P R O C E E D I N G S

MR. BILLY: Good morning. This is the sixth session in a series of meetings to address substantive issues that were raised regarding the HACCP and Pathogen Reduction Proposal that was published on February 3rd of this year.

Today's agenda includes a series of topics that hopefully will complete all of the major issues that were talked about at the scoping session and reflected in the comments that we have received and analyzed.

Before we get started, more specifically I'd like to ask Secretary Glickman to give some opening comments regarding this morning's agenda and these meetings as a whole.

SECRETARY GLICKMAN: Thank you, Tom. Thank you, everybody. I thought what I might do is make just a few comments, since this is the last of the issue-focused meetings, and then maybe give you some idea of where we will go from here as well. First of all, even though this is the last day of the issue-focused meetings -- and, by the way, I want to thank you all for your attendance, which has, of course, been much better than mine, but I have had staff here both from FSIS and my own secretarial staff the whole time, as well as the good work with Mike and Tom and the others from their organizations who have done a splendid job on this. I want to compliment them. But this is not the last day that you can comment on the HACCP Proposal.

I think, based upon the last five days, this has been pretty constructive in terms of getting a lot of different ideas out, so I would encourage you to submit -- there is about a month left on the comment proposal, through October 30th, so additional information,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECRETARY GLICKMAN: Anyone else?

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

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

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

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

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

MR. BILLY: No.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. BILLY: Okay. Barry?

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

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

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

MR. BILLY: Okay. Rosemary?

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

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

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

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

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

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

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

MR. BILLY: Okay. Dane?

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

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

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

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

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

MR. BILLY: Thanks, Dane. Jim?

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

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

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

MR. BILLY: Caroline?

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

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

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

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

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

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

MR. BILLY: Um-hmm.

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

MR. BILLY: Yes. Jim?

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

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

MR. BILLY: Okay. Rosemary?

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

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

MS. MUECKLOW: We thank you enormously.

MR. BILLY: Yes. Steve?

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

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

over-expressive labeling?

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

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

MR. BILLY: Ed?

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

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

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

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

MR. BILLY: Tom?

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

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

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

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

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

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

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

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

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

MR. BILLY: Jim?

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

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

MR. BILLY: Okay. Joe?

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

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

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

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

MR. BILLY: Mike?

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

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

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

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

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

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

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

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

MR. BILLY: Okay. Phil?

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

agree that we should move towards incentives.

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

The point is these are anecdotal observations. They are nothing

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

MR. BILLY: Carol?

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

might have had a happier history than it ultimately had.

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

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

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

MR. BILLY: Okay. Steve?

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

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

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

MR. DEVINE: That was just my point.

MR. BILLY: Angie?

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

MR. BILLY: Caroline?

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

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

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

MR. BILLY: Mark?

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

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

MR. BILLY: Okay. Robert?

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

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

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

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

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

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

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

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

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

(Whereupon, a brief recess was taken.)

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

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

MR. TAYLOR: What can I give you?

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

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

MR. TAYLOR: Thank you, Rosemary.

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

MR. TAYLOR: I appreciate it.

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

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

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

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

John?

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

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

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

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

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

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

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

a process control system equivalent to HACCP.

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

MR. BILLY: Okay. Bruce?

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

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

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

MR. BILLY: I believe so. Joe?

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

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

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

MR. BILLY: Okay. Robert?

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

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

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

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

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

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

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

Thank you.

MR. BILLY: Jim?

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

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

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

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

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

MR. BILLY: Jim Lockner?

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

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

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

MR. BILLY: Okay. Bill?

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

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

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

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

Thank you.

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

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

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

Thank you.

MR. BILLY: Okay. Marsha?

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

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

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

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

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

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

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

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

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

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

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

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

With that, I turn it back to Tom.

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

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

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

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

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

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

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

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

MR. BILLY: Okay. Dane?

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

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

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

MR. BILLY: Bill?

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

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

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

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

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

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

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

MR. BILLY: Bruce?

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

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

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

MR. BILLY: Thank you. Joe?

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

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

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

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

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

MR. BILLY: Jhung?

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

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

MR. BILLY: Eric?

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

MR. BILLY: Joe?

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

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

MR. BILLY: Okay. Bernadette?

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

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

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

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

MR. BILLY: Rosemary?

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

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

sector.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

code recommendations that FDA would develop.

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

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

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

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

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

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

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

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

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

to the transportation.

MR. BILLY: Steve?

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

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

might get a tremendous amount of help.

MR. BILLY: Mike?

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

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

MR. BILLY: Okay. Phil?

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

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

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

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

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

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

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

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

Pat?

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

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

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

MR. BILLY: Okay. Bruce?

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

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

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

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

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

MR. BILLY: Caroline?

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

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

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

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

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

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

MR. BILLY: Tom Devine?

