

UNITED STATES GOVERNMENT

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DEPARTMENT OF AGRICULTURE

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MARKET ACCESS PROGRAM PUBLIC HEARING

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WEDNESDAY,
JULY 25, 2007

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The Public Hearing convened in the Jefferson Auditorium, 1400 Independence Avenue, N.W., Washington, D.C. at 9:00 a.m., Mark Slupek, Director of the Policy and Planning Staff, facilitating.

SPEAKERS:

J. LAWRENCE BLUM, Acting Deputy
Administrator, Office of Trade
Programs
MARK SLUPEK, Director of the Policy and
Planning Staff
SETH M. WILEN, American Trading
International, Inc.
LINDSAY McLAUGHLIN, International Longshore
of Warehouse Union
TIM HAMILTON, Food Export - Midwest, Food
Export - Northeast
GREG TYLER, USA Poultry & Egg Export Council
ROBERT D. PEASE, Brewers Association
LORI McGEHEE, Millennium Marketing
JEFF CORREA, Pear Bureau Northwest
BETH CALLANAN, Townsend Management

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

<u>ITEM</u>	<u>PAGE</u>
WELCOME/PRELIMINARY MATTERS/PROCESS	
J. Lawrence Blum, Acting Deputy . . . Administrator, Office of Trade Programs	4
Mark Slupek, Director of the Policy and Planning Staff	7
PUBLIC COMMENT:	
<u>Access Criteria</u>	
Seth M. Wilen, American Trading International, Inc.	11
Lindsay McLaughlin, International Longshore and Warehouse Union . .	23
<u>Eligible Activities</u>	
Tim Hamilton, Executive Director Food Export - Midwest, Northeast	29
Greg Tyler, USA Poultry & Egg Export Council	34
Bob Pease, The Brewers Association	36
Lori McGehee, Millennium Marketing	39
Jeff Correa, Pear Bureau Northwest	40
<u>Contracting</u>	
Greg Tyler, USA Poultry & Egg Export Council	41
Beth Callanan, Townsend Management	43
<u>Risk Management Procedures</u>	44
(No comments.)	

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<u>ITEM</u>	<u>PAGE</u>
<u>Market Access Activities</u>	
Tim Hamilton, Executive Director Food Export - Midwest, Northeast	45
<u>Other</u>	
Tim Hamilton, Executive Director Food Export - Midwest, Northeast	48

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
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22
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P-R-O-C-E-E-D-I-N-G-S

(9:18 a.m.)

MR. BLUM: Well, let's get started. Good morning and welcome to the U.S. Department of Agriculture's Public Hearing on the Market Access Program Regulations.

Today we will listen to your comments on whether to amend or revise the MAP regulation. These Regulations were last revised about nine years ago, actually, in June 1998, and we think it's an appropriate time to go back and revisit them. During that time, funding for the MAP program has in fact increased from \$90 million dollars to \$200 million dollars.

The open period for commenting on the MAP regulation will end at the close of business on Monday, August 13th, 2007. Details on where to submit those comments are included in the handouts that you received this morning out in the lobby.

As part of the rule making process, today presents you with an

1 opportunity to publicly voice your opinions
2 and concerns on any possible changes to the
3 Regulation. However, it is not an
4 opportunity, and I repeat, it is not an
5 opportunity for you to engage FAS staff in a
6 discussion about your proposed suggestions.
7 We are here to listen to you today.

8 Let me talk for just briefly about
9 process. Following today's hearing and the
10 closing of the comment period, FAS staff will
11 review each of the comments that we receive.
12 The comments received will be a key part of
13 the decision on whether or not to move forward
14 with rule making. If FAS chooses to go
15 forward with rule making, a proposed rule
16 would be published in the Federal Register.
17 A comment period of probably 60 days would be
18 established during which the public can submit
19 comments. At this stage, you would not be
20 able to present new ideas. You will only be
21 able to comment on the substance of the
22 proposed rule.

23 We anticipate that a final rule

1 would be published by the end of calendar year
2 2008. This is only an estimate as the volume
3 of the comments, the nature of the proposed
4 suggestions and staff resources would all be
5 factors in the time it takes to produce any
6 proposed or final rules.

7 Today's discussion on the MAP
8 regulations are separate from the ongoing farm
9 bill deliberations. The MAP program is bound
10 by statute. Any changes to the MAP program in
11 the farm bill will be incorporated into the
12 final regulation.

13 Two comments, quick comments on
14 process and housekeeping matters. First, this
15 hearing is scheduled until 2:30 this
16 afternoon. FAS staff will be on hand to
17 receive your comments until then. Anyone who
18 wishes to speak on the regulation is asked to
19 fill out the speaker registration form. These
20 forms are available in the lobby and we will
21 also have some available here in the
22 auditorium.

23 Secondly, no refreshments are

1 allowed in the auditorium. One of the
2 handouts that you have been given has
3 information on the location of restrooms and
4 directions to the cafeteria.

5 We thank you for coming to share
6 your opinions and ideas with us today. And
7 now I will introduce Mark Slupek who is the
8 Director of the Program Policy staff. Mark
9 will walk us through the schedule for today
10 and he will manage and facilitate today's
11 discussion. Mark will also be available to
12 answer any questions you may have on process.
13 So again, thank you for coming. Mark?

14 MR. SLUPEK: Okay. Thank you,
15 Larry. Before we get started, I'd like to go
16 over the ground rules that you've all picked
17 up outside, I think.

18 Before I do that, at this point,
19 as far as I know only six people have signed
20 up to speak today. So this is sort of a work
21 in progress. We weren't sure what kind of
22 demand there would be for speaking time. We
23 set a limit per speaker of 10 minutes. We'd

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1 like to stick to the 10-minute rule, but if
2 you're going to speak on multiple topics, you
3 can have multiple 10-minute sessions I guess.
4 So each speaker is limited to 10 minutes. I'd
5 prefer that if you intend to speak that you
6 come up and use this podium over here. If you
7 would prefer -- I mean that way you're facing
8 the audience. If you prefer, you can come up
9 and speak to one of the mics out in the
10 audience.

