

**PROPOSED TUBERCULOSIS AND BRUCELLOSIS
REGULATORY FRAMEWORK**

Session 1 of the Public Meeting on June 6, 2011, at the Holiday Inn, 1911 1-40 East, Amarillo, Texas, commencing at 7:30 a.m., before Kary A. Wingo, a Court Reporter of the State of Texas.

STIPULATIONS

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4 IT IS HEREBY STIPULATED AND AGREED
5 by and between the attorneys for the
6 respective parties that the presence of the
7 Referee be waived;

8 IT IS FURTHER STIPULATED AND AGREED
9 that the witness shall read and sign the
10 minutes of the transcript, and that the
11 filing of the transcript be waived;

12 IT IS FURTHER STIPULATED AND AGREED
13 that all objections, except as to form, are
14 reserved until the time of trial;

15 IT IS FURTHER STIPULATED AND AGREED
16 that this Deposition may be utilized for all
17 purposes as provided by the Federal Rules of
18 Civil Procedure;

19 AND FURTHER STIPULATED AND AGREED
20 that all rights provided to all parties by
21 the Federal Rules of Civil Procedure shall
22 not be deemed waived at the appropriate
23 sections of the Federal Rules of Civil
24 Procedure shall be controlling with respect
25 thereto.

SESSION 1

JUNE 6, 2011

1 MS. MILLIS: Good morning. First of
2 all, let me extend a warm welcome to you.
3 Fortunately, I used to be a semi-professional
4 bingo caller, so that may serve me well here
5 if this microphone goes out on me.

6 I'd like to first introduce myself.
7 I'm Deborah Millis, and I'm a USDA employee,
8 and former bingo caller. My role here in
9 this meeting will be one of grace under
10 pressure. So let me first let you know that
11 all of the comments and dialogue that occurs
12 in our meeting today, which we hope will be
13 a rich and worthy dialogue, will be recorded.
14 We have a transcriptionist here with us
15 saving those for the public record.

16 And, again, let me extend a warm
17 welcome to you. And, apparently, if I hold
18 this just at this angle, it works out just
19 fine.

20 This morning we'll be hearing some
21 opening remarks from one of our APHIS
22 officials, Dr. T.J. Myers. And then we'll
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1
2 hear from Dr. Dee Ellis from the state of
3 Texas, and from Dr. Lee Ann Thomas. And
4 we'll be discussing today the framework for
5 the TB/brucellosis regulations that our
6 working group has been focused on over the
7 past few months.

8 I want to let you know some of the
9 logistics. Out in the hall to -- out this
10 door are the necessary rooms, if you need to
11 use those, and then the nearest fire exits
12 are out by the front desk here, and I'm
13 hoping that we won't have to use those.

14 Someone was passing around some order
15 forms for lunch today. That's just an
16 offering that the hotel has made. And
17 you're welcome on your own to sign up for
18 those. They need to know by 10:00 on their
19 express menu. And, otherwise, in the
20 vicinity here, there's many eating
21 establishments for when we do break for
22 lunch.

23 So with no further ado, let me turn
24 the floor over to Dr. T.J. Myers.

25 DR. MYERS: Thank you, Deb. This

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2 is a challenge. Is it working at all? I
3 think I'll just forgo that and walk among
4 you and try and be heard. Can you hear me
5 in the back?

6 Well, I just want to take the
7 opportunity to welcome all of you. My name
8 is Dr. T.J. Myers. I'm associate deputy
9 administrator with Veterinary Services in
10 APHIS USDA.

11 We really are focused today on
12 hearing from all of you as we're working to
13 revise two very longstanding programs that we
14 have at USDA, the TB and the brucellosis
15 programs. So today really is all about your
16 ideas and your input and your thoughts on
17 where we're going with these two programs.

18 You're going to be hearing first
19 from Dr. Dee Ellis, who was a member of our
20 working group that's been helping us look at
21 a new framework for these programs. He'll
22 talk about the need for change in these two
23 programs.

24 They have been very successful over
25 the decades, but as we've seen the prevalence

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2 of these diseases come down to almost zero,
3 there are new challenges and new tacts that
4 we need to take to address those current
5 challenges. And he's going to be talking
6 about that, as well as the outreach that
7 we've done so far today.

8 We've had listening sessions in the
9 past through the published concept papers on
10 these two programs, proposing some ideas for
11 how we might change them. We've had a
12 working group composed of federal, state and
13 tribal representatives to help us build that
14 framework.

15 So this is our opportunity to
16 present to you where we are with our current
17 thinking on that framework. We have not put
18 pen to paper yet in writing our regulation,
19 but that is the next step.

20 So after these listening sessions
21 that we've been holding around the country,
22 we will begin writing that new set of
23 regulations, and then we'll publish it as a
24 proposed rule, which will be another
25 opportunity for additional comment before

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anything becomes a final rule.

So, again, we are doing all that we can to get that broad input and that broad thinking into what we build so that it's a program that's workable for everyone.

After Dee, then we'll hear from Dr. Lee Ann Thomas about the specifics of the framework. We posted that on the web, so hopefully you've had a chance to take a look at that. But she will go into some detail on that framework.

And then following that, we'll have some breakout sessions to hear your input and to exchange some ideas with you and get that dialogue going.

So, again, the whole theme of today is getting your input and your thoughts so that we can make this the best program that we can make it as we develop those new regulations.

So, again, thank you, thank you, for coming in today and spending time from your busy schedule. I know it's not easy to drop what you're doing to come and talk to the

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2 Government, but we really do appreciate you
3 taking the time to do that.

4 And so, with that, I will turn it
5 over to Dr. Dee Ellis from the state of
6 Texas. Dee.

7 DR. ELLIS: Thanks. I'm Dee Ellis.
8 I'm with the Texas Animal Health Commission,
9 Executive Director and State Veterinarian.
10 Welcome to Texas, if you're not from here.
11 I know a lot of y'all in the room; not all
12 of you.

13 And they asked -- there's been four
14 of these sessions, and they've had at least
15 one of the state vets that are on the
16 working group go to each session and present
17 part of the informational background for you
18 to understand the process.

19 And since this is Texas, I
20 volunteered to do this one. Dr. Halstead,
21 the state vet from Michigan, was involved,
22 and he did the Michigan part. And then Dr.
23 Barton from Idaho was involved, and I guess
24 he was in Bozeman. Was he in Bozeman?

25 And then we had a meeting in

SESSION 1

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2 Atlanta. Dr. Keller from North Dakota and
3 Marshall from Rhode Island were involved as
4 well. So they had five state vets.

5 I got side-tracked part way through
6 this process and asked Dr. Mark Michalke, our
7 regional vet from down on the coast with a
8 lot of experience with TB and brucellosis --
9 he's sat in and helped me out, because I got
10 tied up in Austin with some politics. So
11 Mark's here as well. And, Mark, please jump
12 in if I say anything that's not quite right.

13 So what I'm just going to do is
14 give you background on the process. And I
15 won't resist the opportunity to give you my
16 personal opinion a few times in here, because
17 -- you know, I think we want to thank USDA
18 for the process and the ability to have
19 interaction.

20 We didn't always agree; I'll just
21 say that up front. And that's all right.
22 We still get along. But I think there are
23 some things, at least from my perspective,
24 that those of y'all in the room need to
25 think about if you're -- you know, from your

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2 perspective, as we go through these comments.

3 Go ahead, Lee Ann, and change it.

4 So, obviously, the TB program/brucellosis
5 program has been going on for a long, long
6 time, and we've made great progress, but
7 neither disease is eradicated, and I don't
8 think they're going to be any time soon.

9 And the reality is the rule-making
10 -- the existing rules that were in place
11 have become dated somewhat, and in some ways
12 the status system for free status has kind
13 of run its course. You know, when you had
14 brucellosis status and you had Class C and
15 Class B and Class A and class free, it made
16 a lot of sense.