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

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

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

MR. LOCKNER: Can I comment on that?

MR. BILLY: Sure.

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

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

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

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

MR. LOCKNER: That was it.

MR. BILLY: Dane?

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

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

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

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

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

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

MR. BILLY: Okay. Bob Hahn?

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

The --

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

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

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

There are a number of issues that represent problems for some

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

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

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

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

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

MR. BILLY: Okay. Robert?

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

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

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

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

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

requisite degree of flexibility to accommodate existing technologies and practices.

MR. BILLY: Joe?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. BILLY: Caroline?

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

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

MR. BILLY: Robert?

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

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

MR. BILLY: Deven?

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

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

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

(Whereupon, a luncheon recess was taken.)

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

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

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

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

Bruce, and then Tom.

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

MR. BILLY: Okay.

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

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

MS. SMITH-DEWAAL: Thank you.

MR. BILLY: Tom?

MR. DEVINE: I am Tom Devine, Government Accountability Project. The remarks that I'm about to share are in support of the goal of adding an extra layer of food safety protection without the requirement for an extra layer of bureaucracy, which is I think a principle you'll agree with.

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

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

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

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

to you the recommendation that was made.

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

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

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

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

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

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

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

MR. BILLY: Mark?

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

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

With respect to records, I think the exact same contention

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

the food forum in November.

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

MR. BILLY: Okay. Phil?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. BILLY: Thank you. Steve?

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

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

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

MR. BILLY: Dane?

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

MR. BILLY: You bet.

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

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

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

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

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

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

And Joe has the rest of my time.

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

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

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

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

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

MR. BILLY: Okay. Jim?

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

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

MR. BILLY: Felisha?

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

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

MR. BILLY: Rosemary?

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

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

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

MR. BILLY: Thank you. Caroline?

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

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

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

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

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

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

MS. MUECKLOW: Tom?

MR. BILLY: Yes?

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

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

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

MR. BILLY: Go ahead.

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

MR. BILLY: Joe?

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

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

MS. MUECKLOW: I'm sorry.

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

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

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

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

MR. BILLY: Tom?

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

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

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

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

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

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

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

for things to get quite so personal.

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

MR. BILLY: Jim?

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

MR. BILLY: Felisha?

MS. NESTOR: (inaudible.)

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

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

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

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

MR. TAYLOR: The timing of implementation issues are very

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

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

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

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

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

MR. BILLY: Okay. Dane?

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

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

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

MR. TAYLOR: I need to hear the details.

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

MR. TAYLOR: Yeah.

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

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

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

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

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

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

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

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

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

MR. BILLY: Steve, and then Bob.

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

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

MR. BILLY: Robert?

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

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

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

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

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

MR. BILLY: Okay. Phil?

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

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

answer to that.

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

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

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

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

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

MR. TAYLOR: I'm sure you could.

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

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

MR. BILLY: Rosemary?

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

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

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

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

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

MR. TAYLOR: Should I?

MR. BILLY: Sure.

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

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

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

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

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

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

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

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

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

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

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

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

MS. MUECKLOW: You're talking --

MR. TAYLOR: I cleared that up for you.

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

MR. TAYLOR: Yeah.

MS. MUECKLOW: You're talking about a huge, huge culture shift. And I'm not sure that my lifetime is going --

BEG. 14 MR. TAYLOR: -- no measure of accountability for controlling and reducing harmful bacteria on raw product and slaughter plants to accountability for controlling and reducing. I mean that is a core shift in this whole initiative. There's no question about it.

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

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

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

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

MR. BILLY: Caroline?

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

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

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

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

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

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

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

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

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

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

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

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

MR. BILLY: Ron?

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

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

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

products in two years, and that includes slaughter.

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

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

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

MR. BILLY: Deven?

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

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

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

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

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

MR. BILLY: Tom?

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

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

MR. BILLY: Carol?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. TAYLOR: Thank you.

MR. BILLY: Jim?

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

department takes advantage of that.

MR. BILLY: Dennis?

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

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

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

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

MR. BILLY: Jim?

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

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

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

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

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

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

utilizing such systems for pathogen production and consumer protection?

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

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

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

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

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

MR. BILLY: The record is open.

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

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

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

Thank you very much.

MR. BILLY: Thank you. Jack?

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

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

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

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

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

MR. BILLY: Lou?

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

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

MR. BILLY: Dane?

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

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

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

MR. BILLY: All righty.

MR. BERNARD: Thank you.

MR. BILLY: Thank you.

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

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

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

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

MR. BERNARD: Thank you.

MR. BILLY: Marsha?

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

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

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

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

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

MR. BILLY: Okay. Joe Pembroke?

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

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

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

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

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

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

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

MR. BILLY: Okay.

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

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

MR. BILLY: Yeah.

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

MR. BILLY: The meeting is over.

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

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