



1 data and scientific studies, which are important to ensuring that the  
2 appropriate reforms are adopted and the system is improved, and that  
3 is from all folks, from industry to consumer groups to everybody who  
4 has any ideas on what we ought to be doing.

5 I'd also say in the last five days of these issue forums, there have  
6 been key phrases that have stood out and that I will refer -- and that  
7 I will keep as guidance on completion of the final rule and other  
8 concepts. But, you know, obviously, a commitment to food safety,  
9 flexibility, certainty, industry and species differences, performance  
10 standards that work, sound scientific basis, training. These are all  
11 concepts that we came out with. And I think if I had to put all these  
12 things together, because we're going to set it down in great detail, is  
13 that our first obligation is to preserve the public health and safety.

14 But in coming up with the rule, it has to be one that meets what I  
15 call the good sense test, and it has to be practical. Because if it  
16 doesn't meet that test and it's not practical, it will not work, as  
17 wonderful as it may be. At the same time, if it's so watered down, it  
18 won't meet the public health test, either. So we have to keep these  
19 things in mind.

20 I have enough experience to know that -- I think it can be done in  
21 this case. And I think people -- there's been a lot of advocacy  
22 expressed here. And our job is to cull through that advocacy and to  
23 come down with something that meets the test of public health, but  
24 at the same time uses good judgment as practical. And we've done  
25 this in other areas and there's no reason why it can't be done here as  
26 well.

27 And so I just thought I would mention that, that we were going to

1 go through and look at these things with those factors in mind, and  
2 that's why I think this set of meetings is pretty constructive, and it -  
3 - you know, it may be something we ought to replicate in other areas,  
4 as well, when we're dealing with more complicated issues. But I  
5 would ask that you get -- use the next 30 days to, you know, come up  
6 with things.

7 And the other thing is at some point we're going to get down to,  
8 you know, formally looking and coming up with final rules and, you  
9 know, we're going to need your help during this process. And I  
10 understand the advocacy that takes place in all groups on all sides.  
11 But at some point, I'm going to want folks to kind of work with us and  
12 not against us or against each other in this to come up with  
13 something that's sensible and that's constructive. And we're probably  
14 going to end up with something not everybody is going to like, either,  
15 you know, from the industry side or the consumer side the way it is.  
16 But we've got to do what we think is best in the public interest, the  
17 best at practical, best at sensible, and still keeps our eye focused on  
18 public health.

19 So -- now, let me also say a couple of things. We had said that  
20 we were going to have a food safety forum, which we are. I think to  
21 date we have tentatively set it, or actually, definitely set it for  
22 November 1. It was going to be during October, but I want it here, if  
23 possible, where the deputy and I will both be here. So that was a date  
24 that we could both be here. So that will be in Washington in the  
25 meeting location. And the proposed agenda will be published in the  
26 Federal Register. But that is November 1.

27 And then the other thing I would say is that there is no artificial

1 deadline of December 31st to complete this rule. Now, that is the  
2 goal. And my goal still is to try to get this rule done by the end of the  
3 year, but it's going to be done right. So I'm not going to get myself or  
4 the department bound up into an artificial date if we've got problems  
5 coming up with language that makes sense. We're going to get this  
6 done as quickly as possible, because the public needs the final rule in  
7 effect. But we've got to make sure that it's -- that we do it  
8 correctly, it's based on sound science, it takes into consideration the  
9 comments. We're going to have another 30 days of comments, you  
10 know, in this regard. So I just wanted to let you know I want to get it  
11 done as quickly as possible, but I want to make sure it's done  
12 correctly. And -- so, I think that is what we have been saying to date  
13 anyway, but it is something that I wanted to again make clear so that  
14 nobody thought there was, you know, an absolute deadline. I did not  
15 want to string it out forever, either. So we're just -- we're going to  
16 do it correctly. We're going to move as quickly as we can. But there's  
17 an awful lot of issues here to be involved. And so we'll keep talking  
18 about this, in terms of times, and give you some idea of where we're  
19 going. But right now, you know, we're -- the goal is still at the end of  
20 the year, but if we can't make it, we can't make it. And we will do  
21 what we need to do to get it done in a sensible way, but taking into  
22 account all of the comments and collating them and understanding  
23 what's going on there. So, I just thought I would give you some  
24 background there, as well.

25 I want to thank everybody for participating in the meetings. I  
26 know it's taken a great deal of time and patience. The goal is  
27 improving food safety, and I think by and large, the comments have

1     been geared in that direction. People have different ideas on how to  
2     do it exactly, but that's the goal. That's what the public demands on  
3     us to do.

4             So, anyway, Mike -- I just wanted to make those comments, Tom,  
5     before we start hearing this -- I don't know, I saw a hand up  
6     somewhere.

7             MR. HODGES: Mr. Secretary, I'm encouraged by your comments. You  
8     know, I think we all have the shared objective, but sometimes our  
9     public policy objectives is not technically or scientifically feasible  
10    or workable. The only think that I would urge you to do in reviewing  
11    the comments is focus on one thing, and that is sorting opinion from  
12    what is scientific and technically recommended, scientifically and  
13    technically feasible. If we do that, we'll be okay. But if we cloud the  
14    issue with opinion, we could be in trouble.

15            SECRETARY GLICKMAN: Well, we'll -- you know, that again is  
16    what we're paid to do is to go through the data and the evidence. And,  
17    as you know, the old expression goes, "Figures never lie; liars figure."  
18    And I've watched the O.J. Simpson trial and I've seen a lot -- I've seen  
19    a lot of scientific evidence that everybody is convinced that their  
20    science is right. And that's the problem is that there is sometimes  
21    conflicting science in this world. So we have to do our best to put  
22    this together as sensibly as possible.

23            I have been making the point here, when it comes to trade policy,  
24    that we ought not to let bad science serve as a non-tariff trade  
25    barrier. And I don't want to -- we've got to -- there is probably a  
26    bottom line on what is generally considered to be good science and  
27    what isn't. But there is -- what I don't want is a situation saying

1 that my science is the only good science. We do have to make sure,  
2 however, that there is adequate dated information to support where  
3 we're going and we just don't go out on a lark, because well, that's the  
4 way it seems to be, so that's the way we ought to do it. I agree with  
5 you there.

6 But I do want to make the point that there is a lot of science in  
7 this world. And scientists, like politicians, tend to never agree with  
8 each other on a lot of things, either. So we'll do our best on that.

9 MS. MUECKLOW: Mr. Secretary, I'm Rosemary Muecklow from  
10 National Meat Association. And we certainly appreciate that you  
11 made these six days of discussions possible for us. And a lot of  
12 useful information has been laid out on the table, and we appreciate  
13 it.

14 Yesterday afternoon, we listened to the concerns of the Jewish  
15 Contingent, who reminded us that food safety laws have been around  
16 in their faith for thousands and thousands of years. They were  
17 written down about 5,000 years ago. They didn't mention it, but it's  
18 in the book of Leviticus, where we have our basic food sanitary laws.  
19 And many of the things that are written there are still practiced  
20 today in plants. And whether it's 5,000 years or 3,000 years or 1,000  
21 years or 100 years, there's an enormous amount of background that  
22 we bring with us to the discussion that we have at hand. And as Mr.  
23 Allen from -- Dr. Allen from Excel pointed out, he made some changes  
24 in how he was handling product on his kill floor. It didn't cause a food  
25 safety hazard, but it did cause all the bags to blow up with gassy  
26 micro-organisms.

27 And so our concern as an industry is that before we make change

1 that we think might be good, we need to test it, we need to pilot it,  
2 we need to make sure that it's going to work, whether it's for food  
3 safety or for the acceptability to eat the product. And we were all  
4 very impressed with those gentlemen yesterday. They brought us a  
5 very powerful message, that we need to look at where --

6 SECRETARY GLICKMAN: I'm not sure we can test for 5,000 years  
7 before we prove anything.

8 MS. MUECKLOW: They say that they have, and they haven't made  
9 anybody sick in that long. It was a representation that none of us  
10 asked them to back up with an actual hard statement. But they were  
11 extraordinarily eloquent, and nobody challenged them. It was a very  
12 interesting representation. And we appreciate your being here and  
13 making this scenario possible for us. And thank you very much.

14 SECRETARY GLICKMAN: Anyone else?

15 MR. BILLY: Okay. We are going to go through the agenda. I  
16 recognize most of the faces now, so I'm not going to repeat the ground  
17 rules and procedures. But if anyone has any question, they can come  
18 up and ask me or ask one of the people at the table outside.

19 We've got several issues on the agenda for today. We just a  
20 moment ago handed out a paper that deals with the special product  
21 considerations involving international trade. And since people haven't  
22 had a chance to look at this, what I'd propose to do is to not have that  
23 be the first item discussed, so that people can have a chance to look  
24 at it not only during the session, but also during the break this  
25 morning, and instead, move to the next two items on the agenda and  
26 then pick up international late this morning. So that will give people  
27 a chance to look at that and consider it and be better able to provide

1 input and a dialogue on that subject. The -- so my proposal then  
2 would be to first deal with incentive-based alternatives, such as  
3 marketing claims on labels, then Item C, animal-producer  
4 considerations. Under Item D, we have added the areas of  
5 transportation and retail. And then after Item D, go back and cover  
6 the international considerations.

7 Are there any comments about that? Will that be enough for  
8 everyone? Okay, yes?

9 MR. OLSSON: Are there other items under Item D?

10 MR. BILLY: No.

11 MR. OLSSON: I understood that a week ago we --

12 MR. BILLY: I'm sorry, there are. For the afternoon, the other two  
13 items then that we'll get into are picking up an item from the first  
14 day's schedule, which is ensuring compliance with HACCP  
15 requirements. If you look under the first day, September 13th, Item  
16 C, it is that item and those bullet points that we'll have a discussion  
17 on. And then the last item under Item D for this afternoon is timing,  
18 another item that was carried over from the first day, which would  
19 include agency implementation and industry adoption of HACCP. And  
20 hopefully, that will wrap up the discussion.

21 Okay. So the first item we'd like to cover is incentive-based  
22 alternatives, such as marketing claims on labels. Carol, would you  
23 like to kick off the discussion on that?

24 MS. TUCKER-FOREMAN: Thank you very much -- Carol Tucker-  
25 Foreman. Since I have the opportunity to have the microphone first,  
26 thank you, I thought I would follow up on some of the earlier  
27 comments, Mr. Secretary.

1           The science has to be the basis for rulemaking. But in the end,  
2 rulemaking in government is a choice between value systems. And  
3 that's -- in the end, what we have to do here is to decide how much  
4 food safety we American people are willing to pay for through a tax  
5 system and through the price of their products. And although science  
6 informs that decision-making, it's really not in the end the scientific  
7 discussion. As all democratic government is, it's a value decision.  
8 And I think that was really clear in your comments, that you think  
9 that this is -- good science has to underlie this, but it has to go  
10 beyond that, as well, since we'll never agree on the science. Science  
11 has that bad habit of always being dynamic. It's never static.

12           On the issue of incentives, I would just -- yesterday, Paul Kerody  
13 told me that he was up on the hill doing a walk and feeding members  
14 of Congress Healthy Choice foods. And I've been reading about  
15 Hormel's Light & Lively and Oscar Meyer's fat-free -- Oscar Meyer  
16 Free Processed Meat Products. And I can remember just a few years  
17 ago when I was here, that nobody in the world would have ever  
18 thought you could have fat-free processed meat products. There is  
19 clearly a terrific market out there for the low-fat product -- dinners  
20 that Con Agra is making, Health Choice. There is clearly a market for  
21 the free and Light & Lively. And when I used to be told that the pork  
22 people would all go out of business if you had nutrition labeling, I  
23 now find pork being advertised as the "the other white meat." And it's  
24 clear that the poultry industry has grown in part on its claim of being  
25 low-fat products. And it seems to me that what has happened there  
26 is a market incentive program has been built in and it was encouraged  
27 very substantially by the passage of the nutrition labeling legislation.

1 In fact, that legislation was a little behind the curve. The market  
2 claims were there first. Then people decided they needed some  
3 standard for judging those market claims. I know it's been a hard one  
4 for the meat industry to deal with. On the other hand, it seems to me  
5 that the leaders in the field are clearly dealing with it and making  
6 very good use of it.

7 I'd like that to be a model for claims about the safety of meat and  
8 poultry products. And it seems to me that there are several reasons  
9 why it hasn't ever happened up to this time. One is obviously that the  
10 industry can't promise that something is micro-free, that it's  
11 pathogen-free, and we wouldn't want them to for fear that it might  
12 become contaminated after it leaves the point at which the  
13 inspection seal and the claim were put on the package. People  
14 obviously fear the liability. I think another reason is that it's hard to  
15 change from a system that has always depended upon a command and  
16 control and you start your plant until I've decided that it is clean and  
17 you're able to start it. So it's a long way from that kind of regulatory  
18 system to one that relies on market incentives.

19 I think, and I've thought for many years, that the seal inhibits the  
20 production of -- or it inhibits the market from working in this area,  
21 because everybody, the bottom-dweller as well as the top of the line,  
22 gets that USDA seal. There is no market incentive right now, no  
23 money to be made by producing a particularly clean product. And I'd  
24 really like for the industry and the Food Safety and Inspection Service  
25 to consider some positive mechanisms to encourage the production of  
26 pathogen -- low-pathogen, high-quality, high-safety foods.

27 One of them was suggested. One possible one was suggested by

1 Nancy Donley from S.T.O.P. in a letter that she wrote to the agency  
2 after the first set of meetings. And it was very specifically for  
3 those plants that can show that they are in -- that they have a high-  
4 quality HACCP program and that day in and day out, year after year,  
5 produces a very fine product that goes beyond the standards that the  
6 department has set as a minimum, be subjected to very infrequent  
7 inspection, that you vary the intensity of inspection according to the  
8 history of the plant and the quality of the product that it puts in. For  
9 those who feel that the hand of inspection has been too heavy, it  
10 seems to me that that would be a pretty good incentive to produce  
11 above the performance standard the department sets.

12       Someone else suggested to me recently that the department  
13 might establish a Malcolm Alderidge type award for outstanding  
14 companies and outstanding products, so that every year there would  
15 be an award given and a celebration of the company that had  
16 outstripped all others in its production of high-quality foods.

17       Perhaps the most detailed, and I think intriguing proposal,  
18 appeared in an industry magazine. And I'm just going to pass these  
19 around -- a not-so-modest proposal in which Steve Berkley, the  
20 editor of Meat and Poultry Magazine suggests that you set up a  
21 grading system for meat and poultry packing plants in which they  
22 would have a microbial performance grade of A or B or C. And  
23 obviously, the only products you would ever find in your market would  
24 be those that -- from plants that could qualify to get the A. The B  
25 would obviously give you some problems. If you had a C, you would be  
26 under intensified inspection. And if you were a D, you'd have to be  
27 closed down until you could show that you could get up to at least a C.

1 That's a fairly simple system that the American people are familiar  
2 with, in part, because of the grading system that USDA has run. David  
3 Theno, a foodmaker, has referred to it as performance-based grading.

4 And with those comments, I'll relinquish the microphone. Thank  
5 you.

6 MR. BILLY: Thank you. Comments; discussion? Okay, Tom Devine?

7 MR. DEVINE: I think that's a very constructive suggestion. It  
8 merits some brainstorming to try and refine the concepts. One of the  
9 basic points that's come up, and I think there's a genuine consensus at  
10 the table, is that HACCP should be a floor that doesn't stifle  
11 creativity, that we shouldn't be satisfied merely with meeting  
12 minimum standards. There's been criticism that the inspection  
13 system has stifled plants from being the best that they can be. As  
14 long as they're not penalized for doing something inadequate, they  
15 think that it's enough. Obviously, that's not the case.

16 One concern is that there are formal categories of recognition,  
17 such as A, B or C, that recognize commitments greater than the  
18 minimum. That could create a scenario where meat that merely earns  
19 the federal seal is second class or third class. We certainly wouldn't  
20 want to have that scenario, either. So another approach that could be  
21 considered is using a free-market incentive, where each facility  
22 could make its own commitment to know they're going to be the best  
23 that they're going to be, in writing, signed by the corporate chief, of  
24 how they they're going to go beyond the minimum requirements for  
25 HACCP. USDA could certify that the commitment exceeds the  
26 minimum. And inspectors could verify that the plant is actually  
27 carrying it out in practice. I think this type of idea might create an

1 incentive for excellence, to build into the structure an incentive for  
2 excellence. It maintains creativity, so that each plant can come up  
3 with its own ideas. And it facilitates marketing. The next time that  
4 someone like Frank Purdue wants to say USDA standards aren't good  
5 enough for me, he could also say -- and I put it in writing, and I  
6 signed it. So that's just something to add on the proposal that Carol  
7 is introducing.

8 MR. BILLY: Okay. Barry?

9 MR. MARSHALL: Yes, Barry Marshall of New Zealand. I'd like to  
10 suggest that -- well, certainly, what Carol said about performance-  
11 based standards certainly do operate. In New Zealand, we even  
12 applied it to end product. That's -- perhaps that's what's being  
13 suggested. But we have applied it to sanitary pre-operative hygiene  
14 situations where the emphasis was shifted from government onto  
15 industry. We did this quite a number of years ago, in fact, in 1983.  
16 Prior to that, we found that it was either companies actually who  
17 responded rarely to regulatory input. And if the regulatory input  
18 wasn't there, then they didn't perform quite to the same standards. In  
19 this particular instance, we actually organized a system of grading or  
20 categorizing defects that are found at pre-slaughter and we actually  
21 put the onus on the companies to actually clean up their premises to  
22 the standard prior to production. The incentives were that initially  
23 one department was picked out at random and checked out 15 minutes  
24 before processing occurred. And, of course, if the defects that were  
25 found actually exceeded a particular upper limit, then, of course, they  
26 had to be -- all the defects had to be resolved. But if certain things  
27 happened, then they actually moved from one system -- well,

1 actually, we had intensified inspection. We had in it, exactly the  
2 same as Carol was saying, an A, B, C, D system. So if those  
3 companies that got it right, their level of intensity of inspection  
4 decreased from once a day to once every three days. And then if they  
5 succeeded over a 12-week period, then just once a week the premises  
6 were audited. Now, this system actually worked because of the fact  
7 that they were inspected 15 minutes before production started. Then  
8 production actually didn't come into the normal time if defects were  
9 found.

10 So I'd just really like to throw that in, that performance  
11 standards, on that particular aspect, actually is very effective.  
12 Whether it actually would work as a final product, the seal of  
13 approval, I'm not sure. Thank you.

14 MR. BILLY: Okay. Rosemary?

15 MS. MUECKLOW: I appreciate Carol's suggestions and I think it  
16 would be very valuable possibly at the Secretary's food safety forum  
17 to begin to talk together about the fundamental kinds of changes that  
18 are needed in the statutory authority.

19 I would remind everybody, and it's one of the virtues of getting  
20 older -- there are other disincentives. But one of the virtues of  
21 getting older is you have a long memory. And there was indeed a law  
22 passed in 1986 spearheaded by Congressman Stenholm, and I'm glad  
23 that his aide is here this morning for the discussion, which said, isn't  
24 it about time that we moved to an incentive-type program, where we  
25 allocate more agency resources on the bottom fish and fewer on the  
26 top fish in the big swimming pond that we're all swimming together  
27 in. And for a variety of reasons, and you don't -- most of the people

1 in this room will know them, I don't think it is useful for us to revisit  
2 that issue today, but that law did sunset in 1992 or '93. Maybe it was  
3 10 years ahead of its time and maybe 1996 is the time that we come  
4 back and revisit that issue.

5 I've got to tell you that the last five days, and I'm sure today will  
6 be no exception, that we've talked about an enormous number of  
7 things. There are a lot of open issues. We appreciate that the  
8 distinguished people along the table in front of us have told us what  
9 current thinking is. And I was especially pleased to hear the  
10 Secretary add to that list of critical issues, which I think is terribly  
11 important, the issue of certainty. Because it's one thing when you're  
12 changing a label. It's a whole different thing when you're building a  
13 new plant. They cost thousands and thousands of dollars. And the  
14 investment to meet government requirements is enormous.

15 Ladies and gentlemen, we've got a pretty full plate right now. I'd  
16 love to sit down with Carol and talk about how we can change the  
17 statutory responsibilities. We already have some level of  
18 performance-based inspection. And translating that into the system  
19 and the HACCP system, which is designed to prevent food hazards --  
20 it's a monumental change. We've talked about it for six days. And  
21 we're all going to go away with a lot more questions than answers.  
22 And so there should be a very fertile new thousands of pages for you  
23 all to go through, not to mention the ones that we all take away when  
24 you talk about top to bottom. There just is a monumental amount.

25 I think Carol's comments are well placed. When she was  
26 Assistant Secretary, she introduced the TQC symbol. Again, it was  
27 ahead of its time, and it may be time for us to begin to revisit those.

1 But we've just got an enormous number of challenges that we already  
2 have got laid out there. And I think the dialogue for the statutory  
3 authorities may need to follow when we have a little more certainty  
4 about what we're going to pull out of these meetings today. Thank  
5 you.

6 MR. BILLY: Okay. Dane?

7 MR. BERNARD: Thank you, Tom. Dane Bernard, National Food  
8 Processors' Association. I, too, have talked with Dave Theno about  
9 that particular idea, and it's certainly an idea that has merit.  
10 Although HACCP concept has already provided incentive for the  
11 industry to move ahead, while it may seem that we haven't moved  
12 ahead very fast on regulatory programs addressing HACCP, the  
13 workshops that we conduct are more and more populated by  
14 companies whose customers are demanding that they have HACCP.  
15 That seems to be a much more dynamic situation today than anything  
16 that we're doing in a regulatory aspect to force it to happen. It is  
17 happening. It is a positive incentive. It is an economic incentive to  
18 develop HACCP programs. Almost all of the workshops that we're  
19 conducting lately, we always ask the question, how many are selling  
20 to people who are requiring you to have HACCP, and virtually all of  
21 the hands are going up. So there are things of a positive nature  
22 already happening, and it isn't an incentive for companies to move  
23 ahead and get better on a voluntary basis.

24 I might add that while we've been doing these workshops for  
25 many years, it hasn't been until there was some obvious movement on  
26 the regulatory agencies that eventually we will have some form of  
27 mandatory HACCP that we really started seeing a lot of movement.

1 So while we'd love to take all the credit for ourselves in being  
2 innovative, we have to share some with the agencies for saying this  
3 is a good idea, we'll eventually move this way. So it's a dynamic  
4 situation.

5 But getting back to what Carol mentioned earlier and my  
6 conversations with Dr. Theno -- Carol mentioned the nutrition  
7 labeling as an example. And that has been a situation that the  
8 industry has responded to and has found advantage in, although we're  
9 certainly not to a point yet where we're satisfied with all the details  
10 of that. But when we're dealing with acute risks versus the nutrition  
11 labeling situation, which is an information situation, which, you  
12 know, if you're wrong on your nutrition label, it's not going to cause  
13 any great health consequences. In a situation -- Carol alluded to it --  
14 if we put this is an A grade product on a package, do we know that it's  
15 not going to make anyone ill? Certainly we can't make that claim. My  
16 question today, even my question to others around the table, and we  
17 haven't had a good answer, is what happens when we have the next  
18 Nancy Donley, whose child has consumed product which had a label  
19 that says this is from an A grade plant. And that will happen. We  
20 have no way, unless we irradiate products, to preclude that type of  
21 thing from happening.

22 That's not to say that we shouldn't explore this type of an  
23 incentive system. I think it's an idea that has merit. But I think we  
24 have to consider that there may be some problems with it as we  
25 proceed down that track. Thank you.

26 MR. BILLY: Thanks, Dane. Jim?

27 MR. LOCKNER: I'm Jim Lockner, IVP. I think one -- obviously, this

1 approach intrigues some people. And as Dane just articulated, there  
2 are some problems. And I think the big problem we have to  
3 understand is microbe numbers are not dynamic, or excuse me, are not  
4 static. They are dynamic. And furthermore, there's always a problem,  
5 as has been discussed before, on testing validity, as well as sampling  
6 error. My biggest single concern on this idea is that all products that  
7 were from plants graded A will be very vulnerable to downside  
8 testing.

9       There's an excellent article, and I can't recall what year, and I  
10 can't recall what journal, but it was by Colin Gill, where he tracked  
11 E-Coli species counts from a plant all the way through retail in  
12 Canada. Typically, he would find in that scenario that the product  
13 leaving the plant, that it was either undetectable or very low -- let's  
14 say less than 10 per gram. And it was not unusual for that same  
15 product from the same box, by the time it reached retail -- or same  
16 production lot, rather -- to have counts well in excess of a thousand.  
17 Now, obviously something changed, and it was temperature control.  
18 And I think a system like this would always be vulnerable to  
19 downside analysis and question. And I think it would have to be very  
20 well thought through. But obviously it works in the dairy industry,  
21 because you do have grade A milk dairies and grade B. But the criteria  
22 obviously needs a tremendous amount of thought.

23       MR. BILLY: Caroline?

24       MS. SMITH-DEWAAL: The goal here, as Dane Bernard has stated, is  
25 really to try to come up with a system to get companies to move to  
26 HACCP as quickly as possible. We understand that the agency has to  
27 come up with an implementation schedule that can accommodate as

1 the industry needs to come up to speed on this. At the same time,  
2 that company should be moving in this direction. And we'd love to see  
3 incentives in the proposal or in the system that would get them to do  
4 that.

5 One idea, and Tom Billy, you may know more about this than I do,  
6 was I think an approach used at NMFS, where they had a program  
7 where the products were actually labeled, "Packed under HACCP" or  
8 "Produced under HACCP systems." Can you just explain how that  
9 worked? And maybe that's a concept that could be used here.

10 MR. BILLY: Sure. About two years ago, the National Marine and  
11 Fishery Service developed a new voluntary service under their  
12 Voluntary Seafood -- HACCP -- Voluntary Seafood Inspection Program  
13 that was designed to offer a service to industry where they would  
14 develop, as we've talked about, a HACCP program. In that instance, it  
15 was a comprehensive program that dealt not only with safety, but  
16 with wholesomeness and quality issues.

17 And if a firm was successful in terms of developing that HACCP  
18 program and implementing it, then under their authority, the National  
19 Marine and Fishery Service offered a special new inspection mark  
20 that was packed under HACCP inspection. I think it was either packed  
21 or inspected under HACCP. It was a mark that was specific to HACCP.  
22 And companies were then able to promote that mark and what it  
23 meant in the marketplace to take advantage of what they were doing  
24 in terms of their production activity.

25 MS. SMITH-DEWAAL: I guess the problem with it would be that  
26 the agency would have to actually approve the use of that mark.

27 MR. BILLY: Um-hmm.

1 MS. SMITH-DEWAAL: So there would be some approval of the  
2 HACCP system going on line?

3 MR. BILLY: Yes. Jim?

4 MR. HANKES: Jim Hankes, Meat Processor Association and small  
5 plant operator. The biggest problem with this as I see it is the  
6 consumers, you know, they are not aware of what HACCP even means.  
7 They have little concept of what we're talking about here. Within the  
8 industry, yes, myself buying product from Jim Lockner's company or  
9 the other large companies within the room, that's fine, that's great.  
10 We're starting to demand more of this. But as far as taking this and  
11 putting a grade on it to the general public, I wait on these people. I  
12 hop the counter, folks. I'd say if you want to talk about a large  
13 educational process, this one's almost too big to handle. You know,  
14 we don't even have general agreement on what HACCP stands for in  
15 this room. Putting a HACCP label on a package, a retail package, I  
16 don't think will really have any true meaning.