17 But as we got down to the end of
18 the program, it became obvious that there
19 were some burdens put on certain states for
20 both diseases that were influencing the
21 activities that they did, rather than just
22 fighting the disease. They were getting
23 created to maintain or get statuses for
24 movement reasons.

25 And so we all agree that the status

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2 concept needed to be overhauled, and that's
3 part of what drove this process was to take
4 a look at creating rules that were more
5 flexible.

6 And, obviously, the issue of
7 brucellosis in Yellowstone area and the issue
8 of TB up in the Michigan area, with wildlife
9 involved in both, influenced this process, in
10 my opinion, possibly too much, at times.
11 Being from a state that doesn't have a
12 wildlife component or issue, obviously, that
13 wasn't as important to us as it was for Dr.
14 Halstead's folks in Michigan or other folks
15 in Yellowstone.

16 So sometimes we had to rebalance our
17 priorities, but the process works. Go ahead,
18 Lee Ann. So that's where we're at. I'll
19 stand over here.

20 So, like I said, I think wildlife
21 really drove this a lot, as far as the
22 brucellosis interaction with the elk and
23 bison up in Yellowstone area, and for
24 whitetail deer, specifically in the Michigan
25 area. And Minnesota and some other states

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2 have had some issues with TB transmission
3 between cattle and deer.

4 The change in agricultural practices,
5 larger dairies, larger operations, calf
6 raisers, feeder operations, systems in general
7 are going to pose some real problems. And I
8 think that's -- in my opinion, that's one of
9 the places where the framework that we have
10 is not quite fleshed out the way it should
11 be, especially talking about the zoning
12 things, and that systems -- dairy systems,
13 the movement of animals, for example -- are
14 very complex.

15 And think about that when we listen
16 to comments, because the zoning concept ---
17 one of the elements is too simplistic. It
18 doesn't make sense unless you have a wildlife
19 component. And so we really struggled with
20 that, and decided at the end of the day just
21 to let the rules work their way -- they kind
22 of just decided we'll figure it out as we
23 go. But, in my opinion, there are some
24 loopholes still in these new ag practices.

25 Traceability. Obviously, it's coming.

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2 It's needed for lots of reasons, from disease
3 traceability to country of origin labeling,
4 to product verification, and at the end of
5 the day is consumer confidence and quality
6 assurance. And so it obviously needs to be
7 a part of this process.

8 I would recommend that you keep in
9 mind, though, the possibility -- think about,
10 as we go through the discussion, the
11 possibility of conflict between the ADT rules
12 as they appear to be fixing to be proposed
13 with the waivers for feeders and slaughter
14 cattle and all that, versus some of the
15 requirements that this rule could put on
16 at-risk cattle and, especially coming from
17 Texas, we're very interested in the feeder
18 issues.

19 Just think about possible conflicts
20 that could play out between what the ADT
21 rules say are going to be needed and what
22 these rules could require on a state or an
23 industry to be in compliance.

24 Diagnostics. Primarily, that was TB.
25 You know, the diagnostics, especially in

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2 wildlife and even in cattle, have a lot of
3 room for improvement. And so that drove
4 part of this rule.

5 And importation of infected cattle --
6 I don't like that term. This isn't my
7 slide. If we know they're infected, we
8 shouldn't be importing them. But I don't
9 think that's really the case in most
10 situations. But, obviously, you have to
11 balance the trade issue with the risk. And
12 we're not in a zero risk environment anymore,
13 and we shouldn't be.

14 So this is really something that I
15 would encourage y'all that are from states or
16 industries that utilize Mexican animals,
17 really take -- this is -- I don't think this
18 is fleshed out as well as it should be in
19 this rule, and we really need to pay some
20 attention to that.

21 And I'm not wearing my -- I'm not a
22 USDA guy, so I'm taking liberty here to give
23 you some comments as we go. I hope that's
24 all right. But that's part of the process
25 that worked well as we went through this.

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2 And state/tribal concerns and actions,
3 again, just -- that's the deal that's pushing
4 the change. How do we play with each other?
5 How do we trust each other? How do we pay
6 for the things that need to be done to
7 comply and ultimately eradicate these diseases
8 and provide a national system of health
9 assurance to our international trading
10 partners with each other? And that's the
11 intent of these rules. Go ahead, Lee Ann.

12 Well, we know that the old way of
13 doing business, the statuses for free status
14 for TB and brucellosis, had lots of problems
15 with poor states, like New Mexico, to do
16 things they didn't really want to do to
17 maintain free status, zoning and some things
18 that complied technically with the rules that
19 didn't necessarily make sense, from a
20 scientific standpoint.

21 And everyone would agree that the
22 rules need to be revised. And they are
23 suspended right now; both the TB rules and
24 the brucellosis rules nationally are suspended
25 while this rule-making's going on. And that

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2 was the right -- that was the right move to
3 make.

4 Fiscal realities. I think this is
5 just the fact that the federal government
6 doesn't have money; the state government
7 doesn't have money, and how do we still
8 maintain an effective infrastructure with
9 that? I'm not sure what the difference in
10 funding and fiscal realities are, because to
11 me they're the same thing; we're broke. So
12 just go on from there, Lee Ann.

13 So I think when USDA started to put
14 together the concept of how to do this, they
15 obviously have been influencing -- many of
16 y'all in the room are involved with U.S.
17 Animal Health Association and their committees
18 and the resolutions.

19 And for at least the last two years,
20 I went back and looked up what some of the
21 -- what some of the resolutions were that
22 were coming out of U.S. Animal Health. Just
23 to tell you, in the TB committee in '09,
24 there was a resolution urging USDA to create
25 a more flexible rule-making system with

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2 science-based, risk-based, and also encouraged
3 them to look at new tests, validate tests
4 and expedite that process.

5 On the brucellosis side, in '09,
6 their resolutions recommended they do more
7 research in wildlife and develop test
8 protocols for wildlife, look at b. suis in
9 cattle, brucella suis, and basically also
10 take a look at their rules in general.

11 And then in 2010, the TB committee
12 had a resolution asking USDA to consider the
13 caudal fold response rate for states to
14 ensure they're in compliance with standards
15 and running the test right.

16 They also, on the brucellosis side,
17 asked for some cervid testing improvements
18 and brucellosis funding for indemnity, and
19 also asked them to take a look at the winter
20 feeding of elk in the Yellowstone area,
21 because it posed a risk.

22 And so they were being pushed on
23 both the TB and brucellosis side to revise
24 their rules. I want to give them credit for
25 being responsive to that. That's one of the

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2 reasons we're here today is to do that.

3 This is, obviously, the way that
4 they do business. This is the way we do
5 business in Texas as well. We put together
6 stakeholder group meetings and have open
7 dialog and discussion and evaluate our rules.
8 That's the process that's going on.

9 And I do think -- I think USDA is
10 giving us the opportunity to speak. I
11 think, at the end of the day, we'll just
12 have to see, from each of us, our own
13 opinion on how well they listened. But
14 we'll assume it's all going to be good. Go
15 ahead, Lee Ann.

16 So there were two concept papers.
17 And I know some of y'all here were at the
18 meeting in Denver a couple of summers ago on
19 TB. And on the brucellosis side, as a
20 result of the urging from U.S. Animal Health,
21 they put together these two concept papers.

22 The brucellosis paper -- they both
23 came in '09. The brucellosis paper said,
24 hey, we need to work on assuring people that
25 the U.S. is free of brucellosis and work on

1 national surveillance systems, mitigate the
2 wildlife transmission risk, and enhance our
3 disease response and control measures, and
4 take a risk-based approach. And that was
5 the brucellosis paper.
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7 The TB paper came out right after
8 that, and said we have to mitigate the
9 implications of wildlife, mitigate the
10 introduction of disease from imports, focus
11 our resources where the disease is -- I'm
12 not sure what that means exactly -- and then
13 transition from statuses to zones.

