

UNITED STATES DEPARTMENT OF AGRICULTURE
National Advisory Committee on Meat
and Poultry Inspection

STANDING SUBCOMMITTEE NUMBER 3 MEETING

Conference Room 5 and 6
Georgetown University Conference Center
3800 Reservoir Road, NW
Washington, D.C. 20057

Wednesday, June 5, 2002
7:00 p.m.

Chairperson

COLLETTE SCHULTZ KASTER
Premium Standard Farms, Missouri

Members

GLADYS BAYSE
Department of Chemistry
Spellman College, Georgia

JAMES DENTON
Poultry Science Department
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A G E N D A

AGENDA ITEM:

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Issue: Farm Bill Changes

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P R O C E E D I N G S

7:06 p.m.

Issue - Farm Bill Changes

MS. KASTER: We'll get started because sometimes it seems like something you can get through in a pretty short time ends up taking longer than we expect, but we all went through the briefing today. We have three questions that this committee is to review.

You've been given a piece of supplemental information which is the information from 1997, from the meeting in September.

MS. DONLEY: Were you on that?

MS. KASTER: No. I think I must have been in '98, but you were on it, correct? Yeah. So, I think probably some of that will come into point when we get to Question Number 3 possibly.

But if you guys are okay, we'll just go in order and give each of the questions and kind of swing back around as we need to. Is that acceptable to everybody? Okay.

First question then is: FSIS supports the concept of interstate shipment but is concerned about expending significant agency resources on the concept before the necessary authorizing legislation is passed.

Because the review provision is not subject

to appropriations, how can FSIS best use its limited food safety resources to meet the mandate? I don't know if from an agency perspective, if you would like to elaborate on that at all.

DR. LEESE: Well, of course, as we belabor any of this material as to how much resources and involvement we take in any of our agency functions, it's all a matter of a compromise of utilizing available resources hopefully to the best end but to do the most that's possible with the limited resources that are available.

Of course, my ultimate concern with this would be if we were destined to failure on the basis of being required to do more than the resources would allow us to do. At the same time, clearly we want to do a good job on everything, including the comprehensive reviews of states or any other activity that's involved with states.

I mean, I'd be just the happiest person in the world if I could have all kinds of resources to do great things.

MS. KASTER: One of the premises is that the belief is there that the way that the wording is set up is that we would go beyond the 628 state programs per year and in fact that it would expand out to the entire

27 and some more limited time frame, correct?

DR. LEESE: Well, what I saw was that in the Senate's version, they specifically defined the 27 having comprehensive reviews for each state and, of course, that didn't make it. What did make it maybe would be something easier for them to come to agreement on, however they do those things in those committees, because it didn't come up with anything specific for them to argue about. It just says don't do something and left it to our ingenuity to conclude whatever it was that we had to do.

MR. QUICK: There was the expectation that you can look at all this data in some form or other, we would always be looking at all of the states anyway, of course, and what we would be doing.

MS. DONLEY: Are all of the states interested in having -- all 26 states or 27 states -- 27 states interested in shipping interstate? Perhaps what we could do, what would be a way of doing this is taking it on a state-by-state basis, and that the ones that are interested be the ones that identify themselves, come forward with their programs and take and do it that way.

DR. JOHNSON: And I have a question, Nancy, whether even all of the plants within a state want to

actually do it. Talmadge-Akin. If a plant wanted to be Talmadge-Akin, they could apply. They had a state inspector. It was through the state program, but that's not even an option now.

DR. LEESE: They can apply for Talmadge-Akin. Talmadge-Akin, of course, is a very small statute, and it's a matter that if there's a situation where efficiencies are involved on both sides, then we could work with the state in a cooperative program for them to perform federal inspection, and --

DR. JOHNSON: But it's --

DR. LEESE: -- that would be a judgment call as to the availability of federal resources and the availability of state resources and would not in the immediate concept at least relate to what the opinion was of the people who were on that plant.

DR. JOHNSON: But it's --

DR. LEESE: Or to the state by itself.

DR. JOHNSON: But the Talmadge-Akin is the -- it's usually staffed by the state but I'm trying to remember even what kind of inspection it is. Is it a federal seal or state seal? I can't remember.

DR. LEESE: It's a federal inspection program. Now, the difference -- there's two programs. I don't want to get you off the track here. So, stop

me at any moment here. But there's two programs that relate to having state inspectors do federal inspections reviewed.

MS. KASTER: And then the next step would be to set up some sort of accelerated plan.

DR. LEESE: Identify when, depending on what you're saying here, you're saying either that we've got to do all of them within this current period of time so that we can report to Congress next Spring or that we're given longer than that. I mean, that's --

DR. JOHNSON: Have you already identified the states that you're going to do for 2000 --

DR. LEESE: Next year? No.

DR. JOHNSON: I'm confused now. Are we in 2002 or 2003?

DR. LEESE: 2002 right now.

DR. JOHNSON: Okay.

DR. LEESE: Till September.

DR. JOHNSON: But you would do different ones anyway. I mean, you'd look at what you've done over the past few years and do different ones.

DR. LEESE: Well, it's based upon when they had their last review.

DR. JOHNSON: So, the last three or four years, you maybe could say you've done all of them.

MS. KASTER: What do you feel like you -- I'm still a little confused what you feel like is the time frame in which you have to complete these.

DR. LEESE: Well, --

MS. KASTER: Do you believe that's been dictated to you or not?

DR. LEESE: -- the period of time is either three years, four years, or five years for the states. So, if you look at the last time there was a review, then ordinarily it'd be three years later there'd be another one.

DR. DENTON: How long do you think you have?

MR. QUICK: It begins on March 1st.

DR. LEESE: Done after the first of the year, it's going to be pretty difficult to have everything together by March 1st.

DR. JOHNSON: So, if you go back to 2000, you will have done every state program by 2003, is that right or not, because you do them every three years?