11 You must register to speak. We're
12 trying to make a transcript of this that we'll
13 be able to make available in advance of the
14 closing of the written comment period. And to
15 facilitate the quick deliver of the
16 transcript, we're trying to get our
17 transcriber as much information as possible on
18 who you are as quickly as we can. If you're
19 not sure you're going to speak but you think
20 you might want to react to something someone
21 says or have something in mind, a couple of
22 people in the back, Michelle and Collette,
23 have speaker registration forms. Feel free to

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1 get one, fill it out. Throw it away if you're
2 not going to, you know, if you don't end up
3 using it.

4 As Larry said, this is not an
5 opportunity to debate points with FAS. We're
6 here to hear what you have to say. And
7 everything you say today, in addition to the
8 written comments, will be taken on the record
9 in deciding what to do, how to go forward with
10 the Map regs.

11 Okay. All visitors issued visitor
12 passes have limited access to the building.
13 If you have questions or special needs, please
14 see one of the FAS staff that are around the
15 door or outside. Food and drinks are not
16 allowed in the Jefferson auditorium. Cell
17 phones may not be used inside the auditorium
18 either. And we request that you either turn
19 them off or place them on vibrate.

20 A transcript of today's hearing,
21 what I was talking about earlier, will be
22 emailed to anyone who provided an email
23 address on the sign in sheet. If you didn't

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1 or if you know someone else who would like to
2 get a copy of the transcript, just let me
3 know. The transcript will also be posted on
4 the FAS website once we've received it.

5 The hearing is scheduled to go
6 until 2:30. Given the fact that we have six
7 people signed up to speak, I'm sure that we
8 will run out of speakers before then.
9 However, I will be here until 2:30 as will the
10 transcriber, so if anyone has a great idea
11 before you leave for the airport, come on back
12 and we'll let you speak it into the
13 microphone.

14 Restrooms -- ladies' room this way
15 on the first wing that you come to, the fifth
16 wing. Men's room, sixth wing, first wing that
17 you come to that way. Oh, I skipped the part
18 about the formal break. Obviously, if we're
19 done before lunch, that won't be too much of
20 an issue. We were not planning on taking a
21 lunch break. We were hoping to just work
22 through until everyone's had their
23 opportunity. If you need to get a cup of

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1 coffee or something, the cafeteria is between
2 the second and third wings which is in that
3 (indicating) direction.

4 With that -- Michelle, has anyone
5 else signed up to speak? Okay. At this
6 point, no one has signed up to speak on
7 application requirements, eligible
8 contributions, evaluation, compliance process,
9 or EIP elimination. So we will begin under
10 the topic of approval criteria. The first
11 speaker will be Mr. Seth Wilen. President of
12 American Trading International. Seth, if you
13 could come to this podium over here, that
14 would be great. Thank you.

15 MR. WILEN: Good morning. Thank
16 you for allowing me to speak. American
17 Trading International is a company that I
18 started 12 years ago. We are a small
19 exporter, a small business located in Southern
20 California. Over the past 12 years, we've
21 grown our exports and we now export U.S. foods
22 and beverages, 100 percent U.S. foods and
23 beverages to over 45 countries worldwide.

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1 With a trade deficit of \$60
2 billion dollars, we consider export assistance
3 programs invaluable to our company. The MAP
4 program, in general, has made an immeasurable
5 contribution to our success.

6 Our exports are as diverse as hot
7 sauce to Morocco, mayonnaise to Mongolia and
8 non-dairy creamer to Nigeria. The MAP program
9 has enabled our customers to do overseas
10 exactly what they want and feel works in each
11 foreign market, everything from TV commercials
12 in Saudi Arabia for peanut butter to in-store
13 tasting demonstrations for pancake mix in El
14 Salvador.

15 The MAP program is critical for
16 our company -- I'm sorry -- the MAP program is
17 essential company but absolutely critical for
18 our overseas customers that use it for their
19 marketing and advertising needs.

20 In our first year of participation
21 in the MAP program, we were allocated less
22 than 50,000 in funds. In 2007, last year, we
23 were one of four companies to use the maximum

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1 allowed funds -- allocated and used the
2 maximum allowed funds in our region,
3 \$375,000.00.

4 Through our experiences in the MAP
5 program, I'd like to offer you a few
6 suggestions to help improve the MAP program's
7 effectiveness for small business like ours.
8 There's two areas that I'd like to comment on
9 -- the graduation rules and the possibility of
10 creating a future incentive program for small
11 businesses. Right now, the graduation rules
12 are set up where after five years, a company
13 graduates from the program, not a brand, a
14 company graduates from the program. As a
15 small exporter, we export hundreds of food and
16 beverage products and we are finding difficult
17 situations where we have been limited to
18 certain brands in certain markets for a very
19 short period of time leaving other brands and
20 products unattended to, improperly represented
21 in markets.

22 As an example, we spent four years
23 exporting California prunes and prune juice to

1 one small importer in Saudi Arabia. Every
2 year they did MAP promotions but sales stayed
3 the same. We were limited to prunes and prune
4 juice. That's the only business we had at the
5 time in Saudi Arabia and now in our fifth
6 year, we've decided to create our own brand
7 for completely different foods and beverage
8 products. The brand is Freshly. It's a new
9 line of products. it's to a new importer and
10 unfortunately, we will have just this one last
11 year in Saudi Arabia.

12 Our importer of Freshly, brand new
13 company that we are working with in Saudi
14 Arabia spent last year \$300,000.00 marketing
15 and advertising the products. We have grown
16 the line over 150 different items, no prunes
17 or prune juice. We are exporting 18 different
18 manufacturers all under our Freshly brand.
19 And unfortunately, because of our four
20 previous years spent with a completely
21 different product in the market, we will have
22 to cut off this business at the end of this
23 year.