17 Another thing is that as we go -- just like Mr. Lockner says, when  
18 this product leaves our facilities, we have no control. I've had  
19 product come from large companies in here that I've personally  
20 rejected because of temperature controls within the distribution  
21 system. A lot of this product goes to warehouses that are not  
22 inspected under USDA, FSIS. They're not inspected under FDA/public  
23 health. We lose control of the product when it leaves our plants. For  
24 it to go to a grocery store, retail outlet, or restaurant, and for them  
25 to say this came from a grade A plant or a HACCP-approved plant is  
26 really doing a disservice to the consumers.

27 MR. BILLY: Okay. Rosemary?

1 MS. MUECKLOW: I don't want to be repetitive, but you've got it in  
2 your regulations right now in the TQC approval. And maybe the NMFS  
3 system was modeled a little bit on what we've already got in  
4 regulation, and it didn't light the world up, but it is a vehicle and it's  
5 there in regulation already.

6 MR. BILLY: Rosemary, like you, when you get older, you bring a lot  
7 to the table. I happen to know that the NMFS TQC system was first  
8 developed in 1971 and implemented formally by regulation in '72. And  
9 I remember specifically a meeting with FSIS where they looked at  
10 that system and then adopted it in terms of how it's now applied to  
11 meat and poultry, so -- but your point is well made.

12 MS. MUECKLOW: We thank you enormously.

13 MR. BILLY: Yes. Steve?

14 MR. KRUT: Steve Krut, the American Association of Meat  
15 Processors. One, I would very much like to see some type of an  
16 incentive program. I have a question regarding who is making the  
17 claim and who is substantiating the claim, as Dane alluded to earlier.  
18 Under the HACCP concept as it is presented, there is still an air of  
19 dispute whether FSIS in a sense should sign on or sign off on an  
20 individual's plan. Should it be invalidated? At what point that  
21 acceptance -- is it contingent upon a long-term effect or is it just  
22 for that particular day.

23 Many plants look at labeling -- ordering labels for a year or two  
24 years at a time. We currently have a problem in dealing with this  
25 approach under the current system, because that particular plant  
26 could be shut down or tagged almost any day or at any hour. Does that  
27 mean that some of this product would be recalled because of perhaps

1 over-expressive labeling?

2 So I think we need to make sure that in a real-world situation we  
3 are dealing with incentives that are not going to be very subjective.  
4 And we are dealing with inspection personnel that sometimes handle  
5 things on an adversarial type of basis. And we want to make sure  
6 that if we're going to make a commitment to an incentive-type  
7 program, this is not going to be turn the switch on and turn the  
8 switch off type of thinking.

9 Regarding awards, I'm not sure that tax dollars are best served or  
10 best used in going through this, because you do have subjective  
11 thinking again as far as awards. You know, everything could be very  
12 sanitary and very clean, but in terms of quality and taste, I'm not sure  
13 we wouldn't dilute that message. I still suggest that advertising and  
14 market share is probably one of the greatest incentives, but I do Carol  
15 Foreman's suggestion that less intense or less continuous inspection  
16 for those plants adhering to a sound program makes a lot of sense.

17 MR. BILLY: Ed?

18 MR. MENNING: Just a little public health background information  
19 for those who may not know it, since milk was raised. One, milk is  
20 graded A, B; however, remember that only grade A milk may go into  
21 fluid milk system, and then it must be subjected to a pasteurization  
22 kill step for pathogens. There is -- or there are grade A certified raw  
23 dairies still allowed to exist in the United States and sell intrastate  
24 in numerous states. In fact, about 23 states have that still in their  
25 books under various forms of limitation. There is a small amount of  
26 grade A raw milk sold vis-a-vis the overall milk population. And all  
27 of this data is quite well compiled in several sources. In those grade

1 A certified dairies, there is an exorbitant number of outbreaks of  
2 disease from their grade A raw milk, numerous outbreaks of which  
3 have been from school children touring those dairies drinking milk  
4 right there, so it hasn't even left the farm to be abused by  
5 temperature abuse outside. It then got to such a point that California  
6 and several other states now require mandatorily on the labels of all  
7 cartons of grade A certified raw milk words to the effect that this  
8 can be injurious to your health.

9 So you have a similar situation with the meat, somewhat. It's not  
10 totally analogous, because people, and especially children don't slurp  
11 raw meat like they do a whole glass of milk. But the pathogens are  
12 the same, exactly. There have been E-Coli 0157-87 outbreaks from  
13 raw milk, as well as Salmonella, etcetera, and just current, recently.  
14 In fact, we had two going just last year from the only two raw milk  
15 dairies in the state of Oregon, simultaneously -- two individual  
16 outbreaks.

17 So this is just information as to what grade A may or may not  
18 connote or do or protect or not protect. Thank you.

19 MR. BILLY: Tom?

20 MR. DEVINE: This is in response to Rosemary's --

21 MR. BILLY: Tom, you need to say your name.

22 MR. DEVINE: Tom Devine, Government Accountability Project. I  
23 want to respond to Rosemary's earlier point. And I'm not sure that  
24 she's ahead of her time, but I think she might be ahead of yourself by  
25 a few years.

26 In 1986, when the Processed Product Improvement Act was  
27 passed, we didn't have microbial standards. And that initiative was a

1 marketing disaster for the meat and poultry industry that I don't  
2 think would be desirable to repeat. I applaud her vision; however, if  
3 she thinks that by 1996, microbial standards can be established,  
4 implemented, and verified, that's very ambitious. I agree with the  
5 Secretary that it's going to be an ambitious challenge just to get the  
6 rule finalized by '96, but more power to the industry if it can work  
7 that hard and accomplish that much. As it is, we have a long way to  
8 go. We're still not close to a reliable sampling program to meet the  
9 standards for one pathogen. Even FSIS cannot assert more than an 80  
10 percent confidence level in the microbial sampling program that we  
11 have in the proposed rule.

12 And I think the bottom line is that there's going to have to be  
13 proof before we can even think of cutting back on continuous  
14 inspection. It's a worthy goal for the horizon. But before we even  
15 seriously consider changing that model, we're going to have to have  
16 inspectors verifying that plants have met their processing  
17 commitments, such as better sanitation performance, just employees  
18 washing their hands regularly, as Dr. Menning reminded us.

19 And second, proof of lower microbial levels. We're not close to  
20 that yet. I want to go back to our fact sheet on repetitive violations  
21 and give you another example. These are repetitive violations. In  
22 September 1995, employees are only allowed a few short bathroom  
23 breaks, therefore, they often skip washing their hands and have been  
24 cited for urinated in the carcass cooler and on the floor while  
25 working on a butchering line.

26 We're not close to getting rid of continuous inspection. Our  
27 ultimate goal, of course, has to be an extra layer of protection

1 without an extra layer of bureaucracy. And we've got a lot of work  
2 before we get there.

3 MR. BILLY: Jim?

4 MR. HODGES: Jim Hodges, American Meat Institute. I would  
5 remind the department that you have a very good incentive program  
6 today. If product is deemed adulterated or unwholesome or  
7 misbranded, it cannot be marketed, it cannot be moved in the  
8 marketplace, and that's a tremendous incentive for plants to comply  
9 to food safety standards.

10 I would also remind the department that you have a variety of  
11 enforcements techniques that you do use on a routine basis, ranging  
12 from progressive enforcement actions all the way up to withdrawal  
13 of inspection. Those are very, very powerful tools and incentives. It  
14 seems to me like -- and I'm going to repeat what I said yesterday --  
15 that the food safety issue is a non-negotiable item. It is not  
16 appropriate to be marketing product that has a connotation of being  
17 marginally safe. Safe product is what we all want put into the  
18 marketplace. That includes the government as well as the industry.  
19 And it seems to me that any type of a plant grading system is brought  
20 with a great deal of danger, because what occurs at the plant, as Mr.  
21 Lockner and others have stated, does not necessarily translate into  
22 the product that's actually consumed by the consumer. So I would --  
23 the issue of plant grading needs a lot of careful thought before we  
24 move forward with that kind of proposal. We've tested it in the past  
25 and it's not -- it's had significant problems.

26 MR. BILLY: Okay. Joe?

27 MR. POCIOUS: Joe Pocious with the National Turkey Federation.

1 NTF in its comments tentatively agreed with market incentives,  
2 particularly with the notion of labeling as HACCP processed.

3 But I do want to address the other -- the A, B, C, D issue. It  
4 sounds good, but there is -- there's a problem with that. And as most  
5 people in this room know, we have a member who went ahead and did  
6 a lot of upfront work with some of the interventions, the new  
7 interventions, TSP in particular. And they felt they had a product  
8 that they were ready to go into the market with and label it as such -  
9 - as pathogen-free or pathogen-reduced. I don't remember the exact  
10 terminology. And they prepared ads and they prepared a marketing  
11 campaign. And the agency withdrew that. They used their preemptive  
12 decision and pre-approval to have that pulled off. And the reason  
13 was, as was mentioned before, that you have to be careful what that  
14 connotes to consumer. And the thought was that this may give  
15 consumers the idea that if they can now be less careful with the  
16 product, they handle it a little less carefully than they normally  
17 should or would. And I'm afraid that the A, B, C, D issue might do the  
18 same thing. And you have to sort that one out internally for us,  
19 because there are people who may jump in on that, but you have to  
20 balance off the risks. And if the risks are greater than allowing that  
21 type of an incentive program, then it should just be disallowed in  
22 general. I do agree that for processors such as that, that a reduced  
23 level of inspection is probably appropriate, particularly in light of  
24 current appropriation arguments going on on the hill.

25 But again, tentatively, the label of HACCP processed could  
26 probably be worked out.

27 MR. BILLY: Mike?

1 MR. TAYLOR: This is Mike Taylor, USDA. Since Steve Berkley's  
2 piece suggests that I have a view on this issue, I ought to talk a little  
3 bit about what my thinking is. My thinking is very general and very  
4 preliminary, but it's worth, just in the context of this conversation,  
5 sharing.

6 One of the elements of the market failure that provides the  
7 theoretical justification for regulation of food safety is of course  
8 the lack of information available to consumers to make decisions in  
9 the marketplace based on safety or to otherwise distinguish between  
10 products based on safety and other factors, as well, all of which have  
11 to do with the inability of purchasers to protect themselves fully, so  
12 we haven't government regulatory programs that set standards and  
13 enforce standards and address food safety issues.

14 In the area of processed products -- take low-acid canned foods  
15 or any sort of product that -- where there's a definitive kill step and  
16 there's a regulatory system that ensures that product consistently is  
17 being produced under a process that effectively kills pathogens and  
18 renders the product, from that standpoint, safe. It's very difficult, at  
19 least in my mind personally, to envision a justification for some  
20 label claim that would differentiate one canned, you know, product  
21 from another on safety grounds. I meant the potential to be  
22 misleading strikes me in that situation rather clearly to outweigh  
23 any potential value. It's very unclear what the value is. And I think,  
24 in general, the discussion here has highlighted a lot of the very  
25 difficult issues that would surround differential labeling claims,  
26 affirmative claims, differentiating product at the point of purchase  
27 on some explicit safety ground. And I think those issues particularly

1 do relate, as the discussion has suggested, to raw product that leaves  
2 the plant in one condition and then arrives at the consumer end in  
3 another, with respect certainly to harmful bacteria.

4 On the other hand, we're in a -- with respect to bacteria on raw  
5 product, we're in a very different situation, obviously, from a food  
6 safety standpoint, than we are with respect to terminally processed  
7 canned products. We don't have for pathogens on raw product the  
8 equivalent sort of public health based safety standard that can be  
9 definitively defined and enforced and that ensure the quality of that  
10 product when it reaches the marketplace. And in fact, we've got,  
11 based on all the information available to us, and which I think people  
12 would sort of share view on, is that we've got widely divergent levels  
13 of performance when it comes to controlling and reducing pathogens  
14 in particular operations, divergence among plants, divergence from  
15 time to time within plants. What we do know, I think though, is that  
16 there's some plants that are performing consistently better than  
17 others. I mean I think that the data -- you could demonstrate that.  
18 We don't have the most elegant database on which to demonstrate  
19 that today, but what we do know says there's widely divergent  
20 performance. I think when I did talk to Dave Theno, who mentioned  
21 this whole idea of grading and market incentives, and I -- what I did  
22 say to him was that the market, the demands of purchasers, are very  
23 powerful for changing behavior. And I think the experience that has  
24 been referred to here in terms of the expectations of customers in  
25 the retail food service industry, for example, will require suppliers  
26 to move to HACCP more quickly. I mean that's been a very powerful  
27 market incentive to improve performance without regard to

1 government regulation, and indeed a great deal faster than  
2 government regulation can improve practices.

3 I suppose the question with respect to pathogens on raw product  
4 is whether the marketplace, whether it's the market place that exists  
5 among producers, processors, and say large retail sellers of raw  
6 product, or the market that involves the actual, individual consumer,  
7 but whether the marketplace could be empowered through greater  
8 information about plant performance with regard specifically to  
9 pathogens -- whether that -- whether there is a role for information,  
10 greater information about plant performance to empower that market.  
11 And I think conceptually, obviously there is. How you do it is a  
12 complicated question. And I think particularly, when you talk about  
13 affirmative label claims, differentiating products that on a safety,  
14 you know, basis when it comes to pathogen in raw products. I mean  
15 that's very problematic.

16 But I'm delighted to hear that Rosemary and Carol are going to sit  
17 down and work this out. And we will look forward to any further  
18 concrete ideas that they or others have on this issue. But information  
19 is very powerful. The market is very powerful -- indeed, in many  
20 respects, far more powerful than we are. And we're in a transitional  
21 mode, short of having real food safety standards that are based  
22 strictly on public health, but rather in the mode of working to reduce  
23 pathogens as best we can. How can the marketplace provide  
24 incentives for the strong performers, rewards for the strong  
25 performers, and incentives for those who are not performing as well  
26 as technology currently permits? I think it's a very fair question to  
27 be asking.

1 MR. BILLY: Okay. Phil?

2 MR. OLSSON: Yes, Phil Olsson of Olsson, Frank and Weder,  
3 representing National Meat Association. I'd like to comment on Tom  
4 Devine's comments regarding the Processed Products Inspection Act  
5 of 1986. That's a statute that was enacted when the Secretary was a  
6 member of the House Agriculture Committee. It was done  
7 contemporaneously with the '86 GAO study. There was a tremendous  
8 amount of interest in trying to do some of the things that are being  
9 talked about here, and that was proportioning the research -- the  
10 resources to the risks. And it had nothing to do with whether or not  
11 there was microbial testing, because it dealt with processed  
12 products. And the understanding was it was dealing with cooked  
13 products. And with cooked products, if you avoid the risk of  
14 recontamination, you should not have a pathogen problem. And  
15 therefore, the idea behind that statute was that the good actors  
16 would have the incentive of having less intrusive inspection, and the  
17 bad actors could then have more inspectional oversight and would be  
18 watched more closely. And that should be a precedent. We should  
19 look at the reasons that it didn't work. And part of the reasons that  
20 it was allowed to die were reasons that are being raised here. There  
21 are disputes that have to be resolved. There were people who were  
22 reluctant to see a reallocation of inspectional resources. And so,  
23 when we began these hearings and we talked about some of the things  
24 that GAO recommended in '86 not having come to fruition, they have  
25 not come to fruition because people on all sides of this table have  
26 from time to time asserted interest in their own vested status quo.  
27 And it is heartening when Rosemary Muecklow and Carol Foreman

1 agree that we should move towards incentives.

2 Now the other thing that Mr. Devine spoke of which I have to  
3 respond to is his anecdotal observations regarding filth, regarding  
4 inspection deficiencies, which are, as he describes them, things that  
5 none of us would accept. I served at this department from 1969 to  
6 1973. In the first week that I worked for then Assistant Secretary  
7 Lyn, I was sent with Lou Gass, who is probably in this room, and the  
8 head of the slaughter division, to close down a plant in California  
9 because the -- what was going on there was like what Mr. Devine is  
10 describing. And I can tell you that that was not tolerated from 1969  
11 to 1973. It was not tolerated, I believe, from 1977 to 1981, when  
12 Carol Foreman was Assistant Secretary. I think that there are some  
13 of the lawyers in this room who have worked with the department  
14 from 1977 until this date, and it hasn't been tolerated, and I know it's  
15 not tolerated now. And I think that if we take these anecdotal  
16 observations, things like diseased animals condemned during anti-  
17 mortem inspection who are sent to slaughter as if they were healthy.  
18 Mr. Devine shared his "fact sheet" with me. That is something where  
19 if that happens, you have a packer who has violated the law. That  
20 packer should be in jail. He should be charged with criminal violation.  
21 There is no one here who would condone it. It is a red herring here.  
22 Needed repairs to employee bathrooms are not done. The power of the  
23 inspector is the power to tag things up. Another one is six percent of  
24 dried apricots added to chicken apricot sausages were infested with  
25 insects and larvae. I guess that means that Dr. Kessler should have a  
26 continuous inspection program for dried apricots.

27 The point is these are anecdotal observations. They are nothing

1 that this department condones today. They are nothing that this  
2 department has condoned during the past 25 years. And I believe they  
3 divert our attention from the fact that there is some consensus as to  
4 the fact that resources need to be directed to food safety and away  
5 from traditional and less productive activity.

6 MR. BILLY: Carol?

7 MS. TUCKER-FOREMAN: Yeah, thank you. Carol Tucker-Foreman. I  
8 really want to comment on -- back on the incentives issue, but I feel  
9 compelled to point out to -- just for the record, that when  
10 Congressman Stenholm went to the House Budget Committee with his  
11 Processed Product Inspection Improvement Act, the language of that  
12 legislation had never been the subject of a hearing in the House  
13 Agriculture Committee. It was introduced by Congressman Stenholm  
14 with the specific notice that it was designed to save money at the  
15 Department of Agriculture. And that was the way that it was  
16 presented. It was withdrawn from the Reconciliation Bill. It passed  
17 the Senate as an amendment to the extension of the International  
18 Trade Commission Act on the last day that Congress was in session  
19 without ever having been the -- the whole thing never having been the  
20 subject of a hearing in the United States Senate. And it did not  
21 differentiate between good actors and bad actors. It differentiated  
22 between whether or not the process was one that was susceptible to  
23 contamination. And the example used by our good friend, Don Houston,  
24 was there's no reason to inspect the pepperoni when you slice it and  
25 put it on the pepperoni pizza after you've already inspected the  
26 pepperoni when it was being made. Had the bill been brought forward  
27 under some regular process and with that example in the forefront, it

1 might have had a happier history than it ultimately had.

2 I just -- I really just wanted to make one comment. I think the  
3 discussion here this morning has indicated that we're a long way from  
4 getting some incentives out there in the market, that some beginning  
5 steps are being made. People have raised very good concerns that  
6 would have to be worked out.

7 I just would like to point out again that there is in fact a claim  
8 made on every piece of inspected meat and poultry sold to the  
9 consumer at retail today. If I buy a package of chicken in the store,  
10 and I saved you from bringing it in here today, it says "Inspected for  
11 wholesomeness -- United States Department of Agriculture." And I  
12 just keep going back to the fact that the government makes a claim on  
13 behalf of the company on all of the product that gets out there. So  
14 we're already telling the public something.

15 I would like for there to be a real push for those companies who  
16 have a good story to tell to be able to differentiate themselves from  
17 those who do nothing more than pass the absolute minimum, which  
18 unfortunately, that seal has come to indicate. Thank you.

19 MR. BILLY: Okay. Steve?

20 MR. KRUT: Steve Krut, the American Association of Meat  
21 Processors. I just wanted to concur with Mr. Olsson's comments  
22 regarding the statements that were made of deplorable conditions and  
23 some plant operations. I would hope that Mr. Devine would take the  
24 initiative to identify those plants to the Department of Agriculture to  
25 make sure that corrective action was taken immediately. And also if  
26 anything that was not done, that the inspectors involved and who did  
27 not take that action, should certainly be investigated themselves.

1           Now, I don't believe anyone here has suggested we do not need  
2 inspector presence. But I think that we have deviated from what our  
3 topic is about today. And I would say that's why we have inspectors,  
4 to make sure we do have conditions that are unacceptable that are  
5 detected. I just want to make sure that those inspectors did their  
6 job. Rather than going to the TV camera, they closed that plant down  
7 or shut it down. And if they haven't done that, then we need to  
8 investigate that situation totally. Thank you.

9           MR. BILLY: Tom, it's my understanding that those instances in  
10 your fact sheet are instances where the inspectors have in fact taken  
11 action. Is that correct?

12           MR. DEVINE: That was just my point.

13           MR. BILLY: Angie?

14           MS. SIEMENS: Angie Siemens with Oscar Meyer. I just want to go  
15 back to a comment that Mr. Taylor mentioned earlier and thank him  
16 for, I believe, separating processed ready-to-eat products from raw  
17 products in this discussion. Many people who produce ready-to-eat  
18 products in this business brand their items. And in our case, with our  
19 brand, that is our incentive. And customers recognize that incentive  
20 and we stand behind that trade name. So in terms of, you know, the  
21 discussion, I appreciate the separation of those processed cooked  
22 products from raw materials, because we do have market incentive  
23 with our brand name that we put on our product every day.

24           MR. BILLY: Caroline?

25           MS. SMITH-DEWAAL: I would just concur actually with what  
26 Steve Krut said about the evidence that we have on the incredible  
27 sanitation violations that we've put into the record from the advanced

1 deficiency notices are the reason why we need inspectors in the  
2 plants.

3 I'd also ask Secretary Glickman that the issue of the need for  
4 inspectors in the plants be on the agenda for the meeting on  
5 legislative changes rather than on the meeting for today.

6 MR. BILLY: Mark?

7 MR. DOPP: Yes, thank you. Mark Dopp with Hogan and Hartson. I  
8 just wanted to make an observation based on what Carol said.  
9 Frankly, it's a little unclear if she was suggesting that the label be  
10 changed, and I guess that's a question I would have. But let me also  
11 suggest that the "Inspected for wholesomeness" legend is a perfectly  
12 appropriate one for a couple of reasons. First of all, by definition,  
13 any product that leaves the plant and is inspected by the department,  
14 unless it's wholesome, it is by definition adulterated. But let me also  
15 suggest that this issue of "Inspected for wholesomeness" is a little  
16 bit of a red herring again, based on -- I would echo Phil's comments.

17 The agency has the tools right now to deal with any product that  
18 is not wholesome, that is by definition adulterated. I have been on  
19 both sides of the fence, if you will, on this issue. And I believe those  
20 tools are very forceful, very powerful, and I'm sure that the industry  
21 will abide by that.

22 MR. BILLY: Okay. Robert?

23 MR. GARFIELD: I'm Bob Garfield from Athey, and I wanted to make  
24 some comments, not as a representative of Athey in this case, but as  
25 a former plant manager who spent 10 years in the dairy industry, and  
26 who is someone who went through the dairy initiatives on Listeria in  
27 the late 80's. And we've been talking about grading being an incentive

1 or -- a grading in the dairy industry being an incentive. It was never  
2 an incentive in the dairy industry. The incentive has always been to  
3 dairy processors, the wholesomeness of the product, how long the  
4 shelf life, and to make sure that the customer gets good product and  
5 your good name. Having gone through the dairy initiatives, I can tell  
6 you that there was a combination of recalls, of course, at first that  
7 got our attention. It was industry cleaning up its act on its own,  
8 putting in programs. With the guidance of FDA, it ultimately reduced  
9 the number of cases of Listeriosis in this country -- and without  
10 continuous inspection. And all these things combined without  
11 regulations have done a good job in cleaning up the industry's act.

12 And I would submit to the agency that are ways of going about  
13 this other than incentives and substantive regulations to give the  
14 industry the input that it needs to clean up its own act. That's all.  
15 Thank you.

16 MR. BILLY: Okay. Ed, you're our last speaker. Then we'll have a  
17 break here.

18 MR. MENNING: All right. It will be very quick. Ed Menning, the  
19 National Association of Federal Veterinarians. Just a comment on the  
20 last comment, and that is if the industry would submit all raw meat  
21 and poultry to a pasteurization step, I would agree with everything  
22 that has just been said. Without submitting to pasteurization, the  
23 comparison of no daily on-the-spot inspection or other type rules are  
24 not relevant.

25 MR. BILLY: Okay. I would -- all right, Robert. Fine, go ahead.

26 MR. GARFIELD: There is a whole segment of the meat and poultry  
27 industry, specifically frozen foods, profit of processed products,

1 where there are steps, and that product is safe. It is low risk. And to  
2 my knowledge, there hasn't been any health-related outbreaks in this  
3 country that are a result of those products. So there's this whole  
4 segment of the meat and poultry industry that has been almost  
5 ignored, totally, in a lot of these discussions, and I think that needs  
6 to be addressed.

7 MR. BILLY: All right. I'm going to now call a 15-minute break. So  
8 about five minutes to 11.

9 (Whereupon, a brief recess was taken.)

10 MR. BILLY: I'd like to get started again. Before we start the  
11 formal proceeding, Rosemary has asked for a little bit of time. I  
12 think she has something for Mike.

13 MS. MUECKLOW: We know -- oh, you should be so lucky. It's what I  
14 keep in my pocket, not in my purse. But this is just a very small  
15 token that was not designed, not prepared by me, but I've been elected  
16 as the most popular person to present you with this token of the total  
17 industry's appreciation.

18 MR. TAYLOR: What can I give you?

19 MR. BILLY: This is thank you note with some sort of an organism.

20 MS. MUECKLOW: I would hasten to tell you that the remains of  
21 yesterday's have been attacked by the ants that come in overnight.  
22 And they're doing a good job of destroying him on the floor. There are  
23 people around this room that would tell you if that was a meat  
24 product, it certainly would be consumed with red retained tags by  
25 this time.

26 MR. TAYLOR: Thank you, Rosemary.

27 MS. MUECKLOW: You're welcome. We're staying in good humor.

1 MR. TAYLOR: I appreciate it.

2 MS. MUECKLOW: We decided not to do it in front of the big boss.

3 MR. TAYLOR: We need to maintain our dignity here. Okay. Thank  
4 you.

5 MR. BILLY: I have been made aware that there are a number of  
6 folks from other countries that are keenly interested in participating  
7 in particular in the international considerations, but also are  
8 scheduled to depart beginning shortly after noon to go back to their  
9 respective countries. So for that reason, I'd like to now cover the  
10 international considerations. Hopefully, all of you have had a chance  
11 to take a look at the paper.

12 John Prucha is going to sort of highlight it, as we have in the past  
13 on other issues. And then we'll open it up for a discussion.

14 John?

15 MR. PRUCHA: Okay. Thanks, Tom. John Prucha. If you could just  
16 turn to your paper, I'll just briefly walk you through it -- through the  
17 discussion paper on the specific product considerations involving  
18 international trade. The comments -- they've been categorized into  
19 two parts, the comments dealing with problems and concerns relevant  
20 to the export of product from the United States, and then coming the  
21 other way, comments and concerns related to product being imported  
22 into the United States.