MR. QUICK: Four years.

DR. LEESE: Close to it. Because we've got -- actually, we got -- we're doing one of the five-year ones next week.

MS. KASTER: And why are you doing it in 2000 versus the implementation of HACCP, for example?

DR. LEESE: There's double ones there. It's going to be 15 to 20.

MR. BROWN: 2000.

DR. LEESE: Well, they're not completed. It takes a few months to get the whole thing completed.

MR. BROWN: How many do you think as of today are completed since the year 2000?

DR. LEESE: I don't know. I'll say 15.

MR. BROWN: 15. In reality, if we could use -- go back to 2000 and consider those 15 done, that means we only have 10 to do before March, and we have a comprehensive review of those. So, instead of you looking at it as having 27 of these to do, we're looking at it as you have 12 to do between now and March which cuts down on the resources and the work.

MS. KASTER: Which may be unrealistic, but it's still better than looking at 27. But can we write up a recommendation specifically? But there are many things to choose from in what we've been discussing but yes, we can go back to kind of call the question on Number 1.

Okay. So, would somebody like to word the recommendation?

(Multiple conversations)

MS. KASTER: Are you guys ready to develop --

MS. DONLEY: What we were just saying is that it has to be -- but it would be since 2000, all plants were -- all plants would have implemented HACCP by 2000.

MR. ENGELJOHN: 2000.

MS. KASTER: So, that would incorporate the very smalls that would be represented, then the recommendation would be to include the reviews of those plants since that time.

MS. DONLEY: Now, here's another thought, the way to prioritize then those 15 that are still left open, is frankly to take a look at them and see how many -- is the state primarily large plants? Are they primarily small or very small? The very small have just gone on to HACCP very recently.

DR. LEESE: Almost every plant is very small.

MS. KASTER: Which means that we'd still be back to 12, 12 states that need, and then that goes back to your point, Dan, I think, of what we had said earlier, that FSIS needs to go back, ask for monies, say that, hey, the thing needs to be done in a consistent manner. It needs to be done right. We've got 15 of them that can be considered done, but in order to complete the grouping, we need to ask for funding to do the additional 12.

MS. DONLEY: I'd like to go back to Congress and tell them to do a cost-benefit analysis on this. Based on what we heard today, that how much is this -- what are we really talking here in dollars.

MR. QUICK: In terms of interstate trade?

MS. DONLEY: Yes.

MR. QUICK: That's interesting. I think that's been done.

MS. DONLEY: Has that been done?

MR. QUICK: The results were --

MS. DONLEY: Just do it.

MR. QUICK: They weren't as beneficial, I think, as some people thought they would be.

MS. DONLEY: Well, that's just it. That's what I was hearing today, in the meeting today, is that --

MS. KASTER: It was a small percentage.

MS. DONLEY: It's a very small percentage, and what -- the resources that the agency's putting into this, the cost, what's the benefit?

MR. QUICK: I think we need to look into what cost-benefit analysis has been done.

DR. LEESE: Already finished.

MS. BAYSE: (Inaudible) I don't think it's possible without additional funding.

MS. KASTER: That's right. Given the rate at which they currently do it.

MS. BAYSE: Yeah.

MS. KASTER: That's right.

MS. BAYSE: It's ironic.

MS. KASTER: So, then is that the only thing that we want to say, is go back for additional funding, or do we also want to present another option, resource-wise, to accomplish that by the March deadline?

DR. DENTON: That would be a hard answer. You've got 15 now.

DR. LEESE: Well, somewhere in that neighborhood.

DR. DENTON: In the bank. Realistically, what additional states -- the number of additional states that you could complete between now and the time that the report has to be done? Could you get 20 or 21 of them?

DR. LEESE: We can do it one state a month. I don't know where we get the resources from the Tech Center to do that.

MR. ENGELJOHN: The report's due March 1. So, it would easily need to be done by December.

DR. LEESE: December.

MS. KASTER: Essentially six months to do 15

for the rest of the calendar year.

DR. DENTON: If you can hit the 20, is that going to suffice to say that you've done 20 out of 27?

MS. KASTER: I'm sorry. I'm getting mixed up on where -- if we said that 15 are accomplished, then where are we going with the 20?

DR. DENTON: And an additional amount, whatever you can accomplish between now and December that you could incorporate into that March report, and if you get 20 or 21 of the 27 states, is that going to be a complete report with the restraints that you've been given on the resource side of the equation?

MS. KASTER: I think you'll be lucky to have 12.

MR. QUICK: You haven't mentioned the number 27. The states do have some latitude. Will the report be complete without all 27?

DR. DENTON: That's my question.

DR. JOHNSON: I would say no.

MS. KASTER: Isn't that where we were going, though, with the logic of using the past reviews of the states that have been completed since the very smalls were incorporated at 2000? That's 15. So, that leaves us 12 that haven't been through the reviews since the incorporation of HACCP but that still says that you

would need to do three per month between now and December which is probably not very realistic.

DR. LEESE: No, it's not realistic.

MR. BROWN: (Inaudible) What criteria did you use between 1996 and 1999 that allowed you to transmit what turned out to be 1998 numbers? We may have already gone through this exercise, where maybe we could -- instead of starting at the year 2000, why don't we start in the year 1999 with the transmitting of the documents if we felt secure enough about these programs and the consumers support that and bring in probably half a dozen other states? Instead of using 2000 as the magic number, why don't we go back to 1999 when the Department and the consumer groups --

MS. DONLEY: It said, though, that prior to, you know, 2000 is that they would be prohibited from shipping interstate until they had the HACCP plan in place. It would prohibit it.

MR. SHIRE: Okay. Well, some of the plants that are under state inspection are small plants and those plants began HACCP in 1999 and the very small in 2000, but the small plants began in 1999, and a number of those, I can't tell you off the top of my head how many, but a number of the plants that are under state inspection were -- are small plants. So, they would

have started HACCP in January 25th of 1999.