14 And so those two papers are the
15 driving point for the beginning framework
16 that this working group started last fall on
17 when we met up in Riverdale for the first
18 time. And I'll tell y'all, I'm not that --
19 I kind of like statuses. I'm not against
20 statuses, if the rules were done right.
21 And, obviously, the old rules are not quite
22 right.

23 But I think that one of our
24 challenges in this process is the apparent
25 transition from state statuses to zones.

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2 It's a little more complex. And I can just
3 tell you that I've looked at some of the
4 states that are struggling right now with TB.
5 They're free -- their status is free while
6 the rules are suspended. And it's very
7 concerning to me, as a state vet, that I
8 can't really make a good judgment of what's
9 going on there.

10 So we need to make sure, whatever
11 process we do have at the end of the day,
12 that we have a way to exchange information
13 and make some scientific and professional and
14 industry-based decisions on risk. And,
15 hopefully, the industries and the states will
16 have some control or some ability to have
17 autonomy in that way, and not just to accept
18 what we're being told.

19 I'm really concerned about that right
20 now, especially on the TB side. There's
21 some -- we have some major problems in the
22 United States with TB. Go ahead, Lee Ann.

23 So this working group has met face
24 to face three times, I believe, and I've had
25 weekly phone calls. And there has been a

1
2 lot of opportunity for engagement,
3 opportunities like this as well, at the end
4 of the day.

5 One of the things that I was
6 critical of -- and I guess it'll be all
7 right -- is they wanted to start fresh and
8 they wanted to base this process on the
9 working group papers, the concept papers on
10 TB and brucellosis. I felt like we should
11 have gone back and looked at the old
12 proposed rules that were pulled back, because
13 there's a lot of hard work and good work in
14 those rules; they need a little tweaking.
15 But the decision was made to start fresh.

16 And I do think that we've probably
17 missed some things. I think, as hard as we
18 tried, there were some concepts and things
19 that were put together as part of the
20 original rules that were pulled back and
21 never passed that still need to be
22 considered, and I would recommend y'all go
23 back and try and take a look at those old
24 rules.

25 I can give you an example. The

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2 Texas feeder industry worked very hard and
3 Animal Health Commission was involved in
4 proposing some ways to mitigate risks to
5 feedyards and proposed some processes there,
6 a three-tiered system of risk for different
7 kinds of animals. And that was kind of lost
8 in the shuffle, and I think we need to
9 rejuvenate some of those things.

10 And I would encourage y'all, if you
11 haven't thought about it and you can find
12 it, go find the old rules and look at them
13 again and make sure that this framework
14 covers all the things that need to be
15 covered.

16 Because, again, from my perspective,
17 the focus of this group kept coming back to
18 Yellowstone for brucellosis, and coming back
19 to Michigan for deer. And from a state
20 that's not those two, it wasn't -- I'm
21 really worried that we're missing something.

22 So we need everyone in the room and
23 everyone in the United States to help us
24 make sure that this is a comprehensive
25 process at the end of the day.

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And I think it will be.

So we put together this working group. Go ahead, Lee Ann. And so we started from scratch -- they did. And you can see we're right here in Stage 2. We've got the framework for y'all to consider and put comments on right now. There will be rules and then a final rule and, obviously, lots of time for interaction and for comments. And so this was the process that was developed. Go ahead.

We were not a federal advisory committee. And, you know, the FACA rules for input are -- and maybe the word is not onerous or burdensome, but -- since I'm not federal, I can say that if you have a more diverse group than what we had that included private citizens and stakeholders, it becomes much more of a process to have meetings and to document everything that's said.

So the decision was made to use state and federal officials here just to get things going. And I think we've probably done the right thing for y'all, provided the

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2 framework for evaluation. And now, for you
3 in the room that are industry rather than
4 the government, it's time for y'all to do
5 your homework. And I think we're just here
6 as a reference or a resource for you to help
7 you figure out the nuances and the things
8 that have been missed.

9 And, again, with my folks in Texas,
10 I'm going -- have been and are going to
11 continue to share thoughts and then,
12 ultimately, y'all will each need, from your
13 industry or organization perspective, to put
14 your own comments into this.

15 But this was not -- this was not
16 intended to be a federal advisory committee
17 type process, mainly to expedite it, I think,
18 because we were under -- we all felt like we
19 needed new rules as quickly as we can. And
20 even under this process, it'll take a couple
21 of years.

22 So that's the make-up of the folks.
23 And we had calls -- 30 or 40 people might
24 be on a conference call. And sometimes it's
25 hard to do good work that way, but that's

1 what we did and that's where we're at today.

2 Go ahead, Lee Ann.

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4 And I do want to thank the USDA
5 folks, Dr. Myers and Dr. Thomas. You know,
6 they've done yeoman's work in trying to
7 corral a pretty diverse group of folks. And
8 the five state vets that were on it were
9 from five completely different mindsets, and
10 so we, at times, seemed to be coming from
11 out in left field, even to each other, in
12 what we were talking about. And I want to
13 give y'all credit.

14 So the framework -- the new
15 framework has these objectives. Are they
16 realistic? I'm not sure. It is flexible
17 and coordinated; I'll say that, for sure. I
18 think the United States has a good
19 surveillance system and will maintain that
20 and we will be able to detect disease
21 rapidly. And that's, obviously, one of the
22 goals.

23 Taking actions to prevent further
24 spread or importation, I'm not sure if that
25 term -- I think that means importation of

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2 disease, not importation of the commodity. I
3 think we'll be fine there.

4 Are we going to eradicate these
5 diseases? I'm not sure that's going to
6 work. I mean, until we get a little more
7 science and work through some of the
8 politics, especially in Yellowstone, I just
9 don't see it. So I think that's probably a
10 goal that's not reachable in this process.

11 Document disease status for domestic
12 and international trading partners.
13 Obviously, it's important. I'm one of those
14 domestic trading partners, and I'm really
15 looking forward to this, because we don't
16 have that process right now and we need to
17 fix it quickly.

18 You don't want to overreact as a
19 state animal health agency, but I think some
20 of us at the state vet level are very close
21 to starting to impose restrictions on each
22 other's livestock for fear of disease
23 transmission, and I don't want to do that.
24 We need to get this finished so we can get
25 a good process to exchange information.

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2 And then, obviously, minimize impact
3 on the industry. At the end of the day,
4 beyond public health and animal health, is
5 economic viability and marketability. That's
6 really what we're all about. Go ahead, Lee
7 Ann.

8 So there's eight elements to the
9 framework that are going to be discussed
10 during the breakout sessions. I think
11 they're appropriate. Many of these elements
12 are not going to be that hard for a state
13 that already has good rules and laws in
14 place.

15 I mean, I think, at least from
16 Texas' perspective, some of these are just,
17 okay, we're already doing that; it's not a
18 big issue. In many cases, the CFR and the
19 Uniform Methods and Rules were appropriate
20 and just needed a little tweaking.

21 There are some things up here that
22 are significant changes. The zoning -- the
23 zoning is one of them that we took a lot of
24 time to discuss. And, again, from my
25 perspective in Texas, I didn't believe zoning

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should have been one of the eight items. Zoning should have been inside the affected herd management. Because if you're not a state with a wildlife issue, it's not that big of a deal. And TB and brucellosis both are not necessarily amenable to zones if you're not talking about wildlife interaction.

Systems, the ag systems, the dairy industry, as I said before. TB in the dairy industry, how do you zone that? You can't. And so that's what we really need to think about, fleshing this out and giving good guidance back into the rule-making process to make sure we don't inadvertently create something that doesn't make sense.

Obviously, surveillance is key to affected herd management. And indemnity is big. I think y'all are going to find that the proposed rules, you're going to want to comment on indemnity, and that goes back to the fiscal realities that USDA is facing.

I know in Texas we're going to comment on that, because we have some concerns about it as it's written. I'm not

1
2 up here to preach, so just take a look at
3 that.

