UNITED STATES OF AMERICA

DEPARTMENT OF AGRICULTURE

FOOD SAFETY AND INSPECTION SERVICE

NATIONAL ADVISORY COMMITTEE

on

MEAT AND POULTRY INSPECTION MEETING

The Washington Plaza
National Hall
10 Thomas Circle
Washington, D.C.

Wednesday
November 14, 2001

The above captioned meeting convened at 8:43 a.m.

Chairperson:

Margaret O'K. Glavin
Acting Administrator
FSIS

FSIS Participants:

Charles Gioglio

Dr. Elsa Murano
Under Secretary for Food Safety

Don Mussachio
Food Bio-Security Action Team

Ken Petersen
HACCP-based Inspection Models Project

Dr. William James
Office of Public Health and Science

John O'Connell
Policy Staff

Jane Roth
Cheryl Oros
Lucie Vogel
Lee Puricelli
Regulations Development Staff

Judy Riggins
Assistant moderator

Linda Swacina

Dr. Robert Post
Jeff Canavan

Bobby Palesano
Tech Services Center

Mark Mina

Committee members:
Standing Sub-Committee Number 1 members:

Dr. Daniel LaFontaine, Chairperson
Director,
South Carolina Meat and Poultry Inpsection Department

Sandra Eskin
American Association of Retired Persons
Maryland

Carol Tucker Foreman
Food Policy Institute
Consumer Federation of America
Washington, DC

Michael Govro
Assistant Administrator, Food Safety Division
Oregon Department of Agriculture

Martin Holmes
North American Meat Processors Association
Virginia

Irene Leech
Virginia Tech

John Neal
Courseys Smoked Meats
Arkansas

Standing Sub-Committee Number 2 members:

Dr. Lee Jan, Chairperson
Director, Meat and Poultry Inspection Program
Texas Department of Health

Gladys Bayse

Department of Chemistry
Spelman College
Atlanta, Georgia

Nancy Donley
Safe Tables Our Priority (STOP)
Illinois

Alice Johnson
National Food Processors Association
Washington, DC

Collette Schultz Kaster
Premium Standard Farms
Missouri

Charles Link
Director of Regulatory Affairs
Cargill Turkey Products
Virginia

Dr. Catherine Logue
Department of Veterinary and Microbiological Sciences
North Dakota State University

Michael Mamminga
Iowa Department of Agriculture

Public Commentors:

Deborah White
Regulatory Attorney
Food Marketing Institute

P R O C E E D I N G S

8:43 a.m.

DR. GIOGLIO: Good morning. Thank you all for coming. Welcome to the Fall 2001 meeting of the National Advisory Committee on Meat and Poultry Inspection. My name is Charles Gioglio. I and my staff are here to help you, the Committee, since you're going to be helping us over the next couple of days. We appreciate your all coming out. I hope your travels, those of you who traveled from various parts of the country, were easy enough and uneventful, as they were.

Let me just mention one quick note here. We do have a telephone, as usual, set up out at the registration table for incoming calls for you, if your offices need to contact you. That number is 202-842-1300, that's extension 7035. One of our FSIS folks out at the registration table will take the messages for you and get them to you as quickly as we can.

With that, I would like to turn the proceedings over to Ms. Margaret Glavin, the Acting Administrator of FSIS and the Chair of this Committee. Thank you.

MS. GLAVIN: Thank you, Charlie. One -- a

couple of practical things before we get started. One is that you have to push your microphone on to activate it. I can see they're all activated because they have nice little red lights on them. And the second one is to remind you of the sort of rule of practice that when you speak, you identify yourself for the benefit of the recorder. So, I'll try to remind you if you don't remember yourself.

First of all, I'd like to welcome you all on behalf of the USDA, since you are a committee that -- who advises the Secretary of the Department of Agriculture, and on behalf of FSIS, since it is on FSIS issues that you proffer your advice. As always, we truly appreciate your willingness and dedication to serve on this committee. This is a committee that has a record of real service and of real comedy (ph) in coming to advice that you proffer to the Department.

The last committee made very valuable recommendations to the Department on issues such as emerging egg and egg products strategy, on the industry petition for proposed changes to the HACCP final rule, and on Federal, State, and local government relations. We're very grateful for these recommendations and guidance, and have taken them into consideration in our

policy making process.

That's why we are looking forward again to getting your advice and input today and tomorrow on several important issues that we have jointly identified. The first issue is FSIS's current thinking on how we implement the retail exemption. The retail exemption is an exemption in our statute, and so we're not talking about whether there is or is not a retail exemption, but rather, how we implement that exemption. We think this is an important issue and one that has food safety implications and we're looking forward to your input.

The second issue we've identified is modernizing the standards of identity for meat and poultry products. Again, an important issue that we think that this committee has some unique expertise to contribute.

In a few minutes I'm going to ask you to introduce yourselves, but before I do that, I want to open the discussion to our new Under Secretary for Food Safety, Dr. Elsa Murano. We're very pleased to have an individual with such a wealth of experience in public health to hold this position. Dr. Murano is, as I'm sure you know, enormously qualified, not the least of

her qualifications being that she has served on this committee as a member. She is a food microbiologist by profession, and has been a researcher in the field of food safety for many years. Dr. Murano.

DR. MURANO: Thank you, Maggie. Well, welcome to Washington. I never thought I'd say those words. I'd like to welcome you on behalf of Secretary Vaneman and as Maggie says, certainly on behalf of USDA and FSIS. This is a very important meeting because it's a very important committee.

As you know, I was sworn as Under Secretary about a month ago -- a little bit over a month ago, and the world has changed. I was here September fourth, and of course we know a week later things changed dramatically, and it makes the work that we do on behalf of food safety all the more important. As Ms. Glavin said, I do think a lot of this committee. This committee means a lot to me since I served on this committee, even if just for one meeting, it really gave me an insider's look at what this committee does and the kinds of contributions that it can make. So I do want to have input, as much as you allow me, in this committee.

And I want to say a few words to you to

encourage you to be pro-active in your service in this committee in terms of bringing forth issues that you believe should be discussed by this committee, so that this committee can really serve in its advisory role to FSIS. It's extremely important that you all brainstorm, if that's what it will take, that you bring your ideas here to this committee and give us your thoughts on what issues are of great importance to meat and poultry inspection that should be discussed in this committee, because we appreciate and hold very closely the advice that this committee provides.

I want to make a few comments because of what I just mentioned that's happened since September 11th regarding food safety, I do want to make a few comments briefly on biosecurity. As you well know, FSIS has a long history of dealing with food emergencies, that's one of the things that FSIS does, and I'd like to say to people that at FSIS food safety is not just what we talk about, it's what we're all about. And I really believe that.

I do want to go over with you, I believe, four things that we have done in -- recently, because of the events of September 11th, regarding biosecurity that I believe is important for you to realize that

we're doing at USDA. First of all, USDA is coordinating its biosecurity activities with the new Office of Homeland Security, as you might expect, and working closely with Governor Ridge on biosecurity. In fact, the Bush administration has proposed about a $45 million dollar allocation to USDA, some of which will be earmarked for FSIS, to strengthen its programs and so forth, regarding biosecurity.

Secondly, I have reactivated the Food Emergency Rapid Response Evaluation Team, FERRET. Food Emergency Rapid Response Evaluation Team. This is an entity that's been in place for some time at USDA. It serves to coordinate activities of agencies within USDA regarding food emergencies. So, given the fact that not only was I a new person at USDA, but almost all the other -- well, all the other Under Secretaries for all the other missionaries were equally as neophyte as myself, and none of us had dealt with FERRET or knew what FERRET was, and we quickly learned what its mission was and saw that it was important to reactivate it -- or activate it, I should say, for the purpose of looking at what needs to be done to protect our food supply from bioterrorism.

Thirdly, at FSIS particularly, we have

recently formed an entity called the Food Biosecurity Action Team, and this morning we're going to have a speaker present to you exactly what F-BAT, as we like to call it, what F-BAT does, what its activities are, and what is the connection between what F-BAT does and industry and so forth, and our stakeholders in general, including of course, consumer groups. It's important that we have this kind of a focus. We know, certainly, that FSIS has been involved in food safety issues -- again, as I said, is what we're all about -- but we felt the need to focus on biosecurity by creating this entity, F-BAT, and be able to do a lot of preventive passive activities.

And fourthly, in addition to establishing F-BAT, FSIS is working very closely with its sister agencies, with FDA, with CDC, and so forth, and I can tell you that we are in discussions at the highest levels between USDA and the Department of Health and Human Services regarding formalizing this relationship so that we can, not only respond to food emergencies regarding biosecurity, but that we can prevent those as much as we possibly can. It's crucial that we have a good working relationship with our colleagues at HHS, and we're committed to doing that. And as I said,

we've been in discussions at the highest levels and getting ourselves organized into a network that can rapidly respond, but also come up with some preventive activities.

Having said that, I do want to also express to you that having been a researcher in food safety and food microbiology, having science as a foundation of what I do is -- is what my life has been all about, professionally speaking. So I do believe very strongly that we have to enhance the scientific foundation of policy making whenever possible. It's one of my main priorities, and I assure you that the Office of the Under Secretary for Food Safety is going to operate with science as its guide. And I have to add to that the fact that the FSIS certainly has been engaging in these kinds of activities before I even got here, so that's making my job a lot easier, but I am committed to absolutely standing on the safe and truthful ground of science on whatever decisions we make.

One of the ways in which we are injecting science into the process, if you will, is by soliciting expert input from advisory committees. This committee, of course, and our other advisory committee, the National Advisory Committee on the Microbiological

Criteria for Foods -- I don't know if you know this, but this committee, the National Advisory Committee on Meat and Poultry Inspection is on its 30th anniversary year. Did you know that? So it has a long history of advising FSIS on matters of meat and poultry inspection, and I do want to illustrate for -- or tell you that what makes -- one of the things that makes this committee great is the involvement of our stakeholders in it.

It's very important that we receive advice from well represented cross section of stakeholders, and this committee needs to continue that tradition, that 30 year tradition of basically doing exactly that. We need to hear all sides, and we need to engage all our stakeholders so that we can make recommendations -- so that you all can make recommendations to us that include the input of everybody who has a stake in the process.

And secondly, transparency. Because it's a public meeting, we insure transparency whenever possible (loud noise) -- did that wake you up?

DR. GIOGLIO: We planned it that way.

DR. MURANO: Yes, we planned it that way. I don't think I can have children after that. Okay,

where was I?

Transparency, that's correct. We have to have a process that is absolutely transparent because we never, never want to have the recommendations of this committee or our other advisory committee be in question because of lack of openness, if you will, in the process.

So having said all of that, I do want to commend this committee for the work that it's done in the past 30 years, and certainly the work that this specific group of people has done regarding some of the issues that were discussed last June, as Maggie mentioned, and certainly the two issues that are on the floor or are going to be discussed in this meeting, are ones that we seek your input on. But again, I'd like to urge you strongly that you decide or tell us before leaving Washington, what are issues that you believe need to be discussed in this committee, so that the committee continues to do the important work of advising FSIS on important issues.

Secretary Vaneman and I certainly look forward to receiving your recommendations and advice, and I thank you very much ahead of time for the hard work that you're going to be putting in, working

through the evening, as I understand it. I remember that very well, and I wish you well and hope that you receive as much benefit from your participation in this committee as we receive in getting your advice. Thank you.

MS. GLAVIN: Thank you, Elsa. What I'd like to do now is ask each of you to introduce yourselves and not only who you are, but also a little bit about what you are bringing to his committee. And let me start at this end with Catherine.

DR. LOGUE: Good morning. I'm Catherine Logue from North Dakota State University. I'm a food microbiologist, specializing in meat. My other area of expertise is food safety education.

DR. LAFONTAINE: Dan LaFontaine. I'm the Director of the South Carolina Meat and Poultry Inpsection Department, and I'm one of the old timers. This is -- I'm fortunate to be on my third term on the committee -- third and last term, but it's been a good journey and I'm looking forward to today's meeting. Thank you.

DR. BAYSE: Gladys Bayse, Spelman College in Atlanta. I'm a biochemist, teach biochemistry and labs and toxicology course. My students and I do research

on the potential human impact of certain feed additives in poultry and swine.

MR. LINK: Charles Link. I'm director of regulatory affairs for Cargill Turkey Products, formerly known as Rocko. I've been in this business for almost 20 years, I guess, primarily in the quality control, regulatory side of the business, so hopefully I can give a little input from an industry perspective, if you will.

MR. NEAL: John Neal, Courseys Smoked Meats from Arkansas. We have a small plant, and basically this -- who I represent in my views and concepts are based on the small plant ideas and problems, and how they relate to the new FSIS rulings and ... programs.

MS. JOHNSON: I'm Alice Johnson with the National Food Processors. I'm vice president of the food safety programs, and I am serving on my second term which I certainly enjoy the committee and working with the different members of the committee.

MR. GOVRO: I'm Mike Govro. I'm with the -- I'm the assistant administrator of the food safety division, Oregon Department of Agriculture. Been there 25 years and this is my first term on the committee.

MS. FOREMAN: I'm Carol Tucker Foreman with

Consumer Federation of America. From 1977 to '81, I was Assistant Secretary of Agriculture for what was then called Food Consumer Services and had the responsibilities that are now part both of Under Secretary Murano's job and the Food and Nutrition Service's Under Secretary. This is my third term, and I would like to say something, when you go all the way around, I'd rather not interrupt now, thank you.

DR. JAN: I'm Lee Jan. I'm the director of the meat and poultry inspection program for Texas, in the Texas Department of Health. I've been with that organization, that government group for about 14 years and prior to that I was a private citizen and private business owner, veterinary practice. And I've been on this committee, it's my second term on this committee, so I've probably got another few more meetings to go.

MR. HOLMES: I'm Marty Holmes with the North American Meat Processors Association. We represent roughly 360 further processors throughout the United States and Canada. I'm primarily involved in servicing the food service HRI business. Prior to coming to NAMPA, I was Southwest Meat Association, and prior to that I was a member of the Southwest Meat Association and working for a meat processor in the state of Texas.

MS. GLAVIN: Thank you very much. Carol, did you want to say something now?

MS. FOREMAN: If I may, please, even though I'm sorry that a lot of members haven't gotten here yet, no doubt a result of continuing transportation difficulties. I believe that the other consumer representatives on the committee agree with what I'm about to say. We have -- we've talked about it previously. I am a very strong believer in advisory committees. I'm afraid that I'm a hopelessly committed good government person, even after 40 years of being involved with government. This is one of the best committees I have ever served on. It has a very broad base. The members come to the meetings. We work very hard. The Department has given us very substantive issues, asked our advice, and generally taken it when we've made recommendations.

Maggie just acknowledged a few minutes ago that the agencies make good use of our recommendations. Those of us who have been on the committee before know that that hasn't always been easy, that some of those subcommittee meetings at night have lasted for a long time and that we've struggled and rewritten recommendations once they got back into the full

committee.

The consumer people on the committee have worked with the industry and with the government because we thought that this was a worthwhile enterprise, and we did come up with proposals that we thought everybody could use. I want to address a couple of those now.

One of them is interstate shipment of state inspected meat. I think most of the people in this room know that consumer organizations have always opposed interstate shipment of state inspected meat. My own organization opposed putting that provision in the legislation in 1967, and they have never changed that position until I went to them and asked them to do so as a result of the recommendations of this committee.

The recommendation out of this committee assumed and in fact, discussed, the presence of pathogen performance standards for state inspected meat moving in interstate commerce. It was understood that this would be part of the problem -- program. Some of the members didn't like that. We struggled over it. But that was the agreement that came out of the committee, and based on that, I went to the Congress

and testified on behalf of Nancy Donley and Caroline Smith-Dewald and myself, saying that we had decided we could support this program because of the way the inspection system had changed, that we thought that you would in fact, have a system that's equal to in all states, not just in the states where it traditionally has been done at a very high standard.

You can imagine my shock, my disappointment, when I discovered that only the consumer representatives seemed to have decided to live by the recommendations made by this committee. Every other one of the groups here at the table walked away from it. The National Association of State Departments of Agriculture has said they'd be happy to have interstate shipment without any kind of performance -- pathogen performance standards. The cattlemen, who were on the committee at that time, have taken the same position. The AMI, which was on the committee at that time has taken the same position. In other words, so far, we're the only ones who are supporting what came out of here.

Now, that has serious implications for the work that we do here together in the future. Consumer representatives traditionally opposed HACCP as being used in federal meat inspection programs. We

ultimately agreed to it and tried to sell it to our members because we thought the Department had found a way to adjust an industry quality assurance program to make it appropriate for use in a government health and safety regulatory program. Their efforts are almost surely going to be successful efforts to end the present pathogen performance standards and enforcement that have been part of the HACCP program.

I'm not sure that the members at the table understand that we do have members. We're not self-appointed consumer representatives. My organization has 265 organizational members that stretch from the National Farmers Union to state and local consumer groups. CSPI has members, STOMP has members. We have to answer to those people. They send us here to represent them, and they assume that we're doing that well.

I just wanted to put it on the record that the things that have happened with the industry's unending opposition to the continuation of performance standards and enforcement of those standards in meat and poultry inspection, seriously jeopardizes our continued support for HACCP. People may think that we can't now withdraw support. I can tell you there are

groups within my organization that want to. I think our support for interstate shipment of state inspected meat is dead. It will never be resurrected. It has serious implications for HIMP because I don't know where the trust is for me to go forward and suggest my members that they can be confident that HIMP will be run in a way that protects consumer health and safety.

So, I wanted to put on record that I think that we have a very serious problem here and I'm not entirely sure that my organization will allow me to continue to participate in this advisory committee, and when we have our board meeting in a couple of weeks, I'll have better information about that. Thank you.

MS. GLAVIN: Okay, thank you very much, Carol. I appreciate that. What I'd like to do is go over today's agenda and make sure everyone is aware of what we're going to cover and how we're going to try to cover it, and also see if there are any particular needs that are not being addressed through the agenda.

First of all, you'll notice that there are two different kinds of presentations. There are briefings and there are issue presentations. The briefings are relatively short presentations on something that has relevance at the moment. It is not

something that we will be asking you to explore in depth at this time, but something that we think you need to know about and that may well be an issue discussion at a future meeting. There'll certainly be time for questions and answers on these briefings, but not for extended discussion. Again, as I said, some of these might be topics for discussions at future meetings.

The second kind of presentation will be the issue presentations, and you'll see two of these on the agenda. The issue presentations are issues that we have asked you to focus on over the next few days, and to give us your thoughts on them.

You'll notice that we have divided you into two subcommittees to work on the two issues this evening. We ask that you return tomorrow to give us the benefit of your deliberations on those two issues. So that's the distinction we're making between the issue presentations and the briefings.

We'll start this morning off with a briefing on our Food Biosecurity Action Team that Dr. Murano referred to in her remarks this morning. Dr. Karen Henderson, who is an Assistant Deputy Administrator in our field operations part of the organization, was

scheduled to provide this presentation. Unfortunately, she had an illness and is unable to be here, but in a few minutes, her able stand in, Don Mussachio will do the presentation, and I would say, Don arrived at work this morning not knowing he was going to do this, so we have to give him a little bit of leeway here as he goes through.

After Karen's -- I'm sorry -- after Don's briefing, we'll take a short break and reconvene to discuss our first issue, which is -- I'm sorry, our first briefing, and that is the HACCP-based Inspection Models Project. Mike Grasso and Ken Peterson will be giving us an update on that project.

Then we will examine our first issue, which is the current thinking -- FSIS's current thinking on the retail exemption. Matthew Michael and John O'Connell will lead the discussion.

Before breaking for lunch -- I hope you're ready for a long morning here, you can see this is not going to be quick. Before breaking for lunch, we'll have a briefing from Jane Roth on surveys of field personnel on FSIS issuances.

After lunch, we have a half hour allotted for legislative update from Linda Swacina, our Assistant

Administrator for Staff Services. This is a new position within FSIS's management team, and Linda has just recently taken that position.

After her presentation, Robert Post, who is the Staff Director of our labeling and consumer protection staff, will lead a discussion on modernizing standards of identity for meat and poultry products. We'll have a break after Robert's discussion.

We'll then have our last briefing of the day from Bobby Palesano, I believe, and Bobby is from our tech services center in Omaha. He is going to provide us an update on our new field correlation reviews, along with results from the earliest of those reviews, the ones that are already completed.

We'll wrap up the afternoon's briefing with a little more than an hour allotted for public comments. For those interested in providing public comments, it would be useful for you to notify either Charles Gioglio, who's sitting right here to my right, or Sonia West, who I believe is out at the desk. So it helps us to manage the afternoon if you will sign up in advance if you want to make comments.

Starting at seven this evening, the two subcommittees will convene. Daniel LaFontaine, who is

the Assistant Director of the South Carolina Meat and Poultry Inspection Department will lead the subcommittee on FSIS's current thinking on retail exemption, and Lee Jan, who's the Director of Meat Safety at the Texas Department of Health, will lead the subcommittee on modernizing standards of identity from meat and poultry products.

Tomorrow morning we'll start again at 8:30 and each subcommittee will provide us with information from their discussions and any recommendations that they are proposing from the evening's session.

After lunch, we'll have three more briefings -- actually two. One of them -- we had scheduled a briefing from Pat McCaskey, who is our Assistant Deputy Administrator in charge of our laboratories. He was going to brief us on the status of our ISO certification efforts. Unfortunately, our Athens lab had a fire over the weekend, and he is dealing with the fallout from that. I'm happy to say that there were no injuries, and in fact our labs were not directly affected, but the building which is an ARS building, is -- remains closed. So he's sort of dealing with that, and is not able to be with us tomorrow.

However, Brenda Halbrook, also from OPHS,

will give us an update on the National Advisory Committee for Microbiological Criteria for Foods. This is something that we try to put on every agenda so that the two committees can stay in contact with one another in their work.

And then finally, Barbara Masters and Yvonne Davis will give a briefing on our recent introduction of consumer safety officers to our field operations workforce.

Then we'll discuss any remaining issues, as well as plans for the next meeting, and again, be available for public comments at the end of the day.

Before we get started with Don's presentation, are there questions or issues with respect to the agenda?

(no response.)

MS. GLAVIN: Okay, Don Mussachio, who is Assistant Deputy Administrator in the agency, and who is a member of the Food Biosecurity Action Team, and who is showing his flexibility by giving this presentation, will walk you through some of the things we've been doing over the past two months.

MR. MUSSACHIO: Thank you, Maggie. Can you hear me? Can everyone hear me? I think introductions

are in order. I took biology twice to get a D. The reason they wouldn't let me take it a third time is they didn't want me mutilating another frog or whatever we were cutting up, so any technical questions will have to be held for those who actually paid attention in biology class. The other comment I'd like to make is I thought we were actually starting with the feedback of the only rendition of the Star Spangled Banner that we haven't heard, and that would be Jimmy Hendrix's version, which I personally have at home, if you're interested.

If we could move ahead. I wanted to give you an idea of the variety of agencies involved in food security. While we'll be talking about what FSIS does, you can see from the organization of the USDA that across the spectrum of food, we have agencies that are involved, not only in their own specific area, but can cross over when food emergencies happen. So it is very important to understand that we're not just USDA, one single person making all the decisions. There are quite a number of missionaries that can be involved in any food emergency.