DR. LEESE: Very few, though, in comparison to the total --

MR. SHIRE: Well, I'd be interested in checking how many, you know, whether there are very few or some or --

DR. LEESE: It's extremely few.

MR. SHIRE: -- how many.

DR. LEESE: But there are some, but it's very few because we were compiling data for HACCP reports back then, and it was very few.

MR. BROWN: I just wanted to throw this out for though. In 1999, we helped ourselves. In 1999 was the year that we transmitted the legislation, and it's also the year that HACCP was supposed to be placed in the very small. So, we'd probably take at least a half a dozen of these reviews because at the end of 1999, states -- there were states that were reviewed.

MS. DONLEY: Well, what we had in here was that prior to January 25th, 2000, comprehensive reviews designed in consultation with stakeholders of all state meat and poultry programs will be conducted, and then Point 2 was states will be eligible after January 25th, 2000, for interstate shipment of state-inspected meat and poultry provided that a state has requested and

received certification from the Secretary that the state has fully implemented HACCP and any recommendations from the most recent federal review of the state program.

So, it kind of was that it had -- that they were -- this asked for comprehensive reviews of all the states. I don't think it ever got accomplished.

MS. KASTER: Did it get accomplished, Dr. Leese? What's the status of Number 1 in that recommendation?

DR. LEESE: You mean, as far as doing all the states?

MS. KASTER: Prior to January 25, 2000.

DR. LEESE: Well, no.

MS. KASTER: That brings us back to ground zero, which might take us back to a combination of what Mike is saying with your recommendation, which is, okay, go back to at least 2000, but then look at '99 and look at possibly what the mix is for some of those states that would be brought in as part of '99, and if we felt comfortable that there was significant enough representation of the smalls versus the very smalls, include them as well and get a bigger slice of the pie to begin with.

DR. JOHNSON: Dr. Leese, being under -- even

if we consider what happened in 1999, you're probably going to add three or four states. We're still going to be about 10 states short.

DR. LEESE: I was trying to count up what I had here as far as states. That's why I had this coming into all this.

DR. JOHNSON: Well, is it cheaper to contract out having these reviews, and would it be -- could you accomplish more reviews quicker and cheaper by contracting out, to have like an RTI or somebody come in and do these reviews?

DR. LEESE: Cheaper? If there were no bodies available within FSIS without hiring more people, of course, it would be cheaper under those conditions.

DR. JOHNSON: Well, but you were saying it was going to be awfully hard to get the -- because of the timing on the Tech Center and the whole work. I don't know. You know, I don't understand outsourcing, but a lot of companies and industry feel that outsourcing is probably cheaper than actually in-house, and I was wondering if you guys did what you could do and you could contract out some, that you'd have to have some sort of FSIS guidance regarding --

DR. LEESE: The correlation.

DR. JOHNSON: Yeah.

MR. QUICK: Well, and if you're going up to the appropriators to ask for money, they've got an edict out there that we do as much of this contracting out as possible, and we have 5 or 10 percent of our resources are supposed to be done in that manner. So, it may be looked on favorably if we did that.

MS. KASTER: Still, the learning curve is pretty sharp by the time you develop that program and take that out there. I mean, given if we're talking about December, is that realistic?

MR. QUICK: You'd have to ask them.

MR. BROWN: Who requested the conference language be in the Farm Bill? Is that Senator Harkin?

MR. QUICK: Harkin was in the discussion.

MR. BROWN: I know he asked for that on the Appropriations Committee.

MR. QUICK: I think it was Harkin. I think the Ohio delegation also had something to do with it.

DR. JOHNSON: How quick, though, do you get -- I'm going to ask a really dumb question. But how quick do you get the money? If you get the money, you're going to have to ask for an extension on the report, right? It'd be all in one. You could give them a preliminary report and say with additional funding, we can complete the rest of it?

MR. QUICK: Depends on when you get the money and where you get the money.

DR. JOHNSON: Yeah. But how quickly -- I'm asking, how quick can you get --

MR. QUICK: The suggestion was made that we ask for it in this supplemental. Nancy made that.

DR. JOHNSON: But how long does that take?

MR. QUICK: You could obligate that right away.

MR. BROWN: You could obligate that right away, and I'm not going to discourage anybody from making that request. (Inaudible)

MR. QUICK: Although you do have a bill that was signed by the President, and it has a requirement in there for review. So, I mean, you do have the weight of law behind you when it comes to asking for the -- putting in that increase. I'm not advocating one way or the other, but if that's the course of action you all decide on.

DR. JOHNSON: Should we -- as this subcommittee, should we make a recommendation that maybe the agency look into -- we've already said look into the additional funding, but as well look at outsourcing of contracting in order to meet the deadline? Look into it to see what would -- what the

possibility is?

DR. LEESE: You have to define, also, what it is that you're going to have this outsourcing group do. Are they going to -- and what are you considering as being an audit? Are you considering this to be -- these people would have to go in and do the civil rights audit and the resource management audit and to include all of those areas, the laboratory audit, the compliance audit. I mean, it's mindboggling to think that they could be -- that you could whip up a group to do something like that on short notice.

DR. JOHNSON: Well, maybe we need to look into bits and pieces that they could do that would still take away some of your resource burden. Even if you get additional money, Dr. Leese, what you're saying is scheduling the Tech Center and the people that have to go, it's just going to be really hard to get --

DR. LEESE: It's going to be hard because it's a lot of people.

DR. JOHNSON: Yeah. There's not enough bodies.

MR. QUICK: But, I mean, using RTI, for example, you don't think that they would understand those issues? I mean, they deal with those all the time.

DR. LEESE: Well, I can't say for sure.

MR. QUICK: Right. So, I mean, it's -- we don't know that. That's part of the direction to actually look into the possibilities.