23 The -- in regard to the export of product, there were comments  
24 raised voicing concern that some of the requirements being proposed  
25 in the rule would make it very difficult to trade with some of our  
26 trading partners, and specifically, that would be the European Union,  
27 and to a more limited extent, Canada. And most of the comments

1 dealt with concerns and problems associated with the requirement  
2 for anti-microbial treatments of U.S. product. And in regards to the  
3 import of product to the United States from foreign countries, a  
4 number of commenters were concerned as to how -- what would be  
5 the specific requirements for -- that we would require from the  
6 foreign countries, and how would we evaluate whether or not their  
7 inspection system and the process control systems that were used  
8 within the plants that were doing business with the United States,  
9 how they would be determined to be equivalent. So we've outlined  
10 some of our current thinking in regards to both these issues in order  
11 to start the discussion today.

12 As far as the export issues, we noted that as far as we know,  
13 that the European Union member states and Canada are the only  
14 countries which restrict anti-microbials on meat and poultry  
15 carcasses. And one of the options laid out in the proposed rule was  
16 that hot water was considered to be an acceptable anti-microbial  
17 treatment, and that would be acceptable also to Canada and to the  
18 European Union. But in addition, if you'll turn to the second page, we  
19 did recognize that there has been a lot of discussion on that subject  
20 throughout the course of these hearings, and there are alternatives  
21 that have been suggested and are -- will be considered in lieu of a  
22 precise requirement. So that covers that issue.

23 And as far as the import issues, as I'm sure just about everybody  
24 in this room knows, that the U.S. has signed the NAFTA Treaty and the  
25 GATT Treaty, and in so doing, that we have agreed to recognize that  
26 countries which have systems of inspection equivalent to that of the  
27 United States will be allowed to move product into the United States.

1 And as far as that applies to the current proposal, basically, what  
2 we're thinking is that the countries would need to establish  
3 standards, as is the current practice. They would need to establish  
4 standards which are essentially -- which would essentially result in  
5 product being produced that was equivalent to the product that's  
6 being produced -- that would be produced under the proposed  
7 requirements. And in addition, that they would need to ensure that  
8 that product was being produced in the plants that they regulated  
9 following a system that would be equivalent to that that we would be  
10 proposing to be accomplished through HACCP.

11 In addition, I'd like to point out that we would of course expect  
12 their system of inspection to be equivalent to ours. The issue of  
13 equivalency is somewhat a new concept, especially when applied to  
14 this situation. We're in the process of exploring that concept. We're  
15 having quite a bit of discussion on that matter. And we have had  
16 quite a bit of discussion with our trading partners as to how that  
17 concept might be applied for this particular situation. And as noted  
18 in the next to the last paragraph, there is thinking ranging all the way  
19 from countries that might -- that we would expect that would simply  
20 adopt almost exactly our proposed requirements to other countries  
21 that have essentially argued or proposed that those -- that HACCP  
22 system is -- exactly a mirror image of a HACCP system may not in  
23 fact be the best way to meet the U.S. performance standards and that  
24 there are other ways to do that. And so we are -- we are open to  
25 considering alternative ways for determining that -- alternative  
26 methods for determining that a foreign country's system of  
27 inspection can assure us that the plants within that system are using

1 a process control system equivalent to HACCP.

2 So I think I'll stop summarizing our current thinking at this point  
3 in time and turn it back to you, Tom.

4 MR. BILLY: Okay. Bruce?

5 MR. TOMPKINS: I'm Bruce Tompkins from (inaudible.) I just have a  
6 question. Do you have an official ruling from the EU that they will in  
7 fact accept hot water treatments for carcasses -- meat from the hot  
8 water treatment? Or is that our own assessment?

9 MR. BILLY: I explored this with my staff just yesterday, and I  
10 understand that we do have plants that are exporting to the European  
11 Union or some of their member states and are treating the product  
12 with hot water.

13 MR. TOMPKINS: Okay. With the EU's knowledge?

14 MR. BILLY: I believe so. Joe?

15 MR. POCIOUS: Okay. Joe Pocious with the National Turkey  
16 Federation. And just for the record, I want to summarize part of the  
17 problem for our industry, in any case, with the export provisions. The  
18 major export product for our industry is dark meat. Light meat is  
19 marketed domestically. And the suggestion before was that why don't  
20 you just segregate or turn the chlorine on and off. And that just  
21 really doesn't work, because you can't turn it on part of the bird and  
22 not the rest of it. So that's the issue at hand when we talk about  
23 anti-microbial intervention.

24 Concerning the hot water -- this is just a reminder. And I think  
25 you probably want to hear it from me and not from the Rabbis again,  
26 but hot water is not allowed in a kosher process until after the  
27 rabbinical rinses. And that is, there is no treatment, anti-microbial,

1 hot water, or otherwise, prior to any -- that's not prior to the chiller,  
2 but prior to chilling. So just to keep that in mind as we go along.

3 MR. BILLY: Okay. Robert?

4 MR. BIDDLE: Thank you, Mr. Chairman. I would wish to  
5 congratulate the agency on a very well-directed paper, particularly in  
6 relation to import issues that we have before us at the moment. The  
7 principal of equivalence and its application as implied in this paper is  
8 of course very consistent with the obligations of signatories to the  
9 World Trade Organization Agreement, particularly the (indiscernible)  
10 Agreement within that context.

11 It is also relevant to note that the position is entirely consistent  
12 with the WHO/FAO (indiscernible) Commission standards, particularly  
13 in the form of the meat hygiene code, which have been elaborated.  
14 That code specifically provides for the principal of equivalence. And  
15 therefore this position is fully justified in that context.

16 I would also like to comment briefly about some of the import  
17 issues of the paper. Firstly, in relation to --

BEG. #2 the EU and Canada are perhaps some of the few countries that  
19 might have specific restrictions on their use of anti-microbials on  
20 meat and poultry carcasses.

21 It would be our experience in Australia that many countries,  
22 including our own, have quite prescriptive food additive regulations.  
23 For example, within Australia, I'm not aware, for example, that tri-  
24 sodium phosphate has been added to the schedule of permitted  
25 additives for this purpose. And I would suspect that similar  
26 legislation in many other countries may not reflect some additives  
27 that are suitable for this purpose. And so, I think we just need to be

1 -- have a degree of caution at this time. That's not to say that these  
2 additives can't be and won't be added to approved lists under the  
3 legislation of various countries, but it will undoubtedly take a degree  
4 of time and perhaps, in some cases, somewhat costly effort.

5 One other comment I might make -- and it's more in the nature of  
6 a question. It goes to -- and perhaps there is a Canadian agriculture  
7 official here today. I ask simply if there are any moves within the  
8 Canadian context to consider amendment of their provisions that  
9 relate to the permissible level of chlorine for such anti-microbial  
10 treatments.

11 Thank you.

12 MR. BILLY: Jim?

13 MR. ELFSTRUM: Jim Elfstrum with Rhone Plant. As long as TSP  
14 has been mentioned, let me try to clarify where that issue stands.

15 First of all, with respect to this document that was handed out,  
16 I'm a little surprised that the last paragraph is an incorrect  
17 statement. TSP was approved for use in Canada prior to its approval  
18 in the United States. So we have no problem vis-a-vis Canada and the  
19 United States with respect to the use of TSP on poultry products.

20 Secondly, with respect to the European Union, TSP is approved in  
21 the U.K. We are working on its approval status in the EU itself in  
22 Brussels. We expect to have some clarification of that status there.

23 It is -- TSP is on the Codex Committee on food additives and  
24 contaminants list of processing aids. It is a substance clearly  
25 indicated on that list, and is therefore a well-recognized processing  
26 aid without any limitations on uses or levels of use as a processing  
27 aid.

1           We are working on approval in Australia and in New Zealand, as  
2 well as in other countries around the globe. So with that, I'd like to  
3 request that this record be corrected with respect to TSP and its  
4 status in Canada. Thank you very much.

5           MR. BILLY: Jim Lockner?

6           MR. LOCKNER: Jim Lockner at IBP. It is a critical issue that we  
7 do take into very high consideration all exports. And for the record,  
8 and my comments had these -- my written comments had this point in  
9 it. We do not export carcasses except in rare circumstances. And  
10 thus when we do treat, it always is parts that go. It might be the  
11 tenderloin. It might be the strip. It might be the plate. But it's never  
12 the entire carcass in that form, with the exception of, like I said,  
13 rare instances -- for example, the Brazilian Carcass Export issue of a  
14 number of years ago.

15           Anti-microbials are likely to be a very, very viable intervention  
16 to reduce the risk of pathogens. I think it's imperative that the  
17 department work very diligently on those viable anti-microbials and  
18 work with our exporting countries to make sure that we do get them  
19 approved. If there's a huge hangup with let's say Canada or the EU or  
20 Japan on one, then we should be concerned as well here. I'm having a  
21 hard time believing that, unless it's a non-tariff trade barrier, that it  
22 should be an issue.

23           The other one that always upset me to some degree was the fact  
24 that we had not resolved that issue with Canada on chlorine. And I'm  
25 under the impression that Canada does accept chlorine dioxide. And  
26 there seems to have been a tremendous delay in getting chlorine  
27 dioxide approved for use on meat-animal products in the U.S.

1 MR. BILLY: Okay. Bill?

2 MR. DUBBERT: Yes, Bill Dubbert, National Part Producers. I won't  
3 belabor the points I raised the other day about the anti-microbials.  
4 It's been brought up here again, and I hope that the options in the  
5 issue paper stay viable so that there are some alternatives for our  
6 processors and slaughterers to handle product that's headed for  
7 export.

8 As recent as April, I believe it was, in '93, we had 34 countries  
9 that sat down together at the Meat Hygiene Codez Meeting chaired by  
10 New Zealand. Our friend, Dr. Biddle, from Australia, and of course, Dr.  
11 Prucha, were there. We pretty well agreed on more tradition  
12 inspection procedures, but we did give high marks and approval to  
13 HACCP and also to risk analysis.

14 So a lot's happened since then. And the point I want to make here  
15 is we've got top-to-bottom review now. We've got a proposal on the  
16 table. And in my recent travels around, there's still a lot of concern  
17 about bird-by-bird and animal-by-animal inspection. And I won't ask  
18 the Chair to re-explain where that is. But the point is we have a lot  
19 of things out, and my request is to be sure that our trading partners  
20 have our most recent thinking.

21 And with that said, maybe these issue papers that we have can be  
22 gotten to them so that they can have a chance to recommend or add to  
23 the comments before they close. We, ourselves, are somewhat  
24 confused, and you can imagine our trading partners in trying to sort  
25 out this at some distance away.

26 Thank you.

27 MR. TAYLOR: Bill let me just -- this is Mike Taylor -- just make

1 one quick point in response. The issue papers that have been  
2 circulated here we are going to publish. We're going to just put a  
3 notice in the Register and have them so that everybody will have  
4 access both here and overseas in a published form.

5 MR. DUBBERT: I might just add to that. Maybe Dr. Prucha's  
6 international staff in their trips can do a little one-on-one on what  
7 we're thinking here, too, and kind of make them the benefit -- or give  
8 them the benefit of some of the discussions going on here. I think  
9 that's the part that's missing.

10 Thank you.

11 MR. BILLY: Okay. Marsha?

12 MS. ECHOLS: Marsha Echols with the National Association for the  
13 Specialty Food Trade. I'd like to say for the record that small  
14 companies are interested in exporting, also. They are aided in that to  
15 the extent that the regulations they have to comply with here and  
16 overseas are either the same or considered equivalent or are very  
17 simple, so that you're not adding some disincentive to them or an  
18 extra layer of regulations for them. So to the extent that our system  
19 can be the same as or made equivalent to, acceptable by, other  
20 countries, that will make it easier for small companies to do  
21 whatever has to be done to export their products. And I'm talking  
22 primarily about processed products.

23 On the import side, with regard to the specialty food trade,  
24 specialty food retailers very often stock large quantities of imported  
25 products as a way of attracting people into their stores, of offering  
26 something that is a little bit different. To the extent that it is  
27 possible and easy for the imported products to enter the country, that

1 helps provide or support the market for domestic production of  
2 specialty food products in those retail stores so that the other side  
3 of the making exports easier for small companies -- if it is possible  
4 for unusual and imported products to come in and without too much  
5 difficulty, that would help the specialty food manufacturers in the  
6 United States, also. Maybe the simple way to say it is that  
7 harmonization and equivalence would be very important to the small  
8 companies.

9 MR. BILLY: Okay. Any other points that anyone would like to make  
10 in this area? Okay. Then I'd like to move on.

11 The next area for discussion is animal producer considerations.  
12 And I'd like to call on Mike Taylor to open the discussion.

13 MR. TAYLOR: I thought I would just take a moment to review just  
14 very briefly what our strategy has been and is with respect to the  
15 animal production stage of the food safety continuum and, among  
16 other things, distinguish it from the strategy that we are pursuing in  
17 our rule-making proposals with respect to HACCP and other  
18 regulatory interventions within meat and poultry plants. The animal  
19 production stage of the continuum is important, and I think everybody  
20 recognizes that, because of the possibility that it -- indeed we know  
21 that to varying degrees and under varying circumstances, animals  
22 become infected with enteric pathogens that then become  
23 contaminants of food safety concern during the course of the  
24 slaughter and in processing and the dressing operation. And so there's  
25 a need to develop approaches at the production stage to reduce the  
26 potential risk as much as possible. There's a long and a very  
27 successful record of effort by the animal production community with

1 respect to chemical residues to develop quality assurance programs  
2 and practices that can be observed on the farm to ensure that  
3 chemical residues stay within legal and safe limits. That area is  
4 important but relatively straightforward, I think from the scientific  
5 standpoint, compared to the challenge we face in developing on-the-  
6 farm interventions to deal with microbial pathogens.

7         So the focus of our efforts have been to work with the scientific  
8 community, work with the production community, to try to foster the  
9 sort of scientific work, research, and discovery, if you will, of  
10 practices that could be instituted to work preventively to improve  
11 food safety at the animal production stage.

12         The Department of Agriculture does not have regulatory authority  
13 to regulate for food safety on the farm in the manner in which we  
14 regulate for food safety within meat and poultry processing plants.  
15 So our strategy at the animal production stage is not a regulatory  
16 strategy. It is a matter of working with the community, hopefully  
17 exerting some positive leadership to help keep the focus on those  
18 sorts of research and other activities that really will make the  
19 greatest contribution to discovering and implementing through  
20 voluntary programs improvements at the animal production level.

21         We recognize, obviously, that there is a link between the  
22 implementation of HACCP in meat and poultry plants and  
23 expectations, demands that may be placed by purchasers of animals  
24 on those who produce the animals. And that's a topic that perhaps  
25 ought to be discussed during our -- during this coming segment of our  
26 meetings. We think that there's an opportunity for very positive  
27 synergy between what happens within plants and the way in which

1 packers, processors can work with the animal production community  
2 together to try to reduce the hazards. And we would like to play as  
3 positive a role in that as possible. We obviously can't place demands  
4 on producers that can't be met. On the other hand, there is a need for  
5 the system to work in an integrated way to reduce risks as much as  
6 we can with available science and technology at each stage of the  
7 process. That's the essence of our strategy. So we do have to be  
8 looking at the animal production level.

9 But we're in a somewhat uncertain situation, I just have to say,  
10 with respect to the future of our program, in light of the still  
11 somewhat uncertain budget situation. We're very committed to the  
12 concept of trying to be of help at the animal production stage. And I  
13 think we're going to have to sort of gage the level of our effort and  
14 the way in which we could make best use of our resources as we go  
15 along, in light of whatever final congressional action occurs on the  
16 budget.

17 With that, I turn it back to Tom.

18 MR. BILLY: Okay. I'd like to open it up then for discussion. Okay.  
19 Richard?

20 MR. BECKWITH: I'm Richard Beckwith back for the Animal  
21 Concerns Trust. Since 1982, we've been promoting methods of raising  
22 livestock in a way that has a positive impact on food safety. And  
23 since '84, we've had an egg production program that since '91 we've  
24 had Salmonella controls as a part of them. As a matter of fact, one of  
25 our flocks now are in the Pennsylvania SE program. We've worked  
26 long and hard for the kind of pathogen regulations that are before us  
27 now.

1 I want to pick up on what Mike Taylor was saying about the  
2 connection between the plant and the producer. And that connection  
3 sounds really like it might really work, and certainly might have  
4 some positive impacts on what producers bring to the plant. But our  
5 concern goes beyond that and really relates back to some of the  
6 economic impact discussions that we had yesterday dealing with  
7 small processors. Even though this rule does not say anything about  
8 producers and is benign at that point, you know, no U.S. regulation is  
9 ever benign. And there may be an adverse economic impact on  
10 producers because of this rule.

11 We just now are reading volume two of the document that I talked  
12 about in review, and it lays out what Mike Taylor was referring to,  
13 where plants, a slaughter house, would be encouraged to turn to its  
14 producers and ask the producers to bring a clean product to their door.  
15 In developing a critical control point plan, other documents from FSIS  
16 have indicated that producers may be seen as one of the critical  
17 points in that plan, and again, be encouraged then to bring a clean  
18 product to the door. And that's fine and good and we are all  
19 supportive of that. But unfortunately -- and this is an area that FSIS,  
20 I think, needs to explore if this is in fact true, but it's our opinion  
21 that the large producers will be able to accomplish that. They have  
22 the resources and capacities to bring clean products to the door if  
23 that's a part of a larger critical control point plan. Some producers  
24 are a part of the processing establishment anyway, and that won't be  
25 a problem there, either.

26 But as we spoke of yesterday, with the small processors, small  
27 and medium size producers may well have a problem bringing a clean

1 product to the door and may well have a problem being a part of the  
2 critical control point plan of a slaughter house or an establishment.  
3 That then means that their product will not be acceptable there and  
4 they lose their market. That means a couple of things. They go out of  
5 business and, as was said yesterday, I'll see you in the city. But a  
6 plan that seeks the well-being of consumers ought not in the process  
7 undo the well-being of others. And we think that somehow that issue  
8 of the economic impacts across the board needs to be addressed.

9 Some of the steps that are outlined in this volume two, top-to-  
10 bottom review, look like positive steps. They do seem to recognize  
11 the fact that FSIS lacks authority in the area of on-farm work. But to  
12 create a level playing field for producers of all sizes, further steps  
13 may need to be taken. And steps that we've been exploring are steps  
14 such as inspection of stock as it is shipped to the farm, testing of  
15 feed for Salmonella, and testing of stock as it leaves the farm itself.

16 Those issues in themselves are issues of pathogen control. But  
17 the point that I wanted to make at this point is that they also relate  
18 to the question of the economic impact of the rule itself. Thanks.

19 MR. BILLY: Okay. Dane?

20 MR. BERNARD: Thank you, Tom. Dane Bernard, National Food  
21 Processors Association. As I think I mentioned in the scoping  
22 meeting when the agenda was set, this topic has been considered  
23 many times, not only through the process of this rulemaking, but in  
24 international circles as well. I think that this parallels what we did  
25 in Geneva, when we talked about street vend foods. The word HACCP  
26 has relatively little meaning in the context of what goes on on  
27 especially smaller farms day in and day out.

1           What is more important is that we identify through the process  
2 of research. And we certainly don't have a great book of control  
3 measures that can be applied yet, but there are more and more coming  
4 on line every day of control measures that can be applied at farm  
5 level. And the process should be whenever we find an agriculture  
6 practice, a good husbandry practice or whatever, that will lower the  
7 potential for pathogens being associated with animals presented for  
8 slaughter, that that information get out through the system, the  
9 system that was talked about the other day with the agricultural  
10 colleges. The extension system is in existence for that very purpose.  
11 And we can certainly capitalize on that information system and teach  
12 what are, in fact, good husbandry practices without burdening that  
13 segment of the food chain with all of the seven principles of HACCP.

14           Again, it gets back to flexibility and how we apply the principles  
15 in different areas. And I think that was the conclusion of an FAO  
16 consultation in Vancouver late in 1994, that we can utilize HACCP on  
17 the farm, but we don't even have to call it HACCP. We just have to  
18 identify the good practices. If biological interventions, that we'll  
19 begin to use those and spread the word and encourage that they be  
20 used without broad mandates. We can educate the industry and get  
21 these things on mind fairly easily, without having to go through any  
22 extensive process other than using the tools that are before us.

23 Thank you.

24           MR. BILLY: Bill?

25           MR. DUBBERT: Bill Dubbert, National Part Producers. Our National  
26 Part Producer's counsel did prepare a short paper for this session, but  
27 Mr. Taylor has already kind of paraphrased that paper and done a very

1 good job. We were going to talk a little bit about the quality  
2 assurance programs of the past, but you're certainly right. What we  
3 have before us now is something a little bit different than the  
4 residue concerns that we've handled quite well. And I think everyone  
5 would agree we all get A pluses. All the species have done real well  
6 on getting the monitoring levels of residues down to a fraction of a  
7 percent.

8 But now this is a different story. We are talking about HACCP at  
9 the plant level. And maybe it's doable, but we have a long ways to go  
10 to be able to ingrain some of those kinds of thinking at the farm  
11 level, the producer level. We need to know a lot more about the  
12 ecology and the epidemiology of micro-organisms of public health  
13 significance. We have a pork safety task force hard at work  
14 developing some research that we think will be very useful to kind of  
15 get a handhold of what it is we ought to be looking at. Pathogen  
16 estimates on the farm is one of these projects. We have another one,  
17 the identification of critical control points on farms. We can  
18 certainly start thinking about what those should look like. The effect  
19 of feed withdrawal prior to harvest. And of course, the relationship  
20 of pathogens on farms, comparing them with pathogens that are on  
21 carcasses. We are working on our research very closely with the  
22 consortium, food safety consortium, Iowa State, Kansas, State  
23 University of Arkansas, and also with the Agricultural Research  
24 Service. And I think the status of some of the research thinking will  
25 come together at the research seminar later on this fall. We at least  
26 would surely want to do that.

27 We're working very closely with Bonnie's group on all of the work

1 we're doing. And we sure are open to sit down with you at any time  
2 on a progress report of how we're doing as far as our own farm  
3 studies are concerned. And we're willing to work with the  
4 department in any way we can to get some answers as to what should  
5 really happen on the farm.

6 I think really what we're coming up with here is pretty much  
7 confirmed at the agency's Animal Production/Food Safety Program  
8 held earlier this year. And I think the bottom line is that the effects  
9 at the production level must be practical, economically sound, and  
10 they certainly must be science-based, and produce a real, measurable  
11 difference in the pathogen reduction.

12 So we're willing to work with you, and we'll compare notes, and  
13 Bonnie will be in touch and keep our dialogue going. Thank you very  
14 much.

15 MR. BILLY: Bruce?

16 MR. DUNCAN: Bruce Duncan from Armour Swift Acreage. Having  
17 been involved with this industry for 30-some years now, and I've seen  
18 a lot of change in the level of interest in terms of pathogen control  
19 and meat and poultry products. In the 60's, Bill Dubbert would  
20 remember -- of course, we were very active in the issue of  
21 Salmonella. Since that time, we have had to deal with newer  
22 pathogens that have been brought to light, Hircenia Intercolitica, E-  
23 Coli 157, and others that are becoming known today.

24 I think this whole area of pathogen control at the farm level is a  
25 very important aspect of our total -- of how we address food safety  
26 in a total basis. And I don't really understand, and don't need to  
27 understand, the issue of funding for research, but when I heard that

1 the agency had, in fact, brought into FSIS the group of veterinarians  
2 to begin to address this specific issue, there was a bright light in  
3 what I've seen over 30 years. And I would not like to see that effort  
4 that's been initiated to be thwarted. It has great potential value in  
5 where we're going. We need information and research as very  
6 fundamental to get there.

7 MR. BILLY: Thank you. Joe?

8 MR. POCIOUS: Joe Pocious with the National Turkey Federation.  
9 First, I want to say that I'm happy to hear that we agree with the  
10 gentleman from FACT for a change. It's been awhile.

11 But there is a lot of difficulty in applying these principles on the  
12 farm in the case of poultry, and that is turkeys, broilers, egg layers.  
13 The NPIP Program, National Poultry Improvement Program, has been  
14 around a long time. And so we do have an advantage there in that our  
15 primary breeding stock and multiplier stock is already bred to be  
16 pathogen-free to a large extent.

17 Our problem has been in the grow-out area and what happens  
18 there. And we are addressing that at this point in time and  
19 developing what we are terming an animal production food safety  
20 system. And we will have animal production food safety points, not  
21 critical control points -- and it's important to keep that in mind. We  
22 can't control things on the farm like we can do in a plant. In this  
23 system, we will apply the HACCP principles, the principles of hazard  
24 analysis. That doesn't make the entire program a HACCP program. We  
25 cannot do critical limits. We cannot do corrective actions like you  
26 can in a plant. These things are going to be discussed further at the  
27 meeting next month and at the U.S. Animal Health Association, and

1 we've been working with Bonnie's group, as well. We've also been  
2 working -- talking about research, as Bruce Tompkins mentioned. The  
3 University of Minnesota is looking at ways of growing pathogen-free  
4 birds. Now, we don't know whether that's really a possibility. I mean  
5 there is the environment, and there is air and dirt and soil, things we  
6 just can't sterilize or sanitize. We're going to do the best that we  
7 can at those things.

8       What we don't want to get into here is a mandatory mode.  
9 Unfortunately, the gentleman from Canada is not here today, but he  
10 could tell you that they tried doing that in Canada, and they tried to  
11 have an exclusionary regulation, which is a hard HACCP type, don't let  
12 it end, control it, and you strangulate any possibility of vectors  
13 bringing in pathogens or otherwise. They couldn't do it; and I don't  
14 think we should kid ourselves here. We can't do it here, either. But  
15 they did adopt a system of non-exclusionary growing, which is what  
16 we're trying to do. We can apply some systems. We'll never get to a  
17 sterilized live animal, and it's foolish to think so.

18       MR. BILLY: Jhung?

19       MS. COLBY: My name is Jhung Colby with Purdue Farms. We  
20 believe in the continuum of food safety from farm to table, and that  
21 the industry -- we accept the responsibility for our part of food  
22 safety as well as other parts in this continuum should take  
23 responsibility, such as distributors, food service, consumers. But for  
24 our part of the industry, what we have actively been doing is looking  
25 at our live production and looking at ways to intervene and identify  
26 critical control points specifically for food safety. And we at Purdue  
27 have been working at from a breeder levels, to breeders to the

1 hatcheries at the farms, the whole transportation system, and  
2 through the plants. So we are very active in this and we support the  
3 continuum, and working closely with Bonnie Buntain's group.

4 MR. BILLY: Eric?

5 MR. JUZENAS: I just wanted to -- Eric Juzenas, American Public  
6 Health Association. I just wanted to respond to Joe's comments very  
7 briefly. I think definitely -- and I don't even -- I don't think anybody  
8 here is advocating mandatory standards for the farm. And nobody  
9 thinks a pathogen-free bird is a reality, but there's still a lot that  
10 can be done in between to improve farm safety practices. And I think  
11 the processors are going to have a big part in demanding that. And I  
12 just want to make sure that that's on the record, because I don't want  
13 to hear it said that because it's so difficult, we're not going to be  
14 able to do anything. Thank you.