1 Our customer knows that the MAP
2 program is sometimes called the "Branded"
3 program. Unfortunately, in this case, it is
4 not, not associated with brands, only with the
5 company.

6 In a perfect global economy, five
7 years for graduation would make sense but
8 market conditions change, economies change,
9 importers change, free trade agreements come
10 into markets. And if we limit the program to
11 five years per company, unfortunately, many
12 opportunities will be missed. This was our
13 first suggestion that we extend the graduation
14 period in certain markets or associate the
15 graduation with brands rather than with
16 companies.

17 If the graduation period stays the
18 way it is, what you create is an environment
19 for importers to switch exporters every five
20 years. If brands never graduate from the
21 program, there is an incentive for importers
22 to change exporters. We get more inquiries
23 for big famous known brands, because importers

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1 believe that we can offer MAP programs for
2 these brands and these brands never graduate
3 from the program. Whether it's a famous brand
4 or just a brand that's been in a market for
5 five years, what happens importers don't ask
6 for new products, they don't ask for new
7 brands, because the brands keep circulating in
8 the market, the same brands.

9 Another suggestion that we hear
10 from our customers relates to emerging
11 markets. We work very closely with an emerging
12 market -- El Salvador. El Salvador has less
13 financial capital than, say, our Saudi Arabia
14 market. We have an importer in El Salvador
15 for several years now who's been importing the
16 same brand from us. They only order a few
17 times a year. That's all they could afford to
18 order.

19 And now finally, in our final year
20 with them, they ordered brand new products,
21 \$80,000.00 in frozen foods, and we're not
22 going to be able to support them on these
23 brand new brands and brand new products

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1 because of the one brand they brought in for
2 so many years. The first brand that they
3 brought in is now actually -- looks like it's
4 no longer going to be in business which makes
5 it even worse for them.

6 Markets change and I think the MAP
7 program should consider more flexibility to
8 change with markets.

9 A few other suggestions I'd like
10 to make -- first, that qualified manufacturers
11 have the ability to designate MAP funds to
12 certain exporters, also qualified exporters in
13 the program. We encounter all the time
14 manufacturers that are not interested in
15 exporting, that say that they are too small or
16 too focused on the U.S. market of 300 million
17 people, why should some of our manufacturers
18 focus on small, risky countries, countries
19 that we do business in like Lebanon, Morocco,
20 Nepal, Mongolia.

21 Small manufacturers tell us that
22 exporting is too risky for the paperwork
23 involved, they don't have time, the shipping.

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1 We are a value-added exporter. We're
2 supported not only by the MAP program and find
3 the MAP program invaluable to our success, but
4 we use the XN Bank and we are considered a
5 value-added exporter. We'd like you to
6 consider that manufacturers, qualified
7 manufacturers be able to designate or assign
8 their MAP years to small businesses like mine.

9 In some cases, we are actually the
10 exclusive exporter for these small
11 manufacturers to begin with and all we ask is
12 that maybe the program consider some
13 flexibility as a suggestion.

14 A couple of other suggestions we'd
15 like to come up with is that right now we
16 don't see anything in place to account for
17 performance. We'd like to see some
18 performance suggestions or incentive
19 suggestions.

20 If we are in our last year in
21 Saudi Arabia and our import on Saudi Arabia
22 could double our export sales for our small
23 Freshly brand, why wouldn't the program want

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1 to give an incentive of a reward year. We
2 came up with a concept called MAP bonus years
3 and the MAP bonus years could be given to
4 specific markets or to the recipient and the
5 recipient could either be market specific or
6 in general. Because of your contribution to
7 export sales, because of your increase from
8 the MAP program and your good performance, it
9 could be market specific or any market the
10 recipient chooses.

11 We participate on a lot of trade
12 missions, WUSATA trade missions, SUSTA trade
13 missions, even ICD trade missions. And on
14 these fantastic missions that get small
15 businesses like ours out into new markets, we
16 often come back with difficulty supporting
17 those markets. It'd be nice if on some of
18 these trade missions there were also free MAP
19 years where we wouldn't have to designate
20 these markets and limit our use on funds.

21 We'd also like to suggest maybe
22 that the program consider market swaps. There
23 are some markets that we know we will never

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1 use our MAP funds, for example, in the U.S.
2 It would be nice if we could designate, swap
3 our markets, take one of our U.S. years or
4 maybe even all of them and switch them around
5 to markets where we know they could be used
6 more effectively.

7 Last, we'd like to make another
8 suggestion that regional trade shows be looked
9 at as separate markets. Right now, if you
10 take a booth at a big regional show like Anuga
11 or The Gulf Show in Dubai like we do, you have
12 to count that host country as a market, for
13 example, Anuga in Germany. Germany has 80
14 million people. We would never designate
15 Anuga just for one show, waste an entire map
16 year just to receive a small amount of funds
17 back.

18 And these regional shows, don't
19 cover the host market necessarily. They cover
20 an entire region. It'd be nice to see these
21 shows as a separate market. Right now it's
22 set up -- sometimes there are exemptions for
23 these shows but it means that you have to

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1 designate that host country for five years
2 before you can get to that exemption status.
3 We'd like them to be exempt from the start and
4 looked at as a completely separate market as
5 themselves.

6 In conclusion, I understand that
7 it's been almost 10 years since the MAP
8 regulations have been looked at and evaluated
9 for change. So many changes have taken place
10 in the past 10 years. Ag exports are not what
11 they used to be. Change is good we feel. We
12 feel that change is necessary in order to
13 increase U.S. exports of foods and beverages.

14 Very few successful exporters are
15 exporting the same products they were five
16 years ago. And very few people in this room
17 are doing what they did 10 years ago. Time to
18 look at suggestions, we think, is well
19 appropriate, especially with a \$60 billion
20 dollar trade deficit.