MS. KASTER: Okay. So, let's leave it up there as an option because, I mean, obviously that's a longer pro and con question that the 59 minutes that we have left to get through the eight little sheets of notes that Dan has kindly put up for us.

DR. JOHNSON: He's just cranking it.

MS. KASTER: He is cranking it and I'm getting worried. I keep looking at him, trying to make sure we get summarized.

DR. DENTON: He's got that left hand working.

MS. KASTER: So, let's try to come up with some recommendations on Question Number 1. Some specific things out of all of this that we talked about.

DR. JOHNSON: Well, one, we said, was review past comprehensive audits, see what's available, the number of states done and any gaps that were identified in these audits.

MS. KASTER: Back to at least year 2000, if not possibly 1999.

DR. JOHNSON: Yeah. And the recommendation

was to look at '99 and see how many of the state -- the small or very small would be, you know, effective, given states that were reviewed that year.

MS. KASTER: Okay. And so then, --

DR. JOHNSON: You got that, Dan?

MS. KASTER: He's got it right here.

DR. JOHNSON: He's already got it there.

Look at that.

MS. BAYSE: Isn't that it?

MR. ENGELJOHN: Except that it doesn't have '99. So, include a comprehensive review from January of 2000 to approximately 15 plants and ask for sufficient funds to pick up the other 12 by December to meet the March deadline and add -- in addition, ask FSIS to look at the 1999 data to see if it would --

DR. JOHNSON: See if 1999 data is appropriate for inclusion in this.

MS. DONLEY: What happens if the agency waits with the report?

MR. QUICK: Gets ugly.

DR. LEESE: I think I can account for about 21 plants on our current schedule.

MS. DONLEY: I wonder if they remember half the things they ask.

DR. JOHNSON: Twenty-one plants includes

what? How many states?

(Multiple conversations)

MS. KASTER: We've got kinda two conversations going on. So, real quick recap. What happens if they don't conform to the time frame?

MR. QUICK: You never know. I mean, they're pretty focused on this. This has been going on for years. They could add it to the Appropriations bill, but like I told Nancy, if you show a good faith effort that you're moving towards their --

MS. KASTER: So, let's design a good faith effort. Okay. So, that goes back to the other little side conversation which was Dr. Leese said that he believes given that, that he can probably account for 20 or 21.

DR. LEESE: 21. Looking at my list here and what I happen to bring with me of ones that I know that would be in that time frame and then looking at all the states that have inspection programs, it seems to me that it's about 21.

MS. KASTER: Okay. So, given that, knowing that there's this gap, then what's our recommendation going to be regarding the gap?

MS. DONLEY: Of the six?

MS. KASTER: Hm-hmm.

MS. DONLEY: An extension.

MS. KASTER: Okay. Ask for money and get an extension. I'm okay with that.

MR. QUICK: Go in and ask for an extension. I wouldn't do that.

MS. DONLEY: Unrealistic.

MR. QUICK: Yeah.

(Multiple conversations)

MS. KASTER: And then, Plan B is that if that isn't acceptable, then we'll need to ask for either additional funding or explore outsource options.

MS. DONLEY: Well, or else that's it or that listen, these -- these 21 have -- these last six --

DR. JOHNSON: Okay. That's it. If you don't give us money, we quit. We quit. If you won't write a check, we're out of here.

MS. DONLEY: That would be a first.

MS. KASTER: All right. Does everybody feel pretty comfortable with where we're at on Question Number 1? Okay.

Let's go to Question 2 because we've been talking about Question Number 2 sort of as we went -- and Question Number 2 was talking about what kind of guidance would be useful to states in advance of legislation authorizing interstate shipment.

DR. JOHNSON: I think a review of the gaps that Dr. Leese mentioned in the reports that have already been done because you said sometimes you have to go back and do follow-up, I don't know what you call them, and these comprehensive reviews --

DR. LEESE: We call them follow-up. That's what I'm calling it.

DR. JOHNSON: Yeah. But now, when you do your comprehensive review and the state doesn't meet up to what your expectations are, would those not be -- you could look through your reviews and find common issues that the states haven't met up and that would be your gaps or the guidance that the states would need to -- wouldn't it?

DR. LEESE: Well, sure. Well, it'd be guidance, and, of course, it'd be basically the same guidance you were giving to the federal program, too, but yes, it would be the -- and that's the kind of thing we discussed in the meetings. You know, what is found during reviews, and the big issue now is that, you know, as far as, for example, carcasses are amazingly cleaner than there were three years ago in both the federal and the state program, and there's the HACCP program, there's the tweaking of the HACCP program that is still in growing pains.

DR. JOHNSON: But you could use the guidance, what you guys have identified as the state review as well as what they've identified with each district correlation.

DR. LEESE: Yes, right.

MS. BAYSE: So, then you've already got --

MR. ENGELJOHN: I'm sorry. From the review of the state plants?

DR. JOHNSON: Yeah. Well, Dr. Leese said that the same thing that they identified at the state, a lot of times they were identified --

DR. LEESE: Speaking in very general terms. I haven't studied data or anything, but it's a general feel for things.

DR. JOHNSON: You could look at that and then look at where you know the federal plants are and provide guidance to the states on here's where we normally find issues, whether you're state or federal, be sure you're up to the standard, that you have this done. Do that for federal plants, too.

DR. LEESE: It's actually encouraged that when they have their correlation meetings after these in-depth reviews in the federal program, that the state people be at those follow-up meetings as -- I mean, that should happen.

DR. JOHNSON: Maybe we should make that recommendation.

MS. KASTER: What was that?

DR. LEESE: When the federal program goes into one of the districts and does one of their special reviews that was referenced in today's meeting, that -- and then they look at that process and think of what are the issues and then they have a meeting to discuss the things that are found and the states ordinarily would expect a state person would be involved in those meetings, --

DR. JOHNSON: They need to be sure the states, when they have these correlation and they have the industry and the FSIS folks, the state people should be involved, too. I don't know if they are now or not.