As you can see that we're involved in both internal and external groups. We're part of the

National Security Council, Weapons of Mass Destruction Working Group. One of the things it is important to note is that many of the scenarios up until September 11th, dealt with nuclear and explosive kinds of scenarios. Since then, we've all come to understand that there are many other ways to affect terrorism, not just mass destruction, but mass terrorism in the country, and it doesn't take a nuclear device to do that. So we are changing the way we've been thinking for several decades.

And we do have a subgroup that we chair, which is the Protection of Agriculture and Food Supply. We're also on the -- at the sub-Cabinet level -- the Counter-Terrorism Council, the Biosecurity Committee, and then FERRET that you've heard about this morning. So we do have a number of involvements all along the sort of policy chain.

Early on, though, most of the food issues we're dealing with, how to provide food stamps to individuals who were affected by these weapons of mass destruction. It's only been lately that people sort of figured out, well, we give you the food stamps, but what can you eat? What's important now is to protect the actual food itself and not be as concerned as we

have been with the provision of the food.

Okay, we're at FSIS. We've been active in maintaining safety of our missionary food supplies since 1906. Obviously, we have authorities in our statutes that give us statutory authority to control and protect the food supply. We have 7600 -- actually have more than that now -- but the number we've been using, 7600 inspection personnel actually in the in plant level work and in our labs, working on a daily basis, as I said, to protect the food supply. So we are in the unique position, in relation to several other agencies who have to ramp up and get ready for emergencies, we deal with anomalies in the food supply every day. That's our job. So we've actually been at a very good position to work with other agencies and let them know how we've handled these things in the past. So we're in a very unique position.

We do have surveillance systems. We do a lot of testing. We do a lot of reporting back of the results and working with other agencies are involved in determining trends that identify emerging hazards. We have a number of things that we do with CDC, where we are party to their information that lets us know about food borne outbreaks, so that we can adjust our

procedures as necessary.

We do have a long history of dealing with food outbreaks, so we do have standard operating procedures for responding to them. It isn't a make it up as you go system, so we do have quite a number of procedures, as well as experience in applying those procedures.

Our laboratories are very experienced in the testing of food borne pathogens. As a matter of fact, as you'll see later, we're now moving on to adding capacities to test for Anthrax and other biological agents so that we can be on the leading edge, working with other agencies and the Homeland Security people to make sure that the -- any resources that we have can be added to the effort.

As Dr. Murano mentioned, after September 11th, it became obvious that we had a number of individuals working very hard on a number of projects and a number of missionaries, and -- but we did not have a coordinating body. And so the Agency determined that we would have a coordinating body, and Dr. Karen Henderson, who actually did pay attention in biology class, would head that effort. And so we named that the Food Biosecurity Action Team, or F-BAT, and that's

-- fat-bat is what I call it, but it doesn't work for me.

The mission is to coordinate and facilitate all activities pertaining to biosecurity, counter-terrorism, emergency preparedness, and emergency response within FSIS. Actually, on the 11th, the day of the terrorism attack, it became obvious that we were prepared because we had some systems in place in relation to some of our sister agencies who had not exercised their continuation of government plans, all those kinds of things, but it isn't a single entity. There are a number of areas -- our policy area, our field inspection personnel, public health and science people -- so we needed a coordinating body with representatives from all of those areas, and so that's what F-BAT is designed to do is to have a single point of contact and then to staff out the work that needs to be done so that we don't have people working at cross purposes or duplicative purposes.

Now we have five goals. First is to coordinate a response to agricultural terrorism or attacks on the food supply. We do believe that it's a short step from agri-terrorism to an effect on the food supply, and so that we want to be able to be in a

position to react appropriately when there is an attack on the agriculture, and not necessarily just the things that we regulate.

One thing that's very important to us is our employees, because they are on the front line in, not only their day to day work, but in this particularly sensitive work. So we want to make sure that their safety -- they're safe and their safety is taken into account, so that we do have individuals from our safety department working closely on areas of protective equipment, equipping them with the knowledges and skills to identify biohazards.

As I mentioned earlier, we want to now insure that we have adequate laboratory capacity, and as Dr. Murano mentioned earlier, there's been some money that the Department of Agriculture has received out of the first allotment from Congress, and we are working -- Dr. McCaskey (ph) is working to insure that are labs are state of the art, and are protected as well, from a possible attack on the lab itself.

The -- one thing that's very important in a terrorist attack is to make sure that there is a continuing operation of the mission of the Agency, and there are a number of procedures and policies that are

in place to decide who does what, if certain individuals are incapacitated or are unable to perform their duties, so this group would coordinate and make sure that those functions continue.

Also out of the 11th, we found that communications is very, very important. Since everyone can't watch CNN to get the latest, we need to communicate directly with our employees and we have to have consistent messages. In times of high stress, you'd be amazed at the importance of a change in a word -- happy to glad -- people reading into it, what does that mean? Are you now changing the policy? Are you now changing the way you're interacting with us. So it's very important to have a consistent and single message. So we'll be -- part of this group's function is to work internally as well as to work with the Department and Homeland Security so that we have a single and consistent message in times of emergency.

So you can see, food safety, employee safety, laboratory security, continuation of our function, and communications are the goals of this particular group.

Some other things that this group is starting to work on and is working closely with others, is to cooperate with industry on tightening of plant

security. Immediately after the events of the 11th, it became clear to us that we needed to cooperate with sort of visitor control and plant security issues. It's always been a delicate balance between access to the plant and interference with our ability to inspect, and so we are working closely with plant operators to make sure that that balance is maintained. And we're looking at other avenues, such as picture IDs. Many of our field force do not have photo IDs and that is causing some concern among plant owners, that a government badge can be stolen and then used for access into a plant. And we've also experience some delays of our folks being allowed entry because of the lack of a photo ID, so we're working closely on that to make sure that we can keep the food supply safe, but also take care of the industry's concerns about who has access to their plant.

We've also placed our inspectors on heightened awareness at ports of entry and in the establishments themselves. As you've seen from the newspapers, there's quite a bit of concern about the introduction of biohazards through import or export products imported into this country, so we are working closely with our sister agencies at the borders to

insure that we are taking an increased look at the foodstuffs that come into the country.

One of the things that it's becoming clear, is that what may start out as a food borne illness could rapidly turn into a terrorism event, or has the potential to turn into a terrorism event. Once that determination is made, then much of the evidence and much of the work that we have done now becomes evidence in the criminal case, so we have to work very closely with law enforcement agencies so that we can meet their needs for evidence protection as well as having them provide us with information concerning possible contamination and adulteration of food products through their information sources.

We've been dealing with humane slaughter concerns for quite a while, and in response to that, we placed in each of our 17 district offices, a specific individual devoted to human slaughter. It is also recognized that the individuals will be dealing with the live animal part of our mission, also would be in a unique position to train others and themselves to identify, along with our veterinarian folks from APHIS -- identify live animal situations. And so we added those responsibilities, so that they are not just

focusing on humane slaughter procedures, but also dealing with live animal information that may come up.

One of the things that is important is to have a trained workforce. We're working with a number of other regulatory agencies so that we can have a consistent message on how regulatory agencies will be acting in this. Also field force needs to be trained for the -- our particular force -- needs to be trained in biohazards that are likely to be introduced into meat, poultry, and eggs, and so we're developing training. Part of F-BAT is working with other agencies and contractors to develop training that will equip our folks to do so.

Also we're -- assuming that we weren't affected by the fire there -- we're working with our Athens laboratory to beef up, as I mentioned earlier, on -- specifically on Anthrax first, and then other bioagents. We've been asked by the Homeland Security folks for what kind of capacity do we have, not just us but other -- all federal agencies, and it will be a move to have maximum capacity throughout the government for testing for bioagents.

As we've all read in the papers, handling of mail has become quite a concern, both incoming and

outgoing mail, and so we are working specifically with our employees, as well as the Department, in a standardized way of handling mail, both incoming and outgoing, equipping our folks to know what to do with a suspicious package comes in, or letter comes in. I've been throwing away everything that I didn't recognize the return address on. Most of my creditors now want me to recognize their address, so you can only use that for about a month and then you really have to start paying your bills. But there is quite a bit of concern about the handling of mail, not so much that you would be the target, but because of the cross contamination of the mail. So we are taking specific precautions in that.

Also we've been asked, along with other federal agencies, to review our website, to remove information that others can use to determine vulnerabilities, not just with our agency, but the entire USDA, and so we're doing that now. So you may see some things that are normally on the website being removed until a determination can be made whether those pose something specifically attractive to those who would do us harm.

The end. Now, I'll be glad to answer any

questions that folks have. Usually you can say right before a break or lunch, and then no one has a question.

MS. GLAVIN: Okay, I think you've got one, I'm afraid, Don.

MR. MUSSACHIO: Alright, how can I help.

MS. FOREMAN: I've got a couple, Don. First, just to go to the last point you raised -- I'm sorry, Carol Tucker Foreman from Consumer Federation. What are the standards that are going to be applied in determining what information should be removed from the website?

MR. MUSSACHIO: The general standard is one that can show vulnerability in the ability to carry out your mission. I can give you an example that's not directly related to FSIS, but the Nuclear Regulatory Commission used to put on its website when they were going to be inspecting certain plants. They determined that out of that, part of the inspection procedure is to open up the sort of the captured dome. That shows a vulnerability such that an explosion that would happen when the dome is down would not penetrate the nuclear material. If the dome is off the same side as the explosion, could in fact have a nuclear effect. So

that's one of the things -- that's the example that they use. So something that would seem innocuous -- we're going to be inspecting this plant -- that gave someone an indication that at that particular time that the plant itself was vulnerable.

So we would be looking at things like staffing patterns, when we may have some difficulties in staffing. We'd be looking for other kinds of things, information that we normally post, not necessarily just on our website, but in other venues, so we'll be looking at does that expose us to some -- does that let people know about a possible vulnerability.

MS. GLAVIN: Carol, another example that I've heard is at EPA -- EPA maintained on its website for some number of years, information on where certain, particularly agricultural chemicals, were stockpiled, and that's been pulled down. So those are the kinds of things.

MS. FOREMAN: Will the Agency publish what the standards are for removing and have some sort of public notice about what information is being removed for the future?

MR. MUSSACHIO: I haven't been involved in

that discussion, but I can certainly take that back and get you a specific answer on it. I'm not sure there's any super secret thing about what the criteria were, but I'll have to take that back.

MS. FOREMAN: Okay, I hope you'll make it public, because obviously we have a big concern about information disappearing. I have other question, but I'll let others go first.

DR. JAN: Lee Jan with Texas Department of Health. One thing you mentioned was one of the other duties or other things the group is doing is adding responsibilities for the humane slaughter positions for dealing with -- providing or being information source for bioterrorism. I wonder if you have considered expanding that information source base to include the state of animal health industry -- not the industry, but the agency that regulate animal health and as well as APHIS. These folks are out there dealing on the farm and in, not only in the plant, but in a lot of areas that might see and may be involved in something that -- and certainly foreign animal disease is their concern, and that's what a bioterrorism incident might look like, or in fact be composed of or caused by -- foreign animal disease. So those folks -- and if there

be some kind of a link with those groups or those agencies with your -- with this F-BAT team, maybe another link and a quicker response.

As well as state programs that regulate renderers. A lot of state have a little more ability to get -- or have a better control, have specific state laws dealing with renderers, and renderers picking up a bunch of dead animals -- they may be the first ones and if that's as far as it goes, it could be missed.

MR. MUSSACHIO: It is going to be very important to work with our state partners. Clearly before the 11th -- before we even added these new duties, part of their responsibility was to work closely with the states. Because of our limited mission, the majority of the interaction with the states would be with APHIS, and they certainly are working closely, and yes, we are going to have to have a coordinated effort with all interested parties. So, yes, we will be working closely with the states.

MS. GLAVIN: And in fact, we are working with APHIS to have their foreign animal disease training provided to these veterinarians, these 17 veterinarians. So, yes, there's a real connect. But your point on the state is very well taken.

MR. MUSSACHIO: We would be looking for these individuals to work with our folks mainly as part of their -- but you can't do that without interaction. You're absolutely correct.

MS. GLAVIN: Okay, I'm going to do Alice and Mike, then Dan.

MS. JOHNSON: Don, thank you for the presentation. I think Jimmy Hendricks really would have appreciated the sound effects that were in your slides. A couple of comments, and some questions. I want to support Carol's thought that it would be good to know what types of criteria is being used for what goes -- is made public. As you know, industry is working through an alliance with various trade associations, coming together to share information, trying to get information out to the different -- various members of this group, and it is of a concern, well, what do you actually put out publicly, and what do you limit. So if there's standard guidelines as what should be out there and what shouldn't -- should remain private, then that would good, I think, for everybody to know, as well as the idea that when information shows up and then disappears, it's of a concern to everybody, I think.

One thing I would ask, when you're talking on the F-BAT group, and you're talking with your employees, one thing that the Food Safety Alliance, the Food Security Alliance has been working with is incorporating the farm to table approach to the biosecurity issue. And for the -- speaking from the National Food Processors, we've tried to separate the biosecurity issues from our HACCP food safety issues, and I wonder if that's how you're communicating with your employees in that arena. We consider food safety to deal with hazards reasonably likely to occur, and when you look at threats posed by the biosecurity issue, especially if you try to coordinate farm to table, you know the introduction of certain animal diseases would not be a food safety concern, but would certainly have a major impact on the food supply.

We've looked at taking an approach similar to the Operational Risk Management, calling it like a threat evaluation and assessment management, looking at putting out documents which we call the team approach. But just wonder if you're -- how you're addressing that with your employees. You can see there's a real concern that HACCP would become incorporated into the all-encompassing, and I think it's important that we

try to keep that separate.

MR. MUSSACHIO: The efforts that we're working with within USDA, not just FSIS, is identifying all of the steps in sort of the chain from production through consumption. And we're looking at areas where there's the possibility of introduction of agents -- vulnerabilities. And then we would be looking at what can we do to either prevent them or contain them if they have, in fact, been introduced. So we have not, at this point, gone as far as saying because something could possibly be introduced you therefore have to include it in your HACCP plan. But we are now trying to identify those things, and we certainly would be looking for the industry to do the same. And so I don't see that, at this point, as being a major emphasis for us. We're looking for the vulnerability points and then looking at what we can do along those points.

MS. JOHNSON: Yes, I would -- one more thing. I think that's good but I'd be careful about -- we've tried in industry to separate terms like hazards and threats and work through the process of identifying threats to security separately from using the HACCP concept.

MR. MUSSACHIO: Sure and again, as part of our communication strategy -- and you're absolutely right -- is words have taken on supreme importance now, and so it is important to have a consistent message, and we will be careful about that in the future.

MR. GOVRO: Mike Govro with the Oregon Department of Agriculture. My question is similar to Lee's, but with respect to USDA's increasing its preparedness and capabilities in the laboratories, and just wondered to what extent you were going to utilize other laboratories around the country, such as those at State Departments of Agriculture and universities?

MR. MUSSACHIO: When you say "you", as far as USDA, and FSIS, we are looking at being self-contained. However, the Homeland Security, as well as USDA in its larger picture, participating in efforts to determine what capabilities are available throughout the United States so that we can react quickly, no matter the source. And so I'm sure there are efforts -- I know there are efforts we've been providing -- what labs are available close by, those kinds of things -- and so there will be a sort of overall determination of what's available. And so my assumption is that if an effort requires something quickly and there's a site where

there is a state lab that can provide the testing that's necessary, analysis that's necessary, they would certainly be used. But at this point in time, we've not tried to expand it. We're looking internally.

MR. GOVRO: Thank you.

MS. GLAVIN: Dan, then Carol, then Marty. Dan.

DR. LAFONTAINE: I'd like to comment -- Dan LaFontaine, South Carolina. I'd like to comment further on the state involvement in this. Lee mentioned the -- part of this, but my perspective is that in the state programs -- there's 27 state programs, well over 1000 people, and since these are very small plants, the inspectors, at least in my state and I think most states, are what I call community-based. They live in small communities, or even some metropolitan areas and they really have an ear to the ground, eyes and ears on what's happening. Unusual events, large animal -- number of animals dying, or a lot of animals ill, and so in our state, and I -- in talking to other states last week at our national meeting, we're putting a lot of emphasis on our front line people to pay attention to what's going on, and also to report it up the chain and don't blow it off as

just a non-event.

So, I guess my point is that we've got a -- at least in 27 states -- a cadre of folks out there who are down at the working level, that can be good eyes and ears in this whole biosecurity issue. And kind of to close my comments, although it's not a food safety disease, foot and mouth disease in England was detected by people in a small abattoir in England, so that shows you a good example of where the little guys are sometimes the first to know about what's going on.

MS. GLAVIN: Thank you. Carol?

MS. FOREMAN: Hi. It's Carol Tucker Foreman with Consumer Federation. Don, the very first goal, can you get it back up there? It related to this relationship between agricultural terrorism and the food supply.

MR. MUSSACHIO: Right. I don't have the button, so I --

MS. FOREMAN: Would you elaborate just a little bit on how you view that?

MR. MUSSACHIO: Yes, there are a number of interrelated -- we believe to be interrelated issues between us and APHIS, us and FDA, and other federal agencies that deal with the food supply, not just meat,

poultry, and eggs, so we would be coordinating. We often get requests for information, requests for a number of things -- have we noticed anything in the animals showing up? So we're looking at the feed supplies, we're looking at the possibility of an attack on major agriculture, such as wheat or corn, what effect would that have on meat, poultry and eggs, not so much just in the area of making it adulterated, but what could be the possible effect of an attack on the wheat or corn supply in this country. Where agri-terrorism would have an effect on the meat, poultry and eggs, not necessarily on the individual animal, but on the industry and our ability to carry out our mission as well.

MS. FOREMAN: Everything that has been discussed so far has worked from the assumption that the problem would begin with the animal. Is anybody worried about what happens if somebody decides to poison meat after the animal is dead? You know, there -- in addition, there are a lot of bugs that do not make animals sick that do make us sick. That's how we have been in this problem with pathogens for years and years and years because USDA always started from the presumption if it didn't make the animals sick it was

no problem. I thought we had moved beyond that. The one instance where there have been people made ill, that we know of, by an intended act, was in fact from a salad bar out in Oregon, not from somebody going out to poison the animals.

MR. MUSSACHIO: Right.

MS. FOREMAN: So what are we doing to worry about from the point where it gets slaughtered on? And I don't mean what's the industry doing, I mean what's FSIS doing?

MR. MUSSACHIO: Yes, we are -- as I mentioned earlier, we're mapping out, along with other agencies, the entire -- from production to consumption, and looking at what can we do. We have, again, some limited -- not as strong as we have inside the plant -- after the meat, poultry and eggs leave the plants, there are things we can do, there are things states can do, there are things local health authorities -- and we do have people at the Homeland Security physically on site, working with that group in determining what is an overall national response to an introduction anywhere along the line.

MS. FOREMAN: I have two specific suggestions.

MR. MUSSACHIO: Yes, ma'am. I knew you would.

MS. FOREMAN: First of all, from 1980 on, some of us have tried to get traceback authority for USDA if, in fact, you have a problem, you can trace it back to the door of the slaughterhouse, but the step beyond that, you don't know, and we never know where the animals originated that ultimately made people sick. The Department at one time supported that legislation, you've withdrawn your support for it. It seems to me this would be a good time, talking about the importance of making the tie between sick animals and sick people, that's one way to make that tie -- get authority to trace back.

If we're not really into just business as usual, it's time to go and consider that. If this is just a look everybody, we're going to do anything as long as it doesn't inconvenience us, then you don't need to do that.

The second thing I would suggest is to take a very hard look at the existing residue testing and detection system, because now it would seem to have an overlay that we've never had to think about before. And I would point out that in 1978, in the United

States, and in 1999 in Belgium, there were severe PCB contaminations. The one in Belgium actually, in the end, making animals ill. In '78, in the United States, because we didn't have a system that picked it up quickly enough, we ate contaminated cream pies and baked goods circulated through 18 states and several foreign countries by the time USDA picked up on it, and that caused some changes in the detection system.

But now, it would seem worthwhile to go and think, okay, if somebody intended to do this at some level below which it would cause the animals to drop dead immediately, but carry residues, how would you look for it?

MR. MUSSACHIO: Again, I haven't the faintest idea how they would look for it -- I got a D, I told you earlier. But one of the things we are doing is taking some of the money that was earmarked for USDA and passed on to us for laboratory security and capacity, and doing exactly the things that you're talking about, making sure that if we do have a big spike in residue, we can handle it, that we, in fact, are ready and capable of dealing with those kinds of events. As well as considering whether we should up the number of samples to begin with. But a lot of it

is capacity and certification driven, so we are making sure those are taken care of first.

MS. FOREMAN: Now we are talking two, three weeks to a month before you -- between the time that an animal with a residue is slaughtered and the time that the Department knows there was a residue?

MR. MUSSACHIO: I'll defer to someone who knows the answer to that.

MS. GLAVIN: It's not real time. Your point -- I don't know the exact dates, but it is not real time on residues. The -- your point of there being vulnerabilities all the way down the chain is obviously one we're very concerned about and our first line of defense is the fact that we have people in those plants, those people are on alert to be aware of -- they're more aware than normal of their surroundings. Some of the things about plant security are part of that. Certainly some of the things we do in terms of tracking food borne illness is a part of that. If -- if -- so we have people both in the plants looking for things, and we also are looking for illnesses starting to emerge.

I think we tend to talk about the recognition of animal disease because it is something that we are

uniquely in a position to do. There are other agencies and concerns dealing with things farther down the line, which we are also dealing with, but we're in the unique position because every animal that goes for food, goes through one of our employees, and so that's -- but we shouldn't imply, or you shouldn't reach the conclusion that that is where we're focusing. It's just a very unique area for us because we have those people there.

MS. FOREMAN: I would urge you when you talk about it, to really make it clear to the public that you do care about something after the animal dies.

MS. GLAVIN: Okay, that's a good point.

MS. FOREMAN: And I also point out, that with regard to plant security, in meat and poultry plants, the turnover rate for employees is constant, so it's very hard to have any sort of security in terms of plant employees. You can have somebody in there one day that nobody ever heard of the week before, and will be gone the next week, having, perhaps, done something in between. The inspection staff doesn't turn over -- maybe more than we'd like, but not a lot --

MS. GLAVIN: Not very much.

MS. FOREMAN: The personnel in the plants turns over and I suspect that a majority of employees

in meat and poultry plants are now foreign born.

MS. GLAVIN: Marty, John, Catherine. So, Marty?

MR. HOLMES: I'd like to start -- one thing -- NAMP has certainly been in favor of traceback. I appreciate your comments there, Carol, because you know, that's been disturbing to at least the members of NAMP from the standpoint of -- of FSIS being interested in human health and APHIS being interested in animal health, and we were -- we saw an opportunity with BSE potentially being a hazard to both animals and humans.

