item?

4 MEMBER DeMURI: Thank you. The
5 next item is also a 205.605(b) item. It is
6 cyclohexylamine. It is the first of three
7 volatile amine boiler chemicals that are
8 coming up for sunset review this year. This
9 particular substance was originally approved
10 by the NOSB in October 2001 and was not listed
11 until 2006, so there was a five-year lag time
12 before it was finally listed. So it is
13 scheduled to be sunsetted in the fall of 2011.

14 This material and the next two are
15 a little different than the ones we've already
16 discussed today, because we did change our
17 committee recommendation based on public
18 comment. Originally, we had voted not to
19 relist these because we felt within the
20 committee that there were some alternatives
21 available. We knew of some alternatives that
22 were being used, but we did not have a lot of

1 information at that point in time as to what
2 the entire industry was using and whether or
3 not they needed this or not.

4 During the public comment period,
5 both written and verbal yesterday and the day
6 before, we did hear from some processors who
7 claimed that either they needed it or they
8 knew of people that needed it in the industry.
9 So that was the reason for changing our
10 original recommendation. And we did that in
11 a committee vote a couple of days ago.

12 Having said that, at the committee
13 level the most recent vote that we took was
14 five for relisting, zero no and one absent.

15 So having said that, and there is
16 an annotation with this I should mention that
17 is only for packaging sterilization. That is
18 not to be used for direct steam injection, for
19 heating products, that type of thing. It's
20 only for packaging sterilization.

21 CHAIRMAN MOYER: Good. Can you
22 put that in the form of a motion?

1 MEMBER DeMURI: Yes.

2 CHAIRMAN MOYER: Chair recognizes
3 Julie with a question.

4 SECRETARY WEISMAN: Yes, I just
5 want to clarify. That packaging sterilization
6 is the only direct contact that's allowed.

7 MEMBER DeMURI: Right.

8 SECRETARY WEISMAN: Because the
9 boiler chemicals get used routinely for things
10 like jacketed --

11 MEMBER DeMURI: Good point.
12 Right.

13 SECRETARY WEISMAN: -- which is
14 not -- which wasn't -- there's no contact?

15 MEMBER DeMURI: That's correct.
16 And if a processor is running organic products
17 and they're using these chemicals in their
18 boilers and they're only indirectly heating
19 through a steam jacket in a kettle or a
20 tubular system of some sort, and there's no
21 direct contact with the steam, this isn't an
22 issue because there is no contact with the

1 product.

2 In the case of packaging
3 sterilization, it's considered indirect
4 contact because the container is steamed or
5 heated to sterilize the package before the
6 product goes in. That steam will condense on
7 the inside of the package and there could be
8 some very minute levels of these materials
9 left possibly. I've never seen any data to
10 that effect, but that was discussed when the
11 substances were originally listed back in
12 2001, or approved in 2001.

13 CHAIRMAN MOYER: Thank you, Steve.
14 Do you have a motion to make?

15 MEMBER DeMURI: So I'd like to
16 move that cyclohexylamine be relisted onto
17 205.605(b) for packaging sterilization only.

18 CHAIRMAN MOYER: Is there a second
19 to that motion?

20 MEMBER MIEDEMA: Second.

21 CHAIRMAN MOYER: I have Tracy as a
22 second.

1 We have a motion on the floor and
2 a second. Is there any discussion on this
3 material?

4 Chair recognizes Kevin.

5 MEMBER ENGELBERT: Steve and the
6 committee, given the change in your vote are
7 you confident you have had enough time to
8 research these thoroughly and know that all
9 three of these materials must be renewed for
10 the industry without disrupting industry? Is
11 there any way that one of them or two of them
12 could be done away with, or all three? If
13 some people have made the change, have you had
14 a chance to research why others say they
15 can't? Is this, you know, true information?

16 MEMBER DeMURI: The reason that
17 some people can't make the change is because
18 they have processing plants in areas that have
19 very poor water quality. And according to
20 their engineering departments, in most cases
21 they claim that they can't substitute these
22 with anything else that will not cause a lot

1 of corrosion in our their boilers and in their
2 lines feeding steam to their processes.

3 CHAIRMAN MOYER: Chair recognizes
4 Julie.

5 SECRETARY WEISMAN: The other
6 issue which is sort of paradoxical here is
7 that one of the practices that sometimes
8 allows people to not use these boiler
9 chemicals is they don't add them during the
10 time that they're doing -- that they're
11 running organic product.

12 And that's okay if say maybe 10 or
13 15 percent of the time that you're running
14 your boilers you run them with no additives.
15 Because the rest of the time, if you ran
16 boilers without these, eventually your
17 equipment, your pipes would explode.
18 Facilities that are only running organic
19 product cannot possibly never put these in
20 their pipes for the reason that I just
21 mentioned. So paradoxically, the more organic
22 product you're running, the less possible it

1 is for you to rely on the practice of shutting
2 down the steam and running without boiler
3 additives for a period of time. Does that
4 make any sense?

5 CHAIRMAN MOYER: Chair recognizes
6 Barry.

7 MEMBER FLAMM: Thank you. I was
8 quite surprised that the committee so easily
9 changed its vote which had previously been
10 five to zero with one absent against
11 relisting. And I thought in reading the
12 committee's recommendation, it had been very
13 thoughtful and covered all the reasons why
14 they weren't going to relist. And among those
15 were that the TAP review showed that this
16 material was toxic to humans and harmful to
17 the environment and incompatible with
18 organics. So it was pretty strong words. The
19 original committee was divided on this, and I
20 guess finally persuaded, but with the idea
21 that this wouldn't be relisted.

22 I read and heard the same public

1 comments. I heard a person testify that said
2 he wasn't using it, but he knew of some people
3 who were using it. Well, that's not good
4 enough for me. But, what impressed me was
5 that he wasn't using it.

6 With all this information and the
7 lack of a reason to continue this, I have no
8 hope we ever would take anything off during
9 the sunset process, because this is pretty
10 strong stuff.

11 CHAIRMAN MOYER: Point well taken.
12 Steve, would you or someone on
13 your committee like to address that?

14 MEMBER DeMURI: Sure, I'll take a
15 first crack at it.

16 Barry, I totally respect your
17 position on it, and that's why we voted it
18 down the first time. We do also have to
19 recognize that a previous board approved it
20 after much discussion and investigation. And
21 under the sunset rules that we're working
22 under right now for the procedures there is

1 still some industry need for the chemical, in
2 our opinion. And so what I would hope would
3 happen is if that's not the case, that
4 somebody in the near future would petition to
5 have these removed. But for now we feel like
6 we should give the industry the availability
7 in case there is somebody out there still
8 using that. We believe they're still being
9 used, but other substances could come about in
10 the next few years that could replace these.

11 CHAIRMAN MOYER: Chair recognizes
12 Barry.

13 MEMBER FLAMM: Just one additional
14 comment to Steve's comment. I think it's
15 really unfair to always shift this burden to
16 somebody coming forward with a petition. I
17 think we're sitting here right now. We have
18 the authority. We have the responsibility to
19 make the decision ourselves. And then to
20 shift it off to somebody else I think is not
21 fair.

22 CHAIRMAN MOYER: Chair recognizes

1 Tracy.

2 MEMBER MIEDEMA: I am among the
3 five happy flip-floppers on this issue. And
4 we did deviate from our recognized process in
5 voting not to relist. And so, that's what
6 level of thoughtfulness did go into this,
7 Barry. We didn't believe any new information
8 that had come to light. And so, you know,
9 there is real inertia and our sunset process
10 would tell us we must relist.

11 We dug into an old transcript and
12 we deviated from your process because we
13 listened to previous colleagues who said, hmm,
14 we hope this goes away. But, as a sign that
15 this public/private partnership and
16 public/private governmental partnership works;
17 that is, NOSB meetings, we heard loud and
18 clear 100 percent of the comments that came in
19 told us that we had made a mistake in opting
20 not to re-up this item, and so we listened and
21 changed our mind. There was no new scientific
22 information that came to light.

1 CHAIRMAN MOYER: Chair recognizes
2 Julie, then I have Dan and Steve.

3 SECRETARY WEISMAN: Yes, I would
4 also say there was another very important
5 thing that was overlooked when the Board
6 originally voted in the summer not to relist.
7 And that was the fact that there were three
8 public comments that came in right after the
9 first ANPR. This ANPR was published in March
10 of 2008, and during that comment period Three
11 people responded. Two of them were the end
12 users themselves and one was a trade
13 organization representing other end users.
14 And they responded right away and said we need
15 these.

16 And, you know, it was our
17 oversight over the summer that those comments
18 had been received. That doesn't usually
19 happen. I mean, it was a first that that was
20 so far ahead of our deliberation that we
21 didn't capture those. We were thinking that
22 no one had commented. And that's also another

1 factor that I think we debated here and could
2 probably use some better clarity.

3 But it has been our understanding
4 that at sunset, yes, we can't let something
5 sunset, we can't go against a board decision
6 unless there's new information. However, if
7 no one comes forward and says they still need
8 it, that is also a situation where we cannot
9 responsibly act to relist.