15 MR. BILLY: Joe?

16 MR. POCIOUS: Okay. Joe Pocious with the National Turkey  
17 Federation. I think that's what I said, for the record, that we are  
18 doing things. In spite of the difficulties involved and the unknowns  
19 and the lack of research, we're going forward anyway the best that  
20 we can right.

21 But I did want to get on the record that if anybody expects us at  
22 some time -- perhaps in the year 2000-X, we might figure out how to  
23 do it without using clean rooms, but that's not today.

24 MR. BILLY: Okay. Bernadette?

25 MS. DUNHAN: Bernadette Dunham with the American Veterinary  
26 Medical Association. Just to reiterate concurrence with what Mike  
27 Taylor said, and for the Veterinary Association to be recognized that

1 we certainly support Bonnie Buntain's program and concur with the  
2 comments that there's an awful lot of research that still has to be  
3 done to permit effective pathogen reduction during animal production.

4 MR. BILLY: Okay. Other comments anyone would like to make?

5 MS. BUNTAIN: Bonnie Buntain from the Animal Production Food  
6 Safety Program. I appreciate all the comments and the support, and I  
7 want to state that we are looking and working very hard to focus  
8 research efforts from the farm to the transportation and marketing  
9 channels, as well as pre-slaughter preparation -- to look at all of  
10 those and to provide the people working in the animal production area  
11 the tools to be able to make scientific-based decisions, which can  
12 predict, help predict, public health issues in the live animals. So we  
13 appreciate the support and we will be focusing on continuing to  
14 conduct these types of efforts and to get some real solutions.

15 MR. BILLY: Rosemary?

16 MS. MUECKLOW: I do think it would be helpful for people like  
17 Bonnie Buntain to be actively involved in the International Meat and  
18 Poultry HACCP Alliance. All of the producer groups are involved in  
19 that alliance. And having your specific representation distinct from  
20 slaughter and processing, the pre-slaughter element, I think would be  
21 very helpful and important.

22 MR. BILLY: Okay. Anyone else? Okay. All right. I'd like to move  
23 on. The next item on the agenda is Item D, a general category, any  
24 issues that need further discussion. The first category of items will  
25 focus on the areas of transportation and retail. That's transportation  
26 and retail in the context of meat and poultry products leaving the  
27 slaughter and processing plant environment and moving to the retail

1 sector.

2 So again, I'd like to call on Mike Taylor to say a few things to sort  
3 of set the stage for this discussion.

4 MR. TAYLOR: Well, in the preamble to the February 3rd proposals,  
5 we did, in addition to explaining our regulatory proposals, describe  
6 our farm-to-table strategy, which included some ideas about what  
7 happens in the role that we might play and what happens with product  
8 after it leaves the FSIS-inspected establishment. And so that  
9 includes transportation, storage, the whole distribution process, as  
10 well as what happens at retail.

11 As laid out there, we do believe that just as there need to be  
12 some appropriate standards within plants and some appropriate  
13 oversight within plants to see that standards are met, so, too, do we  
14 need to consider having standards, appropriate standards, and  
15 oversight with respect to transportation and distribution of product.  
16 That does not translate in our minds into thinking that HACCP and the  
17 formalities of HACCP apply necessarily in transportation and storage  
18 and so forth. On the other hand, there's a big gap in the current  
19 system, because, as has been pointed out by many people in this  
20 meeting, we are paying very close attention, and increasingly  
21 rigorous attention, to standards and accountability within plants.  
22 There is currently no uniform, no national, no federal standards  
23 whatsoever with respect to basic elements of safe food handling with  
24 respect to those matters that go particularly to safety of product,  
25 growth of pathogens. There are no temperature standards with  
26 respect to transportation.

27 And the issue here again is not to think that we need to go ahead

1 and reinvent, generally speaking, those current, you know, practices  
2 that are working well and meeting some appropriate standard. The  
3 issue is ensuring that there is some means for accountability and  
4 ensuring that all those engaged in this very vital part of the food  
5 safety continuum, that is transporting food, are meeting an  
6 appropriate food safety responsibility.

7       And so we have been working over the last several months with  
8 the Food and Drug Administration in gathering information, working  
9 with outside experts, to consider what exactly the hazard issues are  
10 with respect to transportation and what appropriate approaches  
11 might be. And we intend as soon as possible this fall to publish an  
12 advanced notice of proposed rulemaking that will lay out these issues  
13 and some possible approaches to providing some standard and some  
14 oversight to begin the process that would lead to, you know, decisions  
15 about whether and how to establish some standards here. And we  
16 would very much obviously need the engagement of the many experts  
17 and constituencies around this table on that issue.

18       We also laid out in the Federal Register preamble in February  
19 some ideas about working more closely with the states, elevating our  
20 collaboration with the states, with respect to retail and food service  
21 food safety. And perhaps Pat Klerken, who is leading that effort for  
22 us, might just add a few comments.

23       MR. KLERKEN: Okay. Thank you. Patrick Klerken with the Food  
24 Safety and Inspection Service. Perhaps just to fill in a little bit and  
25 expand on some of the things Tom -- or Mr. Taylor was just  
26 mentioning. We have done some things subsequent to the February 3rd  
27 publication. We have co-sponsored a number of teleconferences with

1 the extension service and the Food and Drug Administration targeting  
2 state and local food regulatory audiences, and have reached thousands  
3 of them with the messages of our concerns for pathogen growth and  
4 pathogens in the handling of meat and poultry products in the retail  
5 and restaurant sectors, and have exposed them to the activities we're  
6 engaged in with respect to HACCP and our support for the food code  
7 process. We have also named advisors to the different councils and  
8 conferences of the -- or advisory committees of the Council on Food  
9 Protection. This is a conference comprised of representatives of the  
10 state food regulatory agencies that inspect retail and inspect  
11 restaurants, that advise the Food and Drug Administration on the  
12 elements of the recommended food code. And we are working with  
13 those advisory committees on the food code to ensure that the  
14 science that we use in meat and poultry inspection forms the  
15 foundation for the requirements that are established in the food code  
16 as well.

17 The undersecretary, the acting undersecretary and the associate  
18 administrator also met with the Association of Food and Drug  
19 Officials in their national meeting and very clearly delivered the  
20 message to them that we have an interest in affecting the way meat  
21 and poultry processing and handling is inspected at the retail and  
22 restaurant level, and how they enforce food code provisions at the  
23 restaurant and retail levels.

24 As we indicated in the proposal, we have formed a technical  
25 analysis group with FDA and the Department of Transportation to look  
26 at the hazards associated with transportation and storage and to  
27 describe the kinds of interventions that are available to or employed

1 by industry to address those hazards. And we expect that we'll have a  
2 report from that analysis group this fall.

3 We are working with FDA now to develop an advance notice for  
4 proposed rulemaking, also targeted for publication this fall, which  
5 will address the issues of what type of regulatory approaches we can  
6 take in the transportation sectors and in the businesses that store  
7 meat and poultry products as they move toward the final end user, and  
8 what type of inspectional or enforcement roles could be played by  
9 federal, state or local food regulatory agencies. The latter could also  
10 include the possibility of there being new areas of cooperative  
11 programs between USDA and state and local food regulatory agencies.

12 In the retail arena specifically, we stated in the February 3rd  
13 publication that we would intend to continue to rely on the existing  
14 system of state and local food regulatory inspection and enforcement.  
15 There are over 3,000 state and local jurisdictions that enforce food  
16 codes across the United States, and they bring a very significant  
17 resource to that area. The food code process -- FDA has committed to  
18 a bi-annual update to the food code, where they will make  
19 modifications to their recommendations to state and local agencies.

20 We consult with FDA in their development of their  
21 recommendations with regard to meat and poultry handling and  
22 processing. As I mentioned, we also work with the Conference for  
23 Food Protection in providing advice to their various committees on  
24 the recommendations that they develop. This is going to be an  
25 ongoing process. The conference meets every two years. They'll be  
26 meeting again in April in Denver next year, where they will make  
27 recommendations to FDA to affect the 1997 amendments to the food

1 code recommendations that FDA would develop.

2 We're also planning beyond that, programs of assistance to state  
3 and local food regulatory agencies. We'd like to achieve consistency  
4 in how they approach inspection of the processing and handling of  
5 meat and poultry products. We'd like to achieve some consistency in  
6 how they enforce code provisions. And we're looking at the  
7 development of training programs for the standardization of  
8 officials, where they would have a standard approach to how they  
9 interpret and apply food code provisions, and also to the possibility  
10 of a program of auditing of these state and local regulatory programs,  
11 so that we can have some barometer of the effectiveness of their  
12 inspection of meat and poultry processing at retail. And this latter  
13 could also include new areas of cooperative programs between FSIS  
14 and state food regulatory agencies.

15 MR. BILLY: I'd like to open it up for discussion. Jim?

16 MR. HANKES: Thank you, Tom. Jim Hankes, Illinois Meat  
17 Processors. However, I'd like to switch hats here. I sit on our local  
18 County Health Board, and I'd like to just give everybody a little  
19 picture of how the system works down at our county level. Two years  
20 ago, we didn't have a system in place. Our County Health Board was  
21 voted in by the consumers, by the people in our county. It had to come  
22 to a referendum in order to get put into place. Up until then, the  
23 restaurants, HRI, everybody operated free at will. As this process got  
24 into place, and I was kind of in on the very beginning of it. I sure have  
25 learned a lot as far as what you can and can't do from the public  
26 health standpoint. Of course, a lot of it does boil down to the problem  
27 that you have here, and that's funding. And, of course, we receive

1 probably about 40 percent of our total budget in tax dollars. The rest  
2 of it comes in grant money toward various programs.

3 Let's focus on the inspection part, which kind of comes hand-in-  
4 hand here with the meat products that we're shipping. If you're a  
5 grocery store, and if you're making sausages, doing processing,  
6 running a smokehouse, doing various operations, making roast beef,  
7 along with all the baking, along with the seafood, along with  
8 everything else that the big grocery stores are doing now, you're  
9 classified as a high-risk facility. You receive three inspections in a  
10 year's time if you're a high-risk facility. If you obviously do less,  
11 you're classified as a medium-risk facility and then you get two  
12 inspections. You know, the real small operations that possibly sell  
13 milk and eggs and other groceries and don't do a lot of processing are  
14 low-risk. They get inspected once. I will say that our inspectors  
15 that we hire, and we find this true amongst other local health  
16 departments, are typically college graduates who have gone to college  
17 specifically for this type of position. And that does broaden their  
18 knowledge base compared to what we currently have in the inspection  
19 system, at least within our area of comparing inspectors from FSIS  
20 or state inspection programs to public health. And I think that's very  
21 beneficial.

22 The one thing that has been very successful in formulating,  
23 developing and putting into place our public health system at the  
24 local level has been the educational attitude that we took from the  
25 very beginning. It wasn't -- you can imagine what most of the people  
26 running the stores and the restaurants thought, "God, here comes the  
27 inspector again." We overcame that. Now, we have them coming to us

1 for help. One program I'm sure that some people in here are aware of  
2 is that the National Restaurant Association does have a HACCP-  
3 Certification Program that they put into place. I believe it's called  
4 Safe Serve -- very good, very informative. It's not a mandatory  
5 program. It's being continually updated as they learn more along with  
6 us.

7 I guess it is a big concern of mine when I ship a product to a  
8 restaurant or to an HRI facility as far as how it's being handled,  
9 especially since there is not very much control. It's been left up to  
10 consumers. However, if we look back in the history of our county,  
11 very fortunately, we haven't had any outbreaks or anything, you know,  
12 as far as massive, you know, that have hit the public that we are well  
13 aware of. So there's a lot of self-policing obviously going on because  
14 of the commitment of the owners and operators of these  
15 establishments.

16 My biggest concern in the farm, the table, and from inspection, to  
17 even these retail, HRI establishments is in the transportation  
18 industry. I know I've said it before, but when I sit back there and  
19 have to reject product because it sat in somebody's produce cooler,  
20 instead of sitting in the meat cooler, and it comes to me over 50  
21 degrees, that's where I think we need to focus. And in all our  
22 warehouses that by product from the companies here -- and you know  
23 if you've got the Excels, the Oscar Meyers and the IBPs doing a  
24 tremendous job out there, and we know they can't produce a perfect  
25 product, when that product does get out there in commerce and gets  
26 abused, then that's very detrimental to the final end consumer. And  
27 that's where I think we really need to focus, and that gets to be back

1 to the transportation.

2 MR. BILLY: Steve?

3 MR. KRUT: Steve Krut, American Association of Meat Processors.  
4 I'd really like to applaud the department for looking in this direction.  
5 Again, I think it's probably one of the more meaningful areas of the  
6 farm-to-table continuum that we need to look at. I would beg to  
7 differ with Mike Taylor. This is not the first time this area has been  
8 looked at. For more than 20 years, there has been established a code  
9 of frozen food handling practices that was put together by various  
10 groups, including AAMP, National Frozen Food Association, American  
11 Frozen Food Institute, International Association of Refrigerated  
12 Warehouses, and many others. That is updated on an every few year  
13 basis. And that is available to the department. I'd be very happy to  
14 provide a copy of that latest version for you. But understand that in  
15 the development of that, that was not a government initiative. It was  
16 done by industry, because the need was perceived.

17 I would strongly recommend that before the FSIS plunges into an  
18 advanced notice of proposed rulemaking that they may want to  
19 assemble a -- or to volunteer or, you know, draft somebody, but you'll  
20 find a tremendous amount of industry cooperation. And I think the  
21 supermarket industry would be very vitally interest, as well as the  
22 packers and processors areas and meat and poultry. I would strongly  
23 suggest that we look at all phases of the transportation, and this  
24 could include many that may not be as apparent, such as catering, all  
25 of those areas. But I think if you yelled out the signal that you would  
26 like to see some technical -- I know you have the Tag group working  
27 on it, but I'm not sure it's been as publicized as it might be. You

1 might get a tremendous amount of help.

2 MR. BILLY: Mike?

3 MR. TAYLOR: This is Mike Taylor. Steve, I appreciate that  
4 observation that there are industry-developed codes of practice out  
5 there. And that obviously is a very important reference point and  
6 starting point for any thinking we would do about federal or  
7 regulatory standard setting.

8 We have been in the mode of collecting information, but anything  
9 that you have -- I mean, and anything that anyone around the table  
10 has, with regard to sort of existing practices, norms, whether from a  
11 producer and shipper standpoint, or a receiver standpoint. You know,  
12 what you can point to is documentation of existing practices or  
13 appropriate norms. I mean that's -- we would welcome that. And one  
14 purpose of the AMPR, in going that approach, rather than attempting  
15 to actually propose a regulatory standard at this stage, is that we  
16 want to be sure that whatever we do takes full account of what's out  
17 there now, because, as I said, our purpose is not to reinvent practices  
18 that are working. It's to see what the role is for some standard  
19 setting so that there would be some understood basis of  
20 accountability for all those engaged in transporting food. So anything  
21 that anybody has that would help us understand and give us a frame of  
22 reference as we think about this, we would appreciate it.

23 MR. BILLY: Okay. Phil?

24 MR. OLSSON: Phil Olsson. I listen with interest, and I applaud  
25 this discussion of cooperation with working with states on the food  
26 code, working with the Food Protection Conference, but the thing that  
27 I have not heard discussed is the fact that under Section 408 of the

1 Meat Inspection Act, which was part of the Wholesome Meat Act of  
2 1967, the states and USDA exercised concurrent jurisdiction over  
3 articles required to be inspected for the purpose of preventing the  
4 distribution for human food purposes of any such articles which were  
5 adulterated or misbranded and are outside of such an establishment,  
6 or in the case of imported articles which are not at such an  
7 establishment after their entry into the United States. And I would  
8 be interested with what the department's present policy in working  
9 with the states to exercise this concurrent jurisdiction might be.  
10 And I guess I'd be interested in that, Mike, from what you might have  
11 to say, what John Golden might have to say, what Pat might have to  
12 say.

13 MR. TAYLOR: I'll make a -- this is Mike Taylor. I'll make just a  
14 brief comment, Phil. We are not lacking legal authority to address  
15 the issue. And I agree with you that, as I understand, the import of  
16 that provision of our act, it gives us ample, very broad authority to  
17 address food safety issues all the way down to retail. It is authority  
18 that historically, as I understand it, has been largely untapped by the  
19 agency.

20 The practical reality, of course, is that the way food safety  
21 oversight has evolved over the years, and for very good reason, the  
22 primary, practical responsibility for overseeing food safety at the  
23 retail level has been carried out by state and local government. And  
24 we think that the only way that we can really make a meaningful  
25 contribution to progress at the retail level is by working very closely  
26 with state and local government, and by bolstering, you know, their  
27 programs and efforts, and not approaching this in a way that would, in

1 fact, somehow undermine their incentive, or their ability, to have  
2 meaningful programs. We have to work in a very collaborative and  
3 hopefully synergistic way with them.

4 So, again, the issue is not legal authority. It is how we use our  
5 authority and our resources to work with the states. And we're open  
6 to suggestion for how best to do that.

7 MR. OLSSON: We are here because of a very serious disease  
8 outbreak that occurred beyond any processing plant. And here there is  
9 concurrent authority with the states. And in terms of addressing the  
10 priorities of food safety, I guess I would just urge that this is  
11 something that is not at the expense of the state. This is concurrent  
12 authority with the state. And I'm just -- again, I'm curious that the  
13 emphasis is so -- it seems to have been more on suasion than on  
14 education to that end.

15 MR. BILLY: I'd like Pat -- there has been some ongoing activity --  
16 and Pat can very briefly summarize that. And that's another part of  
17 what is in this equation, in terms of how to tie that with what we've  
18 talked about in terms of working with the food code and so forth.

19 Pat?

20 MR. KLERKEN: This is Pat Klerken with FSIS. Phil, the  
21 adulteration and misbranding provisions that you referenced, the way  
22 we've traditionally approached those in terms of exercising our  
23 authority is to detect incidences of adulteration in the stream of  
24 commerce and to take action against those products and to determine  
25 where the adulteration might have occurred.

26 The focus of this is a little different than detecting adulteration  
27 once it's occurred. What we're looking at here is a preventive

1 approach in the transportation sector and restaurant and retail  
2 sector, and trying to get beyond the issue of exercising adulteration  
3 and misbranding provisions in commerce to looking back to the  
4 authorities, say under Title I and Section 24, to develop  
5 requirements, or possibly develop requirements, with respect to  
6 transportation, that don't have to hinge on adulteration of product,  
7 but rather to look at preventive measures that could be employed so  
8 that we don't have to make a determination that adulteration has  
9 actually occurred before action can take place. So, as I said, we're  
10 looking at specifically the area of transportation, from that focus, as  
11 to whether there are regulatory approaches that we can take that  
12 would create obligations for warehouses and transporters of product,  
13 and to develop a new program, if you would, of inspection in those  
14 areas as a possibility. If we do it under Title 24, it might become --  
15 or Section 24, it might become part of our program under the Equal To  
16 programs with states, where they are looking at the same things that  
17 we would look at in the designated states.

18 MR. BILLY: Okay. Bruce?

19 MR. TOMPKINS: Thank you. Bruce Tompkins from Armour Swift  
20 Acreage. I'd like to address one specific aspect of the proposal, and  
21 that pertains to the 40 degree temperature requirement. There's been  
22 a trend over the last say five years toward 40 degrees as a --  
23 becoming more as a requirement for food safety. Thinking has been in  
24 that direction -- the colder, the better. But we should consider this  
25 target or number on the basis of science and the knowledge of the  
26 lower limit of growth for the pathogens that are of concern, as well  
27 as the time necessary for them to multiply. Take into consideration

1 the lag time, as well as the slower growth rate.

2 Forty degrees is way low; it's too low for food safety purposes.  
3 The question is how high can -- how high is still acceptable. Well,  
4 the European Union currently has -- if I can accept this as the basis -  
5 - it's 45 degrees is what's required for transportation of meat and  
6 poultry products. That still does not consider the concept of time.

7 Now, if the agency does establish a number, 40 degrees, 45  
8 degrees, within the HACCP context, that will become the critical  
9 limit. That means that that is the limit beyond which if you exceed  
10 that limit, it becomes a food safety concern. And that product,  
11 whatever it is, must be addressed and corrective action must be  
12 taken, wherein that can lead to rejection of the product and so on. So  
13 that number is very important in this whole HACCP context.

14 Many companies, including our own, do have 40 degree fahrenheit  
15 as a requirement on raw materials we receive from our suppliers for  
16 processing. That is a GMP to us. We do that for quality. In some  
17 ingredients, we require even lower temperatures because of their  
18 greater degree of perishability, and we want to assure that they are  
19 of the best quality from a flavor, rancidity type of effect. But to  
20 have to separate out quality from safety, that is one of the most  
21 difficult things to do in the hazard analysis and the risk assessment  
22 as you go through in developing the HACCP plan. So this is very  
23 important, and I hope you do address that. Thank you.

24 MR. BILLY: Caroline?

25 MS. SMITH-DEWAAL: Caroline Smith-DeWaal with the Center for  
26 Science and the Public Interest. I really wish some of the members  
27 of STOP, Safe Table as Our Priority, the families of the victims of E-

1 Coli 0157-87 were here today, because I am very excited about what  
2 the department is talking about, and it reminds me how far we have  
3 come.

4 At the time of the Jack in the Box outbreak, members of the  
5 department met with members of families of the victims and made  
6 the statements to the effect that the product that was involved in the  
7 Jack in the Box outbreak wasn't adulterated and that it complied with  
8 the government's program at that time. We are moving from a time  
9 just a few short years ago where there was one critical control point  
10 for pathogens in meat and poultry products, and that was consumer  
11 cooking of those products, to a time where there is a recognition that  
12 there is numerous points of control, starting on the farm. I have  
13 strong support for Dr. Buntain's program. I sat through a number of  
14 days of meetings on animal production and food safety. I think the  
15 research coordination which is being done by this program is  
16 essential and will help the producers to move forward to learn how  
17 they can improve the safety of their product.

18 The transportation area is critically important. And I'm reminded  
19 of a meeting we had with you, Mr. Taylor, when you were just a few  
20 weeks on the job, where we brought the issue to your attention that  
21 there weren't any temperature requirements for the transportation  
22 and red meat products. I mean it's unbelievable that it -- at this time  
23 that we have such huge gaps in our regulatory program. But in the 13  
24 months since you have come onto this job, you really have taken it  
25 from a department where there was just blinders on as to these  
26 problems to a real farm-to-table recognition of the problem.

27 I would urge you to really look at the aspect of temperature

1 control and the use of temperature monitoring devices -- I think  
2 temperature control in transportation and devices that can be applied  
3 on the trucks that can monitor the temperature during transportation.  
4 I think the technology is coming on line that those could become  
5 mandatory or at least could be part of GMPs. And I also think that to  
6 the extent -- and maybe I need to encourage industry on this, but we  
7 can get little temperature monitoring devices actually on packages of  
8 meat and poultry products, which could alert consumers and  
9 storeowners if there has been temperature abuse at any time prior to  
10 it getting to the table, really, or being prepared for cooking. I think  
11 those are things you need to look at. But I must say, the program as  
12 it's been described today, it's come just a tremendous way in a very  
13 short time. Thank you.

14 MR. BILLY: Tom Devine?

15 MR. DEVINE: I think this is -- Tom Devine of Government  
16 Accountability Project. The transportation issue is a wonderful  
17 opportunity for incentives by the Department of Agriculture. And it's  
18 not going to be trampling on anyone's toes to certify excellence by the  
19 industry. There is a commitment to enforce and continue modernizing  
20 the transportation codes that Steve described, a commitment signed  
21 by the corporate chief that they won't do business with transporters  
22 unless, for example, they have sanitation of their trucks. Just as Dr.  
23 Menning talked about the need to wash hands, you sure need to wash a  
24 truck, particularly if it has transported hazardous cargoes the other  
25 direction.

26 Records drawn from the available surveillance technologies that  
27 monitor to assure a chiller is not turned off during the middle days of

1 a cross-country haul, whistle-blower protection for those who  
2 challenge violations of corporate transportation codes. The meat  
3 industry could require whistle-blower protection by the  
4 transportation industry to keep those codes honest. This is the sort  
5 of thing that nobody needs to wait for. We don't have to wait for  
6 more technologies to be developed, more laws to be passed, more  
7 money to be allocated. Just do it.

8 MR. LOCKNER: Can I comment on that?

9 MR. BILLY: Sure.

10 MR. LOCKNER: This is Jim Lockner at IBP. The reality is in  
11 transportation -- and I don't think anybody from the transportation  
12 industry is here. Is there anybody? I'm not speaking for them, but we  
13 do have in our corporation some limited transportation, but we use a  
14 lot of trucks. The reality is that if a temperature -- or if a load is  
15 delivered above a temperature requirement, which today, I think 40  
16 degrees is typically used by most customers. And I agree with Bruce  
17 Tompkins that I don't think there's any basis. I think it was pulled,  
18 for the most part, out of the air. But the reality is we will file a  
19 transportation claim. That is the accountability. There is  
20 accountability. I have filed lots of transportation claims, and won  
21 the majority of them. And not all carriers are irresponsible. There  
22 are occasions, sometimes within their controls, sometimes out of  
23 their control, where they do have failure, and that's what we're trying  
24 to identify, regardless. If we have documented proof that the load  
25 was received warm, and we have documented proof that it went on  
26 the trailer at an inappropriate temperature, we will file a  
27 transportation claim. Carriers that do not perform will not stay in

1 business, because they will be getting claims for the value of the  
2 product. And in the case of tenderloins, 40,000 pounds of tenderloins  
3 at say \$5 a pound, they're not going to lose too damn many of those  
4 things. They wouldn't be around very long.

5 So there is a great degree of accountability on that today. Can  
6 there be more? There can be better guidelines. And I think, again,  
7 back on Bruce Tompkins' point, we need to really understand at what  
8 point is there a safety hazard. It would be a shame to throw  
9 \$200,000 worth of product because it was 42 degrees and wholesome.  
10 That is the dilemma we have to deal with.

11 MR. BILLY: You were next anyway. I didn't know if you had any  
12 other points.

13 MR. LOCKNER: That was it.

14 MR. BILLY: Dane?

15 MR. BERNARD: Thank you, Mr. Billy. Dane Bernard, National Food  
16 Processors Association. I'd like to ask the agency in its discussions  
17 with the Department of Transportation and FDA to help us as a small  
18 trade association that nobody listens to who has been trying for some  
19 years to get the Safe Food Transportation Act, which was passed in  
20 1993, amended, so that it will actually work for us. Maybe you could  
21 work on that.

22 That act would, in fact, require trucking firms to maintain the  
23 records that all food processors, meat and poultry, as well as the  
24 rest of the food industry, need to help assure that the vehicles they're  
25 using to transport product in have been actually, in fact, properly  
26 cleaned and maintained. That law contains the necessary language,  
27 but the authority and appropriations were never provided to put it

1 into effect. In fact, the law gave the responsibility to the  
2 Department of Transportation, instead of where we think it should be,  
3 which is with FDA, which now has authority for inspection of those  
4 vehicles, but no records retention requirements are now in existence.  
5 We also think that that law ought to be looked at to see if further  
6 amendments need to be made to require transportation companies to  
7 keep records that would be appropriate to support a company's HACCP  
8 plan. In other words, if you were making a temperature-sensitive  
9 product, transportation firms should be required to keep the  
10 necessary records to provide and document that that temperature-  
11 sensitive product was, in fact, held throughout, as Mr. Devine said, a  
12 long-haul load, where the potential exists for refrigeration to be  
13 turned off before destination, then turned back on sufficiently to cool  
14 the product back down. We think that's a bad practice.