Particularly, the thing that has affected our members over the last number of years has been 0157H7 in ground beef operations. Obviously, it's present in animals, does not have the effect on animals that it does on humans, and so we saw an opportunity there to bridge the authority for FSIS to have some on-farm, at least, interest that relates at least to that pathogen and maybe BSE. So I'm -- I want to echo what Carol was saying regarding at least APHIS and FSIS working together in terms of those types of things.

I think this is also going to tie into something we're going to talk about later his morning, which is retail, and I would echo again what Carol said

about having some security measures at -- you know, past either the plant, or certainly past the animal being slaughtered.

It has been somewhat comforting, and ironically, I guess, to answer to media and to customers over the last number of months about what about my meat supply. When I'm able to tell them about FSIS and the inspectors that are in our plants on a daily basis, and knowing that we have that type of oversight from FSIS on what we're doing -- we're going to talk about retail exemption later and I think there's a difference in inspection.

We're going to talk about retail exemption later, and I think there's a difference in inspection. Obviously, not being an FSIS inspector status versus having a health inspector or something in the plant, what you could do at a retail store, whether it be with fruits and vegetables or anything that's not completely packaged prior to getting to the store, I think raises issue on this F-BAT and biosecurity measures.

I did want to take the opportunity while I'm agreeing with Carol on a number of things, to at least verbally come on on the table as saying that NAMP has not been opposed to performance standards, as long as

they're scientifically based, and that was just an earlier statement, but I did want Carol to know that we're not opposed to performance standards as long as they are scientifically sound. Thank you.

MS. GLAVIN: John?

MR. NEAL: Yes, Marty said some of what I was going to talk about, but that's fine, that makes it easier to go on. I don't know about anybody else, but I may have to go to the bathroom pretty soon, so make it quick, Catherine. Something that what this gentleman right here was talking right here, we're going back to the farm to table issue.

One of the things that I think that you'll find with farmers and people that I know in my area, I've had a little discussion with them, and I've worked with some of these gentlemen in the fire department, and a lot of them do farm on the side. And something they are aware of, number one, our whole nation has national awareness, so I think it's important concerning bioterrorism and stuff, going as far as the agriculture and the feed supply, that you need to make that public to them, because you'll find that all these farmers and everything, they will be very cooperative, even in the small farms, big large farms -- large wheat

and growers and such -- you'll find that the national awareness is very high right now and we're very focused on what we want to do, so this is a good time to be informative and tell them what you want them to look for. They're the people -- they're the eyes and ears out there. That goes with the state people were talking about that -- they are the people that are going to find the people that are -- you're going to have a lot of wild goose chases, just as you had leads on this situation that happened in New York, but at the same time, those leads -- that's a lot cheaper to go with following a false lead, or one that wasn't presumed false, as not having one at all to follow.

As far as the feed supply, I believe in animals, the feed supply is where, if I was going after it, I would go after the feed supply. Even though Carol said that animals are resistant to certain type bugs, if they go after -- the best way to get to the biggest part of the meat is to go through the feed, whether it be in poultry houses, fields, slaughter plants and the units -- they'll go with the feed. And that's where I think we ought to focus on.

As far as some of the residue we were talking about 1978, there's one thing we have in our favor. We

do need good residue testing -- I'm talking about what Marty and Carol were saying, but at the same time, since 1978, we have a whole lot better sanitation methods and we're a lot more aware and we're a lot better than we were. So you know, I'm trying to put a positive light on that. Awareness is a necessity, but we need to watch that.

But I will -- excuse me -- I feel very strongly that we need to go with the national awareness thing if you're concerned about the farmers out there. They're the people -- they're the eyes and ears, and they're the people that are going to make it happen. So I think you ought to get a campaign out on them. I feel strongly about that.

MR. MUSSACHIO: Thank you.

MS. GLAVIN: Thank you. Catherine, and you can take as long as you want.

DR. LOGUE: I'll only be a minute. I just wanted to make the point, based on Ms. Tucker's comments, and the thing about the residue testing. I can look at this from both the European and an American perspective because I worked in both places, and I've seen it both ways. And I can tell you that the push is on to make this a real time thing. I work at North

Dakota State, just got this massive grant in association with the USDA, to work on this exact issue. I came from a pest conference two weeks ago where this was launched. So this is at the forefront of it. They know about this and they're working to make it even faster than it already is, to make it more specific, more real time. You name it, they're going after it. So it's being looked at right now.

MS. GLAVIN: Alice, your neighbor is going to whack you.

MS. JOHNSON: This will be a quick question. USDA, and I think FDA, had said that they are working on putting out some recommendations or guidelines that deal with some of the areas in plant. I think some of the points that have been talked about, or as Carol said, the personnel issues, security of the facilities, security of delivery trucks, the whole works. And I think the agencies said they're working on putting out something similar to that in the form of recommendations or guidelines. Do you have any idea when we might expect to see those and what type of interaction -- I mean, the inspectors, it's my understanding, will be discussing this with the facilities. Can you give us any kind of --

MR. MUSSACHIO: I don't have a timeline at this time. I do know that they are working on those kinds of guidance because it is important that we get those out relatively soon, but will it be next month? I know that there is an emphasis on getting them out quickly because the longer we delay, the more vulnerable you are in the interims. So we will get those out as quickly as possible.

MS. GLAVIN: Okay. Charles?

MR. LINK: Charles Link. Just a follow up, I think, to Alice's comment. What we're doing in plant, in distribution, you know, industry is taking this very seriously, and we've gone through and we're reviewing our procedures for all our points of vulnerability through sealing trucks, locking warehouses, things of that sort, wherever the product is. So as you're working through your guidance materials, I think it would behoove us all if we could share, compare notes, things that we know that you might miss, so as we do publish these we're all in the same space.

MS. GLAVIN: Okay, we have asked people to share the guidelines that they have either with Dr. Henderson, Karen Henderson, or with Phil Doerfler. They can come in either place and I know they have

received quite a few already. So thank you.

MS. FOREMAN: One last thing, Maggie. Could we have a print copy of the slide show?

MS. GLAVIN: I don't have one, but we will get one for you.

MS. FOREMAN: Thank you.

MR. MUSSACHIO: Thank you very much.

MS. GLAVIN: Thank you. We are up to our break and we will return at 10:20.

(Whereupon, a 23 minute recess off the record was taken.)

MS. GLAVIN: Alright, we are going to give committee members another minute or two to come back in. We'll reconvene. Our next presentation is a briefing on our HIMP, HACCP-based Inspection Models Project, and Ken Petersen and Bill James are here to present that. Mike Grasso, whose name is on the program is not here, so Ken and Bill are here and will bring us up to date on the HACCP models project. Ken.

MR. PETERSEN: Okay. Good morning again, and welcome back. I believe we're in Tab four, to just give you a brief status report on where we're at with the HIMP project. May I have the next slide, please.

This is a list of young chicken plants that

are currently actively participating in the project, and I believe since we last met in June, there's about four or five new plant startups that have occurred. The most recent of which is at the bottom of the list, simply that's the order they came in. ConAgra in Gainesville, Georgia started in the project about a month ago. So currently on the young chicken side we have 19 plants actively running in the project. Next slide.

On the swine side, the same plants -- these same initial participants -- the three swine plants remain in the project, and so these three also continue to run. The last one, we have started some RTI redesign data collection, where RTI goes back in and RTI has been into all three of these plants. The first two, they've completed their redesign data collection, and they are currently in the last plant, Hormel Foods in Freemont, Nebraska.

We have started a new species in the project. Farbest Foods in Huntingberg (ph), Indiana became the first young turkey plant to enter into the project, and we're certainly pleased with that. They began, I believe in early October. We expect that additional young turkey plants will start after the beginning of

the next calendar year, so in January 2002.

RTI sampling has been going on, as you're aware, for quite some time, in the redesign phase of the project. The last two plants that they're in, in fact they just recently completed the last of 16 plants, the last of 16 plants was OK Foods in Fort Smith, Arkansas. They just finished data collection about a week ago, and so they're finishing up some of their microbial analysis, I imagine, and we expect that RTI will start working up a draft report on the 16 plant models data collection for young chickens, and I expect we'll start working that up in December.

We expect to have a public meeting -- I don't have the exact date in front of me, but we're looking at early February, I believe -- a public meeting that will largely focus on the data that RTI has collected on the young chicken side in the project, so the 16 plant data collection for chickens is complete as far as the agency and RTI are concerned, and so we expect to present that -- or RTI to present that in February.

Then, as previously mentioned, the market hog data is ongoing for the third market hog plant right now.

Okay, we have done quite a bit of training of

FSIS inspectors. We put this up here -- actually the numbers are larger than I thought. We have over 400 line inspectors that have been trained in both HACCP and HIMP inspection procedures, and over 140 either in-plant veterinarians or other supervisors, meaning circuit supervisors or district personnel, that have also received statistical process control training and the HIMP training.

The next line on tentative training for Allen Foods, I would request that we strike that. Allen Foods was targeted to be the 20th young chicken plant to participate in the project, but they have chosen recently not to go forward, so we are currently looking at a substitute plant to become the 20th participant on the young chicken side, and the 20 will be the maximum number of young chicken plants that are eligible to participate. So going back to the first slide, we had 19 that are running now, and we're looking to pick up the 20th young chicken plant, but it will not be the plant that's listed there.

Then last week we completed a recent class for supervisory management personnel, and we held that out at the technical service center. We also offer, largely at industry's request, some slaughter and

statistical process control classes that largely we've held at our training center in Texas, and those classes basically we provide them -- these are typically plant supervisory personnel, plant management. We provide them with material that we train our inspectors on and then a consultant comes in and provides them with some statistical process control training. So those have been ongoing. Typically, we do one every -- at least one every quarter.

That's it on the slides. I would add -- of course the case -- the project is still under litigation, and the -- we've had an exchange of legal briefs this fall. The case is under appeal, as you may recall, to the US Court of Appeals for the DC Circuit, and the end of September there was a brief filed by AFGE on behalf of the inspectors' union. At the end of October, the Agency filed their brief to the Appellate Court, and then late last week the final rebuttal brief was filed by the AFGE. The case is scheduled for oral arguments before a three judge panel in January of 2002. So that's where we're at on the legal side.

And that's it for the update. Oh, let me -- we gave you two handouts on data. One titled HIMP redesign is largely an update of data that was handed

out at the last meeting. These are inspector verification results for young chickens, so these are the random samples that inspectors collect at the end of the line to verify the performance standards. And if you'll look towards the bottom, we see that over the last year we've collected over one million food safety samples in the 19 plants. And the numbers -- these numbers are largely similar to what you saw last time, in that when we summarized the results, the plants are meeting the performance standards.

But I've also provided a more recent update, and that's the second handout, HIMP redesigned current FSIS data, and that's data really from the most recent two months that we have, from mid-August until mid-October, and these would be for the 19 plants, including those recent startups that came along since the last meeting, and the numbers are similar, though somewhat different. We have smaller sample size, but still even in a two month period we had over 350,000 random, scheduled verifications in these plants. So these just give you an update of where we're at as far as the verification data.

And with that, I'll be happy to entertain any questions. Yes.

DR. JAN: Lee Jan from Texas Department of Health. I just would like to be reassured one more time, or explained again how this project insures that foreign animal diseases can be recognized, or will be recognized if they show up at a plant, and not turned away before an inspector or veterinary inspector has a chance to look at it. That's the first thing. And then the other question I would have is do you have or can you give us any idea on what the salmonella performance standard results were at these plants? Did they successfully meet standards in all the plants or some of the plants, or -- and what's the status?

MR. PETERSEN: Okay. On the first question, on foreign animal diseases, much of our focus for detection of foreign animal diseases occurs at ante mortem. And in both the poultry end of the project, and the swine end of the project, there have been essentially no changes in how the agency does ante mortem. For poultry, it has always been subject to the discretion of the Secretary, and we still routinely check flocks as they come in, not necessarily each flock, but we check flocks on trucks. And -- but we're able to do that in the project more frequently than we were in a traditional system, so that's the poultry

side.

On the swine side, the only change that occurs is inspectors still -- well, it's not a change, but inspectors still inspect each animal on ante mortem in exactly the same way as they do in a traditional system. So ante mortem in HIMP on the inspection of each animal is identical to how it's done in a traditional system.

DR. JAN: These are FSIS inspectors?

MR. PETERSEN: Correct.

DR. JAN: Is that a change or --

MR. PETERSEN: No. Federal inspectors are required to inspect each animal prior to slaughter, and they continue to do that in the HIMP plants in exactly the same way as they do in a traditional plant. The modification in HIMP is that when inspectors do their inspection, of course they may suspect some animals, have them set aside for final disposition by the veterinarian. So they have already been inspected and either held pending a subsequent reinspection by the veterinarian. In the HIMP plants, the veterinarians are not required to look at each of those suspect animals. We leave it to their discretion, based on plant performance whether that veterinarian decides to

look at particular suspect animals. So they've already been inspected and at the veterinarian's discretion basically, they're using their judgement, their professional judgement based on what the plant is able to accomplish. Some of the veterinarians continue to look at each animal. Some recognize that the person doing the plant examinations on the suspect animals seem to be doing very well, and so they may spot check them. Plus it also depends on the type of diseases that may be going through that particular day. So the only slight modification is that when the veterinarian uses their professional judgement in a swine plant on whether to look at the suspect animals. But the normal inspection of each animal is the same in both systems.

On the salmonella side, I'll ask Bill James, with our Office of Public Health and Science, to make comments on that.

DR. JAMES: We don't have a set of FSIS data comparable to RTI to review for you. But generally, the -- all the plants that are participating in the pilot project are having little or no trouble meeting the performance standards based on the HACCP compliance samples that we are routinely taking from them. When each plant came on to the models project, we also

targeted each of them for a directed HACCP compliance sampling to insure -- to assure ourselves that the plants were not having any trouble meeting those standards when they switched over to the models program. And they have not have any particular problems meeting that standard.

RTI, as you know, has also collected salmonella samples in each of the plants, and we have been looking at that -- we have had some periodic updates on that, and we have had only a couple of plants that started to have problems, which seem to get quickly under control. But I don't have that RTI data to share with you today. We'll make that available at the public meeting.

MS. GLAVIN: That was what I was going to say, that the February meeting will have both agency data and RTI data for all of the plants.

MR. PETERSEN: Yes, I would only add that I was not aware -- again, we've only seen snippets of what RTI has been collecting in total. We're expecting their report soon, but I'm not aware of any plant in the project that has failed either a salmonella regulatory compliance set while they've been in the project, or a plant, even when RTI was in there, that

exceeded the regulatory thresholds. But again, we're waiting for the final numbers. Mr. Link.

MR. LINK: Charles Link with Cargill. Previously, when we were Rocko, we were pretty actively involved in this HIMP project with the chicken plant. And now, even as Cargill, we're still involved. We've got a plant, I guess, slated to go in after the first of the year -- a turkey plant. But we've got other turkey plants that would like to get involved in the process but are somewhat locked out because of the limitation on how widely you wanted to look at this project. Technically, inclusion of yearling breeder turkeys. So I just wondered -- I keep asking the question, and we'll keep asking the question, have you considered a position on inclusion of breeders in the project at this point?

MR. PETERSEN: Well, perhaps you could give us a sense of -- when you talk about breeders being slaughtered in the project, what practically that means. Is that the only thing the plant slaughters or how often do they slaughter? What kind of numbers are you talking about?

DR. JAMES: You might also explain to us what kinds of breeders that you're talking about. Are we

talking about the young yearling turkeys? Are we talking about older breeders?

MR. LINK: To start with, as far as volume. Primarily we slaughter young turkeys. We do process our own breeders, approximately one percent, two percent of our production may come from breeder processing, which is a very small percentage of our operation. These breeders are typing what are considered to be yearling breeders, which is, I believe, under 15 months of age. When we looked at condemnation rates of these birds relative to our young turkeys, the numbers slightly increased over what our young turkeys are, but are still well below what the national baselines are on young turkeys, even.

And we've gone through all this, trying to figure out how we can get involved in the project. We've given you the data on our condemnation rate, the percentages of slaughter, as I say, has been one or two percent, very small numbers. Typically, when we do slaughter a breeder flock, we bring in 1500 birds, approximately once every other week or so, to run through the process. Because we do that, we're locked out of the process. Does that answer your question?

MR. PETERSEN: Well, is there any particular

reason these birds can't be slaughtered elsewhere?

MR. LINK: The turkey industry -- you know, somebody might be able to help me out -- but the turkey industry is, for the most part, we do not have a dedicated process that slaughters breeder birds. Chickens, I think, do. They have some fowl plants you can send things to a particular plant to have them processed. It becomes a matter of -- it's not -- there's really no where to send them. Nobody -- you've got to find somebody that's willing to take these birds in and process them, and you may have to ship them half way across the country to get 1500 birds processed. Economically, it just doesn't make sense to do it.

MR. PETERSEN: Okay, I guess if I understand your proposal correctly, and I've heard it in the past, is that the plants need to occasionally depopulate a slightly older animal in their existing plants.

MR. LINK: Right.

MR. PETERSEN: And those birds may total, over a year's time, perhaps one or two percent of your slaughter.

MR. LINK: That's right.

MR. PETERSEN: And the proposal, if I've heard it before, is that we would apply the performance

standards to those birds also, and -- the existing performance standards, so intermittent slaughter of these other birds -- would we entertain that in the project? And I think that's partly a question for this committee.

MS. GLAVIN: Can I do Alice and then Dan, because I think Alice is coming in on this point. Am I right? Okay.

MS. JOHNSON: Yes, I'd like to say a few things about some of the work that we've done in the past with trying to get other classes of animals included in the project. During our last committee meeting, I think we even talked about putting on, as an agenda topic, the discussion of including other -- other classes of species in the project.

It's my understanding that under the Memorandum of Understanding with the union, you have so many young chickens, so many of the market plants and so many of the young turkeys that can be included in the project. And that that's part of the hangup when we've talked about including plants that weren't breeders or even some of the cattle facilities that have shown an interest in participating in the pilot, that because of the MOU out with the union, you were

going to meet that obligation with that number of plants first, and then consider others.

Because of the fact that it is a pilot and it is looking at coming in under, I think you talked about doing proposed rules -- you're looking at making this regulatory. It looks like that by excluding other classes, be it breeders, be it cattle, whatever, that you were not being fair to other classes and other species.

Have you thought about renegotiating, whatever the appropriate term is, with the union to expand that original MOU to include additional classes?

MR. PETERSEN: Well, we've looked into others -- you may be aware we recently undergone some renegotiations of our Collective Bargaining Agreement and that has taken precedent over the time and resources to consider renegotiating that MOU.

We have some interest in renegotiating the MOU, but I think that the question that at least Mr. Link put on the table, is even the plants that could come in now -- and I think we're really talking about poultry, when we talk about some older birds, perhaps being allowed in the plants on a limited basis, one or two percent is the number that was put out -- I don't

think we're considering that at all for livestock, but simply because of the nature of poultry in general, and the turkey industry specifically, that they need to depopulate these birds somewhere and would we consider it through the project. And I think it could be done under the existing MOU. Again, if that's something this committee wants to consider.

MS. JOHNSON: Now that's something in previous lives having worked for the turkey industry, we submitted several requests to allow the inclusion of breeders. We submitted a lot of data on condemn rates, numbers looking at similarities in microtesting with the young turkeys as opposed to breeder flocks, and the fact that breeder flocks right now are held to the same standards that young turkeys are when you're doing the testing, and the whole hangup seemed to be on the MOU. That's great that you are considering maybe expanding and would encourage to do so, as far as the inclusion of breeder flocks as well.

I think at the last meeting, either during public comment or somebody from the table actually said that there were some cattle facilities that would like to be considered, and I'm assuming at some point that there may be a regulation on that as well.

MR. PETERSEN: Well, the hangup -- it's never been really related to the MOU. It's simply been that our position since the project began is that the pilot was targeted for classes of animals that are young, healthy, and uniform. And initially -- of course this goes back to 1998 or so -- the feeling was that limited depopulation of some older animals, one or two percent, didn't fit that definition. And now, if we apply the existing standards, is that acceptable? And I think it's something worthy of consideration.

DR. LAFONTAINE: Dan LaFontaine, South Carolina. I'd like to make a statement, and then I have a question. My comment is first that the baseline or foundation of any system is that the individuals performing the tasks know what they're doing. In other words, proper training by the industry folks in this case, to make the proper decisions and dispositions as they look at live animals or the carcasses and their organs.

I notice that there has been, in the HIMP project, training going on, probably some internally that I'm not aware of in the company, but also assistance from FSIS. So, repeat my baseline -- you need to have a cadre of folks that know what they're

doing for this to be effective, if you eventually go nation-wide as your future mode of inspection.

My question to FSIS is, what is your current thinking on this issue as far as -- well, first I guess you have to say do you agree with me, but then if you do, what is your basic thinking on how to assure this is accomplished in the industry?

DR. JAMES: Dr. -- Bill James, FSIS. Dr. LaFontaine, we do appreciate your consistency. We -- and I mean that sincerely. Your point is well made in that if the industry has people doing the job who are not well trained, they will do the job poorly, and FSIS does recognize that. Throughout this project, how we have measured the plant's ability to do the job is through doing verification samples, and looking at each carcass as it goes down the line, and we have been satisfied that the plants are routinely doing a good job there.

As you know, to date we have not required any minimal amount of formal training, although FSIS has, as you pointed out, worked with the industry to get them prepared to do this job. Right now, we are not ready to say that we will take a different approach, but we are talking about whether or not more is needed

in the way of requirements for training for the industry. It will be useful to us to see the final results of the RTI samplings, see what they read. It will be useful to us to look at our final FSIS -- although maybe I shouldn't use the word final -- to look at the most recent updates in all of the species from our FSIS data and see how plants are doing.

But we don't consider it a dead issue. We are still talking about what the right way to do this is.

MS. GLAVIN: I think it's fair to say that the Agency will consider this issue very seriously as we go into rule making. It is one that is very much on the table.

DR. LAFONTAINE: Just a follow-on comment. I usually have the example of HACCP and HACCP implementation. In the final rule, there were basic minimum elements that had to be met as far as the person developing the plan, and maintaining the plan. And that bode well because it forced the industry, as it was mandated across the country, to have individuals that understood, in this case, the principles of HACCP and how they need to be implemented. So I use a real life event as an example that could -- that I think

needs to be applied here.

Now it's a different venue. We're talking about not only systems, but actual sensory evaluation that needs to be made. So I would strongly encourage that you have at least some minimum standards that the industry has to meet as far as their training to be able to enter and execute the future, if it goes that way.

MR. PETERSEN: Well, the existing HACCP requirements for training, which as you know are in the regulations, and you mentioned that in the HACCP final rule, those would be incorporated automatically into an implemented HIMP system of course, on the food safety side.

DR. LAFONTAINE: I realize that, but we're talking beyond that where you're taking what was clearly government roles, government responsibilities, government decisions, and saying, industry, you have first line responsibility and we're going to step back and only verify and observe. So that's where I'm coming from.

MS. GLAVIN: Nancy?