DR. LEESE: I couldn't guarantee a 100 percent. I know they are -- they have been, but I can't say that there's any specific policy to that.

MS. KASTER: Should the first basic premise of Number 2 be that we recommend that states adopt the federal guidelines? I forget how Mike said the wording, but they actually legislated the federal requirements into their state requirements.

DR. LEESE: How would you do that within the

current --

MS. KASTER: Well, that's guidance, isn't it?

DR. LEESE: Guidance.

MR. QUICK: That's the fundamentals.

DR. LEESE: Basically almost all do. I mean, they almost all adopt, and they don't adopt every conceivable thing. If some things are not even relevant, --

MS. KASTER: But, I mean, to me, as a federally-inspected plant looking at these guys that want to, you know, get on board but are unwilling to be federally inspected, and maybe that's being a little overly-blunt, but to me, that's a cornerstone of this. I mean, that's a --

MR. BROWN: (Inaudible) Since 1988, that's what they've been trying to achieve. Now, they've never said that until we went through negotiations at the committee level and there was something that people who represented the federal plants brought forward, that they should have Meat Inspection Act, Poultry Inspection Act, all food safety-relevant memoranda, notices, and directives.

Now, then came the USDA had a concern over many of the directives that impact the inspectors dealing with food safety, how they pay or whatever, and

we said they relate to the safety of the product.

(Inaudible) and the guidance to the states would be to incorporate up through 2002 all of that, and if that was in place, then they could go forward in interstate commerce.

MR. QUICK: I think what you're saying is consistent with what the Department sent back to the committee from our legal shop.

MR. SHIRE: That was all agreed to basically.

MR. BROWN: And the little guys agreed to it.

The Department at the time, we had the other Administration in, articulated that and that's what they were trying to achieve. They were having problems spelling it out.

MR. QUICK: You're talking '99. I'm talking the 2002 report that went up to the Appropriations Committee is consistent with what you're saying. So, it's even more contemporaneous.

MS. KASTER: So, you're saying --

MR. QUICK: No, I don't.

MR. BROWN: Guidance because AMI and NASDA all drew up language that basically had all this spelled out in it.

MS. KASTER: I guess I'd like to start looking at the gaps that you're talking about, then we

have something to assess those gaps by, because otherwise what are the gaps? Are the gaps state-by-state or are they gaps relative to federally-inspected plants?

DR. LEESE: What do you mean specifically by gaps?

MS. KASTER: I mean, one of the first things we said is that we were going to use the gaps identified in the state reviews and the things that had been identified that you --

DR. LEESE: You're saying not the gaps in concept, they'd be gaps in application.

DR. JOHNSON: Well, I still think that would be appropriate. Well, you know, you can even say that in the federal review. Plants have -- it's execution, not like we all have HACCP plans, but have we actually done what we need to?

DR. LEESE: I defy anyone to go into a number of plants and not find something, however insignificant or perhaps significant, that isn't right that day. It's just a fact of life that there's --

DR. JOHNSON: But execution, I would think, Dr. Leese, would be a very important part of the review.

DR. LEESE: Well, execution is very

important. That's -- as far as having the basic rules in place, the standards in place and executing them, and as far as the standards in place, while I recognize that a number of states will only adopt by legislative action, so that they're a step behind in the sense of adopting something because they have to deliberate on it, but other than that, basically all the states adopt regulations. None adopt our law, but they adopt major parts of our legislation.

MS. DONLEY: Where would enforcement and compliance fit in? Because I think that's key, too. That's gotta be in there.

DR. JOHNSON: But is that execution?

DR. LEESE: Compliance is a review that's -- that one is not -- probably not going to be a resource problem because that's done by the person that's the head over compliance in the district or his designee.

DR. JOHNSON: For the state program?

DR. LEESE: For the state program.

DR. JOHNSON: Okay.

DR. LEESE: Now, they're working together all the time anyway.

DR. JOHNSON: So, that's --

DR. LEESE: Ideally, whether the state has this meat and poultry inspection program or not,

there's legal issues that can interact and it's the state program, they have their compliance, the federal has theirs. They should be working hand-in-glove all the time or if they're -- at least working enough that they have some familiarity with each other and they have a standard format as far as going in and doing the review of the -- the paper review of the state program, and then they have their on-going activity as far as working with them.

MS. DONLEY: Well, I get concerned when I hear the word "should". It should be, but what is happening in reality, and I think, I guess where I'm coming from is that the states should be -- the enforcement issues should be equal to, at least equal to or better, God bless them if they're even tougher, but --

MR. ENGELJOHN: I could maybe add a question just for clarity that has come up and get into the issue of a review of the lab program, the state lab program. Now, federal labs are so accredited. Is that an issue for which this group would institute a draft or is that just something that FSIS needs to address?

DR. LEESE: It's an issue that has to be addressed somewhere along the way because actually the review at this point is toward the chemistry laboratories and in the long haul, it should relate to

microbiology as well.

MR. BROWN: You were talking about enforcement of the legislation that's in place to ship interstate?

MS. DONLEY: That they have -- because these are state inspectors, that there'd be the same sort of compliance and, you know, regulatory things that they're looking at and looking for and the same sort of -- I know it's not even across in the federal compliance either as far as there should be an even-handed way of dealing with non-compliance issues.

MR. BROWN: And I think they addressed or attempted to address that even back in 1988, where state inspectors would continue to operate in plants, and they would enforce these federal guidelines, and they would work to, I believe, -- but I believe they are then under the supervision of the federal inspector.