21 Again, we are a small U.S.
22 exporter, work very closely with WUSATA,
23 SUSTA, FAS, Domestically Overseas Offices, XN

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1 Bank, Foreign Commercial Service and even our
2 Local Assistance Center. We work with all
3 these federal agencies to facilitate a common
4 goal -- exporting U.S. foods and beverages.
5 Hands down we feel that the MAP program has
6 been one of the most successful export
7 incentive and assistance programs that we have
8 utilized to help our exports. Thank you for
9 your time.

10 MR. SLUPEK: Thank you, Mr. Wilen.
11 The next speaker on the topic of approval
12 criteria is Mr. Lindsay McLaughlin,
13 Legislative Director, International Longshore
14 and Warehouse Union.

15 MR. McLAUGHLIN: Good morning. My
16 name's Lindsay McLaughlin and I'm pleased to
17 represent the International Longshore and
18 Warehouse Union as the Legislative Director.
19 The ILWU represents more than 50,000 men and
20 women on the West Coast in Alaska, Hawaii and
21 Canada who work in the longshore, maritime,
22 warehouse, hotel and the agriculture industry.
23 We're headquartered in San Francisco,

1 California.

2 Many of you may be asking why a
3 labor union is interested in the Market Access
4 Program, and I'm going to get to that and
5 suggest some changes that we would like to
6 see, but I'd like to, you know, set the stage
7 with a story about a group of workers that are
8 struggling.

9 Three years ago, the workers at
10 Blue Diamond Growers' Sacramento processing
11 plant approached the ILWU seeking
12 representation. We've been working with a
13 committee of workers ever since. Blue Diamond
14 processes about a third of the California's
15 almond crop and California produces about 80
16 percent of the world's almonds. Blue
17 Diamond's Sacramento plant is the world's
18 largest tree nut processing facility employing
19 some 600 production and maintenance workers.

20 When the workers started to
21 organize, Blue Diamond launched what is
22 characterized in the local press as an
23 aggressive union avoidance campaign. The

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1 company's campaign put the workers through a
2 lot of stress. Blue Diamond threatened that
3 people would lose their pensions if they
4 joined the union or the plant would close. It
5 forced people to attend individual and small
6 group meetings, and they were interrogated
7 about their support for the union and fed
8 anti-union propoganda. It fired and
9 disciplined workers, union supporters, on
10 trumped up charges.

11 When Blue Diamond fired 35-year
12 employee, Ivo Camilo, it marched him through
13 the plant and escorted him out the gates like
14 a common criminal to make a point to workers
15 that union support would not be tolerated.

16 The company's campaign also put it
17 on the wrong side of the law. In March 2006,
18 after a lengthy investigation and a 4-day
19 hearing, an administrative law judge for the
20 national labor relations board found the
21 company guilty of more than 20 labor law
22 violations. These included firings,
23 discipline, threats of plant closure and

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1 interrogations. The judge ordered Blue
2 Diamond to rehire Camilo and one of the other
3 fired union supporters with back pay plus
4 interest.

5 As you know, Blue Diamond Growers
6 along with the Almond Board of California has
7 received several million dollars in the last
8 few years along through the MAP -- \$1.2
9 million in 2003, \$1.5 million in 2004, \$1.7
10 million in 2005 and \$2.3 million in 2006.
11 This could rise considerably under the farm
12 bill before Congress.

13 The ILWU believe that it is not in
14 the best interest of the market access program
15 to fund entities that flagrantly violate labor
16 laws. In fact, we believe companies that are
17 found guilty of serious violations of
18 environmental, tax, fraud also should be
19 ineligible for MAP funding. If a MAP
20 participant had been found guilty of more than
21 20 separate tax and fraud law violations, then
22 I'm sure the Secretary of Agriculture would
23 consider terminating assistance to that

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1 participant or at least suspending it for a
2 period of time. The ILWU believes that crimes
3 against workers deserve the same scrutiny.

4 The Secretary has the discretion,
5 under the Act, to terminate assistance if it
6 is in the best interest of the program. We
7 further note that regulations setting forth
8 policies governing the Market Access Program
9 require a MAP participant to engage in ethical
10 conduct including conducting its business in
11 accordance with the laws and regulations of
12 the country in which an activity is carried
13 out.

14 We applaud the USDA's interest in
15 respecting the laws governing the treatment of
16 foreign workers employed by MAP participants.
17 We suggest that MAP participants should be
18 held to the same standard in the United
19 States. The ILWU urges the Department to
20 promulgate regulations that would require MAP
21 participants to adhere to all U.S. labor laws
22 including the National Labor Relations Act.

23 We just find it ludicrous that the

1 regulations protect foreign workers and have
2 a standard for foreign workers and no standard
3 whatsoever for the U.S. workers employed by
4 MAP participants.

5 Finally, a decision by the USDA to
6 terminate or suspend assistance to any entity
7 based on a record of serious violations
8 against workers which send a strong signal to
9 other MAP participants to adhere to the law
10 and treat their workers with respect. This
11 issue is not just about Blue Diamond Growers
12 but an effort to ensure that the United States
13 Government is not putting it's imprimatur on
14 any company that violates the rights of
15 workers, that any public assistance to company
16 comes with a requirement of good corporate
17 citizenship.

18 I appreciate your allowing me to
19 speak. I do have Carey Dall here. He's an
20 organizer at the plant, so if you have any
21 questions, you know, after this meeting,
22 please let us know. Thank you.

23 MR. SLUPEK: Thank you, Mr.

1 McLaughlin. Those are the only two speakers
2 signed up to speak to the topic of approval
3 criteria. Is there anyone else who would like
4 to take this opportunity to speak to that
5 topic?

6 (No response.)

7 MR. SLUPEK: Okay. Then in that
8 case, we'll move on to the topic of eligible
9 activities. The first speaker is Mr. Tim
10 Hamilton, Executive Director, Food Export
11 Midwest and Northeast.

12 MR. HAMILTON: Good morning and
13 thank you very much for the opportunity to
14 speak on behalf of the proposed change to the
15 regulations. We really appreciate the
16 opportunity or appreciate the fact that USDA
17 and FAS is looking into the regulations and
18 proposing changes.