MS. DONLEY: Nancy Donley, from STOP, Safe Tables Our Priority. I'm concerned with the direction

-- where this is going as far as introducing introducing additional classes to be eligible for the HIMP project. When HIMP was first designed, it was very specifically explained to us that it was around the concept of young, healthy and uniform animals. And the reason that that was -- was designed that way was for possibility of the impact on public health and safety. So anything that deviates from that, I would have very, very, very, very great concerns with, again, because of the public safety ramifications. The HIMP project was -- and these standards were put in place for public health, and not for industry convenience or inconvenience. If there's another class of animals, that's just something they're going to have to deal with. And we just can't start adding in all of these exceptions.

Also, history has shown us, and experience has shown us that if the poultry people ask for an exception here today, you'd better believe that the red meat people are going to ask for the same type of considerations. So I think we're going to be opening a giant Pandora's box if we start even considering this. And I would say, you know, my constituency would be opposed to it. Thank you.

MS. GLAVIN: Okay. Are there other -- okay, Alice.

MS. JOHNSON: Nancy, just one question. As far as the inclusion of other classes. If there are standards set to address public health issues similar to what they've done with the young classes, in fact I think most of the people in the HIMP project right now will tell you that the standards set and established for HIMP in a lot of cases are higher than they are under traditional, whatever type of inspection, you want to say they have in the non-HIMP -- non-HIMP inspections. If there are standards that are developed for other classes that represent public health priorities, do you think that your association would be willing to consider other classes if there are the public health standards established?

MS. DONLEY: I would -- without knowing what those are, I would still be very hesitant because I think it does go back to the point that Dan made, and that is that it's the -- educational background and training of these people making these decisions, these other classes of animals are traditionally ones that carry more risk of disease and factors that can affect public health and safety, and that's why I think at

this point in time, it's just best left for the government inspectors and veterinarians to be dealing with that class of animals.

MS. GLAVIN: Carol, you flagged up? Sorry, I didn't see it.

MS. FOREMAN: I just -- it falls over every time I put it up, so --

MS. GLAVIN: We'll have to get you a plastic one.

MS. FOREMAN: Is it a message? Carol Tucker Foreman with Consumer Federation. The -- we haven't gotten the final data on HIMP to determine whether or not we can support it even in the classes that it is now limited to. We have made it clear all the way along the line that until final data come in from RTI, that we're withholding any approval of it, and certainly wouldn't, until the Department sets forth exactly how you'd like to approach it on a regulatory basis, we will not ever support making this a program in all young chicken plants. There are plants clearly to have the management capacity to make this work quite well, and there are some, unfortunately, that can't and won't. And it's unlikely that we'll ever support making it an across the board program within FSIS. So

until we have some data and we know how the Department's going to approach a regulatory framework for it, it's pretty early to be talking about extending it to new classes of animals.

MS. GLAVIN: Okay. Thank you, Ken and Bill and as I think it was Ken indicated, we are planning a public meeting after the first of the year. I believe it is -- the current thinking is early February, to bring the Agency data and the RTI data to the public to review where we are in terms of what kinds of results can be achieved under this project. And that clearly is the next step to let people have a full review and discussion of that data. So I would strongly urge the members of this committee to keep their eye on that particular meeting. I know we have a lot of public meetings, but that's one I think that this group would be very well advised to pay attention to. So, thank you.

Our next subject is a briefing by John O'Connell of our Policy Staff, on our current thinking on the retail exemption. John is down here to my right, and I will turn it over to him.

MR. O'CONNELL: Good morning. You have a copy of the issue paper in your briefing book, I think

it's under Tab Number five.

This committee has asked the Agency to reexamine its policy regarding retail exempt operations. The Agency has done this. The purpose of this presentation is to provide the committee with an understanding of the Agency's new thinking on retail exempt status for meat and poultry processing operations.

The Agency believes that its current policy of exempting from inspection operations that produce certain amounts of meat and poultry products for sale to hotels, restaurants, and similar institutions does not advance the purpose of the Acts. That is, some meat and poultry prepared and processed for wholesale sales is not subject to inspection.

Inspection of meat and poultry products prepared and processed for wholesale sale is required under the Federal Meat Inspection Act and the Poultry Products Inspection Act. Generally, operations that prepare meat products or process poultry products are subject to inspection, however, preparation or processing activities that have traditionally and usually been conducted at retail stores and restaurants where meat and poultry is sold to individual consumers

in normal retail quantities are exempt from inspection.

The regulations define what the Agency considers as normal retail quantities. It's important to note that meat and poultry products produced without inspection, are still subject to the Adulteration and Mishandling Provisions of the Acts, except for the requirement of the inspection legend.

The types of operations traditionally and usually conducted at a retail establishment are: cutting up, slicing and trimming carcasses; grinding and freezing meat products; curing, cooking, smoking, rendering or refining of livestock fat, et cetera; breaking bulk shipments of products; and wrapping or rewrapping products.

The types of operations that have not been traditionally or usually conducted at a retail establishment, and consequently are not eligible for retail exemption status are: slaughtering, canning and irradiation.

By regulation, FSIS exempts from inspection operations that produce meat and poultry products for sale to hotels, restaurants and similar institutions. This is known as our HRI policy: If 75 percent of total sales, in terms of dollar value, of product

represents sales to household consumers, and the total dollar value of sales of product to consumers other than household consumers does not exceed a dollar limitation set each calendar year by the Administrator.

In response to a recommendation by this committee, and based on the Agency's review of the current situation, the Agency's new thinking is that it should eliminate the HRI policy I just explained. This HRI policy, as I said before, does not advance the purpose of the Acts to insure food safety. Foods are prepared or processed for wholesale without protections provided by inspection or consumer observation, that is consumers can make general determinations about the sanitary conditions and processing practices in retail stores and restaurants they frequent.

This HRI policy is also troublesome because it creates inequalities for small wholesalers, who bear the cost of inspection while competing, large retailers do not.

The Agency's new thinking is that the Agency should only exempt from inspection the preparation of meat products and the processing of poultry products if: 1) preparation and processing are performed at a retail store, restaurant or similar retail type of

establishment that performs operations of the types that have been traditionally or usually conducted at a retail establishment; and 2) that the establishment sells product in normal retail quantities at the same price, terms and conditions available to all consumers.

This new policy would: 1) no longer define as a retail store one that may make up to 25 percent of its total sales in terms of dollar value of product to non-household consumers. It would: 2) define retail sales of meat and poultry products as any sales of normal retail quantities in which all product is available to all consumers at the price and under the terms and conditions of sales to household consumers.

The Agency would like to pose some questions to the committee concerning their new thinking on retail sales exemptions. First, what is the committee's reaction to the Agency's new thinking? Second, are there additional factors or concerns that should be considered by the Agency in revising this policy? Third, how many new exempt firms would be placed under inspection as a result of this revision? How many establishments now under inspection would be exempted from inspection as a result of this revision? And finally, what would be the expected impact on

state inspection and regulatory programs? Thank you.

MS. GLAVIN: Alright, this is an issue that will be considered by one of the subcommittees tonight, so at this time I think we should focus on clarifying questions and discussion for John, and we will obviously have a much fuller discussion, both in the subcommittee and when the subcommittee brings the results of its work back to the full committee tomorrow. So I don't want to cut off discussion, but I'd like to make sure that, for the subcommittee's benefit, there's clarity about the Agency's current thinking. Okay, Carol's trying to make her name tag stand up. Carol?

MS. FOREMAN: I can't believe it's standing. So, since I succeeded once --

Are there any requirements here that are connected to high risk products and processes that are -- I see one that talks about 25 percent of its total sales and one talks about sales of normal retail qualities. But some of the processes that are included here -- grinding and freezing, cutting up, slicing and trimming are ones that have some risk associated with them, and if we try to move towards a risk-based system, maybe we should think about considering risk.

MR. O'CONNELL: There's nothing currently in our regs, or even new policy that specifically considers risk, except for the fact that the operations that have not traditionally been usually been conducted in retail establishments. That's something the committee, if it feels is important, we could investigate further.

MS. GLAVIN: I think it's important to put this in the -- the retail exemption is in the law and is not by any research we've been able to do, based on risk. It was based on other factors, and it exempts those things that are normally performed at retail, which include some pretty high risk activities by current thinking. What -- what -- the way we are using risk in this current thinking is by approaching all exemptions, in this case, the retail exemption, as an exception to the rule and therefore to be interpreted as narrowly as possible. But if -- if you want to get into a true risk discussion, or getting into a change in our statute and so we chose, in this thinking, to look at restricting exemptions to the nearly universal requirement that all meat processing must be under inspection. So there is, in that sense, a risk approach to it, but not in the sense of looking at the

exemption itself.

MS. FOREMAN: Would you later today, and this evening, have somebody bring the actual statutory language?

MS. GLAVIN: Sure.

MS. FOREMAN: Thanks.

MS. GLAVIN: Okay, let's do Dan and then John, and then Lee, and then Marty. Better write that down, I'll never remember it.

DR. LAFONTAINE: Dan LaFontaine, South Carolina. Carol, I think I have an answer for you. I've done some homework on this and pulled out an RTI study from back in 1993-94, and if you'll bear with me, I want to quote from that executive summary.

"First of all, the Food Agriculture Conservation and Trade Act Amendments of 1991 amended the FMIA and the Poultry Products Inspection Act to commission two studies to be conducted in consultation with the National Academy of Sciences. They were a product exception study and then the second one was a wholesale exemption study to determine the appropriateness of granting an exception from the requirements of the FMI and PPIA to wholesale meat outlets for products sold to hotels, restaurants and

institutions, provided by the processing by the outlet is limited to cutting, grinding, slicing, and repackaging."

I have a further statement but here we have a Congressional mandate to do two studies. One of those was a wholesale exception study. This is 1991. As I mentioned a moment ago, the Research Triangle Institute was contracted to do this study, and issued their final report in January of 1994, and again, I'm quoting from the executive summary, two short quotes here -- and I realize I'm taking a little bit out of context, but the intent is clear.

"USDA product exception policies have been applied unevenly and inconsistently since the passage of the Wholesome Meat Act of 1967 and the Wholesome Poultry Products Act of 1968. A reevaluation of the USDA exception is needed for products that have been exempted since then under the Consumer Perception Criteria."

In this study, there's a Chapter two that says -- called Simple processing risk assessment. "The major findings of this chapter are that meat and poultry processing, however simple, presents microbiological hazards and consistently poses a

potential risk to public health. Further, the simple processes of cutting, slicing, grinding, and repackaging meat and poultry are not necessarily low risk compared to the 'more complex meat and poultry products' according to experts."

That's the end of the quote. This RTI study lists the experts they used, and there's a lot of names that you would recognize, even today, that -- from regulatory agencies and the industry, so it wasn't just RTI, that they went out to about -- I think it was about 16 or 18 individuals. So they did a risk assessment and felt these 'simple processes' posed the same food safety risk as the 'more complex'. So, I'd like to enter that for the record, because I think it's very pertinent to this whole discussion. Thank you.

MS. GLAVIN: Thank you for bringing that up, that's good information, and I know will be useful in your discussions tonight. I think John is next.

MR. NEAL: Yes, Dan, thank you for that comment. I'd like a copy of that if you have time to make one, I really do.

This situation here involves more than HRI. We have a tendency to look, and of course my job, I think, is to talk about small business a little bit,

and I'm very familiar with the HRI. I think those people should be under inspection just as well as anybody else. I have -- I have problems with that type, they have a tendency to not have good policy on return product and such, and -- that I know of -- and not to knock anybody, but I think return product is one important issue in this type of wholesale business, because it happens.

The other thing with small plants, when you're talking about -- it depends on the small plant, as Carol said, the risk involved. One plant in particular would be my plant. If we compare product, it's nothing but smoked and cured product. It's under smoke, it cools, it comes out and where we could contaminate something would be slicing. Good sanitation, GMPs, you mean this is as good as you can get. And if you're a good plant, and you do your job, this -- I mean there's always a possibility that the earth will break in half, but if you do your job and have those standards set up well for you, you won't have a problem. I think a lot of small plants take a lot of USDA's time and effort, where they don't need constant overseeing, where these GMPs and SSOPs would set things up.

One of my main questions for John here, though, is that -- Mr. O'Connell -- is that what defines, after you have a small plant that meets the criteria such as the Agency is wanting to move to as a plant that would be retail exempt? If a plant ships across state lines with an approved product and it's a finished product and it's shipped in approved packaging and everything, to household consumers that order from you because they've been in your store or facility and seen the product and it becomes a -- especially in our situation -- a gourmet product, does that still put you in retail exempt status?

MR. O'CONNELL: I know that transportation adds another issue to it, but basically if you're -- under this policy, if you're selling product, retail product, that's available at the same -- that's the key in our new thinking -- at the same price and conditions to anyone, and it's a normal retail quantity, then it's -- those of you who are doing that, that could be exempt.

MR. NEAL: Right. Okay, thank you.

DR. JAN: Lee Jan, Texas. I've got a few points and maybe some questions, but one of the things -- and I am glad to see the Agency looking at

exemptions or being willing to open that can of worms, but when you look at exemptions -- and I'm talking about HRI exemptions -- there are a lot of other exemptions and I think John alluded to some of those, but I think really while we have it open, let's look at all the exemptions and I'm thinking of product exemptions or exemptions by product.

For example, chicken salad is required to be produced under inspection if it's going to be sold to other than household consumers, but put that same chicken salad between two pieces of bread and now it does not require inpsection if it's sold to household consumers. Same thing with ground beef. You put it between buns, it does not require inspection, but you put it in between Mexican bread or tortillas and call it a taco, it requires inspection. Hot dogs in the bun versus hot dogs in a dough -- dough, there's no rhyme or reason -- so I think all those exemptions need to be looked at.

Now one of the questions that comes up here also is, looking back just at the HRI portion of this, how many more plants would require inspection or something to that effect -- what impact would that have? And of course, I don't think that should be a

consideration, although there should be some consideration to what it would do to economic impact of programs.

I gave a quick calculation on the flight up here what impact would it have on the Texas program under the current inspection requirements for continuous inspection, and we could estimate or expect immediately, 50 or about 50 new plants in only one company, and that's Wal-Mart or Sam's stores, and other stores similar to that that are right now doing a big HRI business, but are exempt from inspection because they're just under the threshold, or so their records indicate.

Now, that seven percent does not have to mean a seven percent increase in the size of the program, if the Agency is willing -- or maybe it should go higher to the Secretary -- is willing to relook at the Act, which I have here, and the Act talks about inspections -- examinations and inspections in other than ante mortem or post mortem, this would be in processing, and it states in the law that "Inspections shall be conducted with such frequency and in such manner as the Secretary considers necessary and is provided in the rules and regulations issued by the Secretary and

taking into account the factors the Secretary considers to be appropriate, including the nature and frequency that the processing operations in such establishments, the adequacy and reliability of processing controls and sanitary procedures at such establishments" -- this is where in my opinion, SSOPs and HACCP come into play and gives more latitude maybe than the Secretary had before, or more reason to reconsider continuous inspection. And finally "the history of compliance with inspection requirements."

We're talking -- I think the law talks about risk-based inspection. If you allow that or reconsider that and get away from saying continuous is daily, and make it risk-based, that would allow, instead of saying, well, are we going to be able to cover this, so maybe we should exempt it, it would allow us to cover and provide inspection according to the Act, SSOP and HACCP failed to mandate those things on processes or establishments that currently are not required to implement those safety ... controls.

So I think that is something that has to be part of this, rather than consider, you know, what is the impact going to be, let's say, first off, do we need to continue to ... exemption if it's in the

interest of safety not to -- let's look at how we can provide the inspection.

And then finally, we talked about -- well, I'll wait on that because I made my main point.

MS. GLAVIN: Marty?

MR. HOLMES: Yes, I want to revisit a little bit the reason this was originally put in place, and this is my understanding, so please correct me if I'm wrong. It's many years ago that the fact that some of these hotels and restaurants and institutions were in outlying areas and did not have a local supplier that would service them on a daily basis, they could go to their local retail store and purchase that product on the wholesale basis. Okay? That's my understanding. Correct me if I'm wrong there.

You have a statement here on this page -- it's I guess the first bullet point. It refers to the total value of sales of product to consumers, other than household consumers. I don't think that's exactly correct. My understanding is that product that's not processed that may be on the same truck, or may be purchased by the same customer, by a wholesale customer, if it's not processed by that retailer, it doesn't count against that dollar volume. So I could

sell a truckload of product from a packer, and one pound of ground beef and the only dollar volume in sales that works against me is that one pound of ground beef. Is that correct?

MR. O'CONNELL: I --

MR. HOLMES: Did you not follow that?

MR. O'CONNELL: I didn't follow you.

MR. HOLMES: I'll restate it. As a wholesaler -- to be retail exempt, I can sell as much product that I don't process -- in other words, I buy it from a packer and resell it in --

MR. O'CONNELL: Oh, a pass through, yes.

MR. HOLMES: -- a pass through product --

MR. O'CONNELL: Yes, you're right. Yes. That doesn't count against you, you're correct.

MR. HOLMES: This says the total dollar value of sales of product -- the way this reads is that pass through product does count. And pass through product does not count.

MR. O'CONNELL: As I -- it's not in my intent to say that. I think that this is taken from actually the way the regs read --

MR. HOLMES: And I just want to make sure that everybody understands what's actually happening.

MR. O'CONNELL: That's right, you're correct about pass through.

MR. HOLMES: Okay, so pass through product does not count against the dollar volume, and the dollar volume is increased every year, and so when you come to small plants and small business that's under federal inspection, and oversight, and maybe it's a small plant competing in a city that may have a large retailer, or that qualifies for retail exemption, you've got a different scenario there. So I want to realize that not only does -- in that situation, the processed product is all that is being counted against that -- when I have a truck on the road that's selling pass through product from my facility, competing against a retail exempt store that is also selling pass through product, it's not being counted against their volume. So I just want you to take that into account as we discuss this tonight.

Also, it's been our experience that the only time that a -- that a host or retail exempt facility is investigated is if there's a complaint. There's no continuous, periodic oversight of a wholesaler or of a retail exempt facility to look at their records to see what they're selling under retail exemption. When it

is investigated, it's very difficult to look at an invoice that says whatever's on the invoice to determine whether or not that product was actually processed and should be marked against their dollar volume or whether it was not. So it's very difficult to investigate when a complaint is made, and it's not investigated unless there is a complaint.

And the other thing I wanted to bring up, I was glad Dan brought it up, was the RTI recommendation all the way back to January of 1994.

Another point I would -- I'm aware of some research that was done comparing the initial bio-load of raw ground beef produced in retail establishments versus the bio-load of raw ground beef produced in federally inspected establishments, and a significant difference in the sanitation and initial bio-load of that product. So keep that in consideration this evening. Thank you.

MS. GLAVIN: Okay, Mike and then Carol.

MR. GOVRO: I'm approaching this from the standpoint of a state program that inspects retailers, and I am concerned about a proposal that might bring a second agency into facilities that we currently inspect. We've dealt with that situation before in

food service operations, and we were told by our legislature to eliminate that problem. I see this as potentially the same problem and I'm reluctant to endorse anything in a concept form without a few more details.

And so my question goes to -- about the Agency's plans to deal with establishments that are currently considered to be retailers, that because of a change in the definition would then not be retail exempt and have the Agency deal with that. Would you apply the same rules that you apply to a wholesale plant? How would you structure that? What is continuous inspection? A number of details that I would like a little more clarity on.

MR. O'CONNELL: All I can say is if an operation is under inspection, then it would be under inspection. Part of our thinking is -- part of the reason behind this is trying to make a clearer distinction between wholesale and retail. So if the operations are retail or retail-type, then according to this newer thinking, they would still not be under inspection. But if they were selling wholesale, then they would come under inspection. Unless -- at least unless there were some other exemption they fell under.

MR. GOVRO: Well, I guess my understanding is that there are a lot of rules in place that have to do with how USDA is set up in the plants and when they do certain things and what they look at and where they do go and where they don't go, and I would think that retailers are not designed to fit in that box at this time. So, I -- I guess you answered my question in that you would treat those retailers that are no longer retail-exempt exactly like you would a plant.

MR. O'CONNELL: Well, I guess by definition, they would no longer be retailers. I mean that's the -- at least according to this that's what we're trying to say. If you're selling retail, then you don't have to worry about getting inspection. But if you're selling wholesale, then you would come under inspection.

MR. GOVRO: Well, isn't this discussion about the places that do both? I guess I'm missing something.

MR. O'CONNELL: Okay, but what we're trying to see is what would happen, and that's one reason we're coming to committee -- what would happen to these? Would they -- would they sell -- would they just become retailers under this definition, or would

they -- how would they -- how would it affect them? We're not sure, and that's the reason we're coming here to ask for your advice.

MS. GLAVIN: Mike, I think your point is very well taken, that the devil is in the details, but I don't think we're at that point yet. Obviously, there needs to be discussion of kind of the concept and how we can move forward, but then, you're right, we need to again have a discussion about if we move in that way, how is this going to work in fact, and that's going to be equally important. I think Carol is next.

MS. FOREMAN: Yes, I -- I think we need to have somebody make a check. I believe, Lee, that the provision that you read expired in 1992, that they were part of the 1986 Process Products Inspection Improvement Act that gave the Secretary the authority to make risk-based inspections, but it says in a footnote there that they were only in effect until 1992. I can't find them in this document, and I remember them fairly precisely. I'd like the Council's office to check unless you're sure, but I do believe they expired and there is, to my regret, no risk-based provisions in the law now. Am I --

MS. GLAVIN: I think you're correct, but

we'll have it checked by Council just to solve the problem. Nancy, and then Marty.

MS. DONLEY: Nancy Donley. On the second bullet point on the first page it says in the last -- that last sentence that "Meat and poultry products produced without inspection are subject to the Adulteration and Misbranding provisions of the Act, except for the requirement of the inspection legend."

My question is, can -- is that discretionary? Can they put the inspection, whether it's USDA inspected beef if it is in fact sold to a hotel, can they put it on their menu that's it's USDA inspected beef?

MR. O'CONNELL: I don't think they do, no. That's the point. They don't have to have it on -- I don't think they have access to the legend.

MS. GLAVIN: The inspection legend cannot be --

MS. DONLEY: So they do not have access to it?

MS. GLAVIN: That's right. The inspection legend is only put on under the supervision of an inspector in a federally inspected plant.

MS. DONLEY: So they are prohibited from

doing that?

MS. GLAVIN: Yes.

MS. DONLEY: Thank you.

MR. HOLMES: On that same note, though, Nancy, the pass through product does have the inspection legend on it. Only the product they're processing, that they take out of the box, further process, add value to, and sell, they could not -- they wouldn't have access to the label that had that inspection.

Which comes back to my original point, which is if this statement here was true, which says "by regulations emphasize exempts from inspection operations that produce meat and poultry products for sale to hotels" -- HRI -- if -- if you take both points, if both those points were actually true the way they read, that 75 percent of total sales in terms of dollar value of product represents sales to household consumers and if the next line was actually true, that the total dollar value of sales of products to consumers other than households -- it says to consumers, I think that should be to consumers other than household consumers, i.e., HRI customers, does not exceed a dollar limitation set each calendar year by

the Administrator, and that new number, I believe, is $44,900, I believe for this next year.