4 Importation requirements for states
5 like Texas that cross hundreds of thousands,
6 if not millions, of Mexican feeders and
7 Mexican animals a year, some coming to Texas,
8 some going to your states, we need to really
9 take a look at that, because it is possible
10 there's going to be some burdens put on you
11 at the state industry level, unless we make
12 sure we work this properly.

13 The intent is right -- the intent is
14 right to make sure that there's no
15 interaction, no infection coming in from
16 other countries and the breeding animals are
17 not accidentally infected with our feeder
18 animal issue, but we just want to make sure
19 that we don't have an economic burden put
20 upon us that wasn't meant to be there. So
21 take a look at that.

22 And then the lab part, really, in my
23 opinion, we need to put it in there if you
24 change the rules. But USDA does a good job
25 of that now and there's really not a lot of

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2 issues, from our prospective. Go ahead.

3 So where we're at today is to get
4 more input. This is the way to get input
5 outside of the state and federal folks who
6 were on the framework working group, and
7 there's a lot of work to be done. It is
8 not complete. I think no one would tell you
9 it's complete. It's moving in the right
10 direction.

11 There is an urgency to this that we
12 get some good rules put in place within the
13 next couple of years, legally and within the
14 system that's set up for government to
15 operate. And I do appreciate y'all being
16 here. I'm glad to see a big turnout here
17 today.

18 And I'll be glad to answer any
19 questions, from the state vet perspective.
20 And I know Drs. Myers and Thomas will do the
21 same throughout the day. But, again, thank
22 you for coming. And don't be shy and tell
23 us all what you think every step of the way.

24 And the rule-making -- we've got
25 until June 20th, right? That's the key. So

1
2 everyone should make comments for the
3 rule-making part by June 20th.

4 DR. THOMAS: And, actually, it's
5 been extended until -

6 DR. ELLIS: Oh good.

7 DR. THOMAS: We have a request to
8 extend it, Dee, so it'll be July 5th. There
9 will be another notice coming out, and we'll
10 be updating our website either today or
11 tomorrow with that info.

12 DR. ELLIS: Anyway, again, I want to
13 thank Dr. Myers and Thomas, the USDA folks,
14 Dr. Clifford. They've paid our way up here;
15 they've gone out of their way to provide us
16 with the resources we need on the Internet,
17 the phone calls and all, to try our best to
18 struggle through this. And it's been a
19 struggle; I'll just guarantee you. It's not
20 been easy. I'll stop there, if there's no
21 more questions.

22 DR. THOMAS: Thank you, Dee. Can
23 everybody hear me? I can't claim to be a
24 bingo caller, but I'll see what I can do.
25 And just some background is I'm the director

1
2 of Ruminant Health Programs. And in that
3 capacity, both TB and brucellosis are one of
4 the diseases that I am responsible for.

5 So in that capacity, I'm going to be
6 presenting the framework to you today. The
7 presentation is in the package that you
8 received. And, also, because it's a very
9 long presentation -- we spent seven months
10 developing this presentation -- so about
11 halfway through we'll take a break. And the
12 break is at a very timely point. It's
13 before the indemnity discussion. So I know
14 there's a lot of concerns about indemnity.

15 And I'm going to repeat something
16 that T.J. mentioned and Dee mentioned, is
17 that we're really interested in getting your
18 comments here today. That's why we're having
19 the session transcribed, but I also want to
20 urge you to submit written comments. Those
21 are really going to be important as we go
22 through and write these regs.

23 And the "we" is regulatory analysis
24 and development staff. We have individuals
25 -- this is their job. This framework that

1
2 I'm presenting is just the concept of the
3 new regulations. The actual regulatory text
4 will be developed after we review the written
5 comments, as well as the oral comments. So
6 this framework is just the concepts. Next
7 slide.

8 So because of the similarities to TB
9 and brucellosis in regards to disease control
10 and eradication, we determined that we will
11 look at a single rule as opposed to two
12 rules, as it exists now in the CFR.

13 And this allows us a lot of
14 flexibility. It ensures consistencies between
15 our two disease programs, and it also
16 relieves the administrative burden of doing
17 two separate rule makings.

18 So we're hoping that, as a result of
19 using -- or going with one rule, we'll be
20 able to get these rules out quicker.

21 The performance standards -- Dee
22 mentioned the UM&R. The performance
23 standards should be considered the UM&R.
24 Those will be available for comment when the
25 rule is published.

1
2 I know we have received a lot of
3 questions about the detail. And I'm not
4 going to be giving you the detail in the
5 presentation; again, just the concepts. But
6 the program standards will also be published
7 at the same time as the proposed rule will
8 be, and so you will have the opportunity to
9 comment at that time.

10 The working group had some fairly
11 significant discussion early on regarding, for
12 instance, should sheep and goats be included
13 in this rule.

14 And currently the program species are
15 going to be those species that we currently
16 regulate, those being cattle, bison and
17 captive cervids. We aren't extending to
18 sheep and goats, primarily for fiscal
19 reasons, funding reasons.

20 If we were to include sheep and
21 goats, we're talking about having to move
22 money away from the three species here to
23 incorporate a disease program for either b.
24 abortus, b. melitensis, b. suis, and those --
25 and for those issues.

1
2 And, similarly, the agents will be
3 Mycobacterium bovis and Brucella abortus.
4 We're not going to add, under the moniker of
5 brucellosis, b. melitensis or b. suis. That
6 doesn't suggest that -- if we run into a
7 situation where we have, for instance, llamas
8 or alpacas on a facility that is determined
9 to be TB infected, we will be able to use
10 our existing system to remove and/or test
11 those animals.

12 Similarly, with b. suis, currently in
13 Texas, we're using our existing brucellosis
14 regulations and policies to remove those
15 animals that turn up as suspect animals, and
16 we later determine to be b. suis. So we're
17 going to continue our existing system in the
18 new framework, but we will not be adding
19 officially into the regulations other agent
20 species. Next slide.

21 MR. JOSH WINEGARNER: Lee Ann, I
22 just have a real quick question on that
23 slide. You didn't have anything on there
24 for wildlife, so I thought this rule was
25 going to be based on -- was going to focus

1
2 a lot, especially in a couple of the states,
3 on wildlife also.

4 DR. THOMAS: We have no authority
5 over wildlife. Our work with wildlife will
6 be a collaborative, coordinated approach.
7 But per se being able to go out and, under
8 APHIS authority, either test or, in an
9 extreme situation, depopulate, we don't have
10 that authority. So, no, we're focusing on
11 those three that I mentioned.

12 Dee mentioned that our current status
13 system is archaic. It tends to be somewhat
14 punitive, as I'm sure those of you in New
15 Mexico would agree.

16 And the system that we're proposing
17 is a three-tiered system. It will also have
18 general program requirements as well as
19 reporting requirements.

20 And we want to ensure that these
21 regs enforce -- not enforce, but emphasis
22 compliance and accountability. And one of
23 the, again, factors that Dee mentioned is
24 reporting. Transparency is going to be
25 critical as we move forward.

1
2 States and veterinary services have
3 to have the mechanisms in place and the
4 willingness to report situations that are
5 ongoing in the United States, for the very
6 reason, if we're asking another state to not
7 take actions, that state has to be well
8 informed about what's going on with either TB
9 or brucellosis.

10 One thing that I want to stress as
11 we go through these elements, we're still
12 talking about state/federal cooperative disease
13 programs. We, VS, APHIS is not backing
14 away. So I just wanted to say up front
15 that Veterinary Services still intends to
16 have a role here and we're not backing away
17 with the creation of these new regulations.

18 One of the key components for the
19 state or program requirements is for the
20 states or tribes to develop, submit and
21 implement an animal health plan.

22 This is a comprehensive animal health
23 plan that includes such things as state
24 authority and resources, what surveillance
25 they may have ongoing in their state, how

1
2 they might participate in national
3 surveillance, case management and response and
4 reporting, high-risk subpopulations. We've
5 talked about two already today, the GYA and
6 the situation in Michigan and Minnesota with
7 wildlife.