19 In my capacity as Executive
20 Director of Food Export - Midwest and Food
21 Export - Northeast, we use MAP programs
22 extensively to help small companies, and in
23 some cases other companies, but principally

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1 small companies. And over the years, we can
2 trace back success for thousands, literally
3 thousands of companies that have used MAP
4 support to generate hundreds of millions of
5 dollars in new exports that would not have
6 happened without that support.

7 And based on that experience, we
8 would like to propose the following with
9 regard to eligible activities. And
10 specifically, I'd like to talk about
11 electronic marketing, web development and e-
12 marketing. Since its inception, the internet
13 has been and remains a rapidly evolving and
14 growing means of private and public
15 communication.

16 Despite this fact, costs
17 associated with website development and
18 electronic marketing, which includes email,
19 internet and interactive database marketing,
20 have remained ineligible for reimbursement
21 under the Branded program. Since the focus of
22 the Branded program is to assist small
23 companies in promoting U.S. products in

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1 foreign markets, we feel that the creation of
2 international-oriented websites and e-
3 marketing is not only an invaluable, but also
4 an indispensable and cost-effective tool for
5 a small company to spread awareness globally.

6 According to Zenith Optimedia, one
7 of the world's leading global medical services
8 agencies, internet advertising will grow six
9 times faster than traditional media between
10 2006 and 2009. The fastest growing ad markets
11 are in the Middle East and Central and Eastern
12 Europe. Internet advertising in three
13 markets, including Norway, Sweden and the
14 United Kingdom already attract more than 10
15 percent of all advertising funds. And by
16 2009, projections are that internet
17 advertising will account for more than 10
18 percent of advertising funds in 10
19 international markets including Australia,
20 Canada, Denmark, Israel, Japan, Norway, South
21 Korea, Sweden, Taiwan and the United Kingdom.

22 Survey results released in June of
23 2006 by American Business Media, a global

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1 association of print, digital and event
2 information providers indicate that purchasing
3 decision makers and influencers site the
4 international and websites as the second most
5 relied upon source for information and
6 insights as well as new products in which it's
7 34 percent. Scores for the internet and
8 website were higher than scores for other
9 methods of communication including networking
10 and sales people and sales calls which is just
11 21 percent. Attending trade shows was 18
12 percent. Business to business magazines
13 ranked first for information, 41 percent and
14 new products at 48 percent.

15 We feel that these costs that can
16 be specifically associated with the
17 development, maintenance and distribution of
18 international electronic promotional
19 activities should be made eligible for
20 reimbursement under the Market Access Program.
21 These include customer database costs,
22 promotional email costs, and internet website
23 design and hosting costs provided that they

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1 can be tied specifically to approved
2 international marketing plans.

3 When the Market Access Program and
4 the regulations were issued almost 10 years
5 ago, the internet was still in Al Gore's
6 dreams. And now that it's been addressed and
7 rolled out and has become a cost-effective way
8 of doing business, we feel that companies
9 should be eligible to use market access
10 program funds to support those kinds of
11 expenses, if for no other reason than it is a
12 more cost-effective method of advertising for
13 international markets and for small companies
14 than many of the print and other media
15 expenses that are currently eligible. Thank
16 you.

17 MR. SLUPEK: Thanks, Tim. The
18 next speaker on my list is Greg Tyler, Vice
19 President for Marketing, USA Poultry and Egg
20 Export Council.

21 MR. TYLER: Good morning. I don't
22 have anything really formal to present like
23 the previous speakers, but one of the issues

1 that we have had in the past is the ability to
2 do or to cover more meetings here in the
3 United States. This would -- a good example
4 of this would be our international staff
5 conference that we hold every year. We hold
6 this open overseas to make sure that we are
7 allowed to cover the meeting expenses for the
8 strategic planning that takes place during
9 this. This centers around our unified export
10 strategy.

11 We do have 13 international
12 offices plus our home office which has about
13 7 staff that are involved with ths, and we do
14 these meetings overseas to make sure that we
15 can cover the expenses of the meetings.
16 However, if we were allowed to do it here in
17 the United States, there would be a
18 considerable cost savings to us because, as I
19 said, we have seven domestic staff that work
20 on that, and if we were allowed to bring those
21 people from the international offices to the
22 U.S., we would have an easier time of
23 coordinating the meetings but also have

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1 considerable cost savings to our organization
2 by allowing us to have the more domestic
3 events here in the United States.

4 The other example of this is with
5 the Caribbean. Of course, we work very
6 closely with the Juan Institute, the Dairy
7 Export Council and US Meat Export Federation
8 on activities in the Caribbean. We have trade
9 seminars that we do throughout the region, and
10 we may bring in people from various islands to
11 one location. If we were allowed to have a
12 meeting such as that in Miami, it would make
13 it a lot easier for coordination purposes. It
14 would also make it easier for flight purposes
15 because there's a lot of direct flights to
16 Miami from the Caribbean Islands. So this was
17 just my point is that I think there needs to
18 be a little more flexibility as far as what
19 can take place here in the United States.

20 MR. SLUPEK: Thanks, Greg. The
21 next speaker is Mr. Bob Pease, Vice President
22 of the Brewers Association.

23 MR. PEASE: Good morning. Thank

1 you for allowing me to speak on the MAP
2 regulations. My name is Bob Pease and I'm
3 with the Brewers Association. The Brewers
4 Association is a trade group based in Boulder,
5 Colorado for America's small or craft
6 breweries. We are a new participant to the
7 MAP program. We're very small but we have
8 managed to grow exports of American craft beer
9 40 percent in the 3 years we've been
10 participating in the program.

11 We hope to establish American
12 Craft Beer as a world class brand similar to
13 how our friends in the wine industry have been
14 able to establish American wine as one of the
15 premier brands in the alcohol beverage world.