If that was actually true, if the total dollar value of sales of product, including pass through -- if it included pass through, I don't think I would have a problem with it. I think it's the fact that, you know, if there's a limited quantity and there's rationale for there being a limited quantity being sold from a retailer, that's one thing. But we have massive amounts of product being sold under HRI that's not inspected, and that's why it's an issue. So if this was actually true the way this reads, the total dollar value of sales -- and it's not that, because as we've said the pass through product is not included -- if it did, if it was accurate the way this is written here, I would not be nearly as concerned as I am concerning the amount of product that is pass through. Thank you.

MS. GLAVIN: Are there other questions or comments before we -- Dan?

DR. LAFONTAINE: I wanted to make one more comment to kind of get perspective on this for our deliberations this evening and tomorrow. As someone just mentioned, the current limit in calendar year 2001

is $44,900 sales. So I did some quick calculation. I used the price of -- oh, by the way, most of this product going out -- a large percentage of it, is ground beef. That's kind of the number one thing that is sold for retail markets to HRI. So I took the price that AMS is currently buying ground beef -- frozen ground beef patties for the school lunch program, which is approximately $1.27, and did the calculations that equates to about 35,000 pounds of ground beef. And if you take that one step further and break it into quarter pounders, what we're talking about is serving about 140,000 meals with this exemption -- in other words, 141,000 quarter pound hamburgers. So I just wanted to bring that on the table that we're not talking about a little bit of sales, but enough to feed 140,000 people over a period of time. Thank you.

MS. GLAVIN: Okay. Other questions? Comments at this point? Sounds like you're going to have a lively evening, Dan.

Our final briefing of the morning is by Jane Roth who is going to advise you on surveys of field personnel that her office has been doing in order to improve our field personnel's understanding of the directives and requirements that they are to carry out.

So, Jane.

MS. ROTH: Before I begin, I wanted to introduce three people who are here with me today.

MS. GLAVIN: Microphone.

MS. ROTH: Oh. Can you hear me now? Okay. Let me start again. I asked three people to join me today because all three of them have been closely involved since this activity started in early 2000. Two people from my staff, Lucie Vogel and Cheryl Oros, and on my right, many of you may know Lee Puricelli. He's in the Reg and Development staff and he's been closely involved with, particularly directive development.

So what we're going to be talking to you about is the activity of evaluating directives and notices. So before we begin, we wanted to be sure that everybody had a clear understanding of what a directive is and what a notice is. So Lee's going to begin with giving you that -- those definitions.

MR. PURICELLI: Okay. Real quick for those who don't know, or just to refresh -- our issuance to the field, we have issuances that cover many topics. But those numbered from 5000 to 12000, based on our system at FSIS, talk to the inspectors and deal with

processing issues, import/export, labeling, things that go on in the plants. We issue directives. Directives are instructions that stand until they are canceled or amended in some way. And then, FSIS notices -- we usually use those for the field for announcements or policy clarifications, and they expire in a year or less. And those are the two main documents we use to clarify the regulations and provide the instructions to inspectors on how to enforce the regulations. Directives cannot be imposed -- the instructions in directives cannot be imposed on establishments. That's the purpose of the regulations, and all directives or notices are based on published regulations.

MS. ROTH: Okay, with that understanding, you can also realize why FSIS wanted to begin this activity. Instructions to the field and clarification of Agency policy is really germane to what we do and to insure that inspection goes on as it should in the regulations and in a consistent manner. So what we did was, we looked at the question. We evaluated how directives are communicating Agency policy and procedures, both to federal and state inspection personnel.

Specifically, we looked at three purposes.

First, we wanted to determine if the directives are reaching the right people in a timely manner. We wanted to be sure that directives were reaching people who should be getting them. Were we reaching the appropriate personnel? And we also asked the question initially, how would inspection personnel like to receive the directives?

Second, we looked at the new directive format. FSIS directives are now written in a question and answer format in a new simple language, and we wanted to get feed back from the field if that was helping them to understand FSIS policy. And when I say field personnel, we actually sampled both supervisory and non-supervisory personnel who would be using the directives and the notices.

And finally, when we got the answers to these two questions, where folks receiving the directives who should be, and did they understand them, we focused on, in all of our reports, identifying recommendations that would help the Agency in revising its directives and in the distribution of the directives. We have suggestions in the reports on how to improve the language and the format of the directives, where the policy or procedures needed to be clarified, and where

the particular issues were with the field. And we also made some suggestions on how the Agency might convey -- what vehicles it might use to explain these areas, such as additional Q and A's or hold meetings in the field when questions arise. And also we've talked to the folks in headquarters who issue directives and they've moved ahead and made some improvements in terms of distribution issues.

So, with those three purposes in mind, let me tell you actually how we began the effort, and how we actually solicited the information from the users of the directives and the notices. We had to actually work with our union and reach an agreement with the union, and we're particularly pleased that when we started the discussions with the union, we were able to get agreement to do what we're terming recurrent surveys in a standard format, with a small sample of randomly selected field personnel. So basically, whenever the Agency feels it has a particular directive or notice that it does want to survey the field to get information back, we can move ahead on that. We do not have to have separate negotiations with our union, which can be quite lengthy.

So we have been able to do that, and to date

we have completed four such evaluations. You have copies of those behind Tab six. We've completed the evaluation of the export directive -- that's the first evaluation that we undertook, and Cheryl, on my left, is going to talk about that.

You also have an evaluation of the listeria reassessment, and the evaluation of the sanitation directive, and the one that we've just completed, which Lucie's going to talk about is the evaluation of the RTE directive. We also have several directives and notices that we're planning to conduct surveys for and Lee's going to be addressing those.

I also wanted to mention that along with other parts of the Agency, my office is establishing a web page, and we hope that it'll be up at the end of this year, and it will contain copies of all the evaluation reports that we do of directives and notices, as well as providing you with additional information on what my staff does and its role in the Agency.

So with that overview, what I'd like to do is let Cheryl start, giving you some specifics about what we found with the export directive, followed by Lucie, and then Lee will wrap up with where we plan to go in

the future.

MS. OROS: Good morning. I just want to take a few minutes to explain to you what we included in our survey, what we found, what we reported, how we reported and to whom we reported, and follow ups went along with this.

This is the export certification directive right here. As you can see, it's about a 15 page document of instructions. It addresses the inspection procedures and certification of US products for export. It tells our field staff how to inspect, what forms to use, how to learn the requirements of foreign countries, and how to address changes in product shipments, amongst other topics.

We surveyed field personnel that conducted export certification and we asked them about the clarity of the content of the directive -- that's not whether they agreed with the policy or what they thought the policy should be, although they of course were free to make comments to us on that, because this was a phone interview -- the clarity and helpfulness of the new style -- and this was one of the first directives that was moving into a new way of writing, trying to write more clearly, trying to use questions

and answers and so forth -- and we also asked them about distribution issues.

These inspectors, like many of our inspectors, were -- travelled to multiple field locations. We wanted to make sure that if they went to different facilities, they were able to obtain copies of these new directives as they came out.

We found first, in general, that inspectors found the content to be fairly clear. They like the new style, and they also told us, and we reported in our document the sections that were not clear enough at that point. They viewed the new style positively, and actually were very happy to be interviewed and felt that they were really part of this process and felt very positively about the new directive.

There were problems in distribution. They were infrequent, but difficult for inspectors to solve, and there is a number of distribution issues that we noted in our report, such as ways to make quick address changes if their facilities that they were inspecting, if they were moved to new facilities or if facilities closed where they were receiving their mailings.

We reported our findings on clarity and style to Lee Puricelli who will talk to us in a few minutes

more -- he's in charge of writing these directives. We developed a report format for him that would be most helpful for him and his staff to either make changes or address any confusion with additional material that they would send out after the directive.

We also reported our distribution problems to the distribution staff, and as far as follow up with this, Lee issued additional questions and answers which we'll discuss in a minute, and we've noticed over time that some of the distribution problems are being addressed, and Lucie'll talk about that in a minute, because we continued in future surveys to ask about these issues, to see if they're being taken care of.

MS. VOGEL: Hi, can you hear me? I'm getting close to lunch, and I'm glad Lee is the last one to go, so I'll just take a couple minutes to talk about our most recent survey. We did an evaluation of the Ready to Eat directive -- that's the directive that addresses procedures for microbial sampling of ready to eat products, and it came out about this time last year. And we did our survey in June.

Several things that differed in this evaluation -- we think new improvements. We included a sample of directors of state programs for the first

time, so they were part of our random sample. We noted their concerns in the report. You have a copy of it, where their ideas differed from others in the sample, we noted their concerns, and they provided some helpful input, especially about very small plants.

This survey also covered the delivery of directives, as well as substance, and was a follow up to the one Cheryl mentioned. We addressed some of the questions that were raised in that survey of export directive, and we wanted to see whether things had improved. So we asked some of the similar questions.

With this information we updated these findings, as I mentioned, on how they received they directive, whether by email, US mail, or fax, and how they get further information about it, through district meetings, the technical services center or headquarters, or other sources they might have.

Similar to the export directive, overall the respondents felt the directive was reasonably clear, but they did have some suggestions for improvements that you'll find in your copy of the report. These suggestions will be used in redrafting the directive and Lee will be talking about that. They'll also be used in future training -- and I will note that in

some of the next steps tapes, some of the items that were needed -- noted for clarification -- were included in those tapes, so they're used in training since we had the feedback. Inspection personnel found there was confusion about several of the items.

In terms of the delivery of the directives, several changes were made in the mailing procedures. It is a contract -- the printing and mailing is done on a contract basis, so we worked with the staff in charge of that at headquarters, and we found that at that time there really was no backup for this person. If she were out sick or off, then the whole process stopped, so one of the improvements they made was to designate a backup for her so that now once it's in the mill, it won't stop because someone's not there. They also have awarded the contract to a new printer who they tell me is very responsive and timely. So that was one of the criteria that they used when they selected the new printer.

Another change which supposedly is going to help this process along -- they have now gone to a system where rather than hand addressing envelopes, they must be actually printed. This is because the machines that read the mail can read the printed

version better than the hand written copy. This presents some challenges for some of these exceptions -- changes in addresses, but they assure me that it's going to speed the process along in terms of getting it out to the field.

A final item, which we had nothing to do with, but which should address some of the concerns, is the new learn system. There was discussion about the length of time it took to get sample results out to the field, and that should address some of those. So with that, I'll turn it over to Lee.

MR. PURICELLI: >From my perspective, I used surveys first for the export directive. There were some questions that came up that needed some clarification on signing of forms and exactly -- again clarifying, who does what and when between the VMOs and the inspectors. So the survey helped there, to the point where we decided to issue questions and answers -- additional questions and answers to that directive. And since then, I think, just about all of the issues have been cleared up.

As for the ready to eat directive, we're looking at that directive based on other comments, so we're just holding the survey and the comments from the

survey and we'll incorporate it as we begin to rewrite that directive.

And there was -- I think you have the sanitation survey. That one we looked at -- what was brought up was more about the policy, so that's a case where we really couldn't change the directive, but we did find that they generally liked the format, and in general that's what we found from these surveys. The format -- the Q's and A's have been working. I've learned a lot about improving how they're written, the formatting, how the Q's and A's go, so I think from everybody's perspective the directives are getting better.

That's in fairness to the surveys. I will throw something else out.

In terms of the clearance process and the availability of directives, we are looking at now, trying to make directives available on our home page during the clearance process, fairly early on in the clearance process. We will put them up on the home page for the same amount of time that we take to clear them, and people could send in comments. It won't be a formal type of APA process, it won't be like ... but what we want to offer is if there's something that is -

- that can be corrected -- a little thing or a big thing that would make it run smoother, that's kind of what we're looking for. In terms of policy, again, that's -- these directives are based on existing policies or regulations. But any comments that we can get early on, because we are aware that directives have reached the public and have been issued in publications in the clearance process anyways, so to formalize it a little more, we're just going to make them available and take some comments, and do what we can to address issues.

That's pretty much what I have. I'll take some questions.

MS. RIGGINS: Alice, and Dan and Charles and Carol --

DR. GIOGLIO: Doesn't matter.

MS. RIGGINS: Alice?

MS. JOHNSON: Well, I think this is great that you're going through a process of after something's published, looking at the need for additional clarification. I think surveying the inspectors is great, and I appreciate that other stakeholders will have the opportunity to provide input on the clarity of instruction is the way that I

understand Lee, based on the draft. When you put the draft on the website, will you specifically ask for any type of comments, and will there be like one individual responsible for collecting these comments? I assume that these comments will be taken at the end of whatever clearance process and they will all be mixed in with other Agency clearance reviews. How will you make it known to people that you are taking comment on this and the individuals that will be receiving these? Thanks.

MR. PURICELLI: We're still early in the process, trying to figure all that out. I -- what I would assume, and I'm leaning towards -- I mean as they're available on the home page, it'll give an address to send any comments to. It'll probably be me, or our office, and we'll just handle them that way. Probably put a phone number too, or something. We're trying to figure all that out. I'm working with the public affairs office too on all that. What we don't want to do is have this bog down the time it takes to get them out, so it will be a short window, but I think there'll be an opportunity provided, and we'll look at the comments. So I assume, probably an address, phone number, and I'm going to look at the email. We don't

want to overload one computer.

MS. JOHNSON: I think it's real important that everyone understands that they can and how to comment on it. I also think it's very important -- we've had some cases where the Agency in good faith put up a draft directive and asked for comments, and the directive, even though it was not final and published and signed, there was enforcement of the directive that caused some problems within facilities, so I think it's very important that when these things go up it's made clear that it's still in the clearance and not finalized.

MR. PURICELLI: Sure. The page will -- I assume it will be an existing page -- we'll have to work this out -- that'll have an explanation of what's on the page, the general process, how we're going to view the comments and again where to send the comments. And that'll probably just like be there, and then we'll just throw directives and notices up -- those that we think are appropriate. We'll still have some, especially notices that will be -- the main .. will go up, I don't want to commit to everything. There are some notices that we have to get out very quickly, and they're more on the lines of change of addresses,

something to do with samples that we just have to get out. But anything that we have some time on and will be existing for a while, I think we'll put up.

MR. MINA: To avoid the maybe premature implementation, another step in the process is that we have a discussion with all the district managers on drafts, and specifically make that point that this is a draft and implementation date is X, and we don't want anyone to prematurely implement the directives.

MR. PURICELLI: Right.

MS. RIGGINS: Dan?

DR. LAFONTAINE: Dan LaFontaine, South Carolina. First a comment, and then a suggestion.

Currently, when the directive is finalized, it's sent out to all individuals through FAIM, as soon as it's released, and that's an excellent step, because it gets to us several weeks, maybe even to a month earlier than the hard copy, and it really gives us a chance to read it, interpret it, and you might say ramp up for the effective date. For those that don't know what I mean by FAIM, that's the Field Automation Information Management system that FSIS has for all of its personnel and almost all state personnel are on that system now also. So keep that up. That's a good

step when you started that six months or a year ago.

My suggestion is just -- at the same time that you put it on the web page, that you send it out through FAIM to all individuals who will have to implement it and this is a push system, where it goes to them automatically, so they don't have to pull it, they don't have to go look to the web site and see if there's something on there. So my suggestion is send it out through FAIM as a draft for those that have wide impact, and I think you'll get good, valid feedback. Thank you.

MR. PURICELLI: On that, we'll look into that. I think that's really what we use the National Joint Council for -- I think that sending it out to all inspectors, that would get into some labor issues and time and stuff, but that is exactly what the NJC's review is, and that review would probably come after all these comments. And they represent the inspectors, so that's the process -- we'll look at all that.

MS. RIGGINS: Mark, were you going to say something?

MR. MINA: Yes, I just wanted to add also you don't want to risk premature implementation.

MS. RIGGINS: Okay, I'm sorry, Charles.

MR. LINK: Charles Link. I think Alice beat me to it. I just wanted to echo that we do appreciate your efforts to go through these directives and to survey your field staff on how to make them more clear, because there have been some issues in interpretation.

I'd also encourage you, if you haven't considered it, you could certainly survey the industry personnel that are affected by these directives if you'd like. We certainly would help you out.

MR. PURICELLI: Sure, right now our biggest problem is the OMB paperwork ... because that would be a survey that we'd have to get approval for, but if you want to let OMB know that you want to be surveyed, that could help us.

MS. RIGGINS: Okay, Carol you had -- and then Alice again.

MS. FOREMAN: Well, then we could -- Carol Tucker Foreman -- we could have a contest to see whose permission is harder to get -- the Joint Union or OMB.

I'd like to ask a question about methodology, please. What was your -- you had 47 telephone surveys -- what was your rate of response? Did everybody you called agree to be -- to participate?

MS. ROTH: Yes. Basically what Dan suggested

in some ways sounds attractive. What we have found out is to talk to the field personnel and to get their feedback, it really is better to try to do a telephone interview, that a lot of these issues are fairly complicated, and for them to be able to express in detail what they want, that it usually works best with the telephone, so we do randomly draw, from an appropriate sample, and we track them down -- and as Cheryl alluded to, they're very pleased to talk with us.

MS. FOREMAN: Are they afforded the opportunity to talk anonymously --

MS. ROTH: Absolutely. When we talk to them we explain to them who we are and what we're doing, and the purpose, and what they say will be kept confidential and in fact, that they're really speaking for their colleagues, because we're not going to be touching base with everybody, but really a very small number.

MS. FOREMAN: That's terrific, and that was my concern. Thanks.

MS. RIGGINS: Alice?

MS. JOHNSON: Just -- Carol's point about OMB and getting a response from OMB about permission to do

this. You said with the National Joint Council where you had gotten kind of a blanket reoccurring -- is it -- I don't know the legal -- and don't deal with OMB, but can you do something like that? Can you get a blanket -

MS. FOREMAN: Not a chance.

MR. PURICELLI: Thank you, Carol. She answered it.

MS. JOHNSON: Can you get a blanket to survey industry as well, or something?

MR. PURICELLI: Well, we can try to do -- we used to have consumer -- the OMB used to provide for customer surveys from -- for the Departments. That kind of expired, but that's what I would check into, because this would be a customer, so we could consider you customers too, I think, I know in OMB's definition of it.

MS. ROTH: Let me build on a little bit of what Lee's saying. I'm happy to say that my office has gotten to a reasonable size and highly qualified staff, so we're beginning to strengthen the evaluation activities within the Agency. And so what we're actually doing right now is we're preparing two packets to go to OMB, one to do a recurrent survey of industry

on larger issues, and also to do recurring survey of consumers. So we have begun to think ahead and to try to go to OMB one time and then get permission to continue to survey both industry and consumers. And perhaps once we finish that effort we could always go back to them on another topic.

MS. RIGGINS: Marty?

MR. HOLMES: Although, if we know that this is going to be going up on the website, and you're inviting people to comment, I don't know that surveying and getting OMB approval and all that -- I don't know if even through the constituent alert we can be notified that they're up.

MS. ROTH: It's walking a very fine line. There's no question about that.

MR. HOLMES: Either that or we can be -- you know, we are humans, we can be trained to look at the website.

MS. ROTH: We're hoping we're beginning that, yes.

MR. HOLMES: Okay, that's fine.

MR. PURICELLI: Yes, right now, I'm going to look at that office to see the timing on getting something out.

MS. ROTH: You know, we do have to be very careful in terms of raising the ire of OMB. You don't want to do that, and yet we do want to get feedback from you, so we will put the information out. I think a standard directive has a name and phone number at the bottom, and so perhaps we should do that and --

MR. PURICELLI: I'll be on the home page.

MS. ROTH: It'll be on the home page. And then hopefully, word of mouth. We cannot solicit.

MS. RIGGINS: Mike?

MR. GOVRO: Mike Govro, Oregon. It sounds as if the surveys that you conducted were designed to ask the respondents whether they felt the information was clear, or what could be more clear, and I'm wondering if you did any other kind of follow up to actually test to see that they received the information and understood it, sort of a quiz kind of format?

MS. ROTH: That's the -- there always is a difference between asking people what they know or what they think they know, and actually seeing them actually perform the activity. That's an issue, I think, one of the members of your group said she deals in the area of consumer education -- that's a constant battle. No, we believe that our inspectors are performing the tasks

that they should, and if in fact they're having some difficulty in understanding what the directive is saying that they actually will seek -- they'll call the tech service center, or, you know, find out through their colleagues. But what we're basically trying to do is make sure that they can get the information in the easiest manner, the quickest way.

MS. RIGGINS: Any other questions? Comments? Okay, we're moving into lunch. Charlie's given me a couple of restaurant suggestions -- Moshe has given me restaurant suggestions. There are several on Vermont Avenue -- the Vermont Cafe, that's on Vermont Avenue between K and L Streets, and then Au Bon Pain, which is on L between 14th and Vermont. And then there's the Solto (ph) at 13th and K, and there are other delis down Vermont Avenue that give you fairly quick service and decent food. So I'm going to ask you to come back at 1:15, and at that time we'll have Linda Swacina give us the update on the legislation that's important to food safety.

Moshe has handed out copies of the RTI report from 1994 for your use in this evening's session, and he wants you to know the last page is stapled backwards. So, read it first, and then flip it. Okay,

thanks very much, see you after lunch.

(Whereupon, at 12:12 p.m., the meeting was recessed, to reconvene at 1:34 p.m., this same day, Wednesday, November 14, 2001.)

A F T E R N O O N S E S S I O N

1:34 p.m.

MS. GLAVIN: Okay, welcome back. I hope you found someplace appropriate for lunch. No? Donuts? Oh, sounds good to me.

Our first item this afternoon, Linda Swacina is going to give us an update on legislative things that are going on or being talked about in the air, et cetera, so with no further ado I'll turn it over to Linda to give us an update.

MS. SWACINA: Good afternoon. I want to start with probably the main thing that's been going on, legislatively, for the Agency, and that's been our appropriation. In addition to the money, there's always some interesting language that gets added that requires us to do reports or what have you that you all may want to be aware of.

First of all, the status of our appropriations is that it has -- a version has passed the House, a version has passed the Senate. They have a conference report which still needs to pass the House and the Senate, which we hope will happen relatively quickly. The amount for the Agency for FY 2002 is $715.6 million, which is an increase of about $20

million over what was appropriated in FY 2001. It is the amount that was requested in the President's budget, with an additional $100,000 that was given by the committees for work on Codex.

We also had a couple of interesting language additions -- report language additions. One of them has to do with inspections by states of the -- let me just read you the language, probably the easiest thing to do. "Ohio school food service authorities continue to work with other state agencies and the Department to develop an inspection system that insures the safety while maximizing the number of eligible children receiving the benefit of the program. The conferees direct the Department to continue to work towards developing a pilot project for school food safety inspections in Ohio and to keep the committees advised of any action in this matter."

This language addresses an issue that's been going on for a couple of years with the state of Ohio, and other states as well in their school food service programs, who don't particularly want to be under federal or state inspection for some of the products that they produce for use outside of the schools, or in addition to the schools, or for other schools within a

school district. And we've been trying to work with them and this language is basically telling us to continue to work with them on trying to find the right line between keeping the children in school food service programs and the level of inspection that's appropriate for the facilities.