10 And when this vote was taken, we
11 didn't think we'd had any comment, and that
12 was our error, because we had.

13 CHAIRMAN MOYER: Chair recognizes
14 Dan.

15 VICE-CHAIR GIACOMINI: Yes, I just
16 want to focus on, you know, the problems with
17 all three of these that were just mentioned
18 related to the TAP review were aware of by the
19 committee when they voted it in and they are
20 not new information. That is not information
21 now. And by all rights, the reason for going
22 back to the old petition, the old voting

1 documents, the old transcripts and the old
2 technical reports is to know what was known
3 then so that you can determine what the new
4 information is. And people are always open to
5 their free will, but technically our directive
6 is to deal with the new information and what
7 may have changed since it was originally voted
8 on.

9 CHAIRMAN MOYER: Chair recognizes
10 Steve.

11 MEMBER DeMURI: Yes, there was a
12 certain amount of method to our madness. We
13 talked about when we originally posted that
14 first recommendation that this would be a way
15 to get comment, that if we recommended that it
16 was going to be delisted, I bet we'll get some
17 more comments, and we did. And that's what we
18 wanted.

19 CHAIRMAN MOYER: Chair recognizes
20 Barry.

21 MEMBER FLAMM: This will be my
22 last comment, I promise.

1 I think the point -- you did get
2 those comments because you got it from people
3 were self-serving. The original TAP indicated
4 some really serious problems with this
5 material. So I think the responsible thing to
6 have done then was to seek another TAP on
7 these materials and get yourself updated.

8 If current information is what's
9 holding you back, you cannot count just
10 getting the users' input that they need it,
11 because you've got to think about more than
12 that. And that's what, yes, I think where the
13 failure was, which I didn't think the way you
14 handled it begin with in your decision was.

15 But now I think you made a mistake
16 by not calling for a TAP. Because you're
17 using your -- you said there's no new
18 information and certainly public comment is
19 one, but the public comment was pretty narrow,
20 you'll have to admit. And they did respond,
21 and you could expect that once you published
22 it, from that source. You didn't get any

1 broader comment. You should have went out and
2 sought it from the scientific community. So
3 that is my last comment.

4 CHAIRMAN MOYER: I have Hue next.

5 MEMBER KARREMAN: I guess
6 listening to Barry, I'm just wondering, Steve,
7 you know, if there was strong language in
8 there originally with the first vote you took.
9 Then, just in the whole process, the sunset
10 versus evergreen, and then we always hope
11 someone petitions to take it away. You know,
12 and yet now there's people that are using I
13 guess alternatives, from what I understand.

14 You know, the petition process, as
15 Dan has mentioned and I know, you know, from
16 just trying to do it is stacked against the
17 little guy who's out there. So you know, in
18 a sense it is always self-serving. And I
19 guess I'm just taking that into mind. When
20 there was strong language and there are people
21 using an alternative, it kind of gets into
22 almost a 606 situation, commercial

1 availability, that we should say, you know,
2 gee whiz, you know, some people are using the
3 alternatives that are more organic. Let's.
4 That's it.

5 CHAIRMAN MOYER: Chair recognizes
6 Joe.

7 MEMBER SMILLIE: Well, I don't
8 want to -- I think we made the right decision,
9 Barry. I understand what you're saying, but
10 I think we made the right decision. I don't
11 think we needed another TAP. What we needed
12 was documented evidence that people still
13 needed this for legitimate reasons, and I
14 think we got that.

15 We also wanted to bring some
16 sunshine to the sunset and clearly illustrate
17 to this Board and to the public that this
18 process I think needs to be tweaked. You
19 know, it is an evergreen process and it does
20 favor a certain direction. You know, you're
21 innocent until proven guilty or guilty until
22 you're proven innocent.

1 I think we need to look at it.

2 But right now, I don't know if we have that
3 luxury or not, because right now we're going
4 to be faced with a lot of sunset items. And
5 so now I think this Board is very much aware
6 in the different committees when they deal
7 with sunset what the C.F.R. says, what the
8 Policy Manual says, what the Program says and
9 what the precedent of Board actions are.

10 So as we go into this huge list of
11 sunset items coming up, we're all very aware
12 of the limitations of the process itself, and
13 we can't necessarily be mavericks, that there
14 is a process there that we are directed to
15 follow.

16 CHAIRMAN MOYER: I think Barry
17 brings up a good point in his discussion
18 points about the sunset process and the
19 possible need for new technical reviews. Dan
20 brings that up continuously in meetings as
21 we're looking ahead to 2012. And as we begin
22 to review these materials in committee, I

1 think the opportunity for bringing up
2 technical reviews on those materials that seem
3 appropriate, and hopefully there's not that
4 many of them, but when they are there, I think
5 Barry's point is well taken that we may need
6 to take advantage of that.

7 I have Katrina next and then
8 Kevin. Then I'll come back to you, Steve.

9 MEMBER HEINZE: I just want to
10 remind folks as you vote that our vote cannot
11 be a referendum on the sunset process.

12 CHAIRMAN MOYER: Right.

13 MEMBER HEINZE: That we need to
14 look at the facts for these materials and
15 follow the processes. It's currently before
16 us. Just be respectful of the past decisions
17 or the decisions of past boards, the fact that
18 we did have public comment that said this
19 material is needed and that our independent
20 look at that material concurred with folks
21 needing it.

22 CHAIRMAN MOYER: You just don't

1 want to go through materials classification of
2 definitions again.

3 Chair recognizes Kevin.

4 MEMBER ENGELBERT: This probably
5 isn't the time, but while it's all on our
6 minds, and Joe brings up the point that the
7 process probably needs to be tweaked, since
8 I've been on the Board and had the sunset
9 process explained to me, I took it verbatim.
10 In the few minutes that I've had to spare in
11 the days that we've been here, I've looked
12 through the National Rule and OFPA to try to
13 figure out how this sunset process became an
14 evergreen process. And I've probably
15 overlooked it in my haste, so if someone can
16 point it out, I'd appreciate knowing it.

17 But here's the only thing I found
18 on the sunset process. It's under 21187 USC
19 6517 National List, (e) sunset provision. "No
20 exemption or prohibition contained in the
21 National List shall be valid unless the
22 National Organic Standards Board has reviewed

1 such exemption or prohibition as provided in
2 this section within five years of such
3 exemption or prohibition being adopted or
4 reviewed, and the Secretary has renewed such
5 exemption or prohibition."

6 So it might be beneficial for all
7 of us to have some type of a refresher course
8 on that, whether it's our own doing or the
9 Policy Committee or whatever to understand why
10 this sunset process has actually become an
11 evergreen process. And the reason I bring it
12 up now is I think these materials point out
13 part of the issue.

14 CHAIRMAN MOYER: Thank you, Kevin.
15 Steve?

16 MEMBER DeMURI: Thank you, Kevin,
17 I agree with you. I think we need to re-look
18 at that. There's a lot of experience out
19 there from previous board members who would be
20 willing to help us with that, I'm sure. So I
21 actually have that on our workplan for the
22 Handling Workplan to delve into that a little

1 bit and figure out what happened, where do we
2 go from here, that type of thing with the
3 Program. So we will work on that.

4 To Barry's point on a TAP review,
5 we made the decision, well, actually I did;
6 I was the primary reviewer, that we didn't
7 need a TAP review because we had more
8 experience on the committee probably than the
9 rest of the industry had. I work with 20
10 plants that use a variety of different boiler
11 chemicals. Some of them we would never run
12 organic in because we can't get away without
13 using those chemicals. And in some instances
14 we've been able to replace those with other
15 things and run organic. So I do believe that
16 the industry still needs those. I just wanted
17 to make sure that somebody wasn't using --
18 needed to use them without any other
19 substances they could substitute.

20 CHAIRMAN MOYER: Thank you, Steve.

21 Dan?

22 VICE-CHAIR GIACOMINI: The sunset

1 is not our process. It's the Program's
2 process, right? It's been published in the
3 Federal Register notice, correct?

4 Been published in the Federal
5 Register notice. It was -- I don't know what
6 Valerie's pointing to.

7 MS. FRANCES: Your manual, Policy
8 and Procedures Manual.

9 VICE-CHAIR GIACOMINI: No, but it
10 doesn't matter. It's not our process. It's
11 the Program's process. They've told us how it
12 works. It's been published in the Federal
13 Register that this is how it works. And it
14 has been a learning curve in the four years
15 that we have been here. But from the very
16 first meeting in Pennsylvania we didn't quite
17 understand it, but it was what they were
18 telling us was the process then. So it's not
19 ours to change. We can work with the Program
20 if there's something. But it's the Program's.
21 It's OGC's. It's not ours.

22 CHAIRMAN MOYER: Thank you, Dan.

1 Barry and then Tracy.

2 MEMBER FLAMM: Well, I don't agree
3 with that. I think the only place it appears
4 is what Kevin just read from the Act. It
5 doesn't appear in the rules. And it's very
6 clear that we do have a role, and I think it
7 is our process. And a year ago, we spent a
8 lot of time going through the sunset, rewrote
9 it. You all voted on it. It's in the manual.
10 And I think you ought to reread it, because a
11 lot of history on that. I don't think there
12 is any -- how we ever drifted in this so-
13 called evergreen, whatever that is, I don't
14 know. That doesn't appear anywhere in the
15 Act. It doesn't appear in any legislation I
16 ever saw. So we will interpret it.