8 It looks like Minnesota may be
9 successful in eradicating TB in deer, but I
10 think we still need a couple of years of
11 data before we can be assured of that fact.

12 Are there other potential wildlife
13 reservoirs in a state? What risk mitigation
14 activities? Some of you may be familiar
15 with what the three GYA states have put in
16 place in regards to the risks associated with
17 wildlife in the GYA area.

18 And, finally, a proposed approach for
19 zoning. What does the state propose to do
20 if they do determine that they have a
21 wildlife reservoir, and I'll be speaking more
22 about this later, so I won't spend a whole
23 lot of time on it. But just suffice to say
24 that this animal health plan is a written,
25 complex -- a written, complete plan regarding

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these two diseases.

And when the rule is finalized -- and assuming that this is part of the regulations, VS likely, with the assistance of an advisory board, would approve or comment, revise, provide recommendations for revisions to the plan, and then the state would implement it.

Or VS would have the option, as I mentioned, of coming back and making comments. Once implemented, though, we would look at -- if a state failed to implement its plan, it could be classified as inconsistent.

And one of the things that we'll be getting your input on is what sort of consequences should there be if a state is determined to be inconsistent. And there are several; there's not one. But we'll be looking in the breakout groups to get your feedback on that.

The three tiers would be, as I mentioned, inconsistent, which we hope, obviously, no one would be in; provisionally

1
2 consistent, which a state would have the
3 opportunity to correct certain issues within
4 a specified time period. Once that time
5 period was over, if they had met the -- or
6 if they had resolved the issues, they would
7 be moved back to a consistent state or,
8 alternatively, they could be moved down to
9 inconsistent. Next slide.

10 So under general program requirements,
11 the state -- and when I say state for the
12 rest of this presentation, I'm also including
13 the tribes as well.

14 When the working group met -- and as
15 Dee's presentation indicated, we had tribal
16 subject matter experts that were part of the
17 working group. And there will be certain
18 circumstances where the tribes might -- a
19 tribe might be developing their own animal
20 health plan, or there might be the situation
21 where a tribe would be -- would work within
22 the state where that tribe is located and be
23 recognized and be a component of a state's
24 plan.

25 So under general program requirements,

1
2 we want to make sure that the state has the
3 infrastructure, the laws/regulations to
4 implement, enforce their regulations, that
5 they have a reportable disease process, and
6 they develop and implement this comprehensive
7 animal health plan that I have previously
8 discussed.

9 One of the questions that came up
10 during the discussions was that, well,
11 certain -- a certain state only had two
12 members -- two individuals that were in the,
13 if you will, veterinary animal health
14 structure.

15 And, so, that doesn't necessarily
16 mean, just because you have two people, that
17 you're an inconsistent state. But what we
18 talked about was, in that situation, the
19 state would need to coordinate, collaborate
20 with states around it, also to have
21 discussions with VS as to what level of
22 infrastructure support VS would provide in
23 the situation if they were determined to have
24 an affected TB or brucellosis herd in their
25 state.

1
2 So just because you're a small state
3 with a small veterinary infrastructure doesn't
4 mean that you're automatically inconsistent.
5 It just means that the state has to
6 recognize that and get the appropriate MOUs
7 or agreements, other documents, other
8 forward-facing planning in place in the event
9 that they did have a large TB or brucellosis
10 situation in their state.

11 Just for reference, if you look at
12 the map -- and I don't have this here, but
13 if you look at the map for TB and
14 brucellosis and states being free, there is a
15 -- typically, it's the Northeast, the north
16 part of the U.S. We have some states that
17 have been free of both TB and brucellosis
18 for 20 to 25 years.

19 So we want to make sure that,
20 through all of this rule-making, that we look
21 at the risk and the state looks at the risk.

22 So now to move on to reporting
23 requirements. I've already mentioned that
24 transparency is going to be critical for the
25 success of the program. We want to make

1
2 sure that, in a public-facing forum, that
3 other states are aware that state plans have
4 been implemented.

5 We want information about
6 epidemiological information. And Dee
7 mentioned a resolution about caudal fold
8 response rates, particularly critical for TB.
9 So we want to make sure that all this
10 information is available.

11 I have to say, from -- a concern
12 that I have about this is transparency works
13 two ways. And at headquarters, one of the
14 issues that we've seen is, while we're
15 transparent within the U.S. as a whole and
16 everybody has an understanding of what's
17 occurring and everybody has a comfort level,
18 we do have to recognize, if we put
19 information available for public access, our
20 international trading partners.

21 So we have to be very cognizant when
22 we move forward with this reporting how we're
23 going to ensure that we have a complete,
24 total reporting mechanism such that we
25 actually don't harm our export markets here

1
2 in the United States.

3 I mentioned compliance and
4 accountability, and it's going to be built
5 into the status system. And it ties back in
6 to the question that I asked earlier on this
7 slide: What are the consequences of
8 noncompliance?

9 And while we're trying to get away
10 from a punitive approach, i.e., a loss in
11 status where there are increased testing
12 requirements for moving animals across those
13 state lines, what are -- are there other
14 consequences? And maybe we still want to
15 have that consequence. But I'd say this is
16 one of the areas that we really need your
17 feedback.

18 And, so, in addition to the
19 reduction in status, we have loss of funding,
20 increased surveillance requirements. There
21 are probably others. But what do we want to
22 do when a state is knowingly noncompliant?
23 Next slide.

24 Zoning we broke up into two
25 categories. One is short-term and the other

1
2 is long-term. And you'll see the long-term
3 containment is greater than one year. Is
4 there anything magical about the one year?
5 No.

6 We were just trying to make a
7 distinction that there are certain actions
8 that are probably short-term zoning that come
9 under a category of short-term, you can get
10 the disease under control rapidly, as opposed
11 to those situations. A good example is
12 where we have a wildlife reservoir where
13 you're going to be dealing with disease for
14 a long period of time.

15 In short-term zoning, for those of
16 you that are familiar with our current
17 program, is the activities that -- the
18 activities that occur when you find an
19 affected herd in your state, or what do you
20 do when you have the presence of disease in
21 wildlife without livestock involvement.

22 So short-term containment, this is
23 the -- nothing new here in regards to the
24 handling of an investigation of a herd that
25 is determined to have an affected animal.

1
2 So the herd is quarantined; there's a
3 standard epi investigation that would be
4 conducted according to protocol.

5 The state or tribe would implement
6 their animal health plan, what they have in
7 place for the finding of an affected herd.
8 And the goal of the containment action is
9 eradication. And the action would end with
10 the release of the quarantine.

11 And there's probably a good example,
12 actually, in Texas, of where you have
13 actually -- there's a real life situation
14 where this has occurred.

15 I believe you recently had a
16 brucellosis-affected herd, cattle herd in
17 Texas. That herd was quarantined. There
18 was an epi investigation. That herd was
19 depopulated. So you actually did -- have
20 done the short-term zoning within the state
21 of Texas.

22 So the other alternative -- next
23 slide -- is a long-term containment plan.
24 And this would be a situation where your
25 disease has not been eradicated. I'll just

1
2 use a hypothetical example. I'll pick on my
3 home state of Arkansas. Go Razorbacks. I
4 know that's not real popular for those of
5 you when Arkansas was in the Southeastern
6 Conference a long time ago.

7 Say you have a situation in Arkansas
8 where you had a beef herd -- it doesn't
9 matter -- a herd infected with TB or
10 brucellosis; however, you were not able to
11 contain the spread for whatever reason. So
12 in that situation, that would be a situation
13 where you would want to have a long-term
14 containment plan developed.

15 And in this concept, for instance,
16 if all of the herds were in the northwestern
17 part of the state and you had none in the
18 southeastern part of the state, there would
19 be consideration, and the state would have
20 the opportunity to create a zone with the
21 appropriate mitigations to prevent the spread
22 of disease outside of that zone.