16 We are here to request
17 clarification on the eligibility of
18 reimbursing fees to a domestic contractor
19 based in the U.S. for assistance in
20 implementing improved international marketing
21 activities. These activities are approved in
22 our UES. It's our desire to be able to claim
23 a portion of our payment related to work on

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1 specific approved international marketing
2 activities as are reimbursable by the MAP
3 program.

4 This is important to our
5 organization as our program is very small and
6 on a very small, shall I say, very tight
7 budget. We understand and we recognize the
8 difference between administrative and
9 marketing activities. We understand that the
10 administrative portion of these activities are
11 not reimbursable. We also understand the
12 bidding process. But I feel there should be
13 a distinction made between administrative
14 services performed by a domestic contractor
15 and the marketing activities that if were
16 performed by an international or in-country
17 contractor would be reimbursable.

18 Thank you for allowing me the
19 opportunity to present our case.

20 MR. SLUPEK: Okay. We had a
21 speaker withdraw her name from speaking, so at
22 this point, we'll move on -- well, we'll move
23 on to contracting unless someone else would

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1 like to speak to the topic of eligible
2 activities?

3 Well, do you promise to fill out a
4 form? Okay. You can come on up and speak.

5 And Mr. Pease's comments obviously
6 bridge between eligible activities and
7 contracting. Contracting is the next topic
8 after we complete the eligible activities
9 portion.

10 MS. McGEHEE: Okay. Good morning.
11 My name is Lori McGehee and I was hoping
12 someone else would cover this topic, so I was
13 kind of sitting back and waiting to see what
14 was brought up. And I work with several
15 different groups and one of them is the
16 Ginseng Board of Wisconsin.

17 We've had quite a big issue with
18 international trade piracy issues, especially
19 in China. And I would like to request that we
20 can get some kind of assistance with help with
21 the trade piracy issues. I know that
22 oftentimes you -- legal fees are associated
23 with trying to get your product into a country

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1 or trying to overcome the trade piracy issues.

2 For example, Wisconsin ginseng, if
3 you go to China, it's everywhere there, but
4 it's not really truly the Wisconsin ginseng,
5 and it's a very, very small group. And it's
6 been a very difficult hurdle for them to
7 overcome as far as marketing, because it's
8 expensive to overcome some of these IPR
9 issues.

10 So I would like to see something
11 done in the MAP regulations as far as legal
12 fees associated with IPR issues and activities
13 associated with IPR issues. So that's all I
14 have to say. Thank you.

15 MR. SLUPEK: Thanks, Lori. Would
16 anyone else like to speak to the topic of
17 eligible activities at this time?

18 MR. CORREA: Good morning. I'm
19 Jeff Correa with the Pear Bureau Northwest,
20 and I was just going to add a few comments on
21 the international travel regulations. We
22 think that we should be able to use the
23 business class airfare as a reimbursable

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1 activity under MAP rules similar to the FMD
2 regulations which allow business class
3 airfare.

4 I think in some cases now, we're finding
5 out that full fare economy rates are actually
6 more expensive than business class airfare but
7 yet we're still not able to -- to book
8 business class airfare for some of our groups
9 that we bring in or if we're bringing in or
10 travel ourselves. So I think similar to the
11 FMD regulations, I think we should make
12 business class airfare allowable under MAP.
13 Thanks.

14 MR. SLUPEK: Thanks, Jeff. Anyone
15 else like to speak to eligible activities?
16 All right. Then we'll move on to contracting
17 and the next speaker is Greg Tyler again.

18 MR. TYLER: Good morning, again.
19 With regards to contracting procedures, as I
20 mentioned earlier, we do have 13 international
21 offices. Six of those are full-time
22 consultants. The problem that we have with
23 the contracting procedures is that some of

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1 these are longstanding consultants that have
2 represented us for years. In the Middle East,
3 we've got a consultant that's represented us
4 for 25 plus years. In Korea, another one
5 that's been for six years.

6 When we go through the bid process
7 every three years, we have a very difficult
8 time because of the reputation that our
9 consultants have and the other consultants
10 that know that they're going to continue to
11 represent us regardless. They will not submit
12 a proposal to us because they already know
13 that we're not going to hire them, so why
14 waste the time.

15 Even in Korea, for example, where
16 we've had a representative for 6 years, the
17 last time we bid it out was a couple of years
18 ago, and I got several responses as why should
19 I waste my time on submitting a proposal, I
20 know you're not going to change.

21 I don't know what exactly can be
22 done, if there can be some kind of waiver for
23 a consultant that is somewhat like a full-time

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1 office which is what we have in a lot of these
2 locations. But I do think it needs to be
3 looked at because we have a very difficult
4 time in securing proposals from other
5 consultants in these markets because they know
6 that we're going to stick with our consultant.
7 And it's almost to the point of crying wolf --
8 the boy who cried wolf. He did it over and
9 over again, and eventually, when he needed
10 somebody to bid, they wouldn't do it. So I
11 think that needs to be taken into
12 consideration for new MAP regs.

13 MR. SLUPEK: Thanks, Greg. Anyone
14 else like to speak to the topic of
15 contracting? All right. Then we'll move on.
16 Yes? Okay, Beth.

17 MS. CALLANAN: Good morning. I'm
18 Beth Callanan, formerly FAS, currently
19 Townsend Management. And I think a lot of the
20 problems that I hear about relating to
21 contracting might be resolved if we went back
22 to a concept, a philosophy that we used to
23 have that distinguished between end result

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1 contracts and actual costs.

2 And the idea behind that concept
3 was we prescribed in the regulations what the
4 maximum limits were that could be reimbursed
5 for, say, Greg's consultants. If he was
6 willing to cap their pay or the extent to
7 which we reimbursed it at the top of the FSN
8 scale in that market, then he didn't have to
9 rebid it. The point of rebidding was to keep
10 the costs reasonable.

11 If the caps that we prescribed in
12 the regulations were inadequate, then you had
13 to bid it and bidding was a way of keeping the
14 costs, presumably, reasonable, because
15 everybody had a chance. But if you didn't
16 bid, then you had to live within the caps that
17 we provided.