17 If you don't like that, one, you
18 shouldn't have voted on it last year. But
19 let's revisit it. But, that was the idea, was
20 to pin this down and get some better decisions
21 coming out and a more comprehensive decision.
22 And we talked about it yesterday.

1 CHAIRMAN MOYER: Yes, I think
2 there's been a lot of discussion on this
3 process. I don't want to go into this too
4 much further. We do have a material motion on
5 the table that we need to vote on. We're not
6 going to change the sunset process sitting
7 here. If that is indeed something that we
8 want to discuss with the Program, I would
9 suggest again that we put that on our agenda
10 to work through the Executive Committee and
11 with the Program on addressing those issues so
12 we can get any points of clarification that we
13 need.

14 But, I'll entertain a few more
15 comments. Tracy and then Katrina.

16 MEMBER MIEDEMA: This will be my
17 last one. Just back to what these amine
18 boiler chemicals, amine-containing boiler
19 chemicals are. These are food safety tools.
20 They're to prevent pathogens and food-borne
21 illness. Organic doesn't have as many tools
22 in the toolbox for controlling pathogens and

1 I don't think we should reduce the size of
2 that toolbox right now.

3 CHAIRMAN MOYER: Thank you, Tracy.
4 Katrina?

5 MEMBER HEINZE: I'd like to call
6 the question.

7 CHAIRMAN MOYER: Yes. That's
8 where we're at now.

9 Going to call for a vote. Before
10 I do that, I ask if there's any conflicts on
11 any of these materials?

12 (No audible response.)

13 CHAIRMAN MOYER: Hearing none,
14 seeing none, we will start the voting with
15 Julie, I believe. I lost track.

16 SECRETARY WEISMAN: No, I started
17 the last one.

18 CHAIRMAN MOYER: I apologize for
19 that. Steve?

20 SECRETARY WEISMAN: Not
21 appropriate.

22 MEMBER DeMURI: Not appropriate.

1 Yes.

2 CHAIRMAN MOYER: Barry?

3 MEMBER FLAMM: No.

4 CHAIRMAN MOYER: Bea?

5 MEMBER JAMES: Tell us how you
6 really feel, Barry.

7 Abstain.

8 CHAIRMAN MOYER: Bea abstains.

9 Tracy?

10 MEMBER MIEDEMA: Yes.

11 CHAIRMAN MOYER: Joe?

12 MEMBER SMILLIE: Yes.

13 CHAIRMAN MOYER: Hue?

14 MEMBER KARREMAN: No.

15 CHAIRMAN MOYER: Kevin?

16 MEMBER ENGELBERT: We're not
17 voting on sunset, right?

18 CHAIRMAN MOYER: That's right,
19 we're not voting on the sunset process. This
20 is not a --

21 MEMBER ENGELBERT: Handling
22 Committee has done their work. I vote yes.

1 CHAIRMAN MOYER: Tina?

2 MEMBER ELLOR: Yes.

3 CHAIRMAN MOYER: Rigo?

4 MEMBER DELGADO: Yes.

5 CHAIRMAN MOYER: Katrina?

6 MEMBER HEINZE: Yes.

7 CHAIRMAN MOYER: Dan?

8 VICE-CHAIR GIACOMINI: Yes.

9 CHAIRMAN MOYER: Julie?

10 SECRETARY WEISMAN: Yes.

11 CHAIRMAN MOYER: And the Chair

12 votes yes. I believe we have two nos, ten

13 yeses, two absent and one abstention. Is that

14 correct?

15 PARTICIPANT: I thought we needed

16 eight.

17 CHAIRMAN MOYER: We have ten. By

18 my calculation, that material passes.

19 Mr. Chairman, your next material?

20 MEMBER DeMURI: Thank you. This

21 next one is also a 205.605(b) material,

22 similar in function to the one we just voted

1 on. It's called diethylaminoethanol, CAS No.
2 100-37-8. It is also annotated for use only
3 for packaging sterilization. And again, it is
4 a chemical that's added to boiler feed water
5 to prevent or inhibit corrosion in boilers and
6 in steam lines in production facilities.

7 The TAP that was done for the
8 previous material was the same one. They did
9 them all together basically because they were
10 all petitioned together originally.

11 I should have mentioned in the
12 last one; I'll mention on this one, that
13 oftentimes these chemicals are used in a
14 blend. So it's not just that they're used
15 individually. Oftentimes they're in a
16 proprietary blend of chemicals that are used
17 for boiler treatment.

18 Again with this one, we originally
19 voted not to relist unanimously with one
20 absence. And then in another vote we took a
21 couple of days ago, we reversed our decision
22 based on public comment and voted five yes,

1 zero no and one absent to relist this
2 material.

3 So I move for the relisting of
4 diethylaminoethanol with the annotation for
5 packaging sterilization only to 205.605(b).

6 CHAIRMAN MOYER: We have a motion
7 to relist. Do I have a second?

8 SECRETARY WEISMAN: Second.

9 CHAIRMAN MOYER: I have a second
10 from Julie. Motion's on the table and there's
11 a second. Is there discussion on this
12 material?

13 (No audible response.)

14 CHAIRMAN MOYER: Hearing none,
15 seeing none, I will call for the vote.

16 First, is there a conflict of
17 interest on this material by any board
18 members?

19 (No audible response.)

20 CHAIRMAN MOYER: Hearing none,
21 seeing none, we'll begin the voting with
22 Barry.

1 MEMBER FLAMM: No.
2 CHAIRMAN MOYER: Bea?
3 MEMBER JAMES: Abstain.
4 CHAIRMAN MOYER: Tracy?
5 MEMBER MIEDEMA: Yes.
6 CHAIRMAN MOYER: Joe?
7 MEMBER SMILLIE: Yes.
8 CHAIRMAN MOYER: Hue?
9 MEMBER KARREMAN: No.
10 CHAIRMAN MOYER: Kevin?
11 MEMBER ENGELBERT: Yes.
12 CHAIRMAN MOYER: Tina?
13 Absent.
14 Rigo?
15 MEMBER DELGADO: Yes.
16 CHAIRMAN MOYER: Katrina?
17 MEMBER HEINZE: Yes.
18 CHAIRMAN MOYER: Dan?
19 VICE-CHAIR GIACOMINI: Yes.
20 CHAIRMAN MOYER: Julie?
21 SECRETARY WEISMAN: Yes.
22 CHAIRMAN MOYER: Steve?

1 MEMBER DeMURI: Yes.

2 CHAIRMAN MOYER: And the Chair
3 votes yes. I have two nos, ten yeses, one
4 abstention and three absent. So it's nine
5 yeses. That motion passes.

6 Mr. Chairman, your next item?

7 MEMBER DeMURI: Yes, the next one
8 is the last of the three boiler chemicals that
9 were up for sunset. It is octadecylamine and
10 it has the same annotation as the previous
11 two, only to be used for packaging
12 sterilization. Everything I said about the
13 previous two can almost carbon copy onto this
14 one.

15 We did also vote not to relist it
16 originally and then based on public comment we
17 reversed our decision a couple of days ago and
18 voted five yes, zero no, one absent to relist
19 this material.

20 And again, it is another boiler
21 chemical compound.

22 So I move for the relisting of

1 octadecylamine to the National List 205.605(b)
2 with the annotation for use in packaging
3 sterilization only.

4 MEMBER MIEDEMA: Second.

5 CHAIRMAN MOYER: We have a motion
6 to relist and a second by Tracy. Is there any
7 discussion on this item?

8 Chair recognizes Kevin.

9 MEMBER ENGELBERT: Yes, and I
10 should have asked this on the first one,
11 Steve. We rejected earlier a motion to put a
12 dewormer on because the properties are so
13 similar to a substance that's already on the
14 list. Are we still sure that these are
15 different enough that they -- I know I asked
16 it, but again would you reiterate? These are
17 different enough that each of these is
18 required, that there's enough difference in
19 what they do that they all need to be on the
20 list?

21 MEMBER DeMURI: They all have the
22 same effect. They all inhibit corrosion, but

1 they all act a little bit differently in how
2 they do that. So depending on the water
3 quality in a specific plant, they may use one
4 or the other or they might use a blend of all
5 three. It just depends on the variation in
6 water quality and production practices in a
7 plant. If they have very long steam lines
8 that run long distances, sometimes they need
9 to use a blend. If it's a short run, then
10 they can maybe get by with just one or two of
11 them.

12 MEMBER ENGELBERT: Thank you.

13 CHAIRMAN MOYER: Chair recognizes
14 Dan.

15 VICE-CHAIR GIACOMINI: Kevin, any
16 difference in these materials would have to be
17 -- should be new information in order for it
18 to affect our consideration.

19 CHAIRMAN MOYER: Chair recognizes
20 Bea.

21 MEMBER JAMES: I just have to say
22 that I'm really surprised that you guys didn't

1 call for a TAP on these. That's all I've got
2 to say.