15 As a matter of fact, we worked out with other trade  
16 associations who are represented here, as well as the transportation  
17 industry, a good practice document for transportation vehicles, which  
18 was made available to anybody who requests it. But there is a law on  
19 the books that needs some adjustment. It needs amendment. We  
20 haven't been able to get action on that yet. Dr. Kessler has pledged  
21 his support to get that done, but there needs to be some -- obviously  
22 some additional assistance provided, since that hasn't happened yet.  
23 But I think the fix is fair and we could utilize it once those  
24 amendments are made. Thank you.

25 MR. TAYLOR: Dane -- this is Mike Taylor. If I just may suggest,  
26 this is an example of the sort of broader issue that we would hope  
27 would be addressed -- people would have an opportunity to address

1 the Secretary's food safety forum, which he announced for November  
2 1st. It's an example of an issue that goes beyond what's addressed in  
3 our rulemaking proposal, which has been the focus of this meeting,  
4 but also as a legislative dimension. And, again, any further thoughts  
5 at that time will be welcomed. Perhaps we should be sure the  
6 transportation industry is present to speak for itself. But I  
7 appreciate your raising that.

8 MR. BILLY: Okay. Bob Hahn?

9 MR. HAHN: Bob Hahn, Public Voice. I wonder whether it's realistic  
10 to expect transportation companies to adopt HACCP plans.  
11 Transportation isn't really a process. It seems like this might be an  
12 area where command and control would be more appropriate.  
13 Unfortunately, the transportation companies aren't here to defend  
14 themselves.

15 The --

16 MR. BILLY: Wait -- sorry. Go ahead, sorry.

17 MR. HAHN: Okay. I won't elaborate on that. Getting back to retail,  
18 I was just wondering does anyone know how many states have adopted  
19 the food code and what is being done to encourage more states to  
20 adopt it?

21 MR. KLERKEN: This is Pat Klerken. One state has adopted the food  
22 code. Other states are moving toward the adoption of the food code or  
23 important provisions or new approaches within the food code, say to  
24 lowering temperatures from 45 degrees to 41 degrees, incorporating  
25 some of the cooking temperature requirements that are in the  
26 recommendations of the food code into their current codes.

27 There are a number of issues that represent problems for some

1 states, and it has kept them from adopting the food code in total. And  
2 the Association of Food and Drug Officials is working with FDA,  
3 working with the Conference for Food Protection Process, to take  
4 care of some of those problem areas for them so that they can move  
5 forward quickly to adoption of the food code.

6 But right now, only one state, Rhode Island, has adopted the food  
7 code essentially as it was promulgated by FDA.

8 MR. BILLY: I would like to move on. Dane?

9 MR. BERNARD: Yes, thank you. Dane Bernard, NFPA. Bob is quite  
10 right in the fact that we can't expect transportation firms to develop  
11 HACCP plans. At least that was the opinion of the FAO expert  
12 consultation of about a year and a half ago.

13 However, getting back to what I said before, they need to be able  
14 to hold up their link in the chain. The HACCP plans need to be  
15 developed by the processors who understand not only the safety  
16 considerations that went into manufacturing it, but the longitudinal  
17 means of that product as it moves through the food chain in terms of  
18 how to keep it safe as much as we can all the way to the consumer.  
19 And the transportation link in that -- we should not expect them --  
20 they're not food safety experts. They haul things. But they should be  
21 expected to keep the records that allow the shippers and receivers of  
22 those foods to evaluate that the safety of that product has been  
23 protected while it's in that link in the chain. Thanks.

24 MR. BILLY: Okay. Robert?

25 MR. BIDDLE: Bob Biddle. I would particularly like to of course  
26 concur with the commentators who have given statements in support  
27 of the need of control of the culturing throughout the process.

1     However, in terms of the regulatory philosophy, the idea of setting  
2     standards in the area, and appropriate means of achieving those  
3     standards, I think one needs to be very careful to distinguish between  
4     some quite distinct needs in the transportation sector.

5             If we look, for example, at finished package products in the  
6     chilled or frozen state, there is probably a very sound basis to derive  
7     a temperature guideline for those products. However, I believe an  
8     entirely different philosophy needs to be considered for those  
9     products that are moving between establishments, between regulated  
10    sites, if you like, for the purposes of further processing, further  
11    handling. And it is possible and necessary, as we've heard previously,  
12    I believe, to have a more flexible approach to those -- that particular  
13    category. And in that regard, within a HACCP operating environment,  
14    there are some very powerful tools indeed, tools that work in  
15    conjunction with the commercial imperatives we've heard about  
16    already around this table today.

17            It is quite possible, readily possible, to specify a variety of  
18    temperature/time provisions to obtain across the whole process, the  
19    valid process outcomes in terms of food safety. With having  
20    specified for a given operation a temperature of receipt, the  
21    maximum duration of transportation at that temperature, those  
22    issues can be dealt with at the point of receipt within a HACCP plan  
23    or within some other environment at the receiving plant. And it is  
24    through the exercise of those controls that the appropriate culturing  
25    practices can be ensured with the objective, of course, of obtaining  
26    the food safety outcome.

27            So I guess my comment would be directed at the need for that

1 requisite degree of flexibility to accommodate existing technologies  
2 and practices.

3 MR. BILLY: Joe?

4 MR. POCIOUS: Joe Pocious with the National Turkey Federation. I  
5 guess Bob Biddle gave a great segway to me, because I did want to  
6 talk about temperatures at receipt and how those could be handled.

7 I think we can agree with Bruce Tompkins that the temperature  
8 that was selected probably did not take into account the full growth  
9 curve of the organisms of concern. And so, whether or not that was  
10 chosen correctly is aside from the point. What I do want to talk  
11 about, though, is that if and when product is received a little bit  
12 higher in temperature than specified, whatever that may be, the  
13 dispensation of that product could and should be taken care of or  
14 dealt with under a company's HACCP plan. That would be described  
15 within its corrective actions and how that product should be disposed  
16 of, if so. Moreover, it would take into account, or should call into  
17 account, a process authority to have evaluation. Now, presumably,  
18 when you put together that particular corrective action, you would  
19 have already consulted a process authority for those situations, but if  
20 not, at least consult one for that particular issue.

21 And we haven't really discussed that very much, the use of a  
22 process authority for an evaluation of the product should it come in  
23 higher. But I think the agency needs to keep that in mind, particularly  
24 since we're talking about some of these issues initially outside of the  
25 HACCP arena, and so that we don't get into situations where one  
26 degree difference is a condemnation of product.

27 MR. BILLY: Everyone must be as hungry as I am.

1 MS. MUECKLOW: I listened and was extraordinarily impressed at  
2 the wonderful shopping list that Pat Klerken came to this meeting  
3 with, and I have to commend him extremely highly. But, again, you  
4 know, one of those problems that you've got when you've been around  
5 this program awhile, you remember some of the history. And there  
6 are some -- and I'm not always quite right on history, and I'm always  
7 willing to consider being corrected. I'm sorry that nice, distinguished  
8 gentleman who was on my left is gone today, because I was going to  
9 point out that in the Presbyterian religion that I was dragged up in,  
10 the Psalms were included in the hymnals, so we could have sung some  
11 of his versions, but that was yesterday's spilled milk.

12 Today, with the list that Pat has presented us with, I've come to  
13 the conclusion, because I've only ever heard of how short the  
14 compliance program is in terms of its talented people resources. And  
15 its time to follow up some of the things that I mundanely ask this to  
16 do on the local level. So I've come to the conclusion that Mike Taylor  
17 has got a grinding machine in his office that produces dollar bills  
18 that far exceed anything that I thought was happening for the  
19 compliance program. And Pat has got to be a very articulate  
20 persuader to direct all of these dollars into that program.

21 One of the things that I would very much like for Pat to get off  
22 the shelf, and I think Mr. Krut and Mr. Deven Scott might want to join  
23 me or support this effort, is what we dragged a former holder in your  
24 office, Mike -- it was Dr. Crawford -- absolutely kicking and  
25 screaming to an ANPR that he never wanted to get out there in the  
26 first place. But it was to evaluate the agency's concurrent authority  
27 over what has become popular football over the years, called the

1 retail exemption. And my memory -- and I didn't do my homework, not  
2 planning to make this pitch to you today, but my memory serves me --  
3 and I'm sure Pat will remember it quite distinctly -- is that there  
4 were some very substantial and significant contributions from those  
5 same land grant universities that we've talked about the last couple  
6 of days, about their concerns about some of the failures that may be  
7 occurring out there and some of the risks to consumers that may  
8 occur with the improper handling of product because the dimension of  
9 the distribution of product over the 25, nearly 30, years since the  
10 retail exemption provisions were laid down in the late 1960's -- to  
11 be precise, October the 3rd of 1970 in the Federal Register  
12 publication, have changed enormously. I mean IBP was just a little  
13 rinky-dink companies in those days, and look at them today. I mean  
14 the changes are immense in the industry.

15 And therefore, I would suggest that that ANPR, and Deven or  
16 Steve may remember the dates of it better than I do, but it's not older  
17 than five years, is it, Pat? Is that how long ago it was? You know  
18 the one I mean.

19 MR. KLERKEN: I'm sure it's seven years.

20 MS. MUECKLOW: Seven years you think? Six or seven. There was  
21 a lot of valuable information in there. And I think that should come  
22 off the shelf and be revisited as you revisit this issue right now.  
23 There was a lot of very valuable information. And as Deven and Steve  
24 and many people around this table will tell you, we can take care of  
25 the product all we can, but once it leaves our door and maybe once it  
26 is unloaded off somebody's truck now, things can go wrong very  
27 seriously that can cause serious problems. And there's a lot of good

1 stuff back out there, and I think it ought to be hauled in for a review  
2 at this stage. It just adds a few more thousand sheets of paper to  
3 what you've got already. Thank you.

4 MR. BILLY: Rosemary, I just want to make sure the record is  
5 clear, what kind of a company was that company?

6 MS. MUECKLOW: It was a very small hick company in those days.  
7 They've grown immensely.

8 MR. BILLY: Caroline?

9 MS. SMITH-DEWAAL: Okay. I'll be brief, because I know everyone  
10 is hungry, but now that Bruce Tompkins and Joe Pocious have brought  
11 up the issue of the temperature level again -- during our discussion  
12 about temperature the other day, Bruce -- and I hope my notes are  
13 right, but you said that some of the studies we were relying on, they  
14 represented a worst case scenario. I think you need to -- that's one  
15 person's opinion, but given that you're a very important person, it  
16 would be nice to know the basis for that assessment on those studies.  
17 The reason is that I think in choosing the temperature -- you know,  
18 hopefully, this is all going to be done based on some scientific basis  
19 we can all agree on, but in choosing the temperature, I want to just  
20 remind the department that really in the history of government  
21 oversight of food safety, usually regulations have included -- in  
22 setting standards, they have included some margin of safety, and  
23 particularly in the temperature area. And transportation is a very  
24 good example of this, where you may have product going into the truck  
25 and then coming out of the truck during -- without refrigeration for a  
26 short period of time. You may need to include an extra degree of  
27 protection or margin of safety into making those estimates. But that

1 issue really goes to all your performance standards. This is clear in  
2 the chemical area. I know you all know this. I mean they usually use  
3 -- in those areas, they use the scientific findings, but then often have  
4 10 to 100 fold protections built into those standards. I know we  
5 can't expect that level of protection here, but in setting these  
6 performance standards, don't just rely on the science and ignore the  
7 need for common sense safety protections to make sure that the  
8 science is met.

9 MR. BILLY: Robert?

10 MR. GARFIELD: Bob Garfield from Athey. If you've checked with  
11 FDA, you probably know that in the Pasteurized Milk Ordinance, there  
12 is a requirement for 45 degree temperature for a finished product.  
13 But I want to talk about an experience I had at the National  
14 Conference of Interstate Milk Shippers, probably in 1990 or 1991,  
15 where there was discussion about lowering that temperature to 40  
16 degrees. And after a lot of discussion, it was discovered that in many  
17 parts of the country, especially in the summer, where you

BEG. #8 have delivery trucks that are lowering the reefer to some an  
19 extent that you would probably have frozen milk on the truck. And so,  
20 it was rejected for that reason, and 45 degrees has been maintained,  
21 especially because there was no health safety consequence. Thank  
22 you.

23 MR. BILLY: Deven?

24 MR. SCOTT: I wanted to just amplify on the ANPR that Rosemary  
25 referred to about perhaps getting it off of the shelf. Certainly, there  
26 might have been a time a long time ago when the retail exemption  
27 was a practical thing, when there were food service establishments

1 out there that could not buy their product on an immediate basis from  
2 a federally inspected plant, and the only place they could get it would  
3 be from a retail operation. I think those days are long time. I think  
4 with our modern transportation and distribution systems, I just don't  
5 really think there is a need for that retail exemption anymore. And I  
6 would certainly echo what she says, to get it out and let's look at it  
7 again.

8 MR. BILLY: Okay. Let's break for lunch. Be back at 2.

9 (Whereupon, a luncheon recess was taken.)

10 MR. BILLY: I'd like to get started again. The remainder of the  
11 agenda, there's two principal areas of discussion. The first is  
12 ensuring compliance with HACCP requirements.

13 In your agenda, if you'll refer back to September 13th's list of  
14 items, you'll find under Item C, ensuring compliance with HACCP  
15 requirements, and under that five bullet items, that people -- either  
16 we identified or people suggested at the scoping session and were, as  
17 a result, included in this agenda. That will be the first area of  
18 discussion.

19 The second will be timing. That was also a carry-over from the  
20 first day. The timing is both in the sense of the near-term, or so-  
21 called near-term requirements, phasing in HACCP, and in that context  
22 considering both industry being able to phase in to these new systems  
23 and approaches, as well as the things that the agency has to do to  
24 prepare itself. So it's looking at it from all the different angles is  
25 the point. And hopefully, we'll have a good dialogue on that. So I'd  
26 like to start with the ensuring compliance with HACCP requirements.  
27 I suggest that you refer back to the paper for the first day, overview

1 of HACCP proposal, FSIS, oversight of HACCP, and the changing role of  
2 inspectors under HACCP, because in it there's some guidance in terms  
3 of what our current thinking is, in terms of our approach, what we  
4 would do in the context of this whole area. So -- and we had some  
5 discussion on that already. But now, what I'd like to do is, based on  
6 what's in this paper, our previous discussion, open it up for comment,  
7 questions, a dialogue about this whole area of ensuring compliance  
8 with HACCP requirements.

9 Bruce, and then Tom.

10 MR. TOMPKINS: This is Bruce Tompkins from Armour Swift  
11 Acreage. I know we want to proceed, but I was asked a question  
12 before we broke.

13 MR. BILLY: Okay.

14 MR. TOMPKINS: And I know we were all hungry. If I can go back  
15 and pick that up. The question related to the rate of cooling that had  
16 been proposed. And then probably I could throw into that my  
17 comments relative to the transportation tolerance of 40 degrees  
18 fahrenheit. And my one set of comments some time ago now -- I  
19 made a comment that it was worst case, as spelled out in a scientific  
20 summary. And actually, the rationale for my comment is from the  
21 scientific summary. It's a question -- for example, they did not  
22 include the lag time, the time of adjustment prior to microbial  
23 growth. That's stated in here as one of the reasons. One of the  
24 factors they did not include in their assessment, but not -- it's just a  
25 simple statement, but it's really a very big factor -- as I mentioned  
26 before, 50 degrees fahrenheit. There was a lag period of 50 hours.  
27 That's a big number, and that's in here, too. So, there's quite a bit of

1 information in the scientific assessment. It's a matter of what is the  
2 relative importance of those different factors. Linear cooling as  
3 opposed to a very rapid cooling initially, and then slower cooling; the  
4 effect of dehydration; the generation times at different  
5 temperatures, particularly in the 50 degree fahrenheit range, because  
6 that's really what we're talking about, is refrigeration conditions; the  
7 lower temperature limits for growth. And then from that, also -- in  
8 addition to that, there was the ARS model itself. And then there's  
9 some additional research publications that I am familiar with and  
10 others are, also. When you get into the technical literature, there are  
11 other points of view that could not be addressed in the scientific  
12 assessment. And it's a very broad subject. So I hope that gives you  
13 some feel for it.

14 MS. SMITH-DEWAAL: Thank you.

15 MR. BILLY: Tom?

16 MR. DEVINE: I am Tom Devine, Government Accountability Project.

17 The remarks that I'm about to share are in support of the goal of  
18 adding an extra layer of food safety protection without the  
19 requirement for an extra layer of bureaucracy, which is I think a  
20 principle you'll agree with.

21 The first of the two suggestions or topics I'd like to address  
22 involves organizational checks and balances to have confidence that  
23 HACCP programs will be self-policing. And this means as a  
24 cornerstone, organizational freedom for the leadership of the HACCP  
25 program. We have seen in many industries that when quality control  
26 departments, for example, are a subset of production departments,  
27 that they are not as effective.

1           Rosemary was commending the introduction of total quality  
2 control programs. Well, the people who lead the HACCP programs  
3 need to be reporting to the chief of the institution, rather than people  
4 whose primary responsibility is to enhance production if they're  
5 really going to have the organizational freedom to be as effective as  
6 possible.

7           Now, probably the key subset for organizational checks and  
8 balances is whistle-blower protection. And we have a couple of  
9 impressive precedents for that concept to be applied to the meat  
10 industry. One is that of scientific research. I served on something  
11 called the Commission on Research Integrity, which is a smaller  
12 version, similar to what the HACCP round table is intended to be. And  
13 unlike the HACCP round table, there is a very strong consensus there  
14 in favor of whistle-blower protection. And it certainly involved  
15 people with very high financial stakes, institutions, the University of  
16 California, Illinois, Nebraska, large research institutes.

17           And among the recommendations that were unanimously adopted  
18 last month to the Secretary of Health and Human Services included  
19 issues such as the duty to disclose misconduct in scientific research  
20 involving federal funding. That would involve false statements both  
21 by commission and by omission. Maintaining your silence when you're  
22 aware of scientific misconduct is participating in it. That there  
23 would be assurances or commitments by each institution receiving  
24 federal funds to implement training so that the duty to disclose is  
25 honored, and so that people who do honor that duty aren't retaliated  
26 against, and that failure to act consistently would constitute  
27 obstruction of investigations of research misconduct. And I'll quote

1 to you the recommendation that was made.

2 "Prohibited obstruction of investigations of research misconduct  
3 consist of intentionally withholding or destroying evidence in  
4 violation of a duty to disclose or preserve, falsifying evidence,  
5 subornation or giving of false testimony in attempting to  
6 intimidate or retaliate against persons who are witnesses,  
7 potential witnesses, or potential leads to witnesses or evidence,  
8 before, during or after the commencement of any formal or  
9 informal proceeding."

10 Now, actually, this type of concept really isn't that new, even to  
11 the meat and poultry industry, as you folks around the table know.  
12 You already are living with whistle-blower protection in  
13 administrative due process hearings for compliance with over a dozen  
14 environmental laws. If you pollute the water or the air in the conduct  
15 of your operations, and your employees challenge violations of those  
16 laws, they have rights to administrative due process hearings. In my  
17 opinion, it would be a real boost for consumer confidence in the  
18 commitments that you have made repeatedly over the course of these  
19 hearings if you are willing to accept those same rights when it  
20 actually comes to the products that you are selling to the public.

21 Now, if the industry is opposed to due process for its employees  
22 when they challenge violations of HACCP plans, these responsibilities  
23 could be enforced by inspectors, because reprisal is a fundamental  
24 threat to the integrity of a HACCP program. We're going to be  
25 depending on the integrity of the records that are produced by this  
26 program. And as an incentive, if firms don't want to have their  
27 employees participating in administrative law hearings or being

1 subjected to enforcement actions by inspectors, there's another  
2 suggestion that might work. It's alternative disputes resolution. And  
3 the group that I work for, GAP, has worked with Westinghouse at the  
4 Hanford Nuclear Weapons Facility in Washington State, where we've  
5 implemented something called the Joint Council. And that's an  
6 alternative disputes resolution forum as an alternative to a  
7 traditional adversarial litigation. It's a council of seven members,  
8 including plant management, labor, third-party experts, experts in  
9 whistle-blowing, consumer representatives, members of the public.  
10 They operate by consensus. And those who want to submit a dispute  
11 choose this instead of the traditional prolonged adversarial  
12 proceedings. It's the sort of thing that I know our organization would  
13 enjoy working with members of the industry about. And frankly, I  
14 think that if Westinghouse can do it, so can the meat industry. It's  
15 something that's out there and creates consumer confidence.

16 The other topic I'd like to touch on briefly in connection with this  
17 portion of the hearing is records, and to say in overview that I think  
18 the point was very well taken by one of the spokespeople for the  
19 industry that it's important that records not be reflecting adjectives,  
20 that they be fact-based records. And a probably equally significant  
21 point is that those facts, when they affect public health, be available  
22 to the public. And here, we're certainly not talking about proprietary  
23 information or trade secrets. We're talking about germs. And I don't  
24 think that pathogens are trade secrets, nor the practices that create  
25 public health hazards shouldn't be considered trade secrets. The  
26 public has to have, must have a right to know what's in public health  
27 records. If HACCP is going to be a vehicle to privatize food safety

1 records to say that it's none of the public's business, then it will be a  
2 substantial and specific threat to consumer confidence in the  
3 products that are produced under HACCP.

4 The organization where I work at believes very strongly in the  
5 principle that sunlight is the best disinfectant, and we believe that  
6 this applies to contamination of food, also. I appreciate very much  
7 that FSIS offered a forum to raise these issues, and will appreciate  
8 very much learning why these points are not well-taken if there is  
9 any industry representatives who feel they can't live with these  
10 principles.

11 MR. BILLY: Mark?

12 MR. DOPP: Yes, my name is Mark Dopp, and I'm with Hogan and  
13 Hartson. Mr. Taylor, I'm going to steal a line that you used earlier. I'd  
14 like to suggest that this is probably, given the nature of this setting  
15 and given what we're here to talk about, this is probably not the  
16 appropriate forum to discuss either one of these issues, primarily  
17 because, frankly, neither the Federal Meat Inspection Act nor the  
18 Poultry Products Inspection Act provide the agency with the  
19 statutory authority to accomplish what Mr. Devine is suggesting.

20 With respect to whistle-blower, it's very clear. The statute  
21 nowhere contains a provision that authorizes the agency to  
22 promulgate that type of regulation, nor has anything like that been  
23 proposed in the regulation that's before us. So I think that's fairly  
24 clear. Perhaps that is an issue that is better brought up on November  
25 1 or November 2, whenever that meeting will be held, and I'm sure  
26 that industry would be willing to participate in those discussion.

27 With respect to records, I think the exact same contention

1 applies. The statutes are very clear in that regard. They provide that  
2 the agency, that the Secretary and his duly authorized  
3 representatives have the authority to review and have access to  
4 records. Nowhere does it provide that anybody else has access to  
5 those records. One, I suppose, could contend that once a record  
6 becomes the property or within the control, if you will, of agency  
7 personnel, that perhaps the Freedom of Information Act applies. But I  
8 think if you look closely at what the FOIA provides, there is an  
9 exemption specifically mentioned before which protects not only  
10 trade secrets, but also commercial confidential information. I would  
11 argue, and I think it's a very compelling argument, frankly, that, for  
12 example, the HACCP programs themselves that accompany designs for  
13 its plant at the facility are very clearly trade secrets. If one doesn't  
14 even want to accept the argument that the records generated by the  
15 plant pursuant to those programs are trade secrets, they certainly  
16 would be commercial confidential information under the existing  
17 precedent as set forth in the case law. There's little doubt about  
18 that. It doesn't take any stretch of the imagination to figure out that  
19 a competitor gaining access to records that a company has generated  
20 can learn a great deal about not only the products that are produced,  
21 but how much product is produced, who the customers may be, a  
22 whole host of proprietary information. And we're not talking just  
23 about trade secrets. We are talking about other types of records,  
24 commercial, confidential records that clearly fall within Exemption  
25 4. And, again, I would suggest that this is not the appropriate  
26 forum, because this issue has not been set forth in the proposed  
27 regulation. Again, perhaps it is something that is more appropriate at

1 the food forum in November.

2 MR. TAYLOR: This is Mike Taylor. Just with respect to the  
3 agenda, while this may be a topic that was not addressed in the  
4 regulatory proposals specifically, it was one out of the meeting we  
5 had in August to plan the agenda. It came out as a topic that was, you  
6 know, explicitly on the agenda for these public meetings. It's part of  
7 what was published in the Federal Register as agenda items for these  
8 meetings. So, I mean it's on the agenda. I mean people are free to  
9 talk about it as much as they'd like. Nobody can be forced to engage  
10 on an issue, but it's clearly appropriately on the agenda, and it  
11 certainly also could be on the agenda in the Secretary's food safety  
12 forum, as well. It is in some ways a broader issue, and we welcome  
13 input there, as well.

14 MR. BILLY: Okay. Phil?

15 MR. OLSSON: Phil Olsson, Olsson, Frank and Weder. I would agree  
16 generally with Mark Dopp, that I think that the discussion is perhaps  
17 not in the mainstream of these meetings, but it is on the agenda. I  
18 would only add to the points he's made, that in regard to Mr. Devine's  
19 comment about the need for employee cooperation with compliance, in  
20 my experience, FSIS compliance has had ready access to employees,  
21 has often obtained employee statements, sworn statements before  
22 those have been reviewed by any counsel. I don't think that there is  
23 any problem that anyone has ever had with obtaining the statements  
24 of industry employees.

25 As to the further availability of records, the records upon which  
26 HACCP programs will be based, at the present time, the Freedom of  
27 Information Act -- disclosures that have come out of FSIS have on

1 occasion been abused. There's one well-documented situation where a  
2 company had to close a brand new poultry product processing plant  
3 because the information regarding PDRs, the kinds of sound bytes  
4 which are part of Mr. Devine's fact sheet about feces or this or that,  
5 which are anecdotal and would come from time to time, were used in  
6 the process of a union-organizing drive and with such devastating  
7 effect that that company just had to abandon a brand new plant. I  
8 don't think we need to put HACCP into that particular loop.

9       But what I would like to address -- if I may, what I'd like to talk  
10 about is that there's a serious need to look to the importance of  
11 maintaining inspector accountability, and that's particularly  
12 important under HACCP. If you look at what is happening already with  
13 proposals per labeling reform, there are a number of people in the  
14 industry who don't want to do away with prior label approval because  
15 of their concern that the inspector will then come in and make his  
16 own label call and shut down a product or a plant. That problem is  
17 going to be even more substantial when you get an inspector coming  
18 in and looking at a HACCP plan. So there has to be, in looking at  
19 HACCP inspection, there has to be a way to maintain the  
20 accountability of that inspector.