18 And I think the concept has
19 evaporated somehow, and if we went back to
20 that, it would be clearer, easier. That's my
21 comment.

22 MR. SLUPEK: Thanks, Beth. Would
23 anyone else like to speak to the topic of

1 contracting at this point? All right. We had
2 a topic, risk management procedures. There
3 was one person signed up who has withdrawn
4 their name, so we will move on to the topic of
5 market access activities, and there's one
6 speaker signed up at this point. It's Tim
7 Hamilton, again. Thanks, Tim.

8 MR. HAMILTON: Thank you. Under
9 the Market Access Program regulations,
10 currently, the Commodity Credit Corporation
11 enters into agreements with non-profit trade
12 associations to share costs of certain
13 overseas marketing and promotion activities
14 that are intended to develop, maintain or
15 expand commercial export markets for U.S.
16 agricultural commodities and products.

17 The foreign trade environment has
18 substantially changed since the MAP program
19 was implemented. Non-tariff trade barriers
20 have now evolved to be the most contentious
21 issues affecting global trade. Bilateral and
22 multilateral trade agreements have stalled, in
23 large part, due to non-tariff issues.

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1 Recognizing the importance of
2 addressing these issues, FAS has shifted its
3 own annual marketing plan funds focus to the
4 Country Strategic Support Fund, CSSF, in order
5 to address a broader range of strategic market
6 access issues. The significant change in the
7 international trade landscape, including other
8 market access barriers was a significant
9 reason behind the recent FAS reorganization.

10 Marketing and promotional efforts
11 are futile unless the very basic market access
12 for U.S. food and agricultural products is in
13 place and safeguarded. To support and
14 complement the efforts of FAS, eligible MAP
15 expenditures should include those incurred in
16 carrying out activities intended to improve
17 market access such as elimination of sanitary
18 and phytosanitary and any other non-tariff
19 trade barriers.

20 These activities include but are
21 not limited to supporting foreign government
22 trade teams to review U.S. government
23 processes for accreditation of equivalency

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1 requirements, trade teams to visit and assess
2 U.S. facilities, technical education events
3 and things -- similar events.

4 We propose that expenses incurred
5 in conjunction with activities addressing
6 market access issues and non-tariff trade
7 barriers be allowed under MAP in addition to
8 marketing promotion. Thank you.

9 MR. SLUPEK: Thank you, Tim. At
10 this time, would anyone else like to speak to
11 the topic of market access activities?

12 (No response.)

13 MR. SLUPEK: Fair enough. Then
14 the last topic on the list is other and the
15 only speaker we have signed up for other at
16 this point is Tim Hamilton, so if Tim could
17 come back to the podium. Thank you.

18 MR. HAMILTON: I'm not sure if
19 these should be under previous categories, but
20 we have several that would fall under other.
21 One is the definition of eligible company size
22 under the Branded program. Under the
23 regulations that were published on June 2nd of

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1 1998, established size requirements for the
2 company participants in the Branded program,
3 companies eligible for the program must meet
4 the small business size standards published at
5 13 CFR 121 which is the SBA small business
6 size regulation. Those guidelines provide
7 either a sales limit or a number of employees
8 limit depending on the NAICS industrial
9 classification.

10 The current small business size
11 standards, we feel, are too restrictive,
12 disallowing participation of many companies
13 that are indeed small. Companies that are
14 particularly excluded include farmers who add
15 value to their products on the farm and
16 growers of nursery and greenhouse plants.
17 When the farm business involves value-added
18 production, small growers of high value
19 products like produce, meats and greenhouse
20 material easily exceed the \$750,000 annual
21 value cap set by the SBA guidelines.

22 The guidelines do not reflect the
23 current market realities of value added

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1 farming and run counter to the USDA's effort
2 to keep more income on the farm. The
3 requirements are also too small for many
4 labor-intensive industries in the food
5 industry.

6 While the size definitions need to
7 change to meet the needs of America's food and
8 agricultural exporters, clearly, large
9 companies should not -- or multinational
10 companies should not be allowed admittance to
11 the program.

12 However, due to the continuing
13 trend of mergers and buyouts leading to fewer
14 and fewer small companies, the current small
15 size restrictions needlessly turn away
16 companies who can use the valuable program,
17 and in turn, add export sales for the country.

18 A re-examination of the definition
19 of small business is needed.

20 I'd also like to address the issue
21 of products that are eligible for inclusion
22 under the Branded program to include what has
23 been termed as diversified agricultural

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1 products, not just feed, food and fiber.
2 Since 2003, FAS has reviewed the diversified
3 agricultural product brand program on an
4 annual basis and have continued to approve the
5 program through the 2008 MAP year. That's for
6 five years in a row that this has been done.
7 The major diversified ag product categories
8 include bio-energy, industrial products, home
9 products, and personal care products.

10 As per the September 4, 2003 USDA
11 memo, promotion of these new nondurable
12 agricultural-based products is in the interest
13 of the MAP to the extent that it meets the
14 goals of increasing income to US agricultural
15 producers and processors. The numbers the
16 companies have reported continue to be very
17 positive each year.

18 In program year 2003 and 2004,
19 when it just started, we had 9 companies that
20 resulted in 435 new buyer-seller contacts, 35
21 new distributorships, 16 first-time exports
22 and an increase in export sales of almost \$1.5
23 dollars from those companies.

1 And most recently, in program year
2 `05-`06, the program helped 14 more companies
3 reporting 152 buyer-seller introductions, 146
4 distributorships, 54 first-time exports and
5 almost \$2 million dollars in export sales.

6 Product eligibility rules would
7 not change in that any agricultural product
8 that is comprised of at least 50 percent US
9 origin exclusive of weight, packaging and
10 water -- I'm sorry -- content by weight
11 exclusive of added water and packaging that is
12 nondurable plus any alternative energy or
13 building products such as ethanol and rice
14 byproduct-based building materials would be
15 eligible for the Branded program.