3 CHAIRMAN MOYER: Thank you, Bea.

4 Any other conversation or
5 discussion on this? Steve?

6 MEMBER DeMURI: We had information
7 that they were still being used, committee
8 information. And they were toxic to begin
9 with, so that wasn't going to change. And
10 that was primarily what the TAP was about.

11 CHAIRMAN MOYER: Any further
12 discussion before I call for the vote?

13 (No audible response.)

14 CHAIRMAN MOYER: Then I call for
15 the vote.

16 Before I do that, is there a
17 conflict of interest on this material?

18 (No audible response.)

19 CHAIRMAN MOYER: Hearing none,
20 seeing none, I will begin the voting with Bea.

21 MEMBER JAMES: Abstain.

22 CHAIRMAN MOYER: Tracy.

1 MEMBER MIEDEMA: Yes.
2 CHAIRMAN MOYER: Joe?
3 MEMBER SMILLIE: Yes.
4 CHAIRMAN MOYER: Hue?
5 MEMBER KARREMAN: No.
6 CHAIRMAN MOYER: Kevin?
7 MEMBER ENGELBERT: No.
8 CHAIRMAN MOYER: Tina?
9 MEMBER ELLOR: Yes.
10 CHAIRMAN MOYER: Rigo?
11 MEMBER DELGADO: Yes.
12 CHAIRMAN MOYER: Katrina?
13 MEMBER HEINZE: Yes.
14 CHAIRMAN MOYER: Dan?
15 VICE-CHAIR GIACOMINI: Yes.
16 CHAIRMAN MOYER: Julie?
17 SECRETARY WEISMAN: Yes.
18 CHAIRMAN MOYER: Steve?
19 MEMBER DeMURI: Yes.
20 CHAIRMAN MOYER: Barry?
21 MEMBER FLAMM: No.
22 CHAIRMAN MOYER: Chair votes yes.

1 I believe that's three nos, one abstain, two
2 absent and that gives us nine yeses. Motion
3 passes.

4 Your next material, Mr. Chairman?

5 MEMBER DeMURI: Thank you. The
6 next one on the list is also a 205.605(b)
7 item. You'll be happy to know it's not a
8 boiler chemical.

9 CHAIRMAN MOYER: Yes, we are.

10 MEMBER DeMURI: It's a peracetic
11 acid/peroxyacetic acid, CAS No. 79-21-0.
12 Katrina did a very good job yesterday of
13 describing its uses to you. It is used as a
14 sanitizer in plants. It's one of the tools
15 that processors have to maintain the safety
16 and quality of their food. It was originally
17 listed September 11, 2006, so it is up for
18 sunset in 2011.

19 When the committee voted on it
20 originally a couple of months ago, it passed
21 five yes, zero no and one absent.

22 So I move for the relisting of

1 peracetic acid/peroxyacetic acid to the
2 National List, 205.605(b).

3 MEMBER ELLOR: Second.

4 CHAIRMAN MOYER: We have a motion
5 and a second on the floor to relist this
6 material. Is there any discussion on this
7 material?

8 Chair recognizes Tina.

9 MEMBER ELLOR: I'd just like to
10 come out in favor of this one, because it's so
11 much more benign and friendly environmentally
12 than chlorine.

13 CHAIRMAN MOYER: Any other
14 conversation or discussion on this material?

15 (No audible response.)

16 CHAIRMAN MOYER: Hearing none and
17 seeing none, I'd call for the vote.

18 Is there a conflict of interest
19 before we start on this material?

20 (No audible response.)

21 CHAIRMAN MOYER: Hearing none,
22 seeing none, we will start the voting with

1 Tracy.

2 MEMBER MIEDEMA: Yes.

3 CHAIRMAN MOYER: Joe?

4 MEMBER SMILLIE: Yes.

5 CHAIRMAN MOYER: Hue?

6 MEMBER KARREMAN: Yes.

7 CHAIRMAN MOYER: Kevin?

8 MEMBER ENGELBERT: Yes.

9 CHAIRMAN MOYER: Tina?

10 MEMBER ELLOR: Yes.

11 CHAIRMAN MOYER: Rigo?

12 MEMBER DELGADO: Yes.

13 CHAIRMAN MOYER: Katrina?

14 MEMBER HEINZE: Yes.

15 CHAIRMAN MOYER: Dan?

16 VICE-CHAIR GIACOMINI: Yes.

17 CHAIRMAN MOYER: Julie?

18 SECRETARY WEISMAN: Yes.

19 CHAIRMAN MOYER: Steve?

20 MEMBER DeMURI: Yes.

21 CHAIRMAN MOYER: Barry?

22 MEMBER FLAMM: Yes.

1 CHAIRMAN MOYER: Bea?

2 MEMBER JAMES: Yes.

3 CHAIRMAN MOYER: And the Chair
4 votes yes. That's zero nos, thirteen yeses,
5 two absent. Your material passes.

6 Mr. Chairman, your next item?

7 MEMBER DeMURI: The next item is
8 another 205.605(b) item. It is tetrasodium
9 pyrophosphate. And as I described yesterday,
10 it has the annotation "for use only in meat
11 analog products." It was originally listed in
12 2006 based on an NOSB recommendation of April
13 2004.

14 PARTICIPANT: He switched the
15 order?

16 MEMBER DeMURI: Oh, the order got
17 switched.

18 CHAIRMAN MOYER: Did you switch
19 the orders? The question is, Steve, whether
20 you switched the order on our voting sheet.
21 It's just an administrative technicality. It
22 just makes it harder for those recording.

1 MEMBER DeMURI: Yes, I accidentally
2 did. Let me go back and do the right one.

3 CHAIRMAN MOYER: We appreciate
4 that.

5 MEMBER DeMURI: That was an error
6 on my part. I flipped too many pages. Sorry
7 about that. Thank you.

8 CHAIRMAN MOYER: Not a problem.

9 MEMBER DeMURI: The next item is
10 sodium acid pyrophosphate, a 205.605(b) item.
11 It is also referred to as SAPP. It was
12 originally listed September 12th, 2006. It's
13 CAS No. 7758-16-9. There is an annotation
14 with this one, "for use only as a leavening
15 agent."

16 The original committee vote was
17 five yes, zero no, one absent. No new
18 information was brought before us or did we
19 find any new information when we did an
20 investigation on this material. So we did
21 vote to relist it at the committee level.

22 So I move for the relisting of

1 sodium acid pyrophosphate, 205.605(b), with
2 the annotation "for use only as a leavening
3 agent."

4 CHAIRMAN MOYER: We have a motion
5 on the floor to relist this material. Do I
6 have a second?

7 SECRETARY WEISMAN: Second.

8 CHAIRMAN MOYER: I have Julie as a
9 second.

10 We have a motion on the floor and
11 a second. Is there discussion on this
12 material?

13 (No audible response.)

14 CHAIRMAN MOYER: Hearing none and
15 seeing none, I will call immediately for the
16 vote.

17 First, is there a conflict of
18 interest on this material?

19 (No audible response.)

20 CHAIRMAN MOYER: Again, not seeing
21 or hearing any, we'll continue with the voting
22 process beginning with Joe.

1 MEMBER SMILLIE: Yes.
2 CHAIRMAN MOYER: Hue?
3 MEMBER KARREMAN: Yes.
4 CHAIRMAN MOYER: Kevin?
5 MEMBER ENGELBERT: Yes.
6 CHAIRMAN MOYER: Tina?
7 MEMBER ELLOR: Yes.
8 CHAIRMAN MOYER: Rigo?
9 MEMBER DELGADO: Yes.
10 CHAIRMAN MOYER: Katrina?
11 MEMBER HEINZE: Yes.
12 CHAIRMAN MOYER: Dan?
13 VICE-CHAIR GIACOMINI: Yes.
14 CHAIRMAN MOYER: Julie?
15 SECRETARY WEISMAN: Yes.
16 CHAIRMAN MOYER: Steve?
17 MEMBER DeMURI: Yes.
18 CHAIRMAN MOYER: Barry?
19 MEMBER FLAMM: Yes.
20 CHAIRMAN MOYER: Bea?
21 MEMBER JAMES: Yes.
22 CHAIRMAN MOYER: Tracy?

1 MEMBER MIEDEMA: Yes.

2 CHAIRMAN MOYER: Chair votes yes.

3 By my tally, I have zero nos, thirteen yeses,
4 two absent. And your material passes, Mr.
5 Chairman.

6 Your next item?

7 MEMBER DeMURI: Thank you, the
8 next item is the last item. It's also a
9 205.605(b) item, tetrasodium pyrophosphate.
10 As I mentioned before, it does carry the
11 annotation "for use only in meat analog
12 products." It was originally listed in
13 September 2006 and approved by the NOSB in
14 April of 2004.

15 The original committee
16 recommendation was for relisting and the vote
17 was yes, five; no, zero; with one absent.

18 I recommend for the relisting of
19 tetrasodium pyrophosphate with the annotation
20 "for use only in meat analog products" to
21 205.605(b).

22 CHAIRMAN MOYER: There's a motion

1 on the floor. Do I have a second?