21       Now, I think 99 percent plus of inspectors are absolutely  
22 honorable, upstanding, fine individuals. And in my experience, 99  
23 percent plus processors are just equally fine and upstanding. But  
24 there are a small number of inspectors, who even at the present time,  
25 have abused their authorities. And there had been inadequate  
26 remedies for the industry to deal with this. And I'd like to just very  
27 quickly summarize a few examples of what I'm talking about. A plant

1 put up a security fence and all employees had to check in. This  
2 included the inspector in charge. It soon worked out that he was  
3 clearly padding his overtime. The company came to this agency and  
4 complained. The complaint was not well-received. They hired a  
5 lawyer, and the complaint was then well-received, and the agency  
6 took action, but it took three months. During those three months, the  
7 inspector got wind that something was going on. The inspection in  
8 that plant became living hell. Finally, action was taken. The company  
9 in the course of this, by the way, learned that the inspector had  
10 previously been in other plants where he had not been a good  
11 inspector, and FSIS had moved him. At the end of the three-month  
12 period, the company, having presented very convincing evidence, the  
13 inspector was confronted, and in this case the inspector went AWOL.

14 A second example would be a plant where a line inspector was  
15 convicted of two felony counts of sexual assault on a child. He was  
16 put on probation for 30 months, but allowed to remain on the job by  
17 FSIS. Two of the women employees in the plant complained that they  
18 were being sexually harassed by this employee. It took one year to  
19 get this employee out of that plant, and this employee was moved to  
20 another plant.

21 In a third plant, the plant was instituting a drug-free workplace  
22 program. They reported to their trade association that their  
23 inspector in charge had been written up in the local papers six months  
24 earlier as having been convicted of dealing in drugs, a felony  
25 conviction. They brought this through the trade -- they were afraid  
26 to bring it to FSIS. I mean this is the mindset among the industry,  
27 that they don't want to rock the boat. Through their trade

1 association, they brought this to the attention of the agency. The  
2 inspector was moved. But that inspector, she is today in another  
3 plant with another company. And that company probably has no  
4 knowledge of that.

5 I could go on with examples of inspectors who have done things  
6 which this agency clearly doesn't approve, which this industry clearly  
7 doesn't approve. But what has happened at the end of the day is that  
8 they are typically moved to another position, and usually the plant to  
9 which they are moved does not know what their background is.

10 Now, these are the egregious examples. What is more common  
11 and what is relevant, I think, to HACCP is that there are situations  
12 where inspectors will refuse to engage in a civil conversation with  
13 plant management regarding their inspection decisions, or they will  
14 shut down production to retaliate where their decisions have been  
15 appealed and overturned. And where an inspected establishment  
16 questions the disposition of a product, which is something apparently  
17 well within its rights, FSIS management will often support inspector  
18 allegations that that exercise of the establishment's rights is  
19 intimidation and a violation of Section 305.5 of the regulations.  
20 Inspected establishments need to be able to raise objections to the  
21 way in which an inspector is doing his or her job and have these  
22 objections considered promptly and fairly. And the establishments  
23 need to be protected against retaliation from inspectors whose  
24 decisions have been overturned on appeal. The common element  
25 running through all of this is an inspector who is going beyond the  
26 limits that any of us would want an inspector to. In each case, the  
27 inspected establishment protests only at the risk of retaliation, and

1 with the likelihood that the complaint will be met with delay.

2 As this agency moves towards new inspection regulation, it needs  
3 to incorporate elements which will protect establishments which  
4 criticize their inspectors, just as the agency protects inspectors who  
5 criticize establishments. Where an establishment in good faith  
6 presents substantial evidence of a problem with an inspector, there  
7 must be some alternative decision-making mechanism where this  
8 employee conduct can be resolved or reviewed. Sexual felons,  
9 inspector thieves, drug dealers -- you know, it's incredible these  
10 people are inspectors. But they cannot be swaddled in a confidential  
11 womb of protected personnel matters which can only be discussed  
12 between FSIS and the inspector's union. Where an establishment  
13 challenges how an inspector applies FSIS regulations and standards,  
14 this is a regulatory matter which needs to be resolved and reviewed  
15 in the light of day.

16 And on this point, I would agree with Mr. Devine that sunlight is  
17 indeed the best disinfectant. These are not personnel matters which  
18 neither the agency nor the inspector need provide a public accounting.  
19 It's important not to inhibit processors from coming forward to  
20 identify inspector misconduct. The establishment which comes  
21 forward with substantial evidence and does so in good faith should be  
22 protected against its apprehension that the inspector will remain on  
23 the job and thereafter subtly and day-by-day retaliate. If the  
24 inspection system is to retain its credibility, it needs to prevent both  
25 processor abuse and inspector abuse. The procedures which are  
26 developed need to be prompt and fair. There needs to be a single  
27 standard for establishments and inspectors. And where an inspector

1 has been found wanting in one establishment, that inspector should  
2 not be assigned to another any more than an individual who has been  
3 found unfit to receive inspection at one establishment would be  
4 allowed to commence inspected activities at another. Processors  
5 don't want to have felons inspecting their plants any more than USDA  
6 wants to have felons be inspected processors.

7 I'll just summarize by -- or conclude by saying the vast majority  
8 of inspectors and the vast majority of establishments are honest and  
9 upstanding. FSIS inspection exists to make sure that bad  
10 establishments do not compete unfairly with good ones or operate to  
11 the detriment of consumers. In order to fulfill this mission, FSIS  
12 needs to provide an equivalent mechanism to enforce and maintain the  
13 highest standards of inspector conduct.

14 MR. BILLY: Thank you. Steve?

15 MR. KRUT: Steve Krut, American Association of Meat Processors.  
16 I would like to share, but not quite as eloquently as Mr. Olsson has  
17 done, our same concerns. I think it is essential that FSIS be in  
18 control of all of its employees at all levels. I would like to offer the  
19 suggestion that if we are thinking in terms of whistle-blower  
20 protection, that that type of protection be extended to the plant  
21 owner and management, as well.

22 I think in Mr. Devine's assumption that there is a great deal of  
23 mistrust of corporate management circles, I think that is a false  
24 premise. As I heard Mr. Olsson state earlier, both under the ranks of  
25 inspectors and both under the ranks of management, most do their  
26 best to do a good faith job, but we cannot tolerate abusive behavior  
27 on the part of either inspectors who would, in a sense, intimidate and

1 challenge, threaten and harass plant operators. I'm not going to get  
2 into specific examples. There have been many of them brought to our  
3 attention. But I think this is a situation that needs to be addressed,  
4 both under the current system and also under the system for which  
5 we are attempting designs.

6 MR. BILLY: Dane?

7 MR. BERNARD: You can have it if you'd like. I'm going to pass the  
8 microphone to Joe Pocious when I'm done if that's all right.

9 MR. BILLY: You bet.

10 MR. BERNARD: Dane Bernard, National Food Processors  
11 Association back just in time. I take it that we now have two votes  
12 to remove all the roofs from all the meat and poultry plants so that  
13 we can have the best disinfectant in the world to handle all of our  
14 pathogen problems.

15 Let me try to switch modes in just a moment, because there's  
16 certainly nothing I can add to the discussion that hasn't already been  
17 said in regard to inspectors and training. But when we do talk about  
18 training in just a moment, there was something that I did agree with  
19 in Tom's presentation. That was an independent office. That's  
20 something that I would not care to see the agency mandate in any kind  
21 of a rule, but we find that HACCP works best if we set up an  
22 independent office. We don't call it HACCP. We call it a food safety  
23 office. But, by the way, the most successful operations I've seen have  
24 taken someone from operations, since operations management and  
25 people on the line are actually the people that make HACCP work, not  
26 quality assurance, and take somebody in that position and say you're a  
27 HACCP champion. Work with the technical people. Put it together and

1 make it work and take it to the floor. Because you need somebody  
2 that understands operations, and it does work better outside the  
3 normal QAQC in inspection functions we find. But that's kind of a side  
4 bar just to say that I did agree with that point that Tom made. But  
5 you can't mandate that, because in certain operations it works very  
6 well as a component of QAQC.

7 Training -- it's going to be -- in having read through the top-to-  
8 bottom review and read some of the KSAs that are proposed to be put  
9 into the training program, here I wish you all the best, because it  
10 looks like you've laid out quite a comprehensive set of goals on  
11 training. The training for the industry people that we have trained, as  
12 well as I would hope the inspectors, is a deprogramming and  
13 reprogramming effort. It doesn't happen in a three-day training  
14 course, which is what we put on. That's just an introduction to the  
15 topic. It's a matter of getting appropriate education, finding where  
16 the appropriate expertise is, harnessing that, and then the experience  
17 that comes with living and working with this system. HACCP is not  
18 something that's going to go out. We're going to set up HACCP  
19 programs, and then we're going to, as someone said earlier, flip a  
20 switch and it's all going to work. We're going to have to expect that  
21 this is the first step in that legendary thousand mile journey, and it's  
22 going to take us awhile to get there, and we're going to have to be  
23 patient.

24 I guess the bottom line of this part of what I've got to say is that  
25 once we switch over and begin doing HACCP, and we can look at a  
26 specific implementation date and say that's the target, there are  
27 going to be a lot of problems at that point. And the agency should

1 think about how it's going to react to those problems. And the proper  
2 response would not be to shut things down until they're fixed, because  
3 we're going to be operating under a system where we're going to have  
4 to work through a lot of these problems, go back to the drawing board  
5 with plans, and give it the time that it takes. But it all has to do  
6 with inspector expectations, because if we begin tagging up product  
7 for a perceived non-compliance, that's old thinking. And we've got to  
8 deprogram that out and put in some new thinking in with the training  
9 that goes in before we get to the field with HACCP. Thank you.

10 And Joe has the rest of my time.

11 MR. POCIOUS: I get five minutes. This is like being on the hill.  
12 Joe Pocious with the National Turkey Federation. I'm not going to try  
13 and address the inspector issue. It was done better than I could  
14 possibly have imagined to do it.

15 But I do want to at least touch upon what I heard Tom address, or  
16 bring up first as worker whistle-blower protection. And it's always  
17 been NTF's position that that was a subject for the Department of  
18 Labor to address, not for USDA. By statute, that falls more well  
19 within the DOL. I've also been told by many of the lawyers who are  
20 here with us today that should you go ahead and consider doing  
21 something of that nature, you could very well fly in the face of many  
22 state laws. And I don't want to touch upon those. There are enough  
23 lawyers around here who could quote those better than I -- but that  
24 you would form a terrible web of a mess, frankly, that you'd get  
25 caught up in and never find a clear way out.

26 I do want to -- just for Tom's sake, bring up an issue with OSHA.  
27 Our industries are not just concerned with USDA law. We're very

1 involved with OSHA law, as well. And recently, there was a look at  
2 OSHA records, and there was an assessment made as to how many of  
3 the whistle-blower calls were for real and how many were for union  
4 organizing purposes and what not. And they found that 80 percent,  
5 better than 80 percent of the whistle-blower calls that came in to  
6 OSHA, were false, and to the point where OSHA is now considering, if  
7 they haven't already done so, not sending an inspector out to look into  
8 all of these all the time. They will inspect many of these by phone to  
9 see if there's anything, in fact, worth going out for. Beyond that --  
10 and I think, Tom, you're probably aware -- in the OSHA reform, it's  
11 come to a point that in many of the legislation that's been drafted,  
12 and some that has been introduced on the hill, within the reform bills,  
13 it's been suggested that civil and criminal penalties be assessed on  
14 individuals who falsely accuse or falsely call in complaints.

15 Now, if what I understood you to say in your rendition was to  
16 have criminal protection and civil protection and all of that for the  
17 whistle blowers, I think it is fair to consider some of the actions on  
18 the hill, as well, that that goes both ways. If a worker who is  
19 discontent, or an inspector, whomever, falsely accuses or falsely  
20 causes a situation within a plant's setting, they should be subject to  
21 the same penalties.

22 MR. BILLY: Okay. Jim?

23 MR. HODGES: Contrary to -- Jim Hodges, American Meat Institute.  
24 Contrary to some of the belief and statements around the table,  
25 HACCP is not a self-policing program. To believe that it is a self-  
26 policing program clearly indicates to me that we do not have a good  
27 understanding of HACCP if we call it that.

1           The compliance part, which is the subject of this afternoon's  
2 discussion, is very clear to me. If you have a HACCP program, you  
3 have -- one, it has to be a valid program; and two, it has to be  
4 operated in a way consistent with what is described in the program.  
5 We would expect the agency to determine whether or not those  
6 programs are valid. We clearly think that there ought to be a  
7 mechanism put in place that the validity of those programs be  
8 determined by qualified technical and scientific experts, and not  
9 based upon individual opinions and judgments. If, in fact, that HACCP  
10 program is judged to be invalid, then the company has one of two  
11 choices -- to adjust their program; or number two, for the agency to  
12 withdraw that program, which effectively is the most powerful  
13 compliance incentive that the agency could possibly have. We do not  
14 quibble with the fact that if there is an imminent public health  
15 danger associated with the product, that there should be immediate  
16 actions taken. But in the process of determining compliance, there  
17 should be due process in appeals, as stated earlier, so that we do not  
18 get in a situation and exacerbate an already difficult problem that  
19 exists under the current system.

20           MR. BILLY: Felisha?

21           MS. NESTER: Felisha Nester, Safe Table is Our Priority. My  
22 comment is about compliance with the HACCP plan. And as I was  
23 listening to the comments about the inspectors who were felons and  
24 child molesters and whatever, I was very shocked. But then I  
25 remembered that as a representative of a consumer group, that my  
26 concern is really with the imminent public health danger to the food  
27 safety for consumers, and not of child molesting inspectors.

1           So, what I would really be concerned about is -- and what I think  
2 is probably more common, is inspectors who cave in to industry  
3 pressure and get bottled up in arguments on the floor over what's to  
4 be done about a contaminated product. And in thinking that -- if  
5 HACCP is not self-policing, part of the theory, as I understand it, is  
6 that HACCP is so that plants take more responsibility for the food  
7 safety of their products. And to that end, it would seem that if an  
8 inspector is getting bottled up repeatedly with arguments on the  
9 floor about a particular problem, let's say clean meat in abscessed  
10 bins -- throwing clean meat in the abscessed bins for transporting  
11 the plant, that one way of reinforcing the HACCP goal would be that  
12 the first complaint would be on the floor with whatever level of plant  
13 employees dealing with that, and that after that, if there seems to be  
14 repeated problems, that operations would be stopped until the next  
15 level of plant employee is made aware and can come and participate  
16 in the discussion with the inspector over a potential problem, and  
17 sort of on up the line, so that by the third or fourth time you have the  
18 same problem -- I mean it creates an incentive for the plant to  
19 maintain a proper operation, because their operations are slowed  
20 down by having to reach higher and higher up the line. But it also  
21 reinforces the HACCP goal of making sure that the plant begins to  
22 take responsibility, and that there's not an information sort of  
23 bottleneck at a low level of plant management.

24           MR. BILLY: Rosemary?

25           MS. MUECKLOW: We're all very civilized people sitting around this  
26 table discussing issues that seem pretty black and white to us, and I  
27 can understand Felisha's concern. But let me suggest to you that in

1 one of the examples that Phil used and the one she chose to describe  
2 was a line inspector in a kill plant right on the kill line, where he  
3 was working alongside women on the kill line. And when they were  
4 unreceptive to his representation, sexual representation, then, you  
5 know, he'd -- it's not difficult if you're working with the organs of  
6 cows on the disassembly process to tie sexual references to other  
7 things. Most of you know what I'm talking about here. And when they  
8 were unresponsive, then he had the power to slow the line. So that  
9 company paid an economic penalty for his actions when he couldn't  
10 get the right responses from those women. And that was the kind of  
11 situation that Phil was talking about. And it's hard for us to sit here  
12 and try to adjudicate it. The problem was that there wasn't an  
13 effective appeal system to deal with it. The appeal system failed us  
14 for over a year. And that person, that man, is still on a kill line at  
15 some other plant in this industry. And his conviction was for  
16 molesting his own underaged daughter. It was a travesty, and none of  
17 us will condone that.

18 But there isn't a good system existing in today's system to deal  
19 with it. And that's why we say as you make change, we have got to  
20 have some way to address this. We've got to give those managers the  
21 ability to deal more effectively with these kinds of systems. I mean  
22 I can go on. I know this case very intimately. You don't want to hear  
23 the rest of it. You really don't.

24 MR. BILLY: Thank you. Caroline?

25 MS. SMITH-DEWAAL: Thank you, Tom. Caroline Smith-DeWaal  
26 with CSPI. I hate to recall this, but as I'm sitting here, I have to  
27 remember back to the fire in the chicken processing plant in Hamlet,

1 North Carolina. There was a tremendous loss of life. This happened a  
2 couple of years ago. It was clearly a workers' safety issue that was  
3 just an abomination.

4 We are putting a system in place where that same chicken  
5 processor who determined that it was an appropriate worker safety  
6 issue to put chains around his exits, is now going to be putting a  
7 system in place where they are going to be doing a hazard analysis,  
8 designing their plan, figuring out if they're complying with their plan,  
9 figuring out if there's a problem, what corrective action to take. This  
10 is a lot of trust in some plants.

11 And I hope -- I mean I hope that the examples we've had here of  
12 gross sanitation violations, of just very extreme examples, are the  
13 most minute exceptions in this industry. I mean I just hope that that  
14 represents such a minute percentage of the people operating in this  
15 industry. But the reality is when you look at this from a consumer  
16 perspective, we have an industry which hasn't given us much reason  
17 to trust it on the basis of either having a good record of worker  
18 safety or a good record of public health management of its products.

19 And I think that the issue that I would really -- I mean we have  
20 delivered lots of comments to the department on the issue of worker  
21 -- of whistle-blower protection, on the issues of public access to  
22 records and in numerous other proposals that we made to consider.  
23 But I think the real issue that I would put before the department in  
24 looking at this is on the integrity of records issue, because if you  
25 have people who won't take the most basic steps to protect their  
26 workers, I certainly don't expect that they are going to have any  
27 problems with making up records or changing records or making

1 judgments about product just to get it out the door, rather than to  
2 assure the safety of the consuming public. And I think that that is  
3 just really a key issue, is how are you -- in putting this proposal  
4 together, how are you going to guarantee the integrity of those  
5 records.

6 MS. MUECKLOW: Tom?

7 MR. BILLY: Yes?

8 MS. MUECKLOW: Those inspector -- those company owners in  
9 North Carolina, it is my recollection that they are in jail. Their  
10 business is gone. That inspector is still on the line somewhere.  
11 There is a big difference. There has been public accountability for  
12 the heinous crimes of the people who put chains on the doors.

13 MR. BILLY: Are you right on this point, or are you on a different  
14 point?

15 MR. HODGES: Yes, I'm very much on this point.

16 MR. BILLY: Go ahead.

17 MR. HODGES: You know, this whole discussion has degenerated  
18 beyond all reason. I would hope that we would have a little more  
19 common sense to understand that it is the integrity of the company,  
20 it is the integrity of the products that they produce, it's the integrity  
21 of the brand names that they have worked for decades or hundreds of  
22 years to maintain, that drives the system. If we start from the  
23 premise that everyone in the industry is a bad actor and we have to  
24 have policemen on every corner in order to assure compliance, the  
25 system will never, never work.

26 MR. BILLY: Joe?

27 MR. PEMBROKE: Joe Pembroke with Kraft Foods. I'm the person

1 Ms. Muecklow referred to earlier this morning as slightly less than  
2 distinguished person who sat next to her and Mr. Lou yesterday.

3 MS. MUECKLOW: I'm sorry.

4 MR. PEMBROKE: At any rate, having that aside, I don't think there's  
5 any question that anyone at the table here questions the program  
6 personnel should have the right to have access to monitoring these  
7 HACCP records to properly see that the HACCP plan is implemented. I  
8 think that Mr. Goldman and the other attorneys in this room would say  
9 that USDA already has broad authority to get these records. However,  
10 I think that -- I can see Mr. Klerken here and Mr. Van Blargen, and I  
11 think they'd readily admit that there's rarely ever a need to copy  
12 these records. I think these records should be copied and be  
13 permitted to be copied when establishing evidence of non-compliance.  
14 And I think this is the difference between old and new thinking.

15 We have to get together on this new HACCP program to work  
16 together with inspectors. I think that by saying oh, we need to have  
17 everyone take a look at these records, we're driving a wedge between  
18 the inspector and the QA plant people.

19 I think industry has a genuine concern that it could receive  
20 voluminous record requests, both to the government and to the  
21 establishment. Now, these HACCP plans are complex plans. Who is  
22 going to be asking for these things? Not the average person on the  
23 street. Maybe a competitor seeking proprietary information on if a  
24 person changes HACCP plan, why? What new wrinkle does he have in  
25 his process that maybe I need in mine? Or maybe professional  
26 plaintiff's attorneys looking at recalls and then deciding oh, well I  
27 better look into the records. I think there's a genuine concern about

1 that. And I think that rather than drive a wedge, that FSIS should just  
2 continue to operate under its present conditions on record access.

3 Thank you.

4 MR. BILLY: Tom?

5 MR. DEVINE: Tom Devine, Government Accountability Project. I  
6 disagree with Jim's concern that the discussion hasn't been a healthy  
7 one and useful, because despite strong beliefs that people have had  
8 that are in opposition with each other in some cases, there's actually  
9 been a consensus on some very important principles that I hope we  
10 can build on.

11 Listening to this discussion, I haven't heard anyone support the  
12 freedom to retaliate. We're opposed to that. Everyone has been  
13 opposed to abusive power. And everyone has been in favor of  
14 accountability for those who abuse their authority. Those are  
15 principles to build on no matter which side of a particular dispute we  
16 have a history with.

17 There's a couple of points that I do think need to be addressed  
18 that have come up in the discussion and at least be challenged. The  
19 first one is that FSIS is without the legal authority either to protect  
20 its witnesses or to defend the integrity of HACCP records. That's a  
21 bluff. They have ample legal authority to protect sources of  
22 information. And in fact, prior to changes in statutory law, the  
23 Department of Energy called that bluff with respect to their  
24 oversight of nuclear weapons plants.

25 The second issue that I think needs to be addressed is the wisdom  
26 of saying that HACCP records, even the meat of the plans themselves,  
27 have to be secret even for reasons such as commercial and

1 proprietary information. To the extent that that point is valid, then  
2 maybe we should have a publicly available version of the HACCP plan.  
3 I can't imagine that this industry is more technical and proprietary  
4 than the nuclear power industry, but they routinely publish -- and you  
5 don't have to worry about massive records request. They are just on  
6 public file. -- Their assurances for public health and safety, if not  
7 the proprietary information. And if the industry believes that they're  
8 going to significantly increase consumer confidence in food safety  
9 through secret plans to better protect the public, the industry is  
10 badly mistaken. We're not going to be convinced by secret plans.

11 The third point that I really need to challenge was Phil's  
12 conclusion that there has never been a problem with cooperation or  
13 communications between industry witnesses and USDA inspectors.  
14 That one just doesn't pass the laugh test. I've worked with many  
15 employees who were fired, some within a day of being identified as  
16 talking with USDA inspectors. We could build a very deep record of  
17 inspectors describing how their sources insist on behaving like deep  
18 throats because of the fear of reprisal within the industry. That one  
19 just doesn't have a basis in reality. There's at least that perception  
20 among industry employees.

21 With respect to Rosemary's concerns about abusive power by  
22 inspectors, I think we can switch into where we might be able to get  
23 more constructive solutions here. I think Felisha's suggestion would  
24 be very helpful against the inspector who abused a woman in the line.  
25 Second time around, the inspector wouldn't have access to that  
26 woman. He would be required to talk to her supervisor and keep  
27 bringing it up the chain of command. There wouldn't be an opportunity

1 for things to get quite so personal.

2 And finally, with respect to the idea of an alternative disputes  
3 resolution forum, Joe's point about criminal and civil liability. The  
4 idea here is a remedial alternative to conflict, a problem-solving sort  
5 of whistle-blower protection, and really protection against  
6 retaliation. And I, for one, wouldn't have any problem working with  
7 the industry for this to be a retaliation forum so that the protections  
8 are a two-way street, protecting the industry against retaliation as  
9 well as its employees. So that's something that I hope we can build  
10 on.

11 MR. BILLY: Jim?

12 MR. HODGES: Mr. Billy, I suggest that we move on to discuss the  
13 more substantive issues of this proposal, particularly the timing  
14 issue.

15 MR. BILLY: Felisha?

16 MS. NESTOR: (inaudible.)

17 MR. TAYLOR: This is Mike Taylor. I've listened obviously with  
18 interest to what's been said across the spectrum, and I don't think it  
19 would be fruitful to sort of engage substantively with each of the  
20 points of view. I think people should rest assured that we manage our  
21 program well aware of the extremities of human behavior that crop  
22 up both within the institutions we inspect, as well among our  
23 employees. And we're very sensitive to the need to deal responsibly  
24 with those extremities of human behavior wherever they come up.  
25 And we have mechanisms in place to do that. I take comfort  
26 personally from my belief that the vast bulk of the behavior we  
27 engage both among our employees and among the plants is behavior

1 taken in good faith and of sort of an honest belief in whatever it is  
2 that is being addressed. I also believe that when that's not the case,  
3 or when there's something else going on, that by and large the system  
4 deals with it, but not always. And so we -- but we're sensitive to the  
5 need to manage these things carefully. That's part of -- it's a central  
6 part of our responsibility.

7 I just would add, also, the -- just reiterate the point that we  
8 made, I guess it was two weeks ago, about our strong interest based  
9 in part on the discussion that took place in this room in establishing  
10 as we move into HACCP, and we're asking our inspectors to deal with  
11 issues that they haven't dealt with before and answer questions that  
12 would make informed judgments about whether a plant is in  
13 compliance or not that we've not engaged before, because they are  
14 questions generated by HACCP and some of the more scientific tools  
15 we're using. We do need to consider having a mechanism, a process in  
16 place, that serves both to back those inspectors up with the expertise  
17 they need, and also to be an appeals mechanisms so that disputes that  
18 many of which will be of a first impressions sort will come along,  
19 particularly in the early stages, of HACCP implementation can be  
20 resolved quickly. And hopefully one benefit of that is it will  
21 minimize the circumstances in which legitimate differences of view  
22 about a particular matter that may start out being very technical  
23 does not degenerate into a human conflict problem. I think this is  
24 very manageable. We're very sensitive to the need to do that.

25 MR. BILLY: Okay. I'd like to move on to our last topic, which is  
26 timing. Mike, would you like to kick this off?

27 MR. TAYLOR: The timing of implementation issues are very

1 important, obviously. We laid out in the proposal an array of  
2 implementation dates, first for some of the near term initiatives  
3 beginning as soon as 90 days after a final rule and then -- but they  
4 were phased in over the first year or so. And then beginning a year  
5 out from the final rule, the beginning of the requirement to  
6 implement HACCP, beginning first with some of the facilities that  
7 seem most -- should be highest priority in our judgment, but also  
8 taking into account, as we've sketched out that phase-in sequence for  
9 the various types of operations that would be implementing HACCP,  
10 took into account issues of feasibility and then also the small  
11 business issue by allowing for the small firms up to three years,  
12 regardless of the type of operation.

13 We received on all of the implementation, proposed  
14 implementation dates, comments going in both directions. I think  
15 with respect to HACCP, we have comments saying that our proposed  
16 timetable is too slow and we have comments that say it's much too  
17 fast. We are in the mode -- we've also received comments on that,  
18 including discussion at this meeting, that suggest that there ought to  
19 be a more flexible phase-in approach which takes account of industry  
20 readiness, individual company readiness, individual plant, even,  
21 readiness to come on line with HACCP, and that we ought to phase in  
22 the transition not only to HACCP, but to a changed mode of inspection  
23 by the agency in accordance with that sort of industry readiness.