DR. LEESE: Hey, I'm out of context because I don't know what you're referring to. Are we talking about compliance? The state is required to have a compliance program that's compatible with the federal program, and it's a whole list of attributes. A plant compliance program which is pretty well defined out by federal regulation as to how it works, and usually they

get their training from on-the-job training with the federal compliance people and then somewhere along the way, somebody goes down to the training programs because the training programs are not set up for a raw recruit. The actual textbook type of university training that's taking place down in New Mexico.

MR. BROWN: I'm talking about going forward now. This legislation were going to be in place, how do we get to the next step, and we would trust that prior documents that were in compliance would still come under the bailiwick of the state inspector but under the supervision of the regional offices. I think that's what we said.

MS. KASTER: This committee doesn't have to hone out how that happens. All we have to do is say that we want to ensure that the regs that we're recommending that are based off the federal regs are uniformly upheld at the state level as they are between federal plants. I don't think we need to get into here how that happens and what language it's in and all that because that will get sorted out, but I think that's the feeling of this subcommittee, is that correct?

DR. JOHNSON: I think that includes the compliance and execution of it.

DR. LEESE: And that's part of the

comprehensive review, is the compliance review.

MS. KASTER: Okay. Any other guidance that anybody in this subcommittee feels -- what I have down is again incorporate the federal regs, use the gaps identified in the state reviews and ensure uniform compliance with the regulations. Is there any other guidance that anybody feels?

(No response)

MS. KASTER: Okay. Well, we'll come back to this when we draft up our subcommittee report, but let's go on to Number 3. We've got about 40 minutes left for the discussion. I want to make sure we have time to get Dan off the marker and on the computer and let him draft up a subcommittee report.

So, basically, it just talks about that it's been some period of time since the committee has reviewed this, and they're very broad questions. So, let's try not to go too far down the road. In light of recent events, does the committee have any additional concerns with the concept of interstate shipment of state-inspected product or with its implementation?

DR. JOHNSON: I have a question for maybe Bryce. Back in '97 and '98, help me, Mike Brown, you guys did like a cross-country tour, and you got input and asked -- kind of had field hearings on what was

appropriate and what wasn't.

Have you guys summarized those? Have you looked at that? Are there any concerns that are in those hearings that should be brought to the table?

MR. BROWN: I probably have them on a floppy. There was about a hundred-page document and there was discussions.

DR. JOHNSON: Is it in a transcript or is it a summary of the concerns?

MR. BROWN: It's a summary of the concerns.

DR. JOHNSON: Should we recommend that that be reviewed in regard to Question Number 3?

MS. KASTER: Is it the one they're referencing here, public hearings held in Washington, D.C.?

DR. JOHNSON: Mike, they were like legislative, weren't they?

MR. BROWN: These weren't legislative. These were hearings that were conducted by the Department. There was one held in Sioux Falls and one here in D.C. There's a copy of that record.

I guess I would argue, though, for the sake of the subcommittee that they would be asking the Department to duplicate work that's already done. Those recommendations were taken into consideration

when S.1998 was put together.

DR. JOHNSON: That's nothing --

MR. BROWN: So, I would recommend that we not take that work.

MR. SHIRE: When were those hearings held? Five years ago?

DR. JOHNSON: Yeah. 1997.

DR. LEESE: I don't think they're really -- the one in 1997 is in that material that we received today, and I think that's the Sioux Falls one.

DR. JOHNSON: What about these documents that Sonya just brought in that are the OIG report and the GAO report?

MS. DONLEY: My response to this question is that, you know, in light of recent events, does the committee have any additional concerns with the concept of interstate shipment of state-inspected product with its implementation?

I have a real big concern and that is that under the federal system, plants that fail to meet the Salmonella performance standard are allowed to continue in business and shipping. So, our current federal program is handicapped in that we are -- I think we should be getting the federal program back into shape before we start crafting a state inspection program to

go into interstate commerce.

I think the -- I guess to put it succinctly, I think we're getting ahead of ourselves here. This is Step 2 and we're missing Step 1 and Step 1 is, okay, now that we don't have a verification process any more, let's get that fixed, and then once we have the federal program fixed, then let's go take a look at the state program.

DR. JOHNSON: How would you put that into a recommendation based on what's asked in Number 3?

MS. DONLEY: I don't think they're asking for a recommendation. They're just saying do you have any concerns? Yeah. That is, that we're trying -- we're telling -- we're sitting here telling the states that we want them to be equal to the federal program which is damaged.

MR. QUICK: So, you're recommending that the review not go forward unless the federal has been fixed?

MS. DONLEY: Yeah.

MR. ENGELJOHN: But that implementation would be considered.

DR. LEESE: But that would be considered.

DR. JOHNSON: Until the scientific review and however the wording should go related to performance

standard is completed.

MS. DONLEY: Yeah. That there shouldn't be any interstate shipment done, period, until the -- what did you say?

MS. KASTER: Yeah. But that's almost kind of turning it around and I'm not -- I don't know. I'm not the biggest proponent of this new concept, but that's almost turning it around and negating everything that we said and penalizing the state people for something that is sort of out of the auspices of what we're talking about.

MS. DONLEY: We're not penalizing them for anything. I mean, they can always go -- once again, --

MS. KASTER: I don't --

MS. DONLEY: -- they can go get federal inspection.

MS. KASTER: Knowing that they could do that and going again back to your federal program that's flawed, all that being said, they could still go get federal inspection and go under what you're calling a flawed Salmonella program and ship wherever they wanted to. So, let's either say that those are okay enough to incorporate to the states or not okay, but let's again not sort of penalize them because of that.

MS. DONLEY: Well, we answered these

questions in this order or maybe this should be Question Number 1, frankly. I think Question Number 3 should be Question Number 1. What are the problems here and that we can say this. Okay. But, you know, the gun's to our head that we have to answer these other two questions. So, we'll answer them. But it starts off in the beginning that the whole thing is flawed.