2 VICE-CHAIR GIACOMINI: Second.

3 CHAIRMAN MOYER: Dan seconded. So

4 I have a motion and a second.

5 Is there any discussion on this
6 material?

7 (No audible response.)

8 CHAIRMAN MOYER: Hearing none and
9 seeing none, I will call immediately for the
10 vote.

11 First of all, is there a conflict
12 of interest on this material?

13 (No audible response.)

14 CHAIRMAN MOYER: Hearing none and
15 seeing none, we'll begin the voting process
16 with Hue.

17 MEMBER KARREMAN: my very last
18 vote on this Board, I'm glad to start this off
19 and I vote yes.

20 CHAIRMAN MOYER: Kevin?

21 MEMBER ENGELBERT: Yes.

22 CHAIRMAN MOYER: Tina?

1 MEMBER ELLOR: Yes.

2 CHAIRMAN MOYER: Rigo?

3 MEMBER DELGADO: As my very last

4 vote, yes.

5 CHAIRMAN MOYER: Katrina?

6 MEMBER HEINZE: Yes.

7 CHAIRMAN MOYER: Dan?

8 VICE-CHAIR GIACOMINI: Yes.

9 CHAIRMAN MOYER: Julie?

10 SECRETARY WEISMAN: My last one.

11 Yes.

12 CHAIRMAN MOYER: Steve?

13 MEMBER DeMURI: Yes.

14 CHAIRMAN MOYER: Barry?

15 MEMBER FLAMM: Yes.

16 CHAIRMAN MOYER: Bea?

17 MEMBER JAMES: End on a positive

18 note, yes.

19 CHAIRMAN MOYER: Tracy?

20 MEMBER MIEDEMA: Yes.

21 CHAIRMAN MOYER: Joe?

22 MEMBER SMILLIE: Yes.

1 CHAIRMAN MOYER: And the Chair
2 votes yes. I have zero no votes, thirteen
3 yeses, two absent. And your material passes,
4 Mr. Chairman.

5 Do you have any other items before
6 this Board?

7 MEMBER DeMURI: No, I do not.
8 That is it.

9 CHAIRMAN MOYER: By my
10 recollection, that concludes the voting
11 process of this Board. We stand in
12 adjournment until 4:00 when we will reconvene
13 with the rest of our business. We deserve a
14 break. Thank you.

15 (Whereupon, the above-entitled
16 matter went off the record at 3:44 p.m. and
17 resumed at 4:04 p.m.)

18 CHAIRMAN MOYER: If board members
19 could take their seat, we're going to get
20 started with the rest of our meeting. We're
21 in the home stretch here, folks. Appreciate
22 your patience, both in the gallery and on the

1 Board.

2 Before we jump into the next
3 agenda item, which is the recognition of
4 outgoing board members, Hue Karreman has asked
5 if he could make a comment for the record.

6 Hue, the floor is yours.

7 MEMBER KARREMAN: Sorry to be just
8 on a somber little note. I have just heard
9 out in the lobby that there is maybe perhaps
10 a rumor, whatever, that I produce genetically
11 engineered vaccines and I have a conflict of
12 -- hey, you guys, I want to just state the
13 fact, I do not. And the product I do produce
14 and I plan to produce is a biologic. I've
15 been producing it for the last six, seven
16 years. It's called hyperimmune plasma. And
17 it is all because of 205.238(c)(7), no use of
18 antibiotics, that I've developed a non-
19 antibiotic treatment for infectious disease.
20 It is not producing vaccines. Okay? Sorry.
21 I just had to say that on the record so it's
22 out there and not just little rumor mill like

1 at the lunch table I heard was out there
2 today. Thank you.

3 CHAIRMAN MOYER: Thank you, Hue.
4 No, I think it's important to get that on the
5 record. We want to make sure that there are
6 no conflicts of interest in the voting
7 process.

8 MEMBER SMILLIE: I want you to
9 clarify the nicotine in the barn though.

10 CHAIRMAN MOYER: Okay. One more
11 agenda item that I want to do before we get
12 into recognition of outgoing board members.
13 And that is, I know that some of the incoming
14 board members -- I understand four of you are
15 still in the room. Several of you are unknown
16 to our fellow board members. If you could at
17 least stand up. I know Jay I can see back
18 there. John is here. Joe is here. Wendy.
19 Okay. Just stay standing, please. Stand up
20 and stay standing. If you could just say your
21 name for everybody so they're going to know
22 who are you coming in.

1 John?

2 MR. FOSTER: John Foster. I work
3 with --

4 CHAIRMAN MOYER: The transcriber
5 can't hear. If I just repeat their name, it
6 will save them from coming up. Well, I didn't
7 want to have to have everybody come up to the
8 microphone.

9 We have John Foster standing over
10 here. Joe Dickson is standing on the side of
11 the room. Jay, you want to put up your hand?
12 Jay Feldman. And Wendy. And I apologize, I
13 don't know your last name yet, Wendy.

14 MS. FULWIDER: Wendy Fulwider.

15 CHAIRMAN MOYER: Wendy Fulwider in
16 the back of the room standing there. So at
17 least the Board now knows who you are. We
18 appreciate so much you coming to sit in on
19 this meeting.

20 (Applause.)

21 CHAIRMAN MOYER: And you know
22 you're in trouble when they give you an

1 applause before you even start the show.

2 Okay. At this point, I want to
3 turn the meeting over to Valerie for a moment
4 for recognition of outgoing board members.

5 We have some photos we want to
6 take, I know that.

7 Tina, if you would like to get --
8 we have some gifts for outgoing board members.
9 We've been saying a lot of thank yous here.

10 Valerie?

11 MS. FRANCES: I would certainly
12 really love it if Hue Karreman, Rigo Delgado,
13 Julie Weisman and Bea James, if you would call
14 come up into the center. We want to honor you
15 and thank you for all your amazing service.
16 And I know that the service doesn't come from
17 the Program; it comes from the Board also.

18 CHAIRMAN MOYER: Yes.

19 MS. FRANCES: So we're doing a
20 mutual service recognition.

21 CHAIRMAN MOYER: That's right. So
22 if those board members would come to the front

1 of the room, we do want to take some formal
2 pictures.

3 (Off-mic comment.)

4 CHAIRMAN MOYER: No, no. You're
5 still here. You're still here.

6 (Whereupon, the above-entitled
7 matter went off the record at 4:08 p.m. and
8 resumed at 4:13 p.m.)

9 CHAIRMAN MOYER: We have two more
10 people that we'd like to acknowledge. One of
11 them is not with us at the moment, but one of
12 them is.

13 Richard Matthews, if you'd come
14 up, we'd like to thank you as well as the
15 Board.

16 (Applause.)

17 CHAIRMAN MOYER: We really
18 appreciate all your years of service to the
19 Program, to the community, to this Board and
20 supporting the work that we do. If you have
21 anything you want to say, this is your last
22 chance. And we won't gavel you down. And you

1 don't have to sign up. You don't have five
2 minutes.

3 MR. MATTHEWS: Well, you're
4 running late, so I'll keep it short. It's
5 been a pleasure being here at the meeting.
6 It's kind of fun being on the back row instead
7 of the front row. But what I've really missed
8 about the front row is there was so many times
9 I wanted to grab the microphone and interject
10 my own thoughts. So it's been really tough
11 getting acclimated to having to keep my mouth
12 shut.

13 (Applause.)

14 CHAIRMAN MOYER: Just for the
15 record, we also have a gift bag for Barbara.
16 She's busy working on her other duties and
17 tasks, so she's not here. But we'll make sure
18 that she gets that gift as well.

19 Thank you. I also acknowledge
20 that we have a gift bag for Gerry as well.
21 We'll see if that gets sent out to him. He
22 did expect to be here, but unfortunately

1 couldn't make it.

2 Okay. The next order of business

3 before this Board is our election of new

4 officers. We have an election procedure that

5 we reviewed before we came to this meeting.

6 The process will be that we will vote for

7 three offices; chair, vice-chair and

8 secretary. We will vote for them in that

9 order, one office at a time, allowing somebody

10 who may not have gotten their first choice as

11 office to submit their name or be nominated

12 from the floor for an alternate position.

13 We will start then with the

14 election of our new chair.

15 Madam Secretary, if you have the

16 ballots, we'd like to pass those out.

17 SECRETARY WEISMAN: Actually,

18 every one has a set now.

19 CHAIRMAN MOYER: Oh, everybody has

20 them? Thank you. They're so efficient.

21 Everyone should have a ballot with

22 chairman, vice-chairman and secretary, one,

1 two and three. We will take nominations from
2 the floor for those positions. Just hand
3 write them in in the order that they're given.
4 Circle the one that you select. Fold that up.
5 We will collect it. The Chair opens them,
6 reads them, confirms them with the Secretary
7 and then announces the winner.

8 Is that process agreeable to
9 everybody? That is the process we have in our
10 Procedure Manual.

11 PARTICIPANT: So it's totally
12 silent?

13 CHAIRMAN MOYER: Totally silent.
14 All done by ballot.

15 PARTICIPANT: So wait a second.
16 So there's no nominations --

17 CHAIRMAN MOYER: Yes. No. Yes,
18 the nominations come from the floor right now.
19 No silent --

20 Yes. Well, that's one way to do
21 it. No, it's not completely silent. The
22 voting will be silent. The nomination will

1 not be silent.