16 I'd also like to address the issue
17 of graduation which I think was addressed
18 earlier, but I think we put this in the other
19 category.

20 First of all, on the issue of
21 graduation from the Branded program, on June
22 2nd, 1998, the MAP regulations were amended
23 placing a five-year limit on brand

1 participation by a single company in a single
2 market. This five-year graduation period
3 began with the 1994 program.

4 After the five-year period has
5 been reached, the company is considered
6 graduated from the country and thus no longer
7 eligible to be reimbursed for its market
8 development expenses in that country.

9 To put things into perspective, in
10 our Midwest program alone, 52 companies were
11 identified as graduated in the program year
12 1999. That's approximately 25 percent of the
13 participants for that year. At the close of
14 the 2005 program year, 21 companies had
15 graduated. In between, there have been a
16 minimum of 60 such graduations and nearly
17 twice as many potential graduates are looming
18 on the horizon.

19 The branded program was designed
20 to assist companies with getting established
21 in markets but not to fully assist them with
22 establishing their brand. Breaking into a
23 foreign market, establishing a presence and

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1 truly gaining market share is not a process
2 that most small business can complete in five
3 years. In today's international business
4 climate, limiting a company to only five years
5 of branded funding in a single market is
6 unrealistic. Some markets develop slower than
7 others. China, for instance, is so large and
8 so culturally varied that each province
9 performs like a separate market, yet the
10 entire country is capped at a five-year
11 graduation.

12 It often takes several years to
13 develop a brand in a market. This is
14 especially critical in light of the subsidies
15 provided by foreign governments to companies
16 that are in competition with U.S. firms. One
17 of the difficulties in developing an export
18 market is the amount of time it takes to build
19 sales in a foreign country. The average
20 amount of time to develop a domestic market is
21 three to five year but in export, it can take
22 from five to eight years.

23 The first task is finding a

1 reputable distributor that has the correct
2 contacts in the industry. This is usually
3 done by exhibiting at trade shows. Once
4 contacts are made, it could take another one
5 to two years to solidify that relationship
6 during which time they are sending samples to
7 various contracts. Once a distributor is
8 signed, then the job of getting the product
9 and its packaging approved can take another
10 year, after which in-store promotions and
11 demonstrations may be the next step.

12 Many companies are just beginning
13 to advance sales when they reach their five-
14 year limit. Without the solid marketing
15 support, they run the risk of losing that
16 market.

17 We propose three steps to address
18 this issue. Number one, we recommend that the
19 MAP regulations be amended so that company
20 graduation would automatically be extended to
21 eight years per market. Companies who have
22 graduated from markets previously would be
23 allowed to return to those markets for three

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1 more years.

2 Secondly, there are some markets
3 whose sheer size or complexity are so large
4 that they require additional time to achieve
5 full market penetration. For these reasons,
6 we recommend that such markets be given an
7 additional two years of MAP assistance for a
8 total of 10 years.

9 Thirdly, export trading companies
10 can continually pick up the exclusive rights
11 to represent new products. However, that
12 could mean that a new product would be
13 ineligible to receive MAP assistance if the
14 trading company has graduated from that market
15 while promoting other brands. For this
16 reason, we recommend that export trading
17 companies either be made exempt from the
18 graduation policy if the product lines, or
19 they should have the ability to request an
20 extension from the graduation requirement
21 based on their product mix.

22 Following up on the subject of
23 graduation is the issue of trade shows that

1 are exempt from graduation. Due to the 1998
2 amendment to the MAP regulations that I
3 mentioned earlier, companies have only a
4 limited number of years to receive
5 reimbursements in a specific market.
6 Beginning with the 2000 program year, FAS
7 provided a list of international trade shows
8 which would be exempt from the graduation
9 policy. This exemption lasted until 2004 at
10 which point it has been continually re-
11 examined and evaluated each year before being
12 approved again.

13 Since we opened the application
14 within our own program three months before the
15 beginning of a program year, it's important
16 for us to know which trade shows are exempt
17 from that graduation requirement. I think
18 there was a reference made earlier to large
19 regional shows that cover more than one
20 individual country market.

21 It's becoming increasingly
22 difficult for companies to know whether or not
23 to attend these if they don't know whether

1 that exemption has been granted. And in the
2 most recent case, that exemption wasn't
3 granted until fully six months into the actual
4 program year.

5 Over the past several years, we've
6 repeatedly demonstrated the value, both in
7 sales and in contacts for potential sales, of
8 exhibiting at the larger international shows.
9 Therefore, we're recommending that the list of
10 graduation exempt trade shows be made
11 permanent rather than reviewed on an annual
12 basis. Thank you.

13 MR. SLUPEK: Thanks, Tim. At this
14 point, I'd like to run through all of the
15 topics, the titles of all the topics to remind
16 you what was in the advanced notice of
17 proposed rule making to give you the
18 opportunity to speak to any of these topics
19 today -- application requirements, eligible
20 contributions, evaluation, compliance process,
21 EIP elimination, risk management procedures,
22 eligible activities, contracting, market
23 access activities, approval criteria and any

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1 other topics you'd like to speak to.

2 At this point, there are no more
3 registered speakers on my list. Is there
4 anyone else who would like to speak to any
5 issues regarding the regulations of the Market
6 Access Program?

7 (No response.)

8 MR. SLUPEK: As Larry and I said
9 earlier, FAS staff will stay on hand until
10 2:30 this afternoon in the event that anyone
11 comes in later or comes back. However, with
12 no more interested speakers present, you're
13 certainly free to leave at this time. thanks
14 for your attendance and we will be forwarding
15 the transcripts to interested -- people who've
16 indicated their interest. And in the event
17 that there's proposed rule making, we'll
18 forward the proposed rule on to you as well.

19 Thanks for your attendance today.

20 (Whereupon, at 10:18 a.m., the
21 forgoing matter was concluded.)

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