The second piece of language also concerns the state of Ohio, and this has to do with interstate shipment, and I probably again, easiest thing to do is to read you the language. "The conferees are aware that certain states have meat and poultry inspection standards that are as stringent as federal standards and that those states would like to be able to ship state-inspected meat interstate. The conferees encourage the Department to consider developing a limited pilot project that would allow for such shipment, involving the state of Ohio. The conferees direct the Department to provide a report to the Committee on Appropriations before the fiscal year 2003 appropriation hearings regarding the feasibility of such a pilot project, including the legal requirements and a proposed design."

There are a couple of other provisions that survived from the House report language, one of them

having to do with irradiation. It's basically encouraging us to continue to work with firms who want to include irradiation as part of their production processes and to make sure that we provide any required review in a timely manner.

The next one has to do with microbiological testing, and I have to admit I am hoping maybe somebody here can shed light on exactly where this provision is coming from, because we don't really know. It says, "The committee strongly encourages the Agency to consider outsourcing microbiological testing to private laboratories approved by the American Association for Laboratory Accreditation as a method of increasing budgetary efficiencies, expediting test turnaround time, and increasing food safety."

And we, I think as you all know, have not contracted out any of our microbiological testing and don't know if anyone here has any information about the need for us to do that, or desire for us to do that, or, --

DR. LOGUE: Does it help you in any way if you suddenly get to an area and there was like a major crisis and you need to do this in a hurry? You know, that maybe your own labs can't handle it, but that you

would have a lab on the side that you could turn around and call them and say, okay, we need you to take some of these for us. Is that what they're thinking?

MS. SWACINA: I don't know what they're thinking, that's why I'm asking the question what are they thinking.

DR. LOGUE: Maybe that's what they're thinking, but I was just going to say, in terms of whether it would be any cheaper for you or not, I don't know. I would have suspected that it would have been more expensive going outside.

MS. SWACINA: I think that's probably true, it would be more expensive, but I guess I was thinking that they're making an assumption that a company could go directly to these labs, possibly, and that therefore a company would be paying for the tests -- it's very unclear, and then again, it's just report language. I know if it's asking us to consider outsourcing the testing, so I guess it wouldn't necessarily be -- a company wouldn't be able to do that.

MS. GLAVIN: John?

MR. NEAL: We had a discussion about this last night, kind of a back alley meeting over here, and I think it was brought up several times -- I think it

was brought up that there were several issues. Sometimes, I believe Mike and I had this talk -- sometimes the USDA doesn't really accept lab testing that maybe the state does in comparison to their testing, you know, if there's a cross over there -- Mike was talking about this whole cross over situation earlier. The other part is, if I test, even though there are approved laboratories and microbiologists and everything, and I was even given these, they still want to test my product, even if I'm testing it on my own. So waste the time and effort testing, when I'm doing it by a certified microbiologist or a testing company. And I think that's where it's coming -- I'm pretty sure that's where it's coming from, and I don't know if industry has brought it in -- you know anything about this, Marty?

MR. HOLMES: The only thing I can think of -- and I don't know what the current status is -- but as we talk about labs later, the volume and turnaround times on some of the samples, from time to time, I know, there was some concern about it. I don't know what currently the situations is. That's the only reason I could think that it may be in the language to either consider it because of previous bottlenecks.

MS. SWACINA: Okay, thanks. Let's see, I think the only other thing that's in here that might be of interest to someone is the Fit Animal Residue Avoidance Database, FARAD. It was given -- appropriated -- $800,000 through CSREES.

Then, just to keep on appropriations for a second, we did earlier in the year get, through one of the first emergency supplementals prior to 9/11, an additional $1.25 million for humane handling changes that they wanted us to make, and this language was put in by Senator Byrd on the Senate side, and we are now in the process of hiring additional veterinarians -- that won't hire a whole lot of people, but we will hire as many as we can with it, who -- we will put these people in district offices to oversee in each district, humane slaughtering operations and to make sure that the practices are being adequately enforced.

Does anyone have any questions on appropriations? Yes.

MS. FOREMAN: Hi, Linda, I'm sorry that I was late getting back here and missed the first part, did you talk about the provision in the conference report urging or directing the USDA to consider or perform a pilot project in interstate shipment of state inspected

meat using Ohio? Would you like to comment on how the Department might do that under the existing law?

MS. SWACINA: Well, we're asked to file a report about the feasibility of such a pilot project.

MS. FOREMAN: Oh, the feasibility of a pilot project?

MS. SWACINA: Yes, including the legal requirements and a proposed design. And I -- it is report language as you noted, and it just says that we are -- we're directed to provide the report. We're encouraged to consider developing the pilot project. So, other than that, we just made any decision on exactly how we're going to do this yet.

MS. FOREMAN: I hope you all will keep us posted on how you plan to approach this.

MS. SWACINA: Yes, ma'am. Any other questions on appropriations? Okay. The other big piece of legislation that's moving through the House and Senate, of course, is the farm bill. On the House side, the bill has now passed the committee, passed the House floor and there really aren't any provisions on the House side that directly affect us.

During mark up of the bill on the House side, in committee and on the floor, but in committee, the

issue of country of origin labeling came up. An amendment was offered by -- I guess it was Congressman Robs from Arkansas, and then there were other provisions added to it, but it was to require country of origin labeling through the Agriculture Marketing Service for meat, poultry, catfish, and perishable agriculture commodities. And that amendment failed.

There was also, however, an amendment offered on the floor during consideration of the House farm bill, and Congresswoman Bono offered an amendment on country of origin labeling for just perishable agriculture commodities, and that amendment did pass by 291 to 120. So I don't know exactly what's going to happen with this on the Senate side.

The Senate provisions dealing with country of origin labeling were included in the competition title of the farm bill, which yesterday the Senators voted to remove from the farm bill. So, I don't know that anybody knows exactly what this means as to what's going to happen with counter of origin labeling yet, but that's kind of the status of that issue, other than what we're doing at the Department already.

We published our advanced Notice of Proposed Rule Making on the definition of US cattle and US fresh

beef -- I'm not sure I remember the exact date of that, but I believe the comment period closed on that in October --

PARTICIPANT: A couple weeks ago.

MS. SWACINA: Couple weeks ago, okay. And at the same time that we were doing this, AMS was working on a certification program that will permit the use of "Product of the USA" or "Made in the USA" on a user fee basis.

I think -- there's not a lot more I can say about the farm bill, it's still in a great deal of flux on the Senate side. Even though they've removed this title, the competition title, I'm sure there are lots of other provisions that could be put in, it could be added back while we're speaking, I just don't know what's going to happen with that one. But that is the latest on the farm bill. Does anybody have any questions on the farm bill.

MR. NEAL: What number is the farm bill?

MS. SWACINA: Oh, boy. I have to look that one up. HR2646.

MR. NEAL: Thank you.

MS. SWACINA: Okay, and the last legislative issue I mention is I glees, the second round of

emergency supplementals. This one was post 9/11. The 2001 emergency supplemental appropriation for recovery and response to terrorist attacks. Out of that, the money that was appropriated there, FSIS was allocated $9.8 million, which we need to use for lab security, increasing our lab capability, and for general training for biosecurity responses.

That's all I have. If anyone has any questions, I'll be happy to answer them.

MS. FOREMAN: Carol Tucker Foreman. The Kennedy-Friss (ph) bill doesn't have any provisions -- well it's not that -- Kennedy-Friss and Daschle-Roberts bills have been married and will go to the floor together. Are there provisions relating to FSIS in that combined legislation?

MS. SWACINA: I have not seen the combined legislation. I do know that in both the draft Daschle and the draft Roberts bill I saw, there was money, but they were not specific about exactly what it was for, or specific enough for me to be able to know -- if that's how it ended up. There were not the big policy changes that there are -- at least there were in the Kennedy-Friss bill for FDA.

MS. FOREMAN: Thanks.

MS. GLAVIN: Okay, are there any other questions or comments for Linda while we have her? Okay, thank you. Our next item is the second issue briefing, and this is the issue briefing on standards of identity for meat and poultry products, and Robert Post is here, and you are accompanied by Jeff Canavan -- is that right? So, I'll turn it over to you.

MS. FOREMAN: I'm sorry, before we start on that, could I ask a question. When we had the discussion on the retail exemption, we didn't say anything about the central kitchen provisions, and I was just looking at them, and I'm not confident that I am clear about what constitutes a central kitchen and when something is exempt from inspection because it's prepared in a central kitchen, and when it's not. And I was wondering -- I know, I assume those folks have gone back over to the Department now, since there's going to be a big discussion of this this evening, maybe we could get a little further explanation before the subcommittee meets, or at least part of the subcommittee. You might be able to just rattle it off.

MS. GLAVIN: Okay, we can try to do that. My memory, which is not one anyone should ever rely on, is that the central kitchen is the kitchen and the

receiving entities have to be owned, operated by the same entity. And that the product has to be sent in a ready-to-eat, although it can be frozen or chilled for reheating form, from the central kitchen to the owned or operated, and that sort of gets into the issue that Linda mentioned as having some report language in our approps bill, with respect to school central kitchens. Many school districts have central kitchens which supply meals to a number of schools in the district. That does not require inspection.

MS. FOREMAN: Is that turkey in there again this year?

MS. GLAVIN: Yes. That does not require inspection, however, many of the school districts also sell meals to -- for example, the local Head Start program or the local private school that they pass by, and that brings them under the requirement for inspection, and that's what that issue in a number of states, and particularly Ohio, is.

MS. FOREMAN: That actually -- that one slipped by me this year. My question was a little bit different -- I won't get into my views about that one -- but we went over to Fresh Fields to have a bite of lunch and I remember that I've been a little vague on

this. My recollection is that if the meals -- if the deli bar there, which is very extensive has that food shipped in from a central kitchen, because it is a process that used to take place in the back room of that store, but has now been moved one step back into a central kitchen, it is not subject to inspection. But I'm not sure of that, and I think that's an important part of this discussion we're going to have this evening.

MS. GLAVIN: And I can't help you, so we'll try to get somebody who can. Okay, Robert, we'll let you proceed.

DR. POST: Thank you. Well, as you're probably aware, with regard to food composition and labeling standards, both the Federal Meat Inspection Act, and the Poultry Products Inspection Act provide that whenever the Secretary of Agriculture determines that it is necessary to protect the public, the Secretary may prescribe labeling rules and definitions and standards of identity or composition for meat and poultry products.

The purpose of food standards is to avoid false or misleading labeling and misbranded products. Food standards have been established to promote honesty

and fair dealing in the interest of consumers, and that is standards protect consumers from nutritional and economic fraud by establishing standardized names and characteristics for some products.

To avoid inconsistency with food standards established under the Federal Food, Drug and Cosmetic Act under which FDA operates, the Acts also indicate that there should be consultation between FDA and the USDA in the matters of standards. More important to this committee is that the Act provides that there should be a consultation between the Secretary and an appropriate advisory committee prior to the issuance of food standards under the Act to avoid, insofar as feasible, inconsistencies between federal and state standards.

And therefore, I am here to present an update on the Agency's efforts for modernizing food standards of identity for meat and poultry products. And the purpose of the presentation is to provide the committee with an understanding of the Agency's current thinking on standards of identity for meat and poultry products, and to identify outstanding issues on which the committee could provide guidance and useful input.

As a further introduction, let me say that

USDA, FSIS standard setting authority is derived from early statutes, most notably, the 1906 Meat Inspection Act. The intent of these Acts is to prohibit the marketing of products that are misbranded or adulterated, and to assure accurate and consistent product identity.

Food standards prescribe minimum meat or poultry contents, the maximum fat and water contents, methods of processing, cooking and preparation, permitted safe and suitable ingredients, and expected or characterizing ingredients. Standards of identity are generally require the presence of certain expected ingredients in a food product, or mandate how a product is to be formulated or prepared. Thus food standards provide a system by which consumer interest is protected and consumer expectations of a food are met.

Standards of identity represent a very heterogeneous mix of foods. The formats that individual standards or groups of standards follow are also diverse, depending on the complexity of the food and the level of detail needed to define the characterizing features for the food. Some standards are relatively simple, consisting of a sentence or two, for example, beef stew requires 25 percent meat, or

they are composed of a paragraph or two, for example, the potted meat standard describes what cannot be added to the product and also limits the water that can be used to make the product.

Other standards are extremely detailed and may be very prescriptive. The standard for hot dogs describes the form of the product, for example, it has to be a semi-solid ... product, how it's prepared, the expected ingredients, and the allowable meat, meat by-products, and non-meat ingredients.

At present, it is estimated that over half the foods in the grocery store are covered by federal food standards. Currently, FSIS has approximately 80 food standards of identity and composition that are codified in the federal regulations. These are found in 9CFR in parts 319 and 381.

The Agency started the modernization of food standards effort in 1994 after the Agency's new nutritional labeling regulations became effective. As part of a larger regulatory reform effort, the Agency was committed to making regulatory changes to enable food manufacturers to produce more products with better nutritional profiles. In other words, products with less constituents of health concern to certain

individuals, for example, fat and cholesterol. The Agency also recognized the need for reforming food standards in response to the increasing view of industry and consumer groups that food standards could be anti-innovative and thus may be harmful to the consumer's interests that they are designed to protect.

The national advisory committee was briefed in June of 1995 on the Agency's four-pronged strategy to deal with food standards modernization, and at that time, the four elements of the initiative were presented. And they are: to develop an interim policy for allowing some degree of flexibility for industry in meeting food standards while the regulations are in fact developed; to publish rules to allow for a general standard of identity for products that are identified by a nutrient content claim in conjunction with their traditional product name; to streamline the process with the Food and Drug Administration for jointly approving the use of new, safe and suitable, ingredients -- for example, new binders for fat replacement; and to establish through rulemaking, as set of principles to guide industry and others through the necessary steps for updating, modifying, or revoking existing standards, or to establish new meat

and poultry standards.

I'm happy to report that there has been some success in pursuing this strategy, and with regard to the first prong in the strategy, the interim policy involved the publication of policy memos 121B and 123 in January of 1995, and these policies provided some flexibility for manufacturers interested in making variations of traditional meat and poultry products, whose standards of identity restricted the creation of new products with reductions in constituents -- for example, fat and cholesterol that were of health importance to certain individuals.

Specifically, these policies permit the use of novel fat replacement systems, such as binders like carrageenan and sodium caseinate and water to make modified substituted versions of products, such as sausage, ground beef products and cooked sausages that are named by a nutrient content claim and the standardized or traditional product name. Thus, using these interim policies, industry has been able to make products that you're probably familiar with today -- low fat hot dogs, fat free bologna, and reduced fat pepperoni -- in order to meet the demands of consumers.

The second element of the four pronged

strategy included creating, through regulatory amendments, a general standard of identity that would allow the manufacturer of meat and poultry products named by a defined nutrient content claim, for example, low fat, and a traditional or standardized product name, for example, corned beef. In December 1995, the Agency published a proposed rule that mirrors FDA final regulations regarding these types of products specified in Title 21 of the Code of Federal Regulations, specifically Section 130.10. The Agency is currently preparing a final rule for publication early next year.

The third element of this strategy involved working with FDA on streamlining the process for approving ingredients used in the production of meat and poultry products. A landmark regulation was made final in December of 1999. After the rule was published, FSIS and FDA agreed to a Memorandum of Understanding, an MOU, in January of 2000. And the MOU outlines the responsibilities and procedures of each Agency in the joint evaluation and approval of requests or petitions for the new uses of ingredients.

In the future, this action will enable the streamlined evaluation of new fat replacing ingredients, and other functional food ingredients for

use in standardized meat and poultry products. Building on this streamlined food ingredient approval regulation, the Agency is now developing an amendment to the regulations to permit any safe and suitable binder in standardized meat and poultry products, and any safe and suitable antimicrobial agent, to promote the food safety of standardized meat and poultry products.

The last element in the strategy is the joint exploration by FDA and FSIS, of the purpose and usefulness of food standards in today's marketplace. And to request public input on the value of food standards to industry and consumers. The intent is to use this information to outline the steps necessary to modify, eliminate, or establish new food standards in an effort to reflect consumers' current expectations.

In 1998, advanced Notices of Proposed Rulemaking were published by FSIS and FDA, and those ANPRs ask questions about the purpose and usefulness of food standards. The responses to these questions would help the Agencies determine the appropriate course for standards modernization. Modernization is expected to increase the development of food products with better nutritional profiles, to help stimulate innovations in

food processing technology, and reduce the burdens placed on FSIS and FDA by their enforcement of outdated food standards.

In the ANPRs, both Agencies presented alternatives for food standards modernization, and these alternatives included the use of lesser amounts of meat or poultry in standardized food products; requireing food labels to declare the percentage of the meat or poultry content of a product; and even considered amending the statutes to allow for private organizations to certify that food products meet consumer expectations.

FSIS and FDA received 123 comments in response to the ANPR from industry -- from industry and consumer groups. The comments contained little support for completely eliminating food standards. Similarly, very few comments on the ANPRs expressed support for food standards as they are now written. Many comments stated that food standards protected consumers from fraudulent and substandard products by establishing a core basis upon which similar products are formulated. Although most comments supported retaining food standards in some form, most stated that food standards should be simplified, made more flexible, or clarified.

Now from these responses, the agencies determined that they do not have a regulatory procedure in place to consistently and adequately evaluate the legitimacy of food standards. Moreover, as now written, some standards may impeded technological innovation in the food industry, and may included manufacuring and ingredient requirements that are not necessary to protect the interest of consumers.

As the culmination of the modernization strategy, FSIS and FDA will be proposing a set of guiding priinciples in the Federal Register that will define how modern food standards will be structured to protect the interest of consumers, provide for advances in food technology, provide for consistency between domestic and international food standards, and establish how standards can be clear, simple, and easy to use for both manufacturers and the agencies that enforce compliance with the standards.

FSIS and FDA believe that the agencies and external parties can follow the guiding principles as a road map or a check list, so to speak, as they review existing standards to determine whether these standards should be revised or eliminated, or whether new standards should be created. Furthermmore, under this

proposal, any new standards that are developed based on petitions from external groups, or based on Agency research, would follow these guiding principles. The Rule itself would not propose any specific changes to the regulations on existing standards, instead the Rule would address how the existing regulations might be modified or deleted, or how new standards could be created.

Some of the examples of guiding principles that FSIS and FDA have jointly developed include the following:

A food standard should reflect the essential characteristics of the food. The essential characteristics of a food are those that define or distinguish a food or describe the distinctive properties of a food that take into account consumer expectations of a food product.

Another example of a guiding principle is the food standard should permit maximum flexibility in the food technology used to prepare the standardized food, as long as that technology does not alter the basic nature or adversely affect the nutritional quality or safety of the food.

Another example is, the food standard should

be harmonized with international food standards to the extent feasible. Food standards adopted by the Codex Elementarious (ph) Commission should be reviewed if the food standard is different from the requirements of the Codex standard for the same food. The petition should specify the reasons for these differences.

Another guiding principle that will be useful for today's food safety concerns about ready to eat and not ready to eat products, is that the food standard should identify whether the product is, in fact, ready to eat, or not ready to eat. Currently this only occurs in a limited number of standards, for example, cooked sausages are in fact defined as cooked products.

And a final example of a guiding principle that is consistent with the Agency's direction on other consumer protection activities, is that the food standard should be based on the finished product, and not on the product formulation, and therefore compliance could be measured in distribution and not necessarily the food establishment.

Currently the labeling and consumer protection staff in FSIS and the regulations development staff in FSIS are working with the staff at FDA's Office of Nutritional Products, Labeling and

Dietary Supplements, on completing the economic analysis for the proposed Rule. The proposal is on FSIS's regulatory agenda for completion by December of 2002.

With regard to the guiding principles, several outstanding issues remained toward completing data collection for the proposal, and FSIS believes the National Advisory Committee could provide guidance and input in several areas, and we've outlined those areas and addressed them as specific questions.

One question is, what are the general comments of the committee on the strategy and guiding principles outlined by the Agency.

Do any committee members have data that demonstrate the relationship between food standards modernization and the impact on public health?

What is the process used by representatives of the meat and poultry industry, consumer groups and others to identify the need for a change to an existing food standard, or the creation of a food standard? And this question, or the answer to it, will certainly help us assess the impact on industry in following the guiding principles, especially small businesses.

Does the committee have any data on the costs

to industry for compliance with food standards, such as time, resources, trade competition, and compliance?

Is the committee aware of any research available regarding consumer and industry perceptions of food standards to support the rule making process?

Also we're asking if the committee is aware of any economic harm to industry because of the enforcement of outdated food standards, or because of the absence of a way for industry to modify current standards.

Is the committee aware of any implications of federal food standards modernization on state regulations, or international food standards of identity.

And lastly, does the committee have any evidence that shows that modernization of food standards will result in greater product diversity in the marketplace?

All these are -- the answers to these questions will be useful in us completing the proposal that we're currently working on. And with that, I'll close.

MS. GLAVIN: Okay. Questions? Clarifications? Comments for Rob to inform -- Alice.

MS. JOHNSON: One of the questoins that was asked in the issue paper deals with any type of data that's available on consumer perception, and Dr. Post, we talked about this a little bit during lunch, but there is a document by the National Pork Producers Council and the National Cattlemen Beef Association in which they did some consumer focus groups and researched those. I was wondering if we could get copies and use for the committee to review tonight?

MS. GLAVIN: Absolutely, we can. If you would hand to Moshe -- thank you.

MS. JOHNSON: Thank you.

MS. GLAVIN: Yes, Gladys.

DR. BAYSE: Gladys Bayse. In terms of the subcommittee's deliberations this evening, will we have access to a copy of international -- the Codex standards -- the Codex standards that are in item three? Are those well known to everyone?

DR. POST: With regard to meat and poultry products, actually there aren't that many. There are about six Codex standards, and unfortunately, no, I won't have those. They are commodity standards. I can describe what they are when we meet this evening.

MS. GLAVIN: Carol and then Marty.

MS. FOREMAN: Carol Tucker Foreman. I just want to commend the Agency for moving recently to end the standard for meat pizza, dictating the ingredients for the frozen pizza. Consumer Federation wrote to the Department back in 1999 urging that you take this action, and you did, and if we can get a copy, I'd like to let people have a copy of this -- doesn't matter, either this evening or tomorrow, and I have an AP article that came out about it. It might be more appropriate to have your press release.

MS. GLAVIN: Thank you. We --

MS. FOREMAN: Although your press release isn't as much fun --

MS. GLAVIN: I was going to say, would you like the serious version of this? It's very easy to make fun of food standards. Marty.

MR. HOLMES: Yes, I was going to reference -- you talk in question number six about -- is there economic harm to the industry because of enforcement of outdated food standards? I was visiting with one of my colleagues and I think we would agree that if you just do away with the current food standards, you're going to pose an economic threat to the industry who have used those standards for years to evaluate or to set up

a standard on what consumer expectations are for those.

I do think we need to have some mechanism, as we increase in technology and science, to use processing aids, interventions to make products safer, we need to address how those affect the labeling of those products, and specifically I bring up ground beef, and maybe as an example, the Alfside (ph) Sinova (ph) product that's used as a processing aid, and I believe -- I don't know exactly where that stands, whether that was -- that individual product was approved in ground beef and what effect that had on labeling. You know, there was one thing that I understood, well, you can use that on trimmings because that -- trimmings go into the ground beef, trimmings aren't ground beef, and so you can use that technology and spray trimmings -- am I right?