24 We -- this is an issue that we still have under active  
25 consideration. We don't have an answer. I think in the near term  
26 arena, there are, as I think we've mentioned, a couple of examples of  
27 time frames that may be overly ambitious. I think the one that comes

1 to mind perhaps to me most prominently is the sanitation, SOP,  
2 proposal, which we proposed a 90-day implementation date. I think  
3 we're looking at that again from the standpoint, in part, of our own  
4 training needs. I think this is -- we view this as a measure that  
5 certainly is -- since it reflects what most plants, in general terms,  
6 are doing anyway -- is one that can be implemented relatively  
7 expeditiously. But we do want to be sure we've trained our  
8 employees, so we're considering maybe some slight additional time  
9 there. So all of this is still very much a work in progress on timing.

10 I think our purpose today was just to get, again, any focused input  
11 on this that folks have on their minds.

12 MR. BILLY: Okay. Dane?

13 MR. BERNARD: Thank you. Dane Bernard, National Food Processors  
14 Association. The issue of timing is certainly one of the most  
15 important that we have to address. The agency's plans are both too  
16 fast and too slow. It depends on which part, in my opinion, you're  
17 talking about.

18 MR. TAYLOR: Dr. Bernard, you're the first person to have said that  
19 we're both too fast and too slow, so I appreciate your unique  
20 perspective, as always.

21 MR. BERNARD: Should I stop now? I mean --

22 MR. TAYLOR: I need to hear the details.

23 MR. BERNARD: I'll leave you to wonder where I was going with  
24 that.

25 MR. TAYLOR: Yeah.

26 MR. BERNARD: The enormity of the task in front of us, I guess,  
27 was what prompted us when we submitted our comments to say that

1 some ratcheting back, if you will, of the implementation date may be  
2 in order, because we see just the -- as I mentioned earlier --  
3 deprogramming and reprogramming the massive training job both for  
4 the industry and the inspectors, as a major hurdle to even being ready  
5 to start on a mandatory program. That was one of the factors that  
6 caused us to say let's slow down.

7 Dr. Cross, who hasn't been with us these last three days, but he  
8 has said for a number of months now that in his opinion, in his  
9 assessment in working with a vast cross-section of the industry,  
10 that the amount of expertise that is really available to us is very  
11 limited at this point in time. It's growing. It's probably not growing  
12 as fast as it needs to. But HACCP, while it sounds simple, and most  
13 of us could probably if we put pen to paper write down a reasonable  
14 facsimile of the seven principles, translating those into good, useful  
15 and operable HACCP plans takes a good bit more sophistication than  
16 probably most people realize. So that was what prompted us to write  
17 in our comments that we should approach with caution a firm  
18 implementation date.

19 But having said that, if we don't put some desire to move ahead  
20 relatively quickly, then the momentum to stay the same will  
21 certainly delay the process more than it should be. And probably the  
22 key is what happens on day two in terms of whether we're too fast or  
23 too slow. If we say that we are going to implement this part of the  
24 industry on this day, what happens the next day? And if the agency  
25 does not make the necessary adjustments, as I mentioned earlier, to  
26 respond and, as you said very well, to the differences of opinion that  
27 are going to exist on day two between what the inspectors in the

1 field think is needed and appropriate and what the industry has  
2 designed and developed as an acceptable HACCP plan. That's the most  
3 critical part of this whole process. If we're not ready to say no,  
4 we're not going to tag up every piece of product that comes off of  
5 every food processing line in the meat and poultry industry, which is  
6 very possible, because I don't think any of the plans are going to be  
7 without question, that we probably didn't do our homework. And we  
8 need to look at how we're going to react. And that's the enforcement  
9 part. Maybe the enforcement part comes after -- sometimes after  
10 implementation.

11 The FDA, in its seafood proposal, submitted that the first  
12 inspection after implementation date would be a non-regulatory  
13 inspection. That means we're going to come in and evaluate what  
14 you've done. That should be -- you know, if we're operating under a  
15 validated HACCP plan, then we ought to be held to it. But we're not  
16 going to have validated HACCP plans on day one.

17 So, you know, it's both too fast and too slow, because I think you  
18 haven't completely separated out enforcement and reaction from  
19 implementation, and I think we've got to address that.

20 You also mentioned the written sanitation plans, and we, through  
21 the course of these meetings, have said that we probably need to go  
22 ahead with something as soon as possible to make sure that we do  
23 have written sanitation plans. It's relatively common in the industry.  
24 Everybody should have them, and I would say better than 90 percent  
25 do. We have to avoid, though, making those look like HACCP, because  
26 they are going to be out there ahead of what we're going to be calling  
27 HACCP. And from what I've read in the day one activities report and

1 in talk about verifications and validations and doing swabs and counts  
2 and all kinds of things, and said that -- and to use the duck analogy, if  
3 it walks, looks and quacks like a duck, people are going to think it's a  
4 duck. And on paper, at least, what you've planned for the sanitation  
5 part of this proposal is beginning to quack a bit, so I would  
6 recommend that you look at that in terms of what we're going to get  
7 out of that. Thank you.

8 MR. BILLY: Steve, and then Bob.

9 MR. KRUT: Okay. Steve Krut, AAMP. I think this overall proposal  
10 is probably one of the most comprehensive this agency has ever seen,  
11 and certainly that this industry has ever seen. When it was proposed  
12 back in February, an awful lot has happened. The agency's thinking  
13 has been changed and it is still undergoing some revisions. I would  
14 like to suggest that the FSIS should consider redrafting the proposal  
15 before issuing a final rule, to let all of the various constituency  
16 groups know what the present thinking is. Certainly, everyone  
17 affected -- there are tens, hundreds of thousands of people and  
18 thousands of businesses and millions of consumers affected by this.  
19 To issue a final rule, as the Secretary said earlier this morning, many  
20 features are going to make some people happy. Some are going to  
21 make some people very disappointed. Not all aspects of the final rule  
22 are going to make everyone happy or sad. I think there's just too much  
23 here to issue as a final rule without at least submitting it for one  
24 last shot. And I don't think we need to talk about a 90-day period or  
25 even a 30-day period for additional comments. Circulating  
26 information about what has happened, what the agency's revised  
27 thinking is at this stage at the outset of these meetings, and where

1 it's at at the conclusion of these meetings I think is going to be very  
2 helpful.

3 MR. BILLY: Robert?

4 MR. GARFIELD: Bob Garfield from Athey. Let me just try and add a  
5 little bit to what Dane said, because I couldn't agree with him more  
6 on this point. I think it's one of the most important parts of building  
7 a successful program. And I think it's been alluded to and talked  
8 about a little bit, but really we haven't spent a lot of time on it. And  
9 I would suggest that Secretary Glickman, who coined some certain  
10 important phrases this morning, add management of culture change as  
11 one of the important phrases that should be considered and given a lot  
12 of time and consideration.

13 Just going back on my own history as a plant manager, I can tell  
14 you there was absolutely no other as important issue than trying to  
15 manage a change in the culture in a plant. It's a very difficult thing  
16 to do. Sometimes it would seem like it was very easy. One particular  
17 plant that I ran -- I came into a plant which was run by an individual  
18 who would not allow anyone in the plant to do anything unless they  
19 checked with him first. So all the managers, all the supervisors had  
20 to call him or get in contact with him. Well, you'd think if you sat  
21 down with these people and you told the managers, supervisors, and  
22 people on the floor that it's different. I have an open-door policy now.  
23 You can come to me. You can take responsibilities -- that that would  
24 change. It actually took about a year and a half to change their  
25 attitude and to bring about a culture change within the plant where  
26 they felt confident enough to take the responsibility on their own.

27 All I'm trying to say here is that I'd hate to see companies who

1 are developing, and there's a lot of them out there who are developing  
2 HACCP plans at the current time that are in some stage of the  
3 development, that the day after this becomes mandatory or whatever,  
4 whatever happens, that they run into and clash with the inspector and  
5 then they have to go to an appeals process, which leaves hard feelings  
6 between the plant and the inspector, no matter what you do, and  
7 they'd have to try and keep on building that program from that point  
8 forward. I think it has a tendency in that scenario to have a  
9 detrimental effect on the success, the ultimate success, of the  
10 HACCP program, which is still in development, and probably will be in  
11 development for a good number of years.

12 And I would suggest that maybe the agency look at some outside  
13 experts who are really knowledgeable on changing cultures and take a  
14 look at that before they follow through and give an ultimate date for  
15 implementation. Thank you.

16 MR. BILLY: Okay. Phil?

17 MR. OLSSON: Just a question, and that is will there be -- will the  
18 agency subsequently be having private discussions with AFGE on the  
19 question of timing and implementation? And related to that, is there  
20 anyone from AFGE here participating in this meeting to comment on  
21 timing?

22 MR. TAYLOR: This is Mike Taylor. I'm not from the AFGE. I don't  
23 see anyone here. I mean we, as I think we've said at the very  
24 beginning of these meetings -- the inspectors' union in the context of  
25 rulemaking decisions has the status of an interested party, and we  
26 won't be having private conversations on decisions in the rulemaking  
27 with them any more than we will with you. So I mean that's the

1 answer to that.

2 Our legal obligation under our agreement with the union is that  
3 they have certain rights to bargain on impacts once we make  
4 decisions, so that's when we will engage the union outside of this  
5 public process.

6 MR. OLSSON: Excuse me. Just to follow up -- Phil Olsson again.  
7 But doesn't the bargaining on impact very typically involve questions  
8 of timing? And I guess that's a question, but more of a comment.  
9 This very important player, knowing that we're discussing timing, is  
10 not here today. That's my observation. But my question would be  
11 don't your negotiations -- haven't your negotiations regarding impact  
12 led to delay in some cases in implementing programs? Doesn't impact  
13 go to timing?

14 MR. TAYLOR: I mean I understand your question and observation.  
15 I'm sure there are many past examples of where that has been the  
16 case. And all I can say to you is that with respect to how we will  
17 make decisions within the rulemaking on issues that are pending in  
18 the rulemaking and effective dates thereupon, we will make those  
19 decisions within this APA rulemaking process. We will then carry out  
20 fully our legal bargaining obligations. And I can't foresee, obviously,  
21 what it is we would be bargaining over, but decisions in the  
22 rulemaking will be made within the rulemaking.

23 I can see by the expression on your face that I've completely  
24 cleared this up for you. There's not a whole lot more, though, that is  
25 possible to say. I mean does that communicate anything to you at all?

26 MR. OLSSON: I could go on and ask a whole series of other  
27 questions.

1 MR. TAYLOR: I'm sure you could.

2 MR. OLSSON: But I think there are people here who want to  
3 discuss timing rather than AFGE, so thank you.

4 MR. TAYLOR: I think you're probably right. Thank you.

5 MR. BILLY: Rosemary?

6 MS. MUECKLOW: I'm shortly going to go and get in a cab and go to  
7 Dulles Airport and sit on a plane for five hours and try to prepare on  
8 my laptop some kind of missile to send to the members of National  
9 Meat Association telling them what I did in Washington this week.  
10 And this is a tricky question, because I'm going to tell them the  
11 current thinking on such and such is this, and current thinking is that.  
12 And there are a lot of balls up in the air, but we don't have many down  
13 on the field at this point.

14 And the other notion that I came up with earlier this week, and I  
15 was pleased to see that the Secretary had it on his list this morning,  
16 is certainty. And I have members of an organization who are very  
17 anxious to have some sense of where this department is going. And I  
18 think I have to echo very strongly what Steve Krut has said, and that  
19 is that there is a great deal of new thinking, and we appreciate that,  
20 because there were a lot of very, very serious concerns with what we  
21 read about and what my members read about in February. Having some  
22 kind of a fix on where you're going to come down, and again, the  
23 Secretary said this morning, "Let's not hurry it; let's do it right." We  
24 would like to be there to help you do it right. And to that end, I  
25 encourage you very strongly as you look at the timing issue that once  
26 again, we see what you intend to do before you make it a final rule,  
27 and in that way, we can all work together to do it right, rather than

1 to have to become adversaries over points that we all ought to know  
2 better about.

3 So I certainly support what Steve said to you. Let's get it right,  
4 and let's have a look at it before you get it right. And we don't need  
5 to look at it for very long, but given the structure of the rulemaking,  
6 that's really all that you can do.

7 The other point I'd like to make is that as we've talked over six  
8 days, we've talked a great deal about performance standards, and I  
9 think that's going to be a very important piece of terminology, and it's  
10 relatively new in the vernacular in which we operate. It's not  
11 something that has a definition in my memory in the Code of Federal  
12 Regulations. And I wonder if you, Mr. Taylor, or one of those fine  
13 people you have in this room to support you today, would like to take  
14 a stab at telling us in the words of a regulator how you define  
15 generically what a performance standard is, because I think a lot of  
16 different people have a whole different idea about what a  
17 performance standard is. And when I'm sitting at that laptop on the  
18 computer tonight, at least I could put something down that I heard  
19 come out of the mouth of a regulator, rather than what I think it is.  
20 And so, it would, I think, be helpful if we all go home with some  
21 sense of what your current definition is for a performance standard.  
22 Again, it's another reason why we ought to have a look at that final  
23 rule before it becomes real final, because I'm sure there are other  
24 things other than the definition of a performance standard that's  
25 going to be important.

26 MR. TAYLOR: Should I?

27 MR. BILLY: Sure.

1 MR. TAYLOR: This is Mike Taylor. That's a very, very good and  
2 important question. Rosemary, I don't know if what I will say about  
3 it will become succinct and clear enough for your -- did you say  
4 missile or missive? I'm not sure what you have in mind. Make it a  
5 missive. I mean that just seems so much better.

6 MS. MUECKLOW: We can have it as a Psalm and that --

7 MR. TAYLOR: It's an important question, because the concept,  
8 obviously, is very important to our strategy, and people do need to  
9 understand it. It's a hard question, because what we are thinking of  
10 as performance standards can be used in so many different ways that  
11 it's hard to have a generic definition that really tells you in any  
12 particular case. But I'm going to take a stab at a generic definition  
13 and then illustrate two or three ways in which we have been talking  
14 about performance standards so you can see the differences.

15 What we see the function of performance standards being, and  
16 this is not a new formulation in our discussions, is it is a measure of  
17 accountability for achieving what we might refer to as an acceptable  
18 food safety outcome. That's not very descriptive, so let me give you  
19 some examples. A measure of accountability for achieving an  
20 acceptable food safety outcomes -- this is not something that -- I'm  
21 making this up, Rosemary, so this may be -- it might be actually good  
22 to define the term. We may do it. And I'm thinking out loud with you.  
23 But that's the function, that's the concept that we've talked about --  
24 generic definition. But the kind of performance standards we're  
25 talking about take multiple forms.

26 We described two weeks ago a proposal that we hope to publish  
27 soon that would in the cooked meat and poultry product area -- and

1 the existing regulation established regulation established basically  
2 convert that to a performance standard approach that would  
3 articulate with respect to the three major elements of that rule sort  
4 of what it is we want folks to accomplish in terms of lethality,  
5 stability, and then handling. And so, in the lethality area, the  
6 performance standard would be some -- you know, 5D, 7D, kill. And to  
7 us, that's a performance standard in the sense that whatever process  
8 you're going to use, you need to have validated that it achieves that  
9 kill, because that we consider to be an acceptable outcome from a  
10 food safety standpoint. So, in that sense, 7D, 5D, is a performance  
11 standard in the context of a cooked product for achieving an  
12 acceptable food safety outcome, and it gives us, you know, a measure  
13 of accountability, because in this proposal we would we say, we're no  
14 longer going to tell you time and temperature. You need time and  
15 temperature, but we're not going to tell you what it is. Our measure  
16 of accountability for your achieving an acceptable outcome is this  
17 performance standard, which is 7D or 5D. One aspect of this use of a  
18 performance standard is that it's very concrete and very definitive.  
19 We think when you do that, that's a pathogen-free product. It is safe  
20 with respect to pathogens in some kind of complete sense. All right.  
21 So that's one form of performance standard.

22 We're also talking about performance standards for pathogens and  
23 also now E-Coli to provide accountability for a different kind of food  
24 safety outcome. And it's not like the processed part, because it's not  
25 sort of an absolute pathogen-free outcome. But take generic E-Coli.  
26 We've been talking about establishing some criteria to govern a  
27 plant's testing in a slaughter setting for generic E-Coli as an

1 indicator of process control with respect to controlling, preventing  
2 fecal contamination. And so here it's a performance standard with  
3 respect to the degree of process control. And we're struggling to  
4 define the criteria that would constitute such a performance  
5 standard, because we want it defined in terms of what's an  
6 acceptable degree of process control. And so the food safety outcome  
7 we're talking about here is not finished product outcome. It's not like  
8 the 7D, 5D, you know, performance standards for a cooked product.  
9 But it is, in our minds, a food safety related performance standard,  
10 but it's a performance standard for the adequacy of process control  
11 aimed at achieving a food safety objective. So that's another form of  
12 performance standard.

13 And then, finally, you know, we're talking about the possibility of  
14 the pathogen reduction targets, which again, is just another way of  
15 using the performance standard. Again, the concept is as a measure  
16 of accountability for controlling and reducing harmful bacteria,  
17 looking at whether a plant is achieving in this case the performance  
18 standard more directly related to an actual food safety outcome, that  
19 is pathogen contamination of product -- but again, another form of  
20 performance standard.

21 In our minds, the term performance standard is a generic term  
22 that has to do with as a measure of accountability for achieving some  
23 acceptable food safety outcome, and it can be used in a variety of  
24 settings. We're going through a lot of internal discussion about  
25 performance standards. We've been through a learning process  
26 ourselves, and sort of how we think about this and how we use it.  
27 And one thing that -- I mean these meetings have, I hope -- one

1 purpose I hope we've served is to begin to get other people to where  
2 we are in our thinking about it. And obviously, in the preamble to  
3 final rules, we need to be clear and we need to articulate what the  
4 function is and how -- of a performance standard and how it will  
5 differ from setting to setting.

6 There are lots of other performance standards. I mean a food  
7 additive tolerance, you know, for a chemical food additive. That's a  
8 food additive. That's a performance standard. You have to achieve --  
9 you know, you have to achieve it. That's a form of performance  
10 standard. So performance standards -- you know, they can take many  
11 forms.

12 MS. MUECKLOW: You're talking --

13 MR. TAYLOR: I cleared that up for you.

14 MS. MUECKLOW: Somebody was talking about the culture shift.

15 MR. TAYLOR: Yeah.

16 MS. MUECKLOW: You're talking about a huge, huge culture shift.

17 And I'm not sure that my lifetime is going --

BEG. #8 MR. TAYLOR: -- no measure of accountability for controlling and  
19 reducing harmful bacteria on raw product and slaughter plants to  
20 accountability for controlling and reducing. I mean that is a core  
21 shift in this whole initiative. There's no question about it.

22 MR. OLSSON: What level of confidence would you expect, I mean  
23 when you talk about the cooked product and lethality and stability in  
24 handling you get and you're 100 percent confidence. When you talk  
25 about the pathogen testing, you are talking as a measure of  
26 accountability. Will you proportion the intensity of the sampling to  
27 obtain some level of confidence? And what would that level of

1 confidence be? That's a statistical question. And I'm not a  
2 statistician, but I see Dr. Morse reaching for the microphone.

3 MR. TAYLOR: Well, lest we degenerate into a statistical  
4 conversation here this morning -- I mean that's a very -- I mean that  
5 -- as we discussed -- when we discuss that issue, I mean that is  
6 again, exactly the kind of issue we've got to resolve in, you know,  
7 arriving at an appropriate performance standard. You know, and the  
8 answer depends on a lot of factors, including what actual function  
9 you intend that performance standard to play, and what actions would  
10 follow from some set of results. It suggests that the target in this  
11 case is not being met. And again, it's a very complicated and long  
12 conversations. We spent some good time on it two weeks ago. I'm not  
13 sure it's the topic for right now -- but having said that, Dr. Morse,  
14 please --

15 DR. MORSE: You've covered the gist -- again, we can give you  
16 statistical ranges, you know, probabilities as to whether you meet  
17 certain percentage levels or this type of thing. Again, as Mike says,  
18 it's a very -- it's a more complex issue, and there are going to be  
19 gradations in the degree to which we are going to try to get to certain  
20 targets, depending on a lot of factors, including how critical those  
21 particular issues are. Obviously, if we're dealing with a processed  
22 product, we may want different margins of error than when we are  
23 dealing with a raw product. And it's an extremely complex issue. And  
24 we held one entire scientific conference and -- you know, for three  
25 days, and we barely got into it. I mean it's a complex issue.

26 MR. BILLY: Caroline?

27 MS. SMITH: I hope this marks the nearing of the end of this

1 meeting, because this is hopefully my last time on the soapbox. I  
2 want to thank the department first off for facilitating what has been  
3 an incredibly comprehensive set of meetings, both from the time that  
4 the rule was originally released to now, to get input on this rule. I  
5 mean I have personally attended more meetings than I care to  
6 remember, but it has been a very amazing process of getting all the  
7 groups together and trying to make sure that everyone has had input  
8 into this process.

9 I think this meeting, which I was not very enthusiastic about, has  
10 probably helped to focus a lot of discussion and a lot of issues. And  
11 if there hasn't always been consensus at the table, there was a lot of  
12 consensus that I saw happening in the hallways and during the coffee  
13 breaks. I think that really a lot of the people around this table aren't  
14 very far apart at all. And what it means is that there's probably some  
15 really -- there are some really right answers here, and hopefully the  
16 department can reach those answers in its rulemaking. However, and  
17 I've said this before, and I'll no doubt say it again, we all know that  
18 this rule is very late. This rule was first called for by the National  
19 Academy of Sciences in 1985.

20 We have a process here of -- we have a public health situation  
21 here where the continuing delay of this rule is going to cost lives.  
22 It's going to continue to claim people like Alex Donley, Lauren  
23 Rudolph, Eric Mueller, and many, many other children, who have lost  
24 their lives because of the contaminated products, which we think this  
25 rule will go a long way towards addressing.

26 I would urge the department to reject the recommendations to  
27 reissue this rule as a proposal. We need a rule to begin to move the

1 process forward. I think we do have -- we have time after the rule is  
2 released before you're going to have full implementation. And  
3 frankly, the process of developing HACCP is one which is very  
4 dynamic, and having day one -- having that plan in place day one and  
5 what the plan looks like even a year from then, it's going to be very,  
6 very different. But I think the department needs to move forward and  
7 needs to move the industry forward, because although many plants  
8 have adopted HACCP on a voluntary basis, it hasn't happened well  
9 enough or fast enough to be as effective as we think it will be as a  
10 mandatory program.

11 To the industry, though, I really -- you know, we're in an  
12 environment in 1995, where we have a lot of republicans over in  
13 Congress, and there is a whole movement to get government off the  
14 backs of industry. And, you know, I sit in this meeting and it's very  
15 interesting to listen to a lot of the discussion, because really the  
16 power here is not in the regulators to put this rule out there and to  
17 provide guidelines for SOPs and to provide generic HACCP plans.  
18 These concepts have been around for a long time. And for companies  
19 who are still here in the room, there may be a few, and for the  
20 industry trade groups, I just -- I'm sorry, but I have to tell you, go do  
21 it now. Don't wait. I mean these guys are 10 years late. They're  
22 going to be late on their guidelines. They're going to be late on their  
23 generic plan. You go do it. This is in your power. Get the government  
24 off your back by getting way ahead of them. Start doing your own  
25 hazard analysis. I mean, you know, page 6848 outlines the HACCP  
26 principles. I would guess, I'm not a gambler, but I would guess that it  
27 would be a very safe bet to say not much of these principles are going

1 to change between right now and the final rule. These principles are  
2 there. They're in stone. And I don't think there's going to be a whole  
3 lot of change to them. So go hang those up on your walls. Get those  
4 principles in action in your own plants. Drop your own sanitation  
5 SOPs. This stuff is in your head. There's nothing that's in here that  
6 you shouldn't already be doing if you're operating properly, and you  
7 just need to get it on paper and get the checklists going, get your  
8 employees trained. You can do this. Look at your cooling systems  
9 now. If it's too -- if it's too small to handle that super bull, then  
10 maybe that super bull should go to some other processing plant.  
11 Maybe you shouldn't be handling an animal of that size. I mean get  
12 your cooling systems in gear. Make sure that -- I mean we don't know  
13 what the final number is going to be, but you can start looking at your  
14 own systems right now. Don't wait for the agency. You can really get  
15 ahead of this process.

16 And I have -- I guess I have just one more comment. I mean we  
17 have heard a lot of frustration directed at the agency, that they don't  
18 have things ready. And we even heard a gentleman say that the -- you  
19 know, he couldn't participate in a model program, because the  
20 parameters weren't set. The parameters are here. They're in HACCP.  
21 And it -- I think that the industry has the tools it needs to move  
22 forward, and the sooner you do it, you're going to protect consumers'  
23 lives, you're going to extend your shelf life of your product, according  
24 to some of the experts in the room, you're also going to reduce your  
25 liability exposure. This is the way it's going. So get started.

26 And to the trade associations, you can do a little HACCP tutorial  
27 right in your little newsletter. Just run it -- you know, run HACCP

1 things every month. Tell people how to do hazard analysis. Tell them  
2 -- you know, the Turkey Federation can put out a little hazard  
3 analysis on all the turkey products. I mean you know what the  
4 hazards of those products are, and you can start getting your  
5 industries ready, because it's not all up to this agency to do it. It's  
6 really up to the industry to put this program into place.

7 So, I'm off the soapbox, and thank you for having us all  
8 participate in these rather lengthy meetings. Thank you.

9 MR. BILLY: Ron?

10 MR. PRUCHA: Ron Prucha. During my former life in the program, I  
11 participated in implementing a number of programs over my career.  
12 Ever since the publication of the proposal and sitting through six days  
13 of these hearings, I've been racking my brain as to how you would  
14 implement something like this, this complex a program.

15 If there is one consensus view, I guess, or one -- you know, I'm  
16 supposing almost unanimous view in this that has come out of these  
17 meetings, it is that HACCP should happen. Everybody is there. I think  
18 the baby is born. It's alive and well and taking nourishment, and one  
19 of these days, it's going to be up and walking. I feel very confident  
20 about that.

21 But how do you get it going? And I want to propose my theory,  
22 and it's a rather simplistic view of a very complex issue, but I think  
23 it can essentially be done in two years with some provisions or some  
24 provideds. I would finalize in your final reg -- or your final  
25 regulatory document, HACCP. Remove it from the short-term  
26 interventions and save those aside, but simply have the final rule say  
27 that HACCP will be implemented in all plants for all procedures and

1 products in two years, and that includes slaughter.