23 You could also talk of a similar
24 scenario if wildlife was found to be
25 involved. But it's just the creation of a

1
2 zone -- and, actually, the brucellosis
3 interim rule that was published on December
4 27th of 2010, describes this concept.

5 So what it allows a state to do is
6 to create a zone with the appropriate
7 mitigations, which can include testing
8 requirements for animals that are moving
9 outside of the zone or interstate, across
10 state lines; it can include risk assessments;
11 it can include vaccination, if we're talking
12 about brucellosis.

13 So this long-term zoning plan is
14 where you haven't controlled the disease; it
15 is still spreading, or you have a wildlife
16 reservoir and the state is taking actions,
17 again, in a transparent way that all states
18 are aware and the information is being made
19 available so that there is a comfort level
20 with another state receiving those animals.

21 Again, the long-term containment plan
22 may involve an advisory board. And I'll
23 provide a little information at the end of
24 the presentation about the advisory board.
25 It may be approved provisionally. It may

1
2 involve -- long-term zoning may involve the
3 need to conduct a risk assessment, which VS
4 would lead that activity.

5 VS would ultimately approve or
6 disapprove of the long-term containment plan.
7 And the action would end with the eradication
8 of the disease.

9 I think, in some situational
10 long-term containment plans, such as one that
11 Michigan might have, might be in place for a
12 long time. I think the situation that we
13 have in GYA is that the management plans
14 that the GYA states are putting into place,
15 I think those are going to be in place for
16 a while, because of the significant issues
17 associated with brucellosis in the GYA. Next
18 slide.

19 A couple of examples where we have
20 already implemented this type of zoning
21 approach. I mentioned the brucellosis
22 management plan for the GYA states. And the
23 GYA states, because they have a known endemic
24 foci of brucellosis in wildlife, they must
25 develop and implement a brucellosis management

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plan.

The plan must define the zone and explain the basis for the zone in which the disease risk occurs, and there is no -- and the TB federal order allowed no automated downgrade for an entire state.

So for those states that -- since we published the federal order, which was in April of 2010, I believe, a state will not be downgraded, as long as it quarantines the herd, does an epi investigation, does the appropriate surveillance, there is a herd plan. So we have alleviated that through an order. Next slide.

Surveillance. Surveillance is an ongoing activity and will continue to be critical, particularly for our trading partners, as well as for other states, again, to have a comfort level regarding the interstate movement of animals.

The national component, there will be a national component, which would be slaughter and other surveillance activities that may be ongoing. A state may have

1
2 targeted surveillance that they are conducting
3 as part of their animal health plan.

4 States may also have other activities
5 that would fall into a surveillance stream
6 that will be noted and will be accounted
7 for. And just a plug for ID. While this
8 is not a session on traceability,
9 surveillance does require, as animal disease
10 control does require, animal ID.

11 We're not proposing anything -- we
12 will not propose anything in the animal
13 health -- in these animal health regulations
14 that traceability addresses. We will address
15 some issues that are specific to animal --
16 these programs, such as vaccination, that an
17 animal needs to be identified as a
18 brucellosis vaccinate. Next slide.

19 Affected herd management and epi
20 investigations. Again, this is one area
21 where we're not going to be proposing a
22 significant amount of new concepts. We're
23 going to be following the tried and true
24 traditions of animal disease eradication.

25 We'll be defining a list of terms.

1
2 We'll identify who determines when a herd is
3 affected and how affected herds are managed,
4 including development of an animal health
5 plan.

6 We'll provide for the development and
7 investigation and reporting requirements and
8 time frames for epi investigations.

9 Why are we doing this? Well, again,
10 looking at the transparency issue as well as
11 other states concerned, if a state's not
12 following up promptly on their disease
13 investigations, you want to make sure that
14 you have some sort of time frame in place so
15 that you can maintain the state's
16 accountability, and similarly, allow
17 consequences if that epi investigation is not
18 addressed within the time frame.

19 Again, these are questions --
20 whenever you see the term consequences, think
21 without under what circumstances there should
22 be consequences, because some states or
23 tribes may have a legitimate reason for not
24 conducting an epi investigation as timely as
25 they would like to.

1
2 But if there are issues or if there
3 are valid -- or if there are no valid
4 reasons, what should the consequences be?

5 The rule recognizes -- or the
6 regulations will recognize that, under certain
7 circumstances, there may need to be variances
8 from the time frames, and we want to make
9 sure that recognizing with a test and remove
10 protocol, either for TB or brucellosis, that
11 we allow states and/or tribes to receive
12 high-risk or restricted movement animals. So
13 we're talking about quarantined feedlots, for
14 instance. Next slide.

15 Okay. Would everybody like a break
16 now? I saw one person say yes. Let's take
17 a 10-minute break, and then we'll get back
18 to indemnity. And, yes, I will come back to
19 discuss indemnity.

20 **(Whereupon a Recess taken from 9:17**
21 **to 9:40 A.M.)**

22 DR. THOMAS: Before I get into the
23 meat of the slide, I wanted to let you know
24 that probably the indemnity issue was the one
25 element in the framework that took the most

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discussion.

And there was not consensus with the working group, so the concept that will be -- that I will present is one that represents a VS position. The state vets that were on the group actually do have concerns about the position that we are proposing; however, I really would like you to think about some of the -- or the challenges that we're facing at the federal level regarding this issue.

And to provide you some background, is that, like the states, we have flat or declining budgets. For TB, the FY '11 budget decreased to 15.6 million, about an \$800,000 decrease. And we have -- this year and most years, we have one million dollars that's set aside in the federally -- or the monies that are appropriated or given by Congress. We have one million dollars in indemnity money.

Brucellosis, similarly, saw a half a million dollar decrease, and roughly each year we have about \$500,000 in indemnity.

1
2 Particularly for tuberculosis, we have relied
3 heavily on CCC funding, which is Credit
4 Commodity Corporation.

5 It's funding that is based on a
6 special request for a situation that requires
7 additional money; however, because of the
8 federal deficit and also related probably to
9 the fact that the TB program has heavily
10 relied on CCC monies with the potential to
11 eradicate the disease, yet we have not been
12 able to eradicate it, so our reliance on CCC
13 monies is going away. We're not going to
14 have that capability to submit a request for
15 anywhere from five million to 20 million
16 dollars.

17 To give you an example of how we
18 have relied on TB indemnity, from 2007 until
19 2010, each year we've averaged approximately
20 five million dollars in indemnity. So that's
21 telling you that four million dollars for the
22 past four years has been from CCC monies.

23 So what is it we're going to do
24 when we don't have that pot of money? We're
25 still in FY '11, fiscal year '11. We still

1
2 have some CCC funding available, but probably
3 in FY '12 that money is going to go away.
4 So we're going to be looking at a million
5 dollars to purchase all diagnostic animals as
6 well as depopulate herds.

7 The other factors to consider for
8 both of these diseases is that it takes us
9 an average of 60 days to depopulate a herd
10 from the time it is appraised until that
11 herd is removed. And, again, that is an
12 average. Next slide.

13 So our proposal for the regulation
14 is that it will define the terms that are
15 specific for indemnity. It will indicate
16 that indemnity -- the payment of indemnity is
17 contingent upon the availability of federal
18 funds. And that's not new. Actually, our
19 current regs state that. So there's nothing
20 new there.

21 It will describe our approach to
22 indemnity; however, the process will be
23 detailed extensively in the program standards,
24 not in the CFR. The reason being, it will
25 be changed more -- it can be changed more

1
2 efficiently if it's in the program standards
3 as in the CFR.

4 And I'm not suggesting, by saying
5 that, that the public will not be aware of
6 what those changes will be. We have a
7 mechanism of publishing a notice that does
8 allow public comment; however, we can go
9 ahead, based on a transparent process -- when
10 we make that change, we can go ahead and put
11 that change into effect.