DR. POST: Yes, you are.

MR. HOLMES: So you can use it on primals and trimmings, but you can't use it on the end product.

DR. POST: You can use it on primals and trimmings, right, but you can't use it on end product because of the way FDA went about their final rule, right.

MR. HOLMES: So, I guess what I'm saying is

there needs to be some common sense approach to this, but if the "additive" or processing aid is being used as a food safety mechanism, and you're not using it for an economic benefit, you're using it for a consumer benefit in terms of safety, that there needs to be some consideration on whether or not that affects the label of a product that already has a standard.

DR. POST: If I can add a point or accentuate a point that I mention. We recognize that issue, and that's why we're going to consider an amendment to the regulations to allow for any safe and suitable, not only binder in this issue where we're talking about standards and lower fat products, but also the use of antimicrobials that will help benefit and improve the safety of standardized products.

MR. HOLMES: I'm just saying we support that. Wholeheartedly.

MS. FOREMAN: Just -- Marty mentioned those things that would advance the process because it would acknowledge new processing aids and new ways to process. Our comment on the frozen pizzas was directed to the fact that you have a frozen product that -- our comment was directed to the fact that consumers ought to have access to the widest possible range of

products. You have rules that apply to frozen pizzas that didn't apply to restaurant pizzas or delivered pizzas. The frozen pizzas were required to have so much cheese and so much meat, and therefore it limited the range of products that could be offered to consumers, and we thought that that didn't really benefit anybody.

So I would just add to your modernization of equipment, the modernization of consumer preferences.

MR. HOLMES: To kind of switch issues on you a second. When FDA approves a foreign country's products coming into this country, and it's a meat product, but it's non-amenable species, I'd just like some consideration -- and I don't know, it may not tie in particularly to this, but it does from the labeling standpoint of -- if a -- and I think you've seen our letter, Robert, regarding buffalo -- but we tried to figure out some way to coordinate -- if FDA recognizes a foreign country's process and USDA considers them a country able to import into this country, but it's a non-amenable species, we need to figure out some way to coordinate that, because it creates a lot of confusion to have one agency to accept another country's product in its entirety, and FSIS only accepts it partially.

So there's -- I don't know if that ties in directly with this, but if we can fix that at the same time, it sure would be nice.

DR. POST: We'll consider that, yes, and we're aware of the issue and we're working on a response.

MS. GLAVIN: Okay, are there other questions for Rob? I think you're going to be here this afternoon, so -- and he will be in the meeting tonight I gather, so if you -- if something comes up as you think some more about it -- okay, so with that I will call a break. Don't go too far.

(Whereupon, a 27 minute recess off the record was taken.)

MS. GLAVIN: Thank you. It took a cowbell, but I won't make any comments on that. Okay, our next briefing is on our field correlation reviews, which are a relatively new tool that the Agency has been using, and we have Bobby Palesano from the Tech Services Center, so he would rather be in Washington than in Omaha, and that's just because of you all. So, anyway, Bobby, if you would help us and walk us through this, I'd be very grateful.

MR. PALESANO: Thanks, Maggie. The weather

here is much better than it is in Omaha -- that's the reason I'm here, the real reason. Actually if I spend more than two days in Omaha during the same week, somebody thinks something's wrong, so they try to find me somewhere to go.

I'm here today to talk to you about the food safety systems correlation effort that we put in place as part of the domestic review activity. We, several -- oh, almost a year ago, or a little over a year ago -- we initiated an effort where we would actually go out into the facilities, by district, and gather information. Don't confuse this with an in depth verification review in any form or fashion. It's not intended to be. We are not there to drag out everybody's dirty laundry and issue a list of all the things that we find.

The intent of this whole initiative is actually to increase the effectiveness of inspection verification while we are increasing the quality level of the food safety systems in operation. We actually go out and gather information. We randomly select plants within a district. We select plants within every circuit within that district. We randomly select those, then we give the district the opportunity to

add, subtract or have an opportunity to add plants to that list, based on the information that they have at the district level.

The technical service center actually sends staff officers out there to be part of a team. They accompany the circuit supervisor and the in-plant inspection personnel. They have check lists, and those are listed in the materials that you have, I believe behind Tab eight, and they utilize, I believe, four of those checklists to gather information. We do not issue that plant any report at all. We do have an entrance meeting and an exit meeting with the establishment. We answer any questions that they may have about any questions that we may have asked them.

After we have gathered this information, then we go back out into the facility -- or into the district, pardon me -- and conduct correlation sessions with industry and inspection personnel. And you are probably already aware of all of that the last time you had a briefing, but I thought if there were some people here that had not been aware of that, perhaps I would start with that, just to give you an overview of that activity.

The real key ingredient in this whole

initiative is the correlation sessions that we have after we have conducted the plant visits.

With that, I would kind of like to just bring you up to date as to where we are in the activity right now. I believe in April of last year, we -- or this year -- we actually went, conducted a pilot in the Boulder district. That was the first district that we went to. We have completed all of the plant visits there, as well as the correlation sessions. We have also completed the plant visits and correlation sessions in the Dallas district.

Last week, we were in the Madison district. A few weeks prior to that we were in the Lawrence district. So we actually, at this point in time, we have conducted some plant visits and some correlation activities in several districts, and we are continuing that effort. We're actually scheduling to go back into the Lawrence district the last week of this month to conduct our correlation activities. A little bit later on in the year we will go to Madison and conduct our correlation activities with them.

Any questoins about what we've done so far? As we continue to go about this, we add materials that we find. Obviously, when we went into the first

district we had some ideas, but we really didn't have the data to know exactly what we needed to correlate on. So when we put our correlation material together from the first district, we did it based on one district. After we had completed the correlation in the Dallas district, we added any trans- or range of practices that we picked up within that district, to that information that we had from the Boulder district, and so on. So our correlation material will be continually updated to include the range of practices of all of the districts as we pursue.

For next FY, we have already scheduled five districts -- Atlanta, Chicago, Alameda, Minneapolis, and Beltsville (ph) are the districts that we have tentatively scheduled. I believe if you're interested in looking at when we are going to be where, that information is on the website. Certainly if you have any questions about that, you're free to give me a call at the tech center. The remaining districts, after those, will be conducted the following FY.

Probably this might be the part of the program that everybody was most interested in, and that was what have you guys been finding when you go out? And you know, again, I want to emphasize to you that

we're there to see the range of practices within a district. We are not there to identify problems that are plant specific.

So some of the trends or range of practices that we found so far, district by district, are that the SSOP records did not indicate that there were any preventive measures being documented or perhaps implemented when the establishment had found SSOP problems.

We also noted that there were flow charts and hazard analysis that did not line up, as far as the process steps were concerned. One of the things that the staff officers do, in conjunction with the in-plant inspection personnel, is to look at the flow chart, then walk into the facility to verify that the flow chart is indicative of that process. Sometimes they don't line up. Also sometimes the hazard analysis will include more or less steps than the flow chart does.

We also notice that there are times when an establishment has identified a food safety hazard being reasonably likely to occur in the process, and are controlling it with an SSOP or GMP, rather than a CCP.

One of the things that, particularly seems to be in every district that we have come to, is the lack

of scientific support for critical limits. I heard someone this morning allude to the fact that they were in favor of something as long as there was scientific support. And I would like to say that we look for a lot of supporting data, but particularly in the area of critical limits, we certainly would anticipate that when an establishment sets a critical limit, that they would have scientific support for that.

There is a lack of supporting data for monitoring procedures and frequencies, and even though the establishments have gathered a lot of data through their records, there is no evidence that most of those establishments are reviewing those records to determine the effectiveness of the systems.

We also looked at inspection records and there seems to be indications that our inspection personnel do not realize and recognize the regulatory requirements that the establishments must have to support their systems. There is also indications that our inspection personnel are not documenting non-compliance that we see evidenced within the establishment. And when we start looking through the establishment's records as well as the inspection files, there seems to be a trend that would denote that

if there's a problem in the establishment, it might be indicative that we have a lack of documentation in the inspection file.

Any questions? I did that so well and fast you probably don't have any. Yes, Dan.

DR. LAFONTAINE: Could we go back two slides?

MR. PALESANO: I don't have the control. Somebody? Can you go back?

DR. LAFONTAINE: Well, let me tell you which one -- it's the monitoring -- you made comments about the monitoring procedures and frequency support. Okay -- now, I'm jumping around here a little bit -- supporting your critical limits on a scientific basis, I understand that, and it's pretty straightforward. You know, what is your technical reference?

Monitoring procedures and frequency support -- can you elaborate on what you're seeing? What the deficiency is? What you're expecting? I'm not sure what you mean by that.

MR. PALESANO: Yes, be happy to do that as best I can, Dan. And I was careful how I worded that because I stress scientific support when it came to critical limits, but I omitted the word scientific when I talked about that. The regulation 417.5, I believe

it's A(3) -- somebody here could probably correct me if I'm wrong -- it basically says that the establishment must have support adequate for their monitoring procedures and frequency. That could be through a multitude of ways, in my opinion. You know, one way, obviously, there may be some monitoring that could be supported with some statistically based activity. Others might be just the decision making situation that where the establishment has enough knowledge of their process, they know that if they will monitor at a certain frequency, that frequency is adequate to demonstrate that their process in is control.

The bottom line, in my opinion is, that the process should be in control and the monitoring should be adequate to demonstrate that it is in control.

MS. GLAVIN: That answer your question? Alice?

MS. JOHNSON: Alice Johnson, National Food Processors. Thank you, Bobby, for your presentation, and I think everyone agrees that the correlations are a good thing, that we need to look at trends across the nation. >From what I understand right now, it's still looking at trends and going in on training on individual districts.

And one of our bullets in our briefing paper, it talks about CCPs and controlling hazards with CCPs instead of SOPs, good manufacturing practices and plant procedures. We know that, based on the recommendations from the committee last June when we met, I guess, that the Agency is working on a proposal to talk about how prerequisite programs relate to a HACCP system. I assume that part of your training is consistent with what you have in this document where you talk about CCPs, and that you are training with the Agency's current philosophy on prerequisites.

If, after proposal, comments are made that support the inclusion of prerequisites somehow in HACCP plans, do you envision doing another correlation and doing retraining? And how do you envision bringing everyone up to speed? I imagine about the time you get through with the correlations, there'll be a final rule coming out.

MR. PALESANO: Since I have arrived in Washington DC, I've been practicing on my diplomacy, Alice, but I've only been here since last evening, so I will do my best at that.

First of all, I want to say that I do not believe that anything that we are recording in a

district contradicts the present Agency philosophy on the use of GMPs. Keep in mind, as I went through my slides I think I worded that very carefully. If I didn't, I may need to go back and change it. Once the establishment has gone through their hazard analysis and determined that there is a food safety hazard likely to occur in the process, they must have a CCP somewhere in that process to control that hazard.

I believe -- and I know there are a lot of people here a whole lot smarter than I am -- that the Agency is looking at expanding the use of GMPs or allowing the use of GMPs, control point SOPs, et cetera, but I do not believe that they are, at this point in time, considering them to be used for a food safety hazard -- to control a food safety hazard that has been found likely to occur in the process.

MS. GLAVIN: Okay, other questions or comments or discussion -- I can't see -- oh, it's Nancy, sorry.

MS. DONLEY: Behind the projector. I was not here for the meetings last June and I'm kind of learning about this on the spot. So, forgive me if some of my questions are really, really elementary grade questions.

Once you go in and do these correlations, and it says here -- I guess I'm kind of perplexed on the main points on your first page here, on what we were given, it says, "No record is made of individual establishment findings". But some of these things that you've talked about here in problems with correlations are pretty significant. So -- and I know your purpose here isn't to go in and do an individual in-depth verification review. But what happens when these inconsistencies and these problems come up? What's the next step?

MR. PALESANO: Okay, Nancy, I will try my best to address that, and I have plenty of support here if I don't do it adequately. Just for your information, I only learned about this five minutes ago. I wasn't here last week either. I'm teasing.

Actually, when we go into an establishment, even though the findings may sound significant -- and they are significant -- if there are situations that are found in the establishment that relate directly to food safety, the inspection personnel are directed to handle that then, on the spot. If it's a matter of an establishment not having support for a critical limit, as an example, if an establishment has a critical limit

of 40 degrees in a raw process as being their critical limit for food safety, they may not have support for that, but that doesn't mean the food is not safe that they are producing.

MS. DONLEY: Okay --

MR. PALESANO: So the intent of the correlations is to make the inspection personnel aware of the regulatory requirements, and at the same time, making the establishments aware of the regulatory requirements and how they can raise the quality level of their food safety systems at the same time.

MS. DONLEY: And when you go back with -- and it says with having the actual correlation meeting then, is that done with the inspection personnel and the plant personnel, and the correlation team all together in the same room, or how is that done?

MR. PALESANO: Actually the inspection personnel session lasts about eight hours. The industry session lasts three hours. They are separate -- they are done separately. All of the establishment personnel in that district are notified of the correlation activities and when they're scheduled. Obviously, we don't mandate that they attend. Our Agency has mandated that all of our inpsection

personnel attend those sessions -- all the inspection personnel at the GS-8 and above level.

MS. GLAVIN: So, Bobby, just to make sure I didn't miss hear. The inspection personnel at GS-8 and above in the district are mandated to attend. The plant personnel are invited to attend.

MR. PALESANO: Absolutely.

MS. GLAVIN: Okay. Marty.

MR. HOLMES: Bobby, I just want to tell you that in the industry, many times that this correlation team and the fact of their coming creates a number of potential areas of confusion, not only by industry, but also by your inspection personnel, of wanting to do their own -- what you want to call it, an IDV or a correlation on their own, prior to the team getting there, and that that goes same for your IDV team et cetera. And the fact that we have this food safety systems correlation team, we have IDV teams, we have consumer safety officers, and then we have compliance officers -- it starts to get confusing as to okay, what's going on here? And so all I'm -- all I'm -- I don't have the answer for you, and I usually don't like to bring anything to the Agency unless I have a resolution or a solution to the problem. I'm just

telling you that there is confusion as to kind of -- okay, what are all these teams? What's the differences between them? And we do our best to explain when we get calls.

But when an IC is a part -- he is included on the food safety systems correlation team when it comes to the plant, and although they may not be directed to -- from the food and safety systems correlation team -- to make any changes, as they leave the plant, the IC many times requests that the plant make changes, based on the correlation team. And I don't think they're supposed to be doing that.

But anyway, I'm not telling you anything you don't already know. I just wanted to bring it to the table.

MR. PALESANO: And I appreciate that, Marty. I don't have the answers either. I do appreciate that feedback, however.

MS. GLAVIN: Charles?

MR. LINK: Charles Link. Just to follow up. I think we were just told in one of our circuits last week that we've seen the fiscal year 2002 schedule, we're on it, and start preparing, because the correlation team is coming. But anyway.

The question I've got is, how does this information as you go through district to district to district, and it keeps building, you keep finding new things -- how do you circulate that information to the rest of the world that is waiting for a correlation, so that when you do come maybe we've already been addressing these issues and we don't have to wait.

MR. PALESANO: Presently, I don't believe we have a mechanism in place where that we are publicizing that on the home page at all. We have had some discussions in line with that, but at this particular point in time, I think about the only materials that I have seen floating around out there are materials that someone has abrogated, I believe.

MS. GLAVIN: Bobby, but is not the intention -- you know one of the things we hope to gain from this effort, to have information for everyone so that they can see what kinds of issues are coming up, what kinds of things they might want to look at themselves. But this is still early days. We only have two completed, and two more underway.

MR. PALESANO: That is correct, yes. I believe Dr. ... it was one of Dr. ..., I believe, initial directions to us was we want to get that

information to everyone. It's not like we're on a secret mission of any kind, other than to raise the quality level of the food safety systems and increase inspection verification, effectively. That's a good point, Maggie. Dr. Mina?

MS. GLAVIN: Lee Jan and then Nancy.

DR. JAN: Lee Jan, Texas. Bobby, I just wanted to I just wanted to comment -- didn't have a question this time. Texas, of course, the Dallas district, had their correlation and the Texas state program provides inspectors in about 47 or so federal plants under the Talmadega (ph) agreement, so about ten of our plants were included in this correlation, and not only because of that, but because we have a good rapport with the district manager, we were able to get many of our inspectors in to these correlation sessions. I think we got all our supervisors, and I think we got a lot of our inspectors themselves in. And I causing problems. It may not have given -- may not have made them a perfect inspector, but I think it made many of our inspectors better inspectors because from that they could not only hear that -- or they could see that they weren't the only ones that were having difficulties in these particular areas. They heard the

same answers that everybody else got, and although there may have been a few inconsistencies among the different teams that presented the training across Texas, they were very close, very similar, and I felt like that's the right way to go, and I'd like to see that kind of process maybe be included in the state reviews when the states are reviewed.

MR. PALESANO: Thank you, Dr. Jan.

MS. GLAVIN: Okay, it sounds like we need to make sure, in the future, that we invite the state system into the process when we're in a state that has a state inspection program, because -- is that kind of where you were?

DR. JAN: Yes, I would be -- I would like to have included some state plants in that whole review, because we are providing -- even though our product, somehow, is deemed not acceptable to go across state lines, unless it's a retail store that doesn't have ... at all, but otherwise, we still try to produce the same level of product, and the quality and safety, same system, same standards, so if we were included -- if ours were included, that might show or bring out some stuff that because our plants are smaller, and a very small federal plant may not have been selected, there

may be some problems unique to very small plants that some of the federal inspectors struggling with as well, and that may have come out, where in the federal plants are generally larger and since you miss some of that group.

MR. MINA: My understanding Lee, that we have used a similar approach in some states, and Bobby maybe he can correct me if that's not the case, so we use the same approach when we reviewed some states, and obviously we highly encourage the states to participate in those reviews when we do them for their plants. Whether we select a state plant as a part of the review, I think we need to keep them maybe a little bit separate because, you know, we certify the state. But in terms of training and education, I think everyone can benefit from that.

MR. PALESANO: Yes, I would add to that, Dr. Jan, that in some of the states, obviously the district schedules the correlation sessions, we try to get the district offices to invite the state programs. One of the correlation sessions that I personally was involved in, they had their entire inspection staff sat through the entire all day session, plus the evening session, to be sure they heard everything they needed to hear.

So if we did not contact you, we should have, to have any of your inspection personnel to come in and to listen to the correlation, certainly.

DR. JAN: Well, that did happen. At my request to the district manager. He didn't come and ask us to participate except as TA inspectors, but he said no, everybody's welcome as long as we've got room, don't all come at the same time. And it worked out fine.

MR. PALESANO: The review system that we had in place for the state programs -- presently we're trying to use as much of that philosophy in it that we can and still meet the criteria that's outlined in the directive for comprehensive reviews, Dr. Jan, so we've still got some tweaking to do before we can get the systems to completely line up. But we do have that -- in fact, I was talking to Dr. Lee... about it at break just a few minutes ago.

MS. GLAVIN: Okay, so this sounds like an area where we could maybe even make an improvement. It'd be great. Nancy.

MS. DONLEY: A couple questions. First one's real simple. Are you visiting all different types of plants ranging from slaughter and -- or processing --

MR. PALESANO: Yes, ma'am. We try -- we not only try to get every process that's there, but obviously we also try to get some of each size.

MS. DONLEY: Okay. First of all, I think it sounds like a very important, necessary program that you're doing here. I'm just hoping that what comes out of it is something that's just going to really come -- that's meaningful and will really, truly tweak the system and make it better. Did I understand you correctly that you have got like a checklist that you bring through this process with specific questions?

MR. PALESANO: Yes, the checklist that we use are designed to gather information from -- Nancy, that's correct, we don't use the same checklist in every establishment, however, because if we did that it would look more like an ADB or some similance thereof. And we want this to be information gathering effort while we're in the plant.

MS. DONLEY: And is this information available to the public?

MR. PALESANO: The only information that is generated out of a district, is the district summary, where we put all of the information together, from the notes.

MS. DONLEY: But is a checklist available?

MR. PALESANO: The checklists themselves are available. Actually if you look at the latest directive that has been published by the Agency, I believe it's -- I say the latest one, I'm not sure, but the one on IVV (ph) methodology. I think it's 5500, but I could be wrong. The checklists that are attached to that, some of those checklists are basically what we are using to gather the information from. We are only using a few of those, rather than spending three days in an establishment, we're probably spending three or four hours there, just looking at very specific issues.

MS. DONLEY: So we would be able to, though, if we wanted to get those -- copies of those checklists, available to FOIA along with the --

MR. MINA: They're available. You don't have to FOIA them.

MS. DONLEY: Okay.

MR. PALESANO: They're available.

MS. DONLEY: And then last question -- I promise, my last one. How does this system correlate with what we had earlier -- an earlier discussion back on the evaluation reports that we had? Is there some way you're marrying the two of them with how the

directives are being interpreted and by the inspection personnel? Is there some -- is there something within the Agency where you're kind of looking back -- and I pulled the one, for instance -- I looked at the evaluation report on the feedback on sanitation directive, and one of the key findings -- and this is what I'm saying -- one of the key findings in that one was that in some cases respondents said "the intent of the directive was clear, that is to inspect for proper sanitary conditions, but that the terms for compliance used in the regulations were vague. This vagueness, combined with an absence of standards, would lead to controversy with plant management."

So when we see things where there's a difference going on in this correlation study, can you somehow go back to what your evaluation here of these directives is doing and try to say, okay, how do we -- maybe this is the problem?

MS. GLAVIN: Yes, very good point. Very good point. The evaluation studies are looking at whether the instructions are understood. The correlation are looking at the -- the implementation of that, and so, yes, there can be a crosswalk to see if -- you know, maybe everybody in the evaluation study said yes, we

understand this directive. It's clear. But then when we get out there, the actual implementation is flawed, and it may be they thought they understood it, until they tried to implement it. So, that's a good point, Nancy.

MR. PALESANO: There would probably be a direct correlation if both directives related to food safety publications, and then we were actually looking at or getting information from the food safety systems in operation. Obviously, all the directives we publish don't necessarily relate to food safety.

MS. GLAVIN: Right. Mike.

MR. GOVRO: Mike Govro, Oregon. Nancy just asked my question, but to extend on that, I would encourage you to work together to put that information together because obviously this is the test that I asked about this morning, or can be, and I would think that from there you could come up with some conclusions about areas where you could improve and deal with your training staff or, you know, go forward with it.

MS. GLAVIN: Dan.

DR. LAFONTAINE: I wanted to put a little point of clarification to Nancy, to your question, and also Bobby's answer. The example you used -- this gets

a little technical, but it's worth bringing out. The sanitation performance standards directive deals with part 416.1 through 416.6. The sanitation standard operating procedures are 416.11 through 416.16, I believe. So they are two different things is what -- in this particular case. Your point is still well made that it's a directive that's dealing with the things that they're looking at, there should be that coordination. But in this particular case, they're two different sets of references. One is sanitation performance standards, the other sanitation standard operating procedures. It gets very complicated, but -- but the important thing is that the SSOPs deal primarily with the food contact surfaces. It could have impact on food -- adulteration or contamination. The others deal with the rest of the sanitation in that facility, that's not directly food contact.