DR. JOHNSON: Okay. But we still -- because all of this and doing the legislation is probably -- is it fair to say at least a year down the road, if not longer, before the legislation goes through, and we're talking March till we get the reviews done. Then there has to be some work done on drafting a bill, correct, and then what I'm wondering is, we don't want to hold up the review process, correct?

MS. DONLEY: Correct.

DR. JOHNSON: So, they should go ahead and conduct the reviews, okay, --

MS. DONLEY: Right.

DR. JOHNSON: -- and then we're holding them to the FSIS standard, --

MS. DONLEY: Right.

DR. JOHNSON: -- and, you know, those standards should include completion of the scientific

review of the appropriate -- however the --

MS. DONLEY: Right.

DR. JOHNSON: -- appropriate wording is, but we could say something like that to --

MS. DONLEY: Right. But I would like to suggest, if everyone else -- is that we make Question Number 3 Question Number 1 and answer that first and then say, however, that basically the system -- we have a flawed system to begin with, and that we -- that -- but under our charge of answering these other two questions, this is the way it should be handled.

DR. JOHNSON: Okay. Now, --

MR. BROWN: I don't know how you can advocate state programs to be able to ship interstate by simply on the federal in one state and do that.

(Multiple conversations)

DR. JOHNSON: I don't think anybody at the table, and I don't -- I think -- I don't think you meant to put in the recommendation that the system is flawed. You think we should -- I'm trying to think of the wording. The review process is underway. We'd have the NAS, we'd have the NACMA, we'd have all of this going on, and so instead of saying it's a flawed system, then do wording that, you know, after the review of the scientific information is completed, you

know, dah-dah-dah-dah, and however we want to word it.

MS. DONLEY: Which scientific information are you referring to?

DR. JOHNSON: Well, the whole study that was directed by Congress, the NAS, the National Academy on Performance Standards. So, instead of saying the system is flawed, you know, if they're going to make changes, they're going to make it based on the --

MS. DONLEY: Right.

DR. JOHNSON: -- scientific reviews.

MS. KASTER: Consider current efforts to review as these steps move forward.

MS. DONLEY: Yeah. Okay. But that nothing should go forward, though, until -- why have something -- why have the states go forward? I would just say this should just be -- do the comprehensive reviews, move forward with that.

DR. JOHNSON: Go ahead and do the reviews.

MS. DONLEY: Right.

DR. JOHNSON: Questions 1 and 2, we're going to do.

MS. DONLEY: Right.

DR. JOHNSON: We're going to provide them guidance. We're going to do the reviews. Question 3, in whatever order we put in, would be FSIS should move

forward with completing the studies, reviewing the information, you know, --

MS. DONLEY: Performance standards.

DR. JOHNSON: -- prior to development of or finalizing legislation or however you'd word that.

MS. KASTER: I think it should be something more along the lines of prior to proceeding with legislation, then consideration should be given to reviews that have been done of federal programs.

MR. QUICK: The very people that are advocating interstate shipment are the same people that are advocating the same position you have on performance standards, and I think that that's -- they would want this review to go forward and they still want to capture what you're doing as well. So.

DR. JOHNSON: Yeah. I think it's kind of an independent --

MS. DONLEY: So, how do we say that?

DR. DENTON: I think it's a matter of incorporating the recommendations that come from the National Academy study and the National --

DR. JOHNSON: NAS.

DR. DENTON: NAS. The National Academy of Sciences and --

DR. JOHNSON: NACMA.

DR. DENTON: Yeah.

DR. JOHNSON: Whatever that means.

DR. DENTON: Advisory Committee on Microbiological -- it's escaped me. But both those groups need to have their input into that issue with regard to the performance standards.

DR. JOHNSON: Yeah. But I don't think we want to couch that as a state issue.

DR. DENTON: No, no.

DR. JOHNSON: It's a federal. There will be federal review of the scientific information being presented by these expert panels, dah-dah-dah, and legislation will reflect. How about that? Legislation will reflect?

DR. DENTON: Legislation should incorporate that.

DR. JOHNSON: Will reflect federal --

MR. QUICK: Still don't know how this is relevant to -- I mean, you've got two pieces of legislation from that -- these same people, one on performance standards and one on interstate shipment.

MS. DONLEY: Right. But the way I -- maybe I'm reading the question incorrectly, but it says in light of recent events, does the committee have -- and I'm reading that, frankly, as -- what comes to mind for

me as recent events is the Salmonella -- the Supreme Beef. Does the committee --

MS. KASTER: That's what I thought it was, too. I thought -- we thought it was 9/11.

MS. DONLEY: Does the committee have any additional concerns with the concept of interstate shipment of state-inspected product or with its implementation? That's another -- okay. That's what you guys came up with. That's a very good point.

DR. JOHNSON: Maybe we should just list -- what did you have in mind?

MR. QUICK: 9/11.

DR. JOHNSON: Okay. Maybe we should just list -- instead of making a recommendation, just make the -- do we have additional concerns? Maybe instead of listing recommendations, we could just list concerns mentioned during the subcommittee meeting include --

MS. DONLEY: Okay.

DR. JOHNSON: -- security issues.

MS. DONLEY: That's fine.

DR. JOHNSON: You know. Lack of review of the science behind performance standard as outlined in the -- whoever did that one. What else would be something that would concern us? How about the state program -- I don't know. Maybe that would be too

sensitive. What Nancy mentioned or Carol, some of the states may be on shaky ground with funding.

MS. DONLEY: Yeah. The sustainability.

DR. JOHNSON: Good. Sustainability of state programs.

MS. DONLEY: Yeah. State inspection resources.

DR. JOHNSON: Okay. I think we could all be comfortable with that, couldn't we?

MS. DONLEY: Hm-hmm.

DR. JOHNSON: I think --

MS. KASTER: What's another -- any others to add?

DR. JOHNSON: How about training?

MS. DONLEY: That's good.