12 If there is -- if there are, excuse
13 me, additional comments, we could potentially
14 go back and change the program standards.
15 So that mechanism of the publication of a
16 notice allows us to do things more quickly.

17 So one of the things that we are
18 proposing is that we will use a calculator
19 as opposed to an appraisal. The calculator
20 will be -- will consider a number of factors
21 that include the age of the animal, the type
22 of the animal, weight, milk production, and
23 will include recognition that there are
24 differences in the regional values for
25 animals.

1
2 There will be a defined transparent
3 process for updating the calculator. And,
4 roughly, the current calculators in use are
5 being updated monthly, the calculators that
6 VS has.

7 Indemnity would be paid at 100
8 percent of the fair market value based on
9 the calculator. And because we want the
10 ability to remove animals quickly, we're
11 proposing that there will not be an appeal
12 process.

13 Part of the time frame to remove --
14 the length of the time frame to remove an
15 animal is due to the appeal process, which
16 can be a lengthy process.

17 In one of the earlier working group
18 discussions -- or, excuse me -- one of the
19 other listening session discussions, there was
20 comment made about the appeal process, and
21 it's rather onerous. It goes from the state
22 level -- from the owner, to the state, to
23 the regions, to Fort Collins, then to DC.
24 So there are numerous steps in an appeal
25 process. Next slide.

1
2 APHIS Veterinary Services has produced
3 several calculators through a contractual
4 relationship with Livestock Marketing
5 Information Center, Dr. Darrell Peel. It was
6 reviewed by outside review.

7 The current beef calculator covers
8 bred heifers, bred cows, cow-calf pairs and
9 herd bulls. And the price is based on the
10 slaughter cow value, with consideration given
11 to the cow's age, the cow or the bull's
12 weight, the calf age and the quality.

13 And this calculator currently
14 considers pricing differences in five
15 different regions. In the calculator, the
16 salvage value is to be subtracted --
17 actually, this is an error on this slide.

18 When we're -- overall, when we're
19 talking about the use of a calculator, any
20 payment that a producer receives as a result
21 of salvage will be subtracted from the
22 indemnity payment. Next slide.

23 The reason that I chose the beef
24 calculator, it was not as complex as the
25 dairy calculator. We have also developed a

1
2 dairy calculator as well.

3 The regulation will also describe the
4 eligible indemnity expenses. I mentioned the
5 use of a calculator for payment for animals
6 that are destroyed. We will also pay for
7 transportation and the disposal of animals.

8 We're not going to be paying for
9 cleaning and disinfectant; however, we will
10 include, under certain circumstances, the
11 purchase of disinfectant where C and D is
12 conducted, or cleaning and disinfection is
13 conducted. Next slide.

14 For interstate movement controls, the
15 regulations will allow for interstate, tribal
16 or area movement controls for animals that
17 pose a risk of disease spread, and it will
18 provide the authority to define what types,
19 classification of animals and herds might be
20 subject to movement controls.

21 One example would be the requirement
22 for breeder animals that are moving out of a
23 high-risk area to be tested.

24 The rule will indicate that there
25 will be consequences for the lack of

1
2 implementation or maintenance of these
3 high-risk mitigation measures, such as
4 interstate movement testing requirements or
5 noncompliance with the restrictions.

6 If a state has active mitigation
7 plans in place, then they may preclude or
8 diminish the need for movement controls, that
9 is, if a state is using terminal or
10 quarantined feedlots, has an approved and
11 implemented animal -- or it says disease
12 management plan or animal health plan.

13 As long as there are mitigations in
14 place, again, that are being reported, we
15 wouldn't necessarily require specific
16 interstate movement and testing requirements.
17 Next slide.

18 We want to make sure, regarding
19 interstate movement requirements, that the
20 administrator of APHIS has the ability to
21 consider variances from movement control --
22 or from movement requirement, movement testing
23 requirements.

24 And this is another scenario where
25 we're thinking that an advisory group would

1
2 be helpful to provide their assessment of a
3 situation as to whether or not movement
4 controls -- movement testing requirements were
5 necessary. Next slide.

6 For import, we looked at three
7 different stages, pre-import, import and
8 post-import. And one way to look at this is
9 based on where these stages occur.

10 Pre-import I tend to think of as occurring
11 in the country of origin of the animal;
12 import, at the time of importation at the
13 border; and post-import, after those animals
14 have entered the U.S. and are being moved to
15 final destinations. Next slide.

16 For pre-import, we will continue to
17 use 9 CFR, Code of Federal Regulations, Part
18 92. And these are 11 factors for
19 regionalization. This is currently what we
20 base our regionalization efforts of any
21 country.

22 And so we will continue to use this
23 existing regulatory framework or, actually --
24 excuse me -- the existing regulations to
25 evaluate a country as to what requirements

1
2 should be put in place for animals to be
3 imported into the U.S. from that country.

4 And you'll notice here I'm not
5 saying Mexico. We want these regulations to
6 be inclusive of the entire United States.
7 And we have -- our reasoning for doing that
8 is that, as opposed to just looking at the
9 Mexican situation, if we look at the issue
10 of import holistically for all of the world,
11 is that, again, it's more effective for our
12 regulatory process.

13 When we look at regionalization, we
14 look -- after we assess a country, we look
15 at the requirements that need to be put in
16 place to ensure that, to the best of our
17 ability, we're importing healthy animals.

18 After we've conducted an evaluation
19 of a country, based on several mechanisms, we
20 can increase testing requirements or we can
21 potentially halt imports if the risk is
22 deemed to be too great.

23 The mechanism by which we would get
24 this information would be in-country
25 reporting, as well as evaluations that we

1
2 might do of the country. If a country had
3 testing requirements or increased requirements
4 for the export of those animals, once the
5 areas of concern have been addressed, we
6 would -- we could lower or lessen the
7 requirements for entry. And we also want to
8 ensure that we maintain the ability to do
9 on-site reviews of the country.

10 Further for import, we want to
11 ensure that the first point of concentration
12 after entry must be identified and
13 documented. Can we implement a system by
14 which, in the regulation, it requires that
15 either through the import documentation that,
16 again, that first point of concentration is
17 identified, and then that records be
18 maintained to facilitate the tracing of the
19 animals.

20 If the animals are moved from the
21 first point of concentration across state
22 lines, that should actually require a
23 certificate of veterinary inspection, as well
24 as the state in which those animals are
25 destined to be notified. Next slide.

SESSION 1

1
2 Post-import, we want to ensure that
3 there is continuity of the animal's ID, that
4 there is a mechanism to link any and all IDs
5 on that animal to any -- we want to make
6 sure that the ID on that animal, or any IDs
7 on that animal, we have the ability to
8 trace. So there is -- we want to make sure
9 that the ID is available for tracing.

10 And I mentioned that an ICVI, or
11 Interstate Certificate of Veterinary
12 Inspection, or brand inspection be required
13 for interstate movement and that any ID,
14 again, will be consistent with the animal
15 traceability proposed rule.

16 We're considering post-entry
17 restriction and testing requirements. Along
18 these lines, imported steers and heifers and
19 spayed heifers must be maintained separately
20 from breeding stock, as well as -- one
21 consideration is periodic testing of event
22 and rodeo cattle. These animals are fairly
23 mobile. They move frequently across state
24 lines and is a testing requirement -- will
25 that help identify earlier a potentially TB

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-- a TB affected animal? Next slide.

This element, as Dee indicated, had the least discussion. Although it is a critical component of any animal disease program, it went fairly smoothly. We'll define appropriate terms, including the consideration that makes sure that these regulation -- this regulation addresses a pen-side test.

While we don't have any test currently that can be used pen-side -- and I'm excluding the card test in this situation for brucellosis. Say, for TB, if there is a pen-side test developed, we want to make sure that our regulations allow us the flexibility to rapidly implement what's considered to be a pen-side test.

The regulation will document the process of initial approval and recertification approval of official diagnostic tests and official testing laboratories and official testers.