MS. GLAVIN: Okay, thank you, Dan, for that clarification. Are there other comments or questions or discussions on this particular issue? Okay, thank you. Good presentation.

We are up to our time for public comments, and I am told that we have one person who has asked to make a comment, and this is Deborah White. Is Deborah

White available to make a presentation or a comment? Okay, thank you.

MS. WHITE: Or two or three.

MS. GLAVIN: Okay.

MS. WHITE: I'm Deborah White. I'm a regulatory attorney for the Food Marketing Institute. We represent the supermarket industries, and so we are very interested in your discussions with respect to the retail exemption. And as an initial matter, I wanted to make the point that this is an issue that's near and dear to our hearts.

MS. GLAVIN: I'm sorry, your microphone is not working, so I apologize, but you do want everyone to hear it.

MS. WHITE: I do. Okay, it's working, I'm just vertically challenged. Okay.

MS. GLAVIN: Members, can you hear her now? Dan?

MS. WHITE: Can you hear me?

DR. LAFONTAINE: Yes, stay close up to the mike.

MS. WHITE: Can you hear me now?

MS. GLAVIN: That did it.

MS. WHITE: As I said, my name is Deborah

White. I'm a regulataory attorney for the Food Marketing Institute. We represent the supermarket industry. We have some 2200 members and we are very interested in the retail exemption. And to that end, as an initial comment, I would like to note that there is no retail representation that currently sits on this committee, so this committee is going to be looking at the statutory, regulatory exemption that applies to our industry without anybody sitting at the table to discuss the practical implications of that, and we think that that is an issue of which the committee should be aware when they're having their discussions.

In addition, I wanted to make some remarks about the law itself. Carol Tucker Foreman repeatedly asked for citations to the law, wanted to look at it, and I think it's important to consider this issue in the overall context. And I'd like to start by noting that the Federal Meat and Inspection Act and the Poultry Products Inspection Act both require that all meat and poultry products be not adulterated or misbranded, so regardless of whether the product is coming out of continuous inspection or not, that standard applies, and applies to retailers as well.

Second, with respect to the continuous

inspection requirement, I think it's a little misleading the way it was presented this morning by USDA that generally meat and poultry products that are processed or prepared are required to be inspected. The statute, actually, is very specific, and it reads as follows.

"The Secretary shall cause to be made by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat canning, salting, packing, rendering or similar establishment."

What that language says to me, at least, is that there's a list of establishments at which Congress felt it was appropriate to apply continuous inspection. And it's not just me that interprets the language that way. In the Honey Baked Ham case, which was the case that -- in which the judicial branch most recently considered how the executive branch, in this case, USDA, interpreted the language of the retail -- the retail exemption overall, the court looked at that specific language, that enumeration of places where inspection is required and said as follows:

"The Act lists the sorts of establishments subject to federal inspection. Because the list does

not include retail establishments, one would supposed that meats prepared in retail stores are not subject to the federal inspection requirements. The functions of slaughtering and packing plants differ considerably from those of retail establishments. The meat inspection act does strongly suggest that retail establishments are exempt from the federal inspection requirements. A statute listing the things it does cover exempts, by omission, the things it does not list. As to the items omitted, it is a mistake to say that Congress has been silent. Congress has spoken. These are matters outside the scope of the statute."

So, again, we have a judicial interpretation of the language -- not of the retail exemption, but of the language in the statute requiring continuous inspection that makes it clear that retail isn't included.

As a secondary matter, there is the statutory provision that does provide for retail exemption. That language is as follows:

"The provisions of this chapter requiring inspection of the preparation of meat food products or the processing of poultry products in specific establishments shall not apply to operations of types

traditionally and usually conducted at retail stores and restaurants, when conducted in any retail store or restaurant or similar retail type establishment, for sale in normal retail quantities or service of such articles to consumers at such establishments."

So you have a two pronged statutory standard for where continuous inspection is required, and you have a standard for where it's not required.

Today the Agency shared with us their new thinking about the retail exemption, and what it sounds like to me -- and again, it would be helpful if we were part of the process, we would have a little more time to prepare for this -- but what it sounded like to me was basically taking the statutory standard, that is, traditional and usual operations that are conducted at retail are exempt, but then adding something new, a new requirement that all meat will be sold at the same price, the same terms and the same conditions.

And the basis for that, the reason for that, as I heard, was that exempting HRI, or allowing 25 percent HRI sales is not advancing the purpose of the Act, and because there are inequalities created between wholesalers and retailers. With respect to the second point, I would respectively state that the

inequalities within the market place may not be the appropriate guiding principle for the Food Safety and Inspection Service.

With respect to the first point, advancing the purposes of the Act, the court again, in Honey Baked Ham, was very clear about what the purposes of the Act are, that is to make sure that food products that are given to consumers are wholesome and not adulterated. It's unclear to me how eliminating the ability of retailers of providing up to 25 percent of their product to HRI would in any way advance the purposes of the Act.

There was some allegation at one point about poor policies on return product at retail, but again, it's unclear to me what the relationship is between that and the HRI problem.

I would submit that if you're going to work on the retail exemption, the standard should be predicated on health and safety. And Carol Tucker Foreman made a remark about that as well. In Honey Baked, again, the court repeatedly referred to the purpose of the Act, the wholesome and unadulterated product as being the basis for deciding what was appropriate for the Agency to be doing.

I don't see any basis for alleging that removing the HRI part of the retail exemption is going to improve the safety. The standard that Honey Baked applied was whether or not it bears a logical relationship to the goals of the Act. Again, changing the economic dynamic between wholesalers and retailers -- I don't see how that's going to improve food safety.

And I've got a couple of other just general comments that I wanted to bring up. I wanted to reinforce what Mr. Govro said about the importance of looking at what the effect of making this change would be in a practical application, or practical matter. At this point you do have the state and local authorities who go around and inspect retail establishments on a very regular basis. It may not be a continuous basis, as is required under the Acts for certain segments of the meat producing population, but it is on a regular basis. And if you simply change today what the definition is, without thinking about what or how you would apply the new inspection requirements to an existing facility, I think that's short sighted, and I think it underscores the importance of having retail representation on the committee.

With that, I'd be happy to answer any

questions.

MS. GLAVIN: Okay. John?

MR. NEAL: Your name was Deborah?

MS. WHITE: Yes.

MR. NEAL: I appreciate your comments. I agree with you in some aspects of that. I'm from a small business. We do nothing but retail. We're probably going to retail 4000 hams through the next 30 days. Do it all right there, take care of it. I'm USDA though. I slice, smoke and at the same time I'm dealing with a cured product. The smoke has inhibitors in it, also, and the problems are I do have a little issue with why we are, when we're retail to not retail, the difference is as number one, you have a raw product. When you deal with a raw product and you start cutting into a raw product, you know, the odds change. You have people in big plants, or even small plants like myself, trying to make a living. They're USDA inspected, wholesaling meats, and you have the bigger stores and conglomerates sitting down and just because they're wholesaling out, they're getting the benefit and taking the little businessmen out of it.

This isn't a personal -- no, just hear me -- you're fine. I'm going to agree --

MS. WHITE: I would like to respond to your comment.

MR. NEAL: Yes, that's true. I've got a little bit more to say on that. But at the same time, I appreciate what you all do, what you're talking about, but at the same time, it's not a fair deal on both sides of the coin. It's unbalanced. You know, what's good for one because it's a small outlet and he doesn't do the percentage, doesn't mean the big retailer -- when you're talking about 75 percent, 21 percent, 25 percent -- when you talk big dollars to little dollars, that's a lot of money. And if a little guy has to do it, the big guy should do it too. Okay, that's it.

MS. WHITE: I appreciate your points about the economics, I do. That's not my forte, but I certainly can respect the realities of the situation. But I think, if you're interested in improving the economic dynamics, it should be done under the guise of improving the economic dynamics, and not under the guise of food safety. I think to say that removing -- to change -- I guess actually I didn't say this before.

You've got two statutory prongs and in addition you've got USDA's interpretation of what a

retail establishment is, and within that interpretation you've got six different criteria, one of which or half of which has to do with the amount of sales that go to HRI. I don't see how tinkering with that one standard in any way improves food safety, and I think that's what the goal of this committee, of this Agency, of this body should be, and I think if you're talking about economic inequalities, you need to go someplace else.

MR. NEAL: Okay, I didn't quite finish that, and I'm sorry about misleading you on the economic inequalities, there is that. But the issue here is food safety. No, it is food safety, and I'll tell you what. When you develop a HACCP plan, and you have a HACCP plan, there's one thing you have to control. You have to control where the product goes, what it's shipped in, how it's shipped, what temperature it's shipped and what do you do -- and it happens all the time -- when that product goes out, what do you do when that product comes back because they won't accept it? You know, when you lose control of products from one establishment to the other, you know, I was talking about that negative aspect -- and I feel strongly on this, more so than the economic factor -- once you lose

that circle, the further away you get from that whole piece of meat, the further away you get, once it goes in the big circle, that's when you get issues and that's where you're going to get contamination and adulteration.

MS. WHITE: Two points. One, we're bound by the same standards of adulteration and misbranding that you are and that everybody else is, so if the product is adulterated it's per se, illegal, gets kicked out of the market, whatever, it's done. And whether or not you have -- I think you might all agree that continuous inspection, although it gives you a higher assurance, it's not an absolutely guarantee. There are products, God forbid, that get out that there might be adulterated. So that's one point.

The other point is, you know you were saying that -- I think, if I heard you properly before -- that in many cases for your facility, good GMPs, sanitation procedures -- you felt that that would be a sufficient basis, that you wouldn't need continuous inspection on top of that. I think that same argument applies to retail. In a lot of cases, you know, that's sufficient at retail, and more than that isn't necessary.

MR. NEAL: Oh, yes, I'm sitting here right

now, I know mine are good enough, if I didn't have my program. Because I have a limited menu, I know mine are good enough right now, but I'm setting this, and I'm doing it and you can forget the term economics, that was just something we were talking about because I know that's part of the issue. I mean I know that. We can hide that if we want, but that's part of the issue. But adulteration, sanitation, things like that. But let me tell you something. If you don't have guidelines, and don't have good GMPs, and have something that lists it and logs it, and maintains it, believe me, you lose control down the road. Turnover in employees, people, management -- you lose control of that unless they're listed and set up.

MS. WHITE: Okay, that's fine.

MR. NEAL: I wasn't attacking you at all -- set the argument to rest -- okay --

MS. WHITE: With you.

DR. JAN: Lee Jan from Texas, and I don't want to turn my back to you, but I don't have much choice. I did want to ask or get some -- make some points or maybe get your clarification on your position. You listed the different establishments that the law requires inspection and one of those

establishments -- or one type is not retail. But not being a lawyer, I may have missed it, but I didn't see in the law any provision that a retail store could or could not sell 25 percent or vice verse, so if it's not in the law, that -- I think that's the arbitrary -- that's an area that can be considered, but it would seem to me that if you take the position that you did, that a retail store is exempt, then any establishment that currently processes under inspection, if they were to establish a retail outlet, could now say I'm a retail store and be exempt from this inspection.

I'd have to agree with John -- I think there are some economic issues here. Certainly we are told by establishments that it's more costly to implement the provisions of SSOP and HACCP and all those things, and it's a higher cost to them, and they feel -- the producers feel an economic disadvantage when competing with establishments that, yes, they do have to meet or produce products that are not adulterated, but they may get inspected -- you say they're on a regular basis -- but I would doubt that retail meat market type operations or retail stores that have meat operations are inspected more than once a year, and that may be being generous. They may not get that often.

Our complaints, or compliance complaints for off-condition products and off-condition meat and poultry products -- and I would consider that adulterated -- come from retail -- persons that buy at retail stores, so to say that their standards are the same -- there's a difference in saying that they have the same requirements to meet and to say that they're being met, because there's no system in the retail stores, such as SSOP and HACCP, to guarantee or to demonstrate that those systems are producing unadulterated product.

MS. WHITE: Okay, that was a lot to which to respond. I'm going to try to remember it from the beginning. You're correct, the statute does not say that a retail store can sell up to 25 percent and still be a retail store. That's part of the regulatory interpretation, what USDA put into their regulations in 9CFR 303.1(d) I believe, is where the list of what the criteria are for a retail store. And in USDA's interpretation of the statute, of what it means to be retail, they recognized, as Mr. Govro pointed out earlier today, that some facilities are going to sell a little bit to -- you know, it isn't going to be entirely household consumer. A retail store doesn't

actually have entire control over that. But really if what you're doing -- if most of what you're doing, if 75 percent of what you're doing is consumer sales, you know, we won't hold the other 25 percent against you -- and here I'm speaking for the Agency -- I'm not speaking for the Agency, this is my interpretation of what the language says. That's where that comes from. So it's not in the statute, it's in the regulation which is also law, but it's administrative law -- executive body of laws as opposed to Congressional legislative law. That was one point.

Another point that you made was that you don't think that the end product -- correct me if I'm wrong -- but that the end product that comes out of a retail store isn't necessarily of the same quality as it is if it comes out of a plant that's under continuous inspection. Was that your point? That you get some complaint? Oh, that and you don't know how often retail stores are inspected for their meat facilities. Honestly, I don't either, but I keep getting this question, so I think we're going to do a survey of our members.

But having talked to them on an ad hoc basis, and some of the folks I know I have talked to said

they've got people in there once a month. I believe Mr. Govro is indicating that they do meat inspections four times a year, so I think there's some difference in how that happens.

Again, with respect to the quality of the ultimate product, it has to meet the same legal standard. It does. And if it's adulterated, it's adulterated. If it's not adulterated, it's not adulterated, but it's got to meet the same standard.

MS. GLAVIN: Okay, thank you. Are there other questions -- Marty, sorry.

MR. HOLMES: Yes, thanks. Debbie, I appreciate your comments too, and I think, not in defense of the Agency, but this committee is the -- the National Advisory Committee for Meat and Poultry Inspection, and the fact that you all are not inspected by FSIS might be -- but I do appreciate the fact that you came here to give us your input, and we'll certainly take that into consideration this evening as we -- as we debilitate -- debate long through the night -- we may debilitate as well -- it may be quite appropriate.

However, you know, you talked about meeting the same standard in terms of adulteration, but realize

also, we also have performance standards that we have to meet that retail does not. We have sampling procedures that go on from FSIS that retail does not. We've got food safety systems correlations teams; we've got IDV teams; we have consumer safety officers; we have compliance officers. There's a whole lot -- you know, we have mandatory HACCP. There's a lot of things that go on in a federally inspected establishment that don't go on in a retail facility, and so there is -- there is a significant difference there, not just from a level playing field, but also from a food safety standpoint.

And when -- I am aware of some research and I'm not allowed at this point to share it, I'll check and see if I can, of sampling of the bioload -- initial bioload on raw ground beef at retail, that was ground at retail, versus the bioload of product ground at federally inspected establishments.

MS. WHITE: Does it take into account the time lag?

MR. HOLMES: Time lag in terms of?

MS. WHITE: Well, between the product that's received at retail came from a plant -- I mean there's a time --

MR. HOLMES: No, no. This is product that was ground at retail versus product that was ground at the established facility. It's basically coming out of the grinder where the sampling was taking place. So they're both grinding the same raw materials.

MS. WHITE: Right, but the process initially -- it's been around longer in --

MR. HOLMES: This is not a slaughter plant. This is a plant that buys boxed beef just like a retail establishment would.

MS. WHITE: Okay, so it does take into account the time lag?

MR. HOLMES: Yes. I mean you're comparing apples to apples in terms of what's coming out of the grinder, and the difference was the sanitation or what they were correlating or being able to show to the research is the difference in sanitation in the back of a retail grocery store -- even though it may not be adulterated product -- don't get me wrong, we're not talking about adulterated product. Talking about the sanitation that affects the process. So if you want to say based on that research, if you did a shelf life study on product from a grinder in a federal establishment, versus the shelf life of a product

ground beef in a retail establishment, you'd find a significant difference in terms of how long that product would hold.

MS. WHITE: And how would getting rid of the HRI problem affect that?

MR. HOLMES: Because if a retail establishment is not allowed to sell HRI, okay, then that means all product going to HRI is federally inspected, or state inspected, and therefore, the product is safer.

MS. WHITE: That's going to HRI?

MR. HOLMES: Correct. That would also be consistent if you look at the CDC data of where food borne illness outbreaks occur, which is typically, as you look at the comparison of where they're found, they're typically found in the home, and that's not all meat products. There's a number of products, but the majority of it happens in the home, and they're buying products at retail.

MS. WHITE: Well, we'd be happy to look at your data. I mean Gerald Hollingsworth (ph) is our microbiologist, I'm not qualified to do that, but I would like to address your point about the different standards. You've got all these things that go on in

plants and they don't all go on at retail, but that's a function of what the statute says. The statute -- Congress, in its wisdom, decreed that plants need to be subject to federal inspection. USDA has interpreted that to require that whole laundry list of things that you just cited. That's one box. Statues says it's another box for retail, and that's the way the statute is set up.

MS. GLAVIN: Nancy?

MS. DONLEY: Nancy Donley from STOP. Marty, Marty, Marty, I was so with you until the very end there. I have to just put in on public record that the CDC statistics which shows food borne illness is occurring -- that the number has been passed around for years that most food borne illness occurs in the home. The CDC has a published letter clarifying that they don't say that that is where the food borne illness occurs, that is where, when they do their follow up reviews, they find the people that it's product that has been purchased that has been brought in to the home. But I want to make it very clear, it's not because it is product that the consumer has -- it's contaminated product that was brought into the home.

MR. HOLMES: Are you saying it is

contaminated product brought into the home or the fact that it was mishandled at the home?

MS. DONLEY: No. I'm saying that if it was uncontaminated product, there would not be a problem. The problem is that it is contaminated to begin with. The contamination does not spontaneously combust in the consumer's home. It's contaminated product brought in.

MR. HOLMES: Okay. And that's what I was saying too, is that -- that -- I was just making, and I don't know -- the research that I'm referring to was not testing that, but I'm saying that would be consistent to say the fact that the retail product was less sanitary than the federally inspected product, you could make an assumption that because retail product was less sanitary, that may be partially translated into food borne illnesses happening at the house because they're buying it at retail and taking it home to prepare.

MS. DONLEY: That -- I agree with you, as long as we don't -- as long as you're not saying to me that it's a problem in the home that's causing it.

MR. HOLMES: No, no. That's not what I was saying.

MS. DONLEY: Okay.

MR. HOLMES: We're on the same page.

MS. DONLEY: So now we're completely together. I agree with everything he says.

MS. GLAVIN: You better stop there, Marty.

MS. WHITE: One other response to something that Marty said, which was that retailers don't deserve a seat at this table because we're not inspected, well that was how I interpreted what you said -- you want to clarify?

MR. HOLMES: All I was saying was that the only reason I can think that you may not be sitting at this table -- I don't know if you've ever -- if ... ever been a part of this committee in previous years or not, I was trying to rationalize, okay, why aren't you here? You should be. I'm not disagreeing with that at all. I appreciate --

MS. WHITE: Okay, I just wanted to --

MR. HOLMES: -- the fact that even though you aren't here, you came to give me some input so that I can take that tonight --

MS. WHITE: And I appreciate that.

MR. HOLMES: -- and I was just trying to figure out why aren't you here, and that's the only rationale I could think, and that is if they're not

inspected by USDA and this is the Meat and Poultry Inspection --

MS. WHITE: And we are. We're just not under continuous inspection.

MR. HOLMES: Okay, fair enough.

MS. GLAVIN: Okay. Other questions or comments on this statement? Thank you Ms. White, and I hope that you will be able to attend the subcommittee meeting this evening and participate. Thank you. Lee, did I cut you off?

DR. JAN: I just wanted to mention that at least last -- I guess last group, last year's group, we did have a member that was a retail store operator on this committee. I can't remember his name, but --

MS. GLAVIN: I'm sorry, I don't remember it either, I don't remember that.

DR. JAN: But yes, we did. He even sat on some of the committees I was on.

MS. GLAVIN: Okay. Are there other comments from the general public or statements that people want to make?

(no response)

MS. GLAVIN: Is there anything more anyone on the committee would like to discuss this afternoon?

Okay, well, you will have your subcommittee meetings starting at seven, and Charlie is going to give you some instructions.

DR. GIOGLIO: Okay, thank you, Maggie. I guess primarily I'm speaking right now to Dan and to Lee regarding the proceedings tonight. As we know, we're going to reconvene at seven. Each one of the subgroups, and I believe all the committee members know which subgroups you're on, it's in your briefing books. Start at seven. We hope to run through to nine o'clock, and we sort of hope to keep as best we can to that schedule -- nine o'clock.

Again, as usual, those proceedings are open to the public. It will be up to you to manage the subgroups and I would suggest, as was mentioned before, utilize the input from the public that are there for information for yourselves and so forth, but they're really not part of the subgroup and the committee.

As usual, we'll have FSIS folk in the rooms with you to facilitate. If you need anything, you need additional information, we'll try our best to get it to you. We have handed out to all of the members here, some additional information that has come up during the discussion today that I think you should find useful,

and I guess, come back and be ready to report out tomorrow morning.

I guess I'm just reminded that if we really left you insufficient time to discuss -- and potentially, I guess, the retail issue is one -- we know we're going to come back tomorrow morning and we've allotted, I guess, about an hour and a half or so for each item, to discuss it more fully with the committee at large. We can do whatever wordsmithing we need to right on the floor here tomorrow and try to get everybody's points covered and we'll try our best, really, to come to a consensus.

I guess I'll leave it at that unless you have something more.

MS. GLAVIN: Okay, I wanted to ask committee members, please, to attend the subcommittee to which you are assigned. We have attempted to have balance, both in terms of numbers and in terms of expertise in the various groups, and so it would be preferable if you would attend the subcommittee to which you are assigned. Okay? Yes.

MR. GOVRO: Could you just clarify for me the purpose of the subcommittee? I heard the word consensus mentioned here, and I really doubt, at least

the retail exemption issue, that it's going to be possible to reach a consensus. Are we actually after a consensus or are we just after an airing of all the different sides of the issue?

MS. GLAVIN: I think what we are hoping for is that you can provide input on the questions that are asked and other questions that arise during the course of your discussions, and certainly in the past there has been a mix of -- you know, on some of the questions, some of the issues, the group is able to make recommendations. On others, perhaps the consensus is that further work is needed in a particular area, so it's -- and that that work needs to cover some of the things that are identified during the subcommittee as not having consensus.

So, we're looking for your advice and counsel on how to proceed on these issues, and it would be wonderful if you would come up with 'here's how to solve all the problems', but short of that, you know, sort of how to proceed from here is also extremely useful and an identification of what are the outlying or the remaining issues. Does that help?

Okay, thank you very much for a good day's work.

(Whereupon, at 3:56 p.m., the meeting in the above captioned matter was adjourned, to be reconvened in subcommittee this evening, Wednesday, November 14, 2001, at 7:00 p.m.)