2 That leaves the agency, both the agency, I think, and the industry,  
3 with a tremendous amount of work to do. For the agency, the training  
4 thing has been talked about and the enormity of that task alone and  
5 the mindset changes and all of that. But the agency now, to my  
6 knowledge, has committed to things like generic plans and  
7 performance standards, probably from micro-guidelines, micro-  
8 biological guidelines. If they decide to go with E-Coli testing or  
9 micro-testing for E-Coli, that has to be finalized and some guidelines  
10 published for that. I would hope that the agency could come out with  
11 some kind of guidelines to the industry as what they expect the  
12 industry representatives and the people running HACCP on the in-  
13 plant basis. What kind of training will be acceptable, too, for them.  
14 And then I would put the short-term initiatives, the micro-testing,  
15 and all the rest of them, but make them part of your HACCP plan. The  
16 date of that two-year kickoff ought to be the date of the final  
17 publication of the HACCP alone rule. Give the industry and the  
18 government time, 12 -- in my opinion, 12 to 18 months, after all of  
19 the pre-work is done to get their HACCP plans, get their training, get  
20 everything in line.

21 For those of you that like or don't like overlaid inspection, I  
22 would put the -- at 12 to 18 months, I would put the industry running  
23 their HACCP plans overlaid by a six-month period of traditional FSIS  
24 inspection. And at the end of that period, I would turn it loose for  
25 both the industry and the agency to run on a HACCP basis. It's an  
26 incremental approach. Those 12 to 18 or 24 month time periods  
27 certainly can be adjusted based on what has to be done on each side,

1 because both sides have a tremendous amount to do. But I feel, and as  
2 Dane said, there's going to be mistakes. We're going to walk before  
3 we can fly with this thing, and it's going to be a developmental thing,  
4 but I think it's time to get on with it. Thank you very much.

5 MR. BILLY: Deven?

6 MR. SCOTT: Deven Scott, National Association of Meat Purveyors.  
7 Certainly the credibility of the industry and all of this, and the health  
8 and safety of consumers, and even in some cases, the very fate of  
9 some companies, probably rests in the fact that how these food  
10 safety initiatives here are going to be presented and implemented.

11 Certainly we would like to see some assurances in certain areas,  
12 and there's been a lot of dialogue. I don't know where you're going to  
13 go from here. I certainly wish I did, and maybe you do, too. I don't  
14 know. But certainly, you know, we need to know things like how  
15 disputes are going to be resolved, and there needs to be some common  
16 sense restraint on the part of inspectors, and that they know what  
17 their roles are going to be.

18 I guess I would say -- you know, I would hate to think from this  
19 very point on, you know, that FSIS now is going to be the final arbiter  
20 in all of this. And I know that there are some people that feel that,  
21 you know, to go back and to re-propose or to even a proposed final  
22 rule, some people might find that that is delaying. However, I think  
23 that at the very least, maybe a proposed final rule with a very short  
24 comment period would be in order, something that we can get it right  
25 -- not to delay the thing, but to make it right.

26 And I would think that everyone in this room would certainly like  
27 to have an opportunity to have one look and maybe one last comment

1 on all of that. So I would have to say that we would like to see  
2 something here.

3 MR. BILLY: Tom?

4 MR. DEVINE: I thought that's what we've been doing. I'm Tom  
5 Devine, Government Accountability Project. After studying HACCP  
6 and attending public hearings on this since the 1980s, I don't agree  
7 with a lot of the things that are in this proposal within the narrow  
8 range that I'm qualified, or my clients are qualified, to offer  
9 comments on. But as an informed consumer, I think you are doing it  
10 right. That's what's been happening over the last six days of public  
11 hearings, is bending over backwards to do it right. I wouldn't be doing  
12 it right to wait until the culture of the meal and poultry industry  
13 changes. As Rosemary Muecklow pointed out, that could be after her  
14 lifetime. And I'm confident that she'll still be delivering create thank  
15 you notes to USDA leaders until the next millennium.

16 What you're doing is exercising leadership by not waiting  
17 significantly longer to make a decision about this 1980s proposal.  
18 You're earning credit for leadership on a life and death issue of the  
19 highest priority for the American public. And I can't see what would  
20 be accomplished by having another version of the debate that's been  
21 so fully expressed so many times on this issue. It's time to make a  
22 decision.

23 MR. BILLY: Carol?

24 MS. TUCKER-FOREMAN: Thank you. Carol Tucker-Foreman. I have  
25 a mundane question. I hope it's not too late to get it answered. In the  
26 preamble to the proposed rules, it -- in talking about the relationship  
27 between the interim procedures and the implementation of HACCP, it

1 says that each of the interim measures can be reasonably expected to  
2 constitute a critical control point under most HACCP plans. So while  
3 the proposed regulatory provisions may no longer need to be mandated  
4 upon implementation of HACCPs, establishments would likely retain  
5 them as critical elements of process control.

6 I'm asking again, Mike, the same question I asked yesterday, I  
7 hope in a more specific form. If a plant now has a working HACCP  
8 program, as we know many plants do, and that plan works, but they do  
9 not have the time and temperature controls as required in the interim  
10 procedures, would they be required to change over to the time and  
11 temperature as specified in the interim requirements with the  
12 prospect that they would then, when they implemented their HACCP  
13 plan again, re-implemented it, come back to doing what they were  
14 doing before because they could show that they had their critical  
15 control points under control without using the interim requirements?  
16 Or are the interim requirements really just for those plants that can't  
17 demonstrate process control through a HACCP system as of the day it  
18 goes into effect?

19 MR. TAYLOR: I think -- this is Mike Taylor. I think what I have to  
20 try to do is answer the question as we thought about those proposals  
21 in February. You know, our thinking has evolved since then. But as we  
22 thought about it then in February, the idea was that it's hard to  
23 envision a well-operated plant, and particularly once we're operating  
24 in a HACCP environment, where we have more rigorously gone through  
25 the HACCP process of evaluating hazards, putting in controls to  
26 control and reduce hazards, that in a well-run plant, there wouldn't be  
27 some systematic approach to sanitation, perhaps not as part of the

1 HACCP plan, but a systematic approach to sanitation. It's hard to --  
2 we certainly were operating on the premise that -- and I think we  
3 still believe certainly that in most slaughter plants where we're  
4 attempting to validate critical controls for pathogens of concern,  
5 that some approaches to anti-microbial treatments wouldn't be a very  
6 common part of a validated HACCP plan in slaughter; and likewise,  
7 it's very hard to envision that in a well-designed, validated HACCP  
8 plan for slaughter, the cooling would not be an element of that plan  
9 and there wouldn't be, you know, some critical limits defined. And  
10 the idea was simply that given the sort of elemental nature of  
11 sanitation, given the opportunities that we've been hearing so much  
12 about from industry about, you know, to reduce pathogens using anti-  
13 microbial treatments, and given again the elemental nature of  
14 carcass cooling, the premise was that even as we transition to  
15 HACCP, and as precursors for plants who are moving towards HACCP,  
16 that we ought to, in order to make progress in the near term on food  
17 safety, begin those three near term measures.

18 So as proposed, we thought of those requirements as sort of  
19 independent of where the plants were voluntarily on HACCP right now.  
20 It's a very good question that you're asking. Another way, though, to  
21 sort of look at what I think underlies your question is sort of what  
22 we discussed Wednesday, when we talked about carcass cooling, for  
23 example, and that is whether you are talking about today without  
24 HACCP or tomorrow with HACCP, is there a need for the agency to  
25 mandate specific time and temperature parameters if a plant is  
26 operating a system that has a validated alternative in place that's  
27 achieving what we would agree is an acceptable level of performance

1 from a food safety standpoint. And our current thinking is that there  
2 may be, both near term and when HACCP is in place, some alternative  
3 that does not involve us attempting to prescribe specific -- you  
4 know, one set of specific time and temperature parameters for all  
5 plants.

6 MS. TUCKER-FOREMAN: This is Carol Foreman again. I just want  
7 to thank you. I think you've given me the same answer that you gave  
8 the other day when I asked the question.

9 MR. TAYLOR: Was it the same question, I hope?

10 MS. TUCKER-FOREMAN: Well, this time I tried to make it more  
11 specific, and your answer is more specific, because I do think that  
12 there has been some misunderstanding here. And I don't -- it was  
13 certainly my understanding from the other day that you weren't  
14 suggesting that if you had a validated plan in effect now, one that  
15 was clearly meeting some standard that brings the plant way up there  
16 in the very top of industry performance, that you're going to say  
17 you've got to go do --

18 MR. TAYLOR: Exactly. And again, as we tried to articulate it the  
19 other day, our intent was not to upset or reinvent cooling practices  
20 that are already working well to achieve the desired food safety  
21 objective. I think what we perhaps had not taken account of fully -- I  
22 think clearly we didn't take account fully enough at the proposal  
23 stage of the reality of all the diversity in practices and the reality  
24 that many plants are operating under conditions that fully meet a  
25 food safety objective, but don't conform to those specific parameters.  
26 That's what's caused -- that input has shifted our thinking.

27 But conceptually, yes. I mean we didn't see the need once we got

1 to HACCP to force that sort of conformity. And I think we've  
2 recognized the need short term to be more flexible.

3 MS. TUCKER-FOREMAN: Carol Foreman again. Thank you. I just --  
4 I appreciate that, and it does clarify and should be reassuring, I think,  
5 to people.

6 If I can just take one more minute. I keep -- when we had the  
7 scoping session, I raised the issue of the 91 percent of the American  
8 people interviewed by the food marketing institute who said they  
9 thought that bacterial contamination of food was either a serious or a  
10 very serious problem. I would say that that represents a problem for  
11 the public and for the industry that produces meat and poultry and for  
12 the government agency that regulates it.

13 So I do think that it's important that we act very quickly to  
14 reinforce, or to reinstate, public confidence in this system. And it's  
15 important, I think, in order to succeed at that that this process go  
16 forward in some rational fashion. My guess is that there may be  
17 power in various parts of government to stop you from going forward.  
18 I suspect that if that happens, that the industry and the agency would  
19 both suffer from the fallout in the media and perhaps in the courts  
20 that would come from that. And that's a very high price to pay, I  
21 think, for trying to impede the kind of change that's underway here.

22 I've got to thank y'all for this process that you've been through,  
23 not just these last six days, in which we have all gotten callouses on  
24 our fannies, but all through this whole process. We really have  
25 appreciated the opportunity to participate. For several years, we  
26 were not allowed to participate in the department's decision-making  
27 in any reasonable fashion. We sought representation on the micro-

1 biological advisory committee and were rejected. When the technical  
2 advisory groups met to begin working out critical control points, we  
3 asked to participate and we were rejected. We had to sit in the back  
4 of the room, and the industry sat with the government around the  
5 table, and at 4 o'clock in the afternoon, they'd say has anybody got  
6 anything more that they want to offer.

7 I'd like to contrast that to the process that we've been through  
8 here. And, although the points of view expressed have been real  
9 different -- sometimes the industry has differed with each other as  
10 much as perhaps those of us not in the industry have disagreed with  
11 the industry. It seems to me that there's been a lot of progress, if  
12 not towards consensus, at least toward an understanding of all the  
13 details that have to get worked out here and certainly the problems  
14 confronted by a variety of different segments within the industry.

15 As a general advocate of government in the sunshine, I -- gee, you  
16 know, I'm going to ruin your reputation if I keep saying nice things  
17 about FSIS. It doesn't roll easily off my tongue, but thank you very  
18 much.

19 MR. TAYLOR: Thank you.

20 MR. BILLY: Jim?

21 MR. HODGES: I just, as a final comment, we want to thank the  
22 department for enduring the six days. The only think I would urge the  
23 department -- or I shouldn't say the only thing, but the primary thing  
24 I would urge the department to do -- around this table in the last six  
25 days, you've had some of the world's foremost experts in terms of  
26 HACCP, in terms of running operations, in terms of quality control, in  
27 terms of the scientific expertise. You know, I hope the agency and the

1 department takes advantage of that.

2 MR. BILLY: Dennis?

3 MR. JOHNSON: Dennis Johnson, Olsson, Frank and Weder. I just --  
4 when Ron Prucha was talking, it somewhat hit home that a lot of  
5 what I have heard over the last six days, and what I've heard from my  
6 clients over the last couple of years, is why do we have to go through  
7 these step-by-step to get there? Why don't we just go ahead and  
8 start HACCP. A lot of my clients have it already, and they're all in  
9 favor of it.

10 Where their concerns really are is what's going to happen with  
11 the inspector. Yes, you know, you can read the regulations. You can  
12 talk to the folks in Washington. But you're not in my plant and they're  
13 not in my plant. And over the last six days, I have heard quite a bit of  
14 distrust between both the industry and the consumer groups and the  
15 inspectors on the first day.

16 The one suggestion I would have that probably won't get  
17 consensus and probably won't be implemented, but I'm going to make  
18 the suggest anyway, is joint training sessions. I think that everyone  
19 around this room right now would probably give me a different  
20 definition of HACCP. And, Mike, I'm still trying to get your definition  
21 of performance standards down. And Caroline is opening the book to  
22 show me that there's the seven principles. But how those apply in  
23 practice just we're not getting a lot of agreement on and we're not  
24 getting a lot of trust. And I think the only way you're ever going to  
25 get over that is to learn it together, to train together -- and I'm  
26 talking about the inspectors and the plant. The consumer groups are  
27 more than willing to come, and I'm sure the lawyers will be there,

1 too, trying to figure out what's going on. But the only way you're  
2 going to do it is through joint training, because then you're going to be  
3 able to work out problems together, you're going to understand the  
4 points of view of everybody in your classroom together, you're all  
5 going to hear the same bit of information, you're all going to use the  
6 same textbooks. I mean just think back on, you know, running into an  
7 old college friend and -- oh, yeah, I remember Professor Jones. Do  
8 you remember the time he did this? It's just going to build. And I'm  
9 not saying there should be -- you know, each person has their own  
10 responsibility. That's their job. But learning together is going to  
11 help build a lot of trust that I really think is needed in this industry.  
12 And thank you.

13 MR. BILLY: Jim?

14 MR. ELFSTRUM: I, again, would like -- Jim Elfstrum at Rhone  
15 Plant. I would like to also thank you for the opportunity to provide  
16 our input to you. My wife would not like to thank you. She threatened  
17 to sell the house last night when I talked to her. I haven't been home  
18 enough, I guess, to even mow the lawn.

19 But I'd like to summarize our comments for the record. We at  
20 Rhone Plant strongly support proposed HACCP implementation for  
21 meat and poultry. And also in the interim, we strongly support  
22 adoption of the proposed near term initiatives, and they are  
23 consistent with HACCP. HACCP for meat and poultry is long overdue.  
24 Other segments of the food industry have adopted HACCP long ago. It  
25 is efficient and working well in those areas.

26 HACCP achieves a goal of process control for food safety results  
27 and pathogen reduction. The HACCP system requires identification of

1 end process critical control points. Where properly instituted,  
2 procedures and technologies will result in food safety assurance and  
3 pathogen reduction.

4 FSIS has identified the major universal critical control points  
5 associated with meat and poultry processing and have delineated  
6 these under the near term initiatives. These CCPs, time-temperature  
7 relationships, anti-microbial treatments, and sanitation operating  
8 procedures, are all very critical to, and must be incorporated into any  
9 HACCP system for meat and poultry operation. Clear testimony from  
10 these meetings has established and confirmed FSIS's identification  
11 that time-temperature, anti-microbial treatments, and SOPs are  
12 indeed critical control points. As recognized, CCPs, to be  
13 incorporated into HACCP systems, FSIS properly has proposed  
14 requirements for these CCPs in the near term initiatives as minimum  
15 interim steps to be taken for food safety and pathogen reduction  
16 awaiting full HACCP system implementation.

17 I was, however, extremely disappointed at these meetings to hear  
18 some opposition to the near term initiatives, since they are  
19 acknowledged to be CCPs, which will be part of the HACCP system.  
20 Consequently, there is no philosophical contradiction between FSIS  
21 moving to a HACCP approach while requiring certain minimum  
22 necessary food safety steps in the interim. For example, as you know,  
23 our directed defiance in this area relates to anti-microbial  
24 treatments. And if these are safe, cost-effective, commercially  
25 operable, interventions are available that achieve greater than one  
26 log reductions in common pathogens associated with the meat and  
27 poultry, how in the name of food safety, can there be opposition to

1 utilizing such systems for pathogen production and consumer  
2 protection?

3 Sure, FSIS has to provide the industry with flexibility, and in the  
4 case of anti-microbial treatments, assurance of minimum efficacy on  
5 pathogens, but to oppose using demonstrated, state-of-the-art  
6 technologies that achieve quantifiable pathogen reductions, because  
7 of perceived philosophical contradictions does a gross disservice to  
8 the consumer, specifically, and to food safety in general. Also, these  
9 technologies will help protect against a variation (indiscernible) that  
10 I had previously described at these meetings.

11 In the case of poultry, anti-microbial treatments reduced the  
12 micro load going into the chiller and thereby further minimized the  
13 cross-contamination potential at that point in the process.  
14 Consequently, we strongly support FSIS's proposed HACCP system for  
15 meat and poultry and strongly support the necessary near term  
16 initiatives that are all consistent with the goals and objectives of  
17 HACCP.

18 Furthermore, I'd like to present to the meeting a paper --

19 MR. BILLY: With regard to time, would it be possible -- would you  
20 consider putting it into the record?

21 MR. ELFSTRUM: Yeah, I'll just summarize it very quickly.

22 MR. BILLY: The record is open.

23 MR. ELFSTRUM: Yeah, there is a paper that was recently published  
24 by Dr. Brine and Dr. Mike Doyle. It's entitled Health Risk and the  
25 Consequences of Salmonella and C. Jujuni in Raw Poultry. And it  
26 indicates in the paper the cost associated with these diseases in raw  
27 poultry, and they range from \$178.5 million to \$1,061,000,000 per

1 year. I just want to read for the record his concluding paragraph, and  
2 it reads as follows:

3 "There is an immediate need for a cost-effective approach to  
4 reducing the prevalence of Salmonella and C-Jujuni on poultry. The  
5 cost for effective measures that will reduce, prevent, or eliminate  
6 poultry-related human diseases would be substantially lower than  
7 the estimated cost to society. Moreover, these measures can also  
8 make a positive impact on reducing the public's concern about the  
9 safety of poultry."

10 Thank you very much.

11 MR. BILLY: Thank you. Jack?

12 MR. GORDON: Thank you, Mr. Billy. Mr. Taylor, just -- I shall be  
13 very brief, but I detect that without the Chair announcing it, we have  
14 moved into wind-up mode. But on behalf of the Australian Delegation,  
15 which has all run to the airport, I would like to thank you very much  
16 for enabling us to be present at these proceedings and to listen to the  
17 way that you do business. I can but compliment everyone on their  
18 openness and frankness in this debate. It's been very interesting and  
19 extremely educational at a personal and professional level.

20 I think it poses more questions than it has given answers, though.  
21 And our interest, obviously, is principally in the beef industry, and we  
22 have concerns, or the expectation that the barter bench information  
23 can be readily transferred in a matter of months to take practical  
24 application on slaughter floors and in other parts of the industry. And  
25 obviously, we will continue to be very interested in the debate as it  
26 unfolds.

27 I was hoping that Mr. Taylor was going to give me a sudden flash

1 of brilliance on his definition of performance standards, and to quiet  
2 you down in Rottingham, Michael, achieving a food safety outcome. As  
3 a country has obligations to the World Trade Organization and we  
4 trade as to you in an international environment, that poses the  
5 question of equivalence, which comes back to what are the goals,  
6 what are the objectives, and we still all have to wrestle with that.  
7 So I'm sure that all of us will continue to talk for many years ahead.

8 But on behalf of the Australian Delegation, again I thank you very  
9 much indeed for the opportunity to be here. Thank you.

10 MR. BILLY: Lou?

11 MR. GASS: Thank you, Tom. Lou Gass, Inspection of Management  
12 Resources. I just wanted to touch on Dennis Johnson -- I guess he ran  
13 off -- and support what he was saying in this way, that we've talked  
14 here today and in the first three meetings as well, to some extent  
15 about inspector accountability, FSIS accountability and so on. And  
16 today, sometime, we were talking about ensuring compliance with  
17 HACCP requirements.

18 And I believe, Mike, your definition of the function of  
19 performance standards was to measure accountability for achieving  
20 acceptable food safety outcome. And I'm sure that you meant that as  
21 performance standards for industry. I would like to at least suggest  
22 that FSIS consider adopting equally effective performance standards  
23 for their own responsibilities and authorities in terms of monitoring  
24 the industry in their carrying out of their standards. I would like to  
25 suggest that those performance standards be used to measure  
26 inspector accountability for their activities and efforts in achieving  
27 that same acceptable food safety outcome. Thank you.

1 MR. BILLY: Dane?

2 MR. BERNARD: Thank you. Very briefly -- since Caroline has said  
3 that she's done for the day, I feel much at liberty -- take that  
4 woman's badge. You know, we heard -- this wasn't what I wanted to  
5 say, but we heard that certain people still feel that the interventions  
6 are critical control points and that sanitation is a critical control  
7 point. It just goes to underline what I've been saying, that there's  
8 still a long way to go to achieve a common understanding of what  
9 should be in an acceptable HACCP plan and why we've still got a long  
10 way to go.

11 There is always a great temptation as we go through any  
12 rulemaking, this being no exception, to submit your comments and say  
13 now, what are those guys doing with those comments? What are they  
14 going to come out with? And I think the reflection here is that this  
15 is a very important rule. The secretary said this morning, "We want  
16 to get it right." That's why you've heard people request that maybe  
17 we could see it again before it's a final rule.

18 Maybe there is some option that would accommodate both sides.  
19 We certainly don't want to be delaying in this, and we don't want to  
20 delay a very necessary food safety measure. As you go through -- and  
21 we've discussed most of the controversial issues during these six  
22 days. As you go through and analyze the results, if there's anything --  
23 and we've come very close, I think, and we've had some good  
24 discussions to consensus. If there's anything that could be cleared up  
25 by opening it up for a day and having another one of these, I think we'd  
26 be willing to come back. I just offer that as an option you may want  
27 to consider. And with that --

1 MR. BILLY: All righty.

2 MR. BERNARD: Thank you.

3 MR. BILLY: Thank you.

4 MR. BERNARD: We didn't have time to rehearse together.

5 MR. BILLY: We were going to work up a nice harmonized barber  
6 shop quartet thank you, but in the interest --

7 MR. BERNARD: Well, Bill didn't want to do it, and --

8 MR. BILLY: Twinet. Just to maintain a little modicum of pride,  
9 we'll just say thank you and good-bye.

10 MR. BERNARD: Thank you.

11 MR. BILLY: Marsha?

12 MS. ECHOLS: Marsha Echols, the National Association for the  
13 Specialty Food Trade. I'd like to thank the two of you, also, for  
14 holding these six days of meetings. They've been very helpful to us,  
15 and we were happy that we had the chance to present the views of a  
16 very small segment of the industry.

17 I would just reiterate that for the NASFT members, which are  
18 small businesses, the issue of the problems that small businesses  
19 have in implementation are real ones, and they certainly have to be  
20 balanced against all of our desire to have a safe food supply, but  
21 those issues are important -- the definition of the small business,  
22 the timing of implementation for the businesses, having rules that  
23 are simple and understandable. The idea of not being able to  
24 articulate simply what a performance standard is, if that's going to  
25 be a central point of the proposal, creates a difficulty for any  
26 business, I think, but certainly for small businesses which have very  
27 few people to try to comply with whatever the requirements are. So

1 the definition, the timing on implementation, making a proposal that  
2 is as simple as possible -- although I realize this is a complicated  
3 area, will all be helpful to small businesses.

4 That's the domestic side. I also said this morning that our  
5 members are interested in exporting. And as small businesses, it is  
6 hard enough for them to comply with domestic requirements. It  
7 becomes almost impossible for them to export if they have to comply  
8 with U.S. requirements and different requirements in the country, the  
9 export market. For that reason, I hope that you will look very  
10 carefully at the sanitary, final sanitary agreement, the obligations of  
11 the United States under that, the push in that agreement towards  
12 harmonization. It's not a real harmonization standard, but at least  
13 the push towards having the same rules and approaches in different  
14 countries. That would help small businesses here who want to export.

15 On the import side, as I said, the equivalency standard would be  
16 important for bringing products into the country. Thank you very  
17 much again.

18 MR. BILLY: Okay. Joe Pembroke?

19 MR. PEMBROKE: Joe Pembroke, Kraft Foods. Animal Damage  
20 Control came over to the Department of Agriculture. And before it  
21 came over here, the agency got together, much like today in front of a  
22 group of people, and brought up their scientists and agency personnel,  
23 explaining what they were doing to stop predation on calves and  
24 lambs. And a scientist stood up and he gave explanation that they  
25 were trying taster versions. They were going to open a carcass and  
26 so when a coyote ate it that he would dislike the taste and he'd stop  
27 eating it. And they also said that they were going to sterilize some

1 of the coyotes so they wouldn't produce as much and then wouldn't eat  
2 as many lambs and calves. Finally, a guy raised his hand from the  
3 back of the room and stood up and said, "You just don't understand, do  
4 you son? They ain't loving 'em. They're eating 'em."

5 Now, the reason I bring up that story is that I sat here rather  
6 quietly for the last six days, when we had our six days over the last  
7 two weeks, and I agreed with much of what was said. And the right  
8 buzz words were said. We talked about the change from command and  
9 control and flexibility and the reallocation of resources. And I just  
10 wanted to make sure that we come up with a rational and reasonable.  
11 Something can be scientifically proven, but is not necessarily  
12 rational or reasonable.

13 I also would like to say for timing, that if we are going to  
14 reallocate our resources on a risk-based system, we should look at  
15 what Carol Tucker-Foreman said, when you run a cheese pizza or a  
16 pepperoni pizza plant, one day the inspector doesn't need to be in  
17 there, the other day he does, because you're slicing up pepperoni that  
18 already was inspected in the past and just putting it on an FDA-  
19 regulated product. And I thought that, because there is such limited  
20 time for education and training, that we could reallocate those  
21 resources a little earlier and move them from some of the less risky  
22 process plants to some of the higher risk processing. That's it.

23 MR. BILLY: Ed? And I want, Ed, you to know that on this notepad  
24 with all these names, you're down in this lower, right-hand corner,  
25 and I'm out of space. I want you to know that.

26 MR. MENNING: Yes, sir, and I've been sitting down in the corner the  
27 whole time, too. And I just want to also thank you for all the reasons

1 that everyone has already stated. And lastly, on a point that we  
2 consider so important, that is of training your people, I would like to  
3 state our position of agreeing strongly that joint training with  
4 industry where possible probably makes the most performance,  
5 logistical and pedagogic sense, and would recommend it, also. Thank  
6 you again.

7 MR. BILLY: Okay.

8 MR. TAYLOR: I'm beginning to get some sense of what the Simpson  
9 jury must feel like. I haven't been sequestered, but I mean we have  
10 been here together for a long time. I think this has been just  
11 incredibly valuable and important for our process. I know I can say on  
12 behalf of the folks from the agency who participated, and certainly  
13 for myself, it has just been a huge substantive contribution to our  
14 process, and we appreciate the investment of time that all of you  
15 have made.

16 I will dispense with a 45-minute summary of all that's happened  
17 here in the past six days. We actually did not have that in mind.  
18 We're ready to go if you are. And Tom, I'll leave it to you to make that  
19 decision. I mean it's at your disposal.

20 MR. BILLY: Yeah.

21 MR. TAYLOR: But, again, thank all of you very much.

22 MR. BILLY: The meeting is over.

23 (Whereupon, at 5:29 p.m., the proceedings were concluded.)

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