2 Okay. If we have any nominations
3 for any chairman position from the floor, now
4 would be the time to make that nomination.

5 Chair recognizes Hue, then Tina.

6 MEMBER KARREMAN: I'd like to
7 nominate Dan Giacomini to be chair of the
8 NOSB.

9 CHAIRMAN MOYER: Thank you, Hue.
10 We have Dan as a nominee for chair.

11 Are there any other nominations
12 for chair from the floor? I see Bea and then
13 Julie.

14 MEMBER JAMES: I would like to
15 nominate Tracy for chair.

16 CHAIRMAN MOYER: Tracy is
17 nominated for chair. Are there any other
18 nominations?

19 (No audible response.)

20 CHAIRMAN MOYER: Do I hear a
21 motion to close the nominations?

22 MEMBER HEINZE: So moved.

1 CHAIRMAN MOYER: I think Katrina
2 moved that we close the nominations. Joe
3 seconded it. All those in favor say aye.

4 ALL: Aye.

5 CHAIRMAN MOYER: The nominations
6 are closed. Please cast your ballot for the
7 chairman position by circling the name you
8 have on your card.

9 As one comedian said, talk amongst
10 yourselves.

11 (Whereupon, the above-entitled
12 matter went off the record at 4:19 p.m. and
13 resumed at 4:22 p.m.)

14 CHAIRMAN MOYER: Ladies and
15 gentlemen of the Board, if I could have your
16 attention. Behave. I'd say we're going to
17 have to separate you, but we already did and
18 it's not working.

19 It gives me great pleasure to
20 announce to you the new chairman of the
21 National Organic Standards Board, Dan
22 Giacomini.

1 (Applause.)

2 CHAIRMAN MOYER: Thank you, fellow
3 board members.

4 Now we will do the same process
5 for vice-chair. I will entertain nominations
6 from the floor for vice-chair.

7 Barry?

8 MEMBER FLAMM: I'd like to
9 nominate Jeff Moyer for vice-chair.

10 CHAIRMAN MOYER: Thank you, Barry.

11 Hue Karreman?

12 MEMBER KARREMAN: I'd like to
13 nominate Tracy Miedema for vice-chair.

14 CHAIRMAN MOYER: Thank you, Hue?

15 Are there any other nominations
16 from the floor?

17 (No audible response.)

18 CHAIRMAN MOYER: I will entertain
19 a motion to close the nominations.

20 MEMBER SMILLIE: So moved.

21 CHAIRMAN MOYER: Joe moves to
22 close the nomination. I need a second for

1 that.

2 PARTICIPANT: Second.

3 CHAIRMAN MOYER: And I need an aye
4 or a nay. All those in favor, say aye.

5 ALL: Aye.

6 CHAIRMAN MOYER: Opposed, if any?
7 (No audible response.)

8 CHAIRMAN MOYER: Okay. The
9 nominations are closed. Please cast your
10 ballot.

11 VICE-CHAIR GIACOMINI: Mr.
12 Chairman?

13 CHAIRMAN MOYER: Yes?

14 CHAIRMAN MOYER: As current vice-
15 chair, I think it would be appropriate to
16 suspend the rules this time and you not
17 collect and count the votes maybe?

18 CHAIRMAN MOYER: I appreciate
19 that.

20 VICE-CHAIR GIACOMINI: Okay. I'll
21 do that for you.

22 CHAIRMAN MOYER: And the Secretary

1 can do it with you.

2 VICE-CHAIR GIACOMINI: Thank you.

3 CHAIRMAN MOYER: Or collect them.

4 VICE-CHAIR GIACOMINI: There are
5 supposed to be two though.

6 CHAIRMAN MOYER: That's fine.

7 Yes, you guys count them.

8 (Whereupon, the above-entitled
9 matter went off the record at 4:23 p.m. and
10 resumed at 4:27 p.m.)

11 SECRETARY WEISMAN: Mr. Chairmans,
12 acting and current, I'm pleased to announce
13 that Tracy Miedema is the next vice-chair.

14 (Applause.)

15 CHAIRMAN MOYER: Thank you, Madam
16 Secretary.

17 We have one more position to vote
18 for. That is the position of secretary, a
19 very important and hardworking position.

20 Do we have any nominations from
21 the floor? Bea?

22 MEMBER JAMES: I would like to

1 nominate Tina.

2 CHAIRMAN MOYER: Tina Ellor. Any
3 other nominations from the floor?

4 (No audible response.)

5 CHAIRMAN MOYER: Hearing no
6 nominations, do I hear a motion to close the
7 nominations?

8 PARTICIPANT: So moved.

9 CHAIRMAN MOYER: It's been moved.
10 And I saw another hand, so I consider that a
11 second to close the nominations. Given the
12 fact that we only have one candidate for that
13 position, by acclamation I declare you
14 secretary. Welcome aboard.

15 (Applause.)

16 CHAIRMAN MOYER: Thank you,
17 everybody, for your voting for officers.

18 The next item on our agenda is
19 committee workplans. What I'd like to do is,
20 I'll follow the same order that we had when we
21 presented our information at this particular
22 meeting. So what we're going to do is, we're

1 going to start with Policy and Development.
2 And current chairs, if you can give us your
3 workplan items, we would greatly appreciate
4 that.

5 So I will start by asking,
6 Chairperson Barry, if you can give us your
7 Policy and Development Committee workplan?

8 MEMBER FLAMM: Yes. Thank you,
9 Jeff. Part of what I'll report on the
10 committee has discussed and we've decided, but
11 several items have come up in the course of
12 the meeting that we will probably want to
13 consult and add to the workplan.

14 The first item is helping to
15 prepare training materials for the new board
16 members, a function that the committee has
17 done in the past.

18 The second item, one of which
19 started out to be part of our review of
20 Section 5 of the Policy and Procedure Manual.
21 That was a collaboration process with the
22 Program. We decided after some time of

1 looking at it, it was much better to wait
2 until the new people and Miles got established
3 and discuss jointly how we can best work
4 together. And probably something that will be
5 probably a productive subject at the retreat
6 that we're talking about, that Miles is
7 talking about.

8 We had on our proposed workplan
9 the review and update of the New Member Guide.
10 We've been working on the Policy and Procedure
11 Manual, and without too much attention to the
12 New Member Guide. And we need to keep those
13 two in sync.

14 And then again something we keep
15 postponing is the update of Section 8 of the
16 Policy and Procedure Manual; that is, if it's
17 timely in terms of material reviews and so
18 forth.

19 The things that came up during
20 this meeting would be of course the addition
21 of the classification of materials in the
22 Policy and Procedure Manual when that is

1 completely fleshed out. Well, we'll have to
2 talk to Materials about whether they think
3 it's ready to put in the Policy and Procedure
4 Manual.

5 Another item that came up was the
6 public access of guidance documents and having
7 some procedures on how we can improve that.

8 It appears that there still seems
9 to be work to clarify how these technical
10 corrections, or whatever. So relating to
11 Hue's proposals and make sure going forward
12 that there is clarity on that subject.

13 And then finally, a new proposal
14 discussing perhaps rotation of the current
15 Board positions so we don't have so many
16 people going off at one time.

17 These last items have not been
18 discussed with the committee members, but it's
19 been either suggested by individual members or
20 just picked up in the conversation. So it's
21 not really our official plan, but that's where
22 we are right now, Mr. Chairman.

1 CHAIRMAN MOYER: Thank you, Barry.
2 You have a question for Barry,
3 Hue?

4 MEMBER KARREMAN: Just one
5 question. Maybe I wasn't listening close
6 enough, but what are my proposals?

7 MEMBER FLAMM: No, it related to
8 your petition or whatever we characterized.
9 Your technical corrections on the agenda. And
10 the questions that came up during that was to,
11 if need be, clarify that in the Policy and
12 Procedure Manual.

13 Any other questions?

14 (No audible response.)

15 MEMBER FLAMM: That's all I have.

16 CHAIRMAN MOYER: Thank you, Barry.
17 Appreciate that committee report.

18 Moving on, we have the Compliance,
19 Accreditation and Certification Committee.
20 Joe Smillie, chairperson. Your report,
21 please?

22 MEMBER SMILLIE: Well, as Barry

1 mentioned, I think every committee has to take
2 into account this February strategy session is
3 going to be crucial, because that will
4 determine, I think, the workplan for the
5 entire NOSB; at least I hope it will, because
6 I really look forward to working with the NOP
7 in the prioritization tasks. So that to me is
8 paramount and that will determine what we
9 think right now is our workplan.

10 Also, I think, as Tracy just
11 suggested, it's a good idea not to have a long
12 workplan, I think, at this point in time,
13 because of that meeting and some other
14 considerations, namely that the NOP is still,
15 supposedly with all these new hires, going to
16 catch up on a lot of previous recommendations
17 that we made and we don't want to burden them
18 with too many more. I'm not being facetious.
19 I'm actually serious.