Changes to the process will be accomplished through a public notice in the

1
2 federal register that describes the proposed
3 change and solicits comment, public comment.

4 We want to make sure we have --
5 that the regulations document the mechanism
6 to withdraw or suspend approval. And, then,
7 finally, we want to make sure that the
8 regulation provides a mechanism for quality
9 assurance and quality control in our testing
10 laboratories, and proficiency testing of
11 approved testers.

12 So with that, I have -- any
13 questions?

14 And if you can't read this slide, it
15 says: You can pump its tail as long as you
16 want; I'm telling you, it will never give
17 milk.

18 What we're considering -- not what
19 we're considering. With my boss here, here's
20 our time line, which is a very aggressive
21 timeline. We are aiming to get a proposed
22 rule out in 2011, with a final rule in 2012.

23 Until we get the proposal --
24 actually, until we get a final rule in
25 place, which is 2012, our regulations remain

1
2 in effect. We also have the TB federal
3 order that is in effect, as well as the
4 brucellosis interim rule.

5 So I would encourage those of you
6 who haven't taken a look at that brucellosis
7 interim rule, since it describes a lot of
8 concepts that we've talked about here, I'd
9 encourage you to read that too, because
10 that's actually an interim rule that we put
11 in place to address the situation in the GYA
12 states.

13 The other thing that I mentioned
14 early on is this advisory board. And in the
15 breakout groups, we'll be asking you more
16 questions. But the advisory board, as we
17 consider it, is a board of individuals who
18 provide any -- who provide analysis and
19 recommendations back to Veterinary Services.

20 I've mentioned some areas where an
21 advisory board might be used in evaluation of
22 a state's animal health plan, a state's
23 status, consequences of noncompliance with any
24 part of the rule.

25 There are other areas where an

1
2 advisory board might be useful, and we're
3 very interested in getting your comments
4 about an advisory board.

5 One of the challenges that we face
6 is the Federal Advisory Committee Act, or
7 FACA laws. FACA laws require that, if you
8 have a formal advisory committee that
9 includes a broad range of public
10 stakeholders, including industry, is that that
11 advisory board be formally developed and it
12 is -- it serves, actually, at the request of
13 the Secretary. It's the Secretary's advisory
14 board.

15 USDA has two advisory boards. So
16 some of the challenges that we face -- and I
17 just want to say this -- is that, under the
18 current FACA laws, to have a national
19 advisory board, it would require standing up
20 such a group, and there's only two in USDA.

21 So what that means is that the
22 challenge is we can't bring industry to that
23 table, and so we have to be -- we have to
24 consider are there alternative ways that we
25 can stand up an advisory board, that we can

1
2 develop some mechanism of getting industry
3 input into that process.

4 And it may be that we need to look
5 at locally having state advisory boards. It
6 may be an advisory board already exists now.
7 But that is a challenge that we face with
8 the advisory board.

9 That being said, we're very keenly
10 interested and supportive of moving forward
11 with this concept, recognizing that we do
12 have that challenge. So, with that, I think
13 I've addressed the additional comments that I
14 wanted to make.

15 So I think now -- unless there are
16 any questions.

17 MR. JOSH WINEGARNER: Lee Ann, I've
18 got two real quick. First, on the formula,
19 the calculator, on the indemnity, it looks to
20 me like that just discusses -- I think it's
21 the herd bulls, cows and bred heifers. How
22 are you planning to figure cost of seed
23 stock and also on feeder cattle?

24 Are you going to use the current
25 market prices or -

1
2 DR. THOMAS: One of the challenges
3 that the calculator faces, which is not
4 indicated, is the value of seed stock,
5 high-value genetic stock, unique collections
6 of animals, such as Wahoo cattle. And
7 that's difficult.

8 What we may -- one of the
9 discussions that has been since we've gone
10 out is that you need to take into
11 consideration that you have, if you will,
12 exceptions to the use of the calculator, for
13 it to be -- for it to be successfully
14 implemented.

15 Others have commented five regions
16 isn't enough, that there are unique local
17 circumstances. So these are some of the
18 feedback that we've gotten already.

19 MR. JOSH WINEGARNER: And what about
20 on feeder cattle? Say they're almost ready
21 to ship and they have the added value from
22 feeding them out for the last five or six
23 months. How are you going to pay us?

24 DR. THOMAS: Well, that gets into an
25 issue of what the regs -- actually, our

1
2 authority, the Animal Health Protection Act.
3 And that is the -- when you start talking
4 about replacement value, under the Animal
5 Health Protection Act, it's not full
6 replacement value; it's fair market value.

7 So I think you're getting into an
8 issue of if it's the replacement value. And
9 we didn't discuss it, because our authority
10 does not allow us to address replacement cost
11 or production cost.

12 MR. JOSH WINEGARNER: The other
13 question dealt with the segregation of
14 imported cattle from -- I think you called
15 it imported steer and spayed heifers
16 maintained separately from domestic breeding
17 cattle.

18 DR. THOMAS: Yeah.

19 MR. JOSH WINEGARNER: I think I
20 understand what that means, but I'm not sure
21 if my understanding of what that means is
22 the same thing you are saying, so if you can
23 elaborate on that for me as to what does
24 separately mean.

25 DR. THOMAS: Well, that's one of the

1
2 things that has been discussed, is this issue
3 of pasturing. Can you have a pasture
4 situation that maintains separation? But I
5 can tell you what -- the intent is that
6 there is no commingling of those animals.

7 They can't be in the same pen
8 together and they're physically separated from
9 one another. The challenge is how do you
10 define that physical separation.

11 MR. JOSH WINEGARNER: I mean, I
12 think that, from my perspective and from
13 TCFA's perspective, that we agree that they
14 don't need to be in the same pasture
15 together, but if they're in adjoining
16 pastures and there's intermittent contact,
17 then that's okay. At least we've seen some
18 scientific studies that say that.

19 If it's a feedyard situation, then
20 one pen separating the two would be okay.
21 Is that kind of where you're -

22 DR. THOMAS: These are the details
23 in your comments that -- again, you're going
24 to hear this. But I think that your
25 specific comments: We would like to see X

1
2 for this reason, will be extremely helpful,
3 because pasturing is -- I have -- it's a
4 thorny issue with lots of discussion on both
5 sides of the fence. Excuse the pun.

6 UNIDENTIFIED SPEAKER: I can
7 appreciate that we need to be fast and
8 judicious about taking care of these issues,
9 but the idea or notion of no appeal does
10 bother me a bit.

11 Did the working group give any
12 thought to streamlining the appeals process
13 versus totally eliminating?

14 DR. THOMAS: No, to answer your
15 question. But since these public meetings
16 have come up, I think that's one of the
17 things that will go back and have the
18 opportunity to -- what does an appeal really
19 mean, and look at the process, because I
20 mentioned all those different stops.

21 And it's a very -- although the
22 process has worked, but is there a way we
23 can streamline it. I think we need to look
24 at that.

25 UNIDENTIFIED SPEAKER: That's my

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point. Thank you.

MR. JOSH WINEGARNER: One other thing, as we're moving through today, can you give us some feedback as to what comments you've heard from the other meetings that might help us to either jog something in our memory or expand upon some of those?

DR. THOMAS: I'm going to ask those individuals who have been to the other meetings, which would be Bill Hench has been -- actually, Bill Hench has been a trooper. Bill has been at all of these.

So, Bill, I'm going to help you here. I'm going to focus on the indemnity issue. One suggestion that's been made is that the calculators be used for diagnostic purchases.

That is, those animals that are determined to be suspect or reactor animals for the diseases, we want to purchase them to do further diagnostic work-up. So we use the calculator in those circumstances, and we use the current appraisal system for depopulations.

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So if you're talking about one or two animals, it's okay to use a calculator.

The other comment was if you -- if you develop a calculator, you need to make sure you can do it quickly, in other words, that it does what you say it's going to do.

Not necessarily at all the