DR. JOHNSON: Be sure that the state guys get the same kind of training because I know Michael was talking about wouldn't it be nice if we could get all the training that the Feds are getting.

MS. KASTER: And exposure to meetings like we were talking about the next steps meetings, awareness and exposure to meetings that have previously been --

MS. DONLEY: Although, you know, these are public meetings. They could come and some of those other ones.

MS. KASTER: What you were asking about today that you knew about. I mean, every district has posted it sort of after-the-fact on the website.

MS. DONLEY: Yeah.

MS. KASTER: But I'm not sure they were posted prior to.

MS. DONLEY: Hm-hmm.

DR. JOHNSON: Well, even the districts know they're coming. When the correlation teams are coming, they could pick up the phone and call the state director and go hey.

MS. KASTER: Should we take a shot at drafting our responses on to a report so everybody can look at them?

(Whereupon, a recess was taken.)

MS. KASTER: Okay. We'll go back through and while Dan's adding numbers to these that we can differentiate the questions from the answers.

DR. JOHNSON: Do you want me to go get Nancy just so she's --

MS. KASTER: That'd be a good idea. Yeah.

DR. JOHNSON: Mike's going to -- we just added some wording to this and as a subcommittee member, I'd like to endorse that.

MS. BAYSE: It'll be the next one.

MS. KASTER: It's either 2 or 4. I don't know which one she would have gone to.

MR. QUICK: Are you doing it point-by-point?

DR. JOHNSON: I've only got one page.

MS. KASTER: I know. We shrunk it.

DR. JOHNSON: Oh, okay.

MS. KASTER: That's why it's a little tiny. Okay. Let's run back through point-by-point then. The first one is the resources question.

MR. QUICK: Where's Nancy?

MS. KASTER: Alice is going to tell her that we're discussing this. She went to a different subcommittee meeting.

The first one, it is recommended that FSIS review back as far as 1999 the approximately 21-state comprehensive reviews that have been completed and attempt to complete the reviews of the remaining states by March of 2003.

The second part, if the time frame is too restrictive, then consider additional funding to use outsource contracting to complete the reviews as well as pursue an extension for the due date of the annual report to Congress.

Any other additions to that one?

MS. BAYSE: Can we just say 21 are completed?

MS. KASTER: Yeah. I added that in there.
You bet. That have been completed. Yeah. Okay?

DR. DENTON: Is this an and/or situation?

MS. KASTER: Yeah. It could be.

DR. DENTON: Because you'd ask for that
extension, you could conceivably complete the remaining
--

MS. KASTER: So, we should say instead of as
well as we could, we should say or to pursue, right?

DR. DENTON: Right.

MS. KASTER: Or to. Okay. Under the next
part, what kind of guidance would be useful, request to
adopt all federal -- current federal food safety
regulations and their implementing policies, and we
have a note in here to include FSIS notices,
directives, and memorandums relevant to food safety.

MS. BAYSE: Say that again.

MS. KASTER: We'll add some wording that says
include -- including FSIS notices, directives, and
memoranda relevant to food safety. Under Number 2, it
starts off request states to adopt all current federal
food safety regulations and their implementing
policies, including FSIS notices, directives, and
memoranda relevant to food safety.

MR. QUICK: Could you go up to the third

point again about the time frame?

MS. KASTER: The --

MR. QUICK: I think you need to just -- Dan just talked about this. Drop "annual" and just put the report to Congress, for purposes of expediting our report and making sure that --

MS. KASTER: Okay. Can do that.

MR. QUICK: That's it. I've used my life line.

MS. KASTER: Okay. Back under Number 2, second point is to ensure uniform compliance between the state and federal regulatory requirements, and finally, use the deficiencies identified in the state comprehensive reviews to formulate guidance materials.

The only other question that I had is do we want to say anything about the provisions that were outlined in the 1997 materials? Because they got pretty specific in there. It's not really guidance to states anyway. That's more legislative.

DR. JOHNSON: That's legislative.

MS. KASTER: Okay. Okay. Then under the third point, what we decided to do -- Nancy, we jumped back to 1 and 2, if you want, and I'll show you the changes, but we're on Point Number 3 which is, if you have the tiny printing at the bottom of the page or if

you have the big printing, it's the second page, and this is our list --

MS. DONLEY: I have one page.

MS. KASTER: Okay. At the bottom then, this is our list of additional concerns. They include food security, performance standards, sustainability of state inspection programs and inspection resources and training and exposure to federal inspection meetings, for example, the district correlation meetings, etc.

DR. JOHNSON: Is performance standards too general? Do we want to go into specifically what we talked about?

MS. KASTER: How about we say review of performance standards? And then behind it, we'd put in parenthesis, NAS and --

DR. JOHNSON: Completion of study and FSIS -- FSIS is going to take something with these studies and do something with them related to the performance standards.

MS. DONLEY: So, what are you changing to?

MS. KASTER: Instead of just saying performance standards, it will now say review of performance standards, and then in parenthesis behind it, NAS and the NACMFP, the Micro Committee, and that'll be a little bit more specific.

DR. JOHNSON: Make it specific as to -- because performance standards are what we're talking about.

DR. DENTON: And the National Academy of Sciences.

MS. KASTER: Yeah. I got that.

DR. JOHNSON: Sanitation performance standards.

MS. KASTER: Okay.

DR. JOHNSON: Ready-to-eat, whatever.

MS. KASTER: Three minutes. Three minutes. Any other additions or changes? As you all know, we'll discuss this ad nauseam tomorrow again. So.

DR. JOHNSON: Okay. Good job, Collette.

MS. KASTER: I'll show you what we did on Number 1 and Number 2 and then we'll get that out.

Okay. Everybody ready to go off the record? We're signing off.

(Whereupon, at 8:59 p.m., the Standing Subcommittee Number 3 meeting was adjourned.)