20 The other thing is perhaps now
21 with this new enlarged work crew at the NOP,
22 they'll be coming back to us with questions

1 about previous recommendations. The one I
2 think from this committee that I'm just
3 anguished about that has gotten no response as
4 yet from the NOP is the expiry date and
5 standardization certificates, something as
6 basic as that for the whole program. We still
7 haven't heard boo from the NOP and I expect to
8 hear something from them. So I'm anticipating
9 that they may get back to our committee with
10 questions about previous recommendations,
11 questions about the ones we just passed;
12 retailer guidance, personal care. So I want
13 to leave some space, if necessary, for
14 responding to NOP work on previous
15 recommendations.

16 Then down to the two that I think
17 we still have on our workplan. One is the
18 good old 100 percent issue, the issue of the
19 label claim of 100 percent and what that
20 entails. There's been still some controversy
21 and some very bad feelings in the industry
22 about the recent NOP current thinking on that

1 issue, which we hope to resolve, because
2 again, the NOP has not resolved it at this
3 point.

4 And last and certainly not least
5 is an expanded version of a workplan that is
6 all about the made-with-organic label claim.
7 The label claim made with organic is, as you
8 just saw, we just got a notice from the NOP
9 that they're looking at the use of "organic"
10 in company names. They're also looking at the
11 use of "organic" as far as like mislabeling of
12 the "made with." We're going to look at that.
13 It was already in our workplan in the narrow
14 sense that we were going to look at seeing
15 what opportunity there is, or whether there's
16 some need or desire for a specific label or
17 subset of the current USDA label to identify
18 that particular labeling claim. And that was
19 a request from the previous NOP
20 administration. Whether this current NOP
21 administration wants it or not, we'll
22 certainly talk to them.

1 But that's the workplan for the
2 CACC.

3 CHAIRMAN MOYER: Thank you,
4 Chairman. I think that's a complete list.
5 That will keep you busy for a few months.

6 Next committee would be Materials
7 Committee. Dan is current chair of that
8 committee.

9 VICE-CHAIR GIACOMINI: Thank you,
10 Mr. Chairman.

11 Materials Committee has a number
12 of items on its workplan, some of which will
13 never go away. We always be monitoring and
14 managing the issue of petitions, new petitions
15 as we receive them from the Program.

16 We will also this next year, and
17 including the first half of the year up to the
18 spring meeting, dealing with 2012 sunset. And
19 the Materials Committee would like all the
20 committees to remember that we're all having
21 to deal with those, and there's going to be a
22 lot of sunset items that we're going to have

1 to spend time on.

2 So the third is the classification
3 of materials next step issues, following up on
4 the next step part of that document.

5 Number four, we pulled back and
6 we'll be re-looking at fine tuning the
7 nanotechnology document.

8 And then number five, to work with
9 the Program and deal with the issues of the
10 petitions that were involved in the take-from-
11 the-table recommendation from maybe a year
12 ago. That may have just been last meeting,
13 but take-from-the-table. And also the items
14 that have been identified as materials never
15 on the table; we'll call it that, that seemed
16 to have slipped through the cracks somewhere.
17 We'll be working with the Program and figuring
18 out what the status of those are and how to
19 proceed.

20 CHAIRMAN MOYER: Thank you, Dan.
21 Appreciate that workplan.

22 I should also mention to your

1 committee and others, as you sort of did, I
2 got a note handed to me by Bob Pooler that
3 says, "Please ask the NOSB committees that are
4 reviewing 2012 sunset to submit their requests
5 for new technical reports to the Program as
6 soon as possible." So as that gets posted in
7 the Federal Register, those reviews will have
8 to take place.

9 Next committee would be Crops
10 Committee. Tina?

11 MEMBER ELLOR: Our workplan has
12 changed very little since we talked about it
13 in Executive Committee. We have since
14 received five technical reports, which we have
15 not had a chance to look at. So the materials
16 we'll be looking at are ethylene glycol; which
17 we finally got the technical review for that,
18 tetramethyldesildiol-something-or-other.

19 CHAIRMAN MOYER: You know, when
20 you can't say them, it's fun, I know.

21 MEMBER ELLOR: Yes.

22 CHAIRMAN MOYER: Nobody has more

1 trouble than me.

2 MEMBER ELLOR: Polycaprolactone,
3 tall oils distilled, ethylene DDA,
4 difluoroethane. We're still waiting for
5 reviews on PGML, which I can't pronounce, so
6 I'm not going to. And we have a petition to
7 remove ferric phosphate, and that kind of
8 slides into our sunset materials. We have
9 terpenes on here. And somebody brought that
10 up again, I think maybe Zea, that we want to
11 drag that out of the dark and take a look at
12 it as well. It's going to be hard to find
13 time to do that, but we're going to really
14 try.

15 2011 sunset materials. Ferric
16 Phosphate. And then the, I think, 38 or 39;
17 I can't remember the exact number, of 2012
18 sunset materials, which we'll be dividing and
19 conquering hopefully here soon.

20 Under other recommendations, we
21 have continuing work with the comments we got
22 on the greenhouse standards, soil systems.

1 CHAIRMAN MOYER: One minute, Tina.
2 Valerie?

3 MS. FRANCES: I'm sorry, I didn't
4 hear if you said tall oils.

5 MEMBER ELLOR: Tall oils?

6 CHAIRMAN MOYER: Tall oils?

7 MS. FRANCES: You did?

8 MEMBER ELLOR: Yes.

9 MS. FRANCES: Did you? Okay.

10 CHAIRMAN MOYER: Yes. Thank you.

11 MEMBER ELLOR: As opposed to short
12 ones. I don't know what that means.

13 Mushroom standards, which
14 actually, you know, I've been talking with
15 Miles about that and hopefully we'll get on
16 that during our next committee meeting Monday.
17 Talk to you all Monday.

18 Food safety, which was something
19 we had talked about taking a stab at.

20 And of course, the never ending,
21 soon to be ended list 4 inerts in pesticide
22 saga, which we'll be working on.

1 And anyone on the Crops Committee,
2 if you can think of anything I've left out; I
3 think I've covered it all. And that's it.
4 Thank you.

5 CHAIRMAN MOYER: Thank you, Tina,
6 for that report on Crops.

7 The next committee would be
8 Livestock. Hue, if you can give us your
9 workplan?

10 MEMBER KARREMAN: You know, I'm
11 just listing the inerts, and the very first
12 meeting I ever went to at the USDA Building in
13 2001, they were talking about inerts and this
14 problem. So I hope it gets done some day,
15 that saga.

16 Our Livestock, the workplan is
17 actually very short, because we got a lot done
18 in the last few years. We're going to; not
19 me, but the rest of the committee, the new
20 committee will be filling in those stocking
21 rate tables hopefully in conjunction,
22 interaction with the industry, come up with a

1 definition for animal health care products,
2 both of those being on that animal welfare
3 document.

4 Talked about and maybe actually
5 work on apiculture, honeybees. Finally, they
6 rise to the top.

7 And then of course the sunset
8 materials for 2012. That's it.

9 CHAIRMAN MOYER: We won't be
10 working on aquaculture, correct?

11 MEMBER KARREMAN: We will not. We
12 will not.

13 CHAIRMAN MOYER: Thank you very
14 much.

15 MEMBER KARREMAN: We got it done.

16 CHAIRMAN MOYER: Thank you, Hue,
17 for that report on Livestock Committee.

18 Joint Materials and Handling
19 Committees is not a standing committee. It's
20 an ad hoc committee. Will you be working
21 during the next session on anything, or is
22 your work completed?

1 MEMBER HEINZE: No, we will have
2 -- I'm sorry, guys. We do have the guidance
3 document to be working on. And then the items
4 that we were unable to complete. So we do
5 have some more work. So I'm looking forward
6 to, in Joe's words; I'm not going to get it in
7 the right order, bribing, cajoling, whatever
8 else I have to do. Whatever it takes.

9 PARTICIPANT: And inspire.

10 MEMBER HEINZE: Oh. Oh,
11 inspiring, yes.

12 CHAIRMAN MOYER: Thank you,
13 Katrina. Sad to hear that the joint committee
14 still needs to stay standing, but I'm glad
15 you're there and you can do that work.

16 And a question from Hue.

17 MEMBER KARREMAN: Not a question.
18 Can I add something to our workplan?

19 CHAIRMAN MOYER: You're going to
20 add something to the Livestock workplan?

21 MEMBER KARREMAN: Yes.

22 CHAIRMAN MOYER: Yes, we --

1 MEMBER KARREMAN: She can back up.

2 CHAIRMAN MOYER: Just one moment.

3 MEMBER KARREMAN: I'm sorry.

4 CHAIRMAN MOYER: Are you finished,
5 Katrina, with your workplan?

6 MEMBER HEINZE: Yes, I am. Thank
7 you.

8 CHAIRMAN MOYER: Thank you very
9 much. We will return then to the Livestock
10 Committee, Hue, if you have something to add
11 to your list?

12 MEMBER KARREMAN: I apologize,
13 Katrina. I thought you were done.

14 MEMBER HEINZE: I was. You were
15 good.

16 MEMBER KARREMAN: Okay. A
17 compound called methionine. Please add that.

18 CHAIRMAN MOYER: Thank you very
19 much. Yes, I don't know how we forgot it.

20 Okay. The Handling Committee.
21 Steve, chairperson. If, Steve, you can give
22 us your workplan?

1 MEMBER DeMURI: Thank you. Number
2 one is to work with the joint committee on the
3 follow ups for the clarification of materials
4 including the guidance document. We'll be
5 part of that, half of that committee.

6 We do have four petition
7 materials. Glucosamine and pectin low
8 methoxyl non-aminated, which have been in the
9 docket for awhile. We're waiting for
10 technical reviews for those for quite a while
11 now. And two fairly new petitions. One for
12 calcium acid pyrophosphate and another
13 petition for sodium acid pyrophosphate for
14 expanded use, in addition to what it's already
15 used for. And I made a request to Bob for
16 technical reviews on those a month or so ago,
17 so those four are on the list.

18 And then we have a huge amount of
19 sunset materials coming up for 2012. I've
20 already started dividing these up a little
21 bit, but we have 20 205.605(a) items, 34
22 205.605(b) items and 41 205.606 items, for a

1 grand total of 95.

2 CHAIRMAN MOYER: Wow.

3 MEMBER DeMURI: So that's going to
4 be taking most of our time over the next year
5 or so.

6 CHAIRMAN MOYER: Yes.

7 MEMBER DeMURI: And also, what I
8 just added today was sunset procedure
9 clarification. We'd like to be involved in
10 part of that discussion, too.

11 So and as Joe mentioned, I'm
12 looking forward to the strategy session with
13 the NOP. That could radically dramatically
14 change this list possibly, but that's what we
15 have for now.

16 CHAIRMAN MOYER: Thank you, Steve.
17 I appreciate that.

18 I'm going to put one item on the
19 Programs Workplan, and that is to set the date
20 for that strategic retreat. January,
21 February, those dates are filling up very fast
22 for some of us and we need to work that into

1 our calendars as quickly as possible from your
2 end. You've got to give us some dates to work
3 with. So I would appreciate that.

4 That concludes our workplan
5 portion of this meeting. The last item we
6 have on our agenda is to ask if there is any
7 more business before this Board from board
8 members?

9 MEMBER DeMURI: I have one
10 question.

11 CHAIRMAN MOYER: We have a
12 question from Steve.

13 MEMBER DeMURI: We have a date for
14 the spring meeting yet?

15 CHAIRMAN MOYER: I know we had
16 blackout dates that we submitted. Did you
17 come up with a date?

18 MS. FRANCES: We got so many
19 responses really at the last minute and we've
20 been here, and I really haven't had a chance.
21 I would say roughly probably the last week of
22 April.

1 CHAIRMAN MOYER: Okay.

2 MS. FRANCES: But not confirmed at
3 all.

4 CHAIRMAN MOYER: Thank you very
5 much. Well, it is important to our workplans,
6 because we have to work backward from that
7 date to get our work done so that you have
8 time to post everything.

9 Good point, Steve. Thank you.

10 Bea?

11 MEMBER JAMES: I just wanted to in
12 closing, if I can, a closing comment. Can I
13 do that. Are we ready for that?

14 CHAIRMAN MOYER: You may do that.

15 MEMBER JAMES: Okay. I'll try not
16 to get all choked up. It's funny, because
17 I've been like I can't wait to get off the
18 Board.

19 I just want to thank the NOP for
20 the opportunity to serve. And this experience
21 has been really incredible for me and I've
22 learned a lot. I mean, I probably would be

1 like the poster child for coming in green.
2 And learning a lot. And, you know, I mean,
3 Rigo and I both, I'll never forget that first
4 meeting, we were just pretty much jaw-dropped
5 the entire time. But a great thing came out
6 of that, the New Member Guide, so nobody would
7 ever be put in that position again.

8 And from the first board that I
9 worked with, just incredible people and the
10 people that, you know, stick it out in the
11 peanut gallery. What an incredible group of
12 people that are helping to drive the industry
13 and do good things. And it's just been a real
14 honor to be able to do my best to represent
15 the whole organic industry. So thank you.

16 And this is what really makes me
17 get all choked up. Valerie, thank you.
18 You've just been awesome and I've enjoyed
19 working with you so much. And I just can't
20 say enough about what a huge asset you are to
21 the harmony of the entire program. So namaste
22 to you.

1 CHAIRMAN MOYER: Thank you.

2 MEMBER JAMES: And thank you.

3 (Applause.)

4 CHAIRMAN MOYER: Any other
5 business before this Board? Rigo?

6 MEMBER DELGADO: Mr. Chairman,
7 thank you very much. I just want to echo
8 Bea's sentiments. Hopefully I won't choke as
9 much, but I would like to congratulate you,
10 Mr. Chairman, for such a wonderful meeting
11 today and for conducting the business of the
12 Board throughout this year in such an
13 exceptionally professional way.

14 I also want to congratulate the
15 new members of the Executive Committee; Dan,
16 Tracy and Tina. These are very exciting times
17 and there are many changes and resources
18 coming this way. And I congratulate the rest
19 of the members and the new members that are
20 coming. I think you'll be able to gain a lot
21 from what we learned, at least that's what I
22 hope will happen. And I'm sure you'll be able

1 to apply it and improve from what we left
2 behind. I have for sure friends for life
3 here. You have a friend for life and I hope
4 to see you very soon. Thank you.

5 CHAIRMAN MOYER: Thank you, Rigo.

6 (Applause.)

7 CHAIRMAN MOYER: Any other
8 business before this Board? Julie?

9 SECRETARY WEISMAN: Come on, I got
10 to take my final --

11 CHAIRMAN MOYER: It is your stage.

12 SECRETARY WEISMAN: I'll keep it
13 short, though. I've said it before. People
14 are probably sick of hearing me say it, but I
15 got to say it one more time. How blessed I
16 feel to have been on this Board and at this
17 time. And I will miss working with everybody
18 at this table, not that I won't be around and
19 trying to keep you honest and help you out,
20 but it won't be the same. It really won't be
21 the same. And I truly, truly will miss it and
22 appreciate having had this in my life. My

1 business partner and my family might have
2 other thoughts about it, but it's been a very,
3 very enriching experience and I'm grateful.

4 CHAIRMAN MOYER: Thank you, Julie.
5 (Applause.)

6 CHAIRMAN MOYER: Any other
7 business before this Board? Hue?

8 MEMBER KARREMAN: Maybe I get the
9 last word in. No, you still do. Darn.

10 I've just really enjoyed being on
11 the Board, even though it's been totally
12 overwhelming a lot of the time. And I just
13 really know that we have formed really good
14 relationships here on the Board and into the
15 future it will go. And, you know, all I've
16 been wanting to do the whole time is to say
17 when I'm done, hopefully I've made a
18 difference in the lives of the farmers and the
19 animals, so the animals are happy and well
20 cared for. And I think we've accomplished
21 that with many things here on the Board, so
22 thank you very much.

1 CHAIRMAN MOYER: Thank you, Hue.

2 (Applause.)

3 CHAIRMAN MOYER: In that same vein

4 -- I'm sorry. We have another comment? Tina?

5 MEMBER ELLOR: No, I just want to

6 ask if there's by any chance somebody in the

7 gallery who lives close to Gerry? Is there

8 anybody?

9 (No audible response.)

10 MEMBER ELLOR: No?

11 CHAIRMAN MOYER: We'll --

12 MEMBER ELLOR: Oh, okay. Then --

13 CHAIRMAN MOYER: I can take it

14 home. I'll see that it gets shipped. It's a

15 heavy item. I'll send it.

16 MEMBER ELLOR: Thank you anyway.

17 CHAIRMAN MOYER: Well, then in

18 closing, I would like to say that Gerry is

19 absent. It is his last meeting. I know if he

20 was here he would have something he'd want to

21 say. I just want it to go on the record that

22 I know Gerry worked extremely hard, would

1 share all the sentiments of all the other
2 board members that have spoken on their last
3 meeting. It's unfortunate that he couldn't be
4 with us. I know he wanted to be. But he also
5 has built friendships and respect in the
6 community that is beyond description, as with
7 the rest of the board members. So on Gerry's
8 behalf, I wanted to make that comment.

9 And on my own behalf I wanted to
10 say it's been a real honor and privilege to
11 share as your chair and your vice-chair prior
12 to this. I know that I'm leaving this part of
13 the administrative team in very good hands
14 with Dan, Tracy and Tina. I will miss getting
15 Dan out of bed at 7:00 on Monday mornings to
16 have our administrative conference calls. It
17 was easy for me; hard for Dan. It's nice to
18 hear Dan swirling the spoon the cup of coffee
19 going, "Oh, boy." So I will miss that.

20 VICE-CHAIR GIACOMINI: We'll have
21 to see if I'm any better at bringing on the
22 light in the morning than you were.

1 CHAIRMAN MOYER: Yes. So I did
2 appreciate being your chair. It was an honor
3 and privilege to serve you in that capacity
4 and I thank you very much.

5 (Applause.)

6 CHAIRMAN MOYER: We are officially
7 adjourned until spring.

8 (Whereupon, the meeting was
9 adjourned at 4:54 p.m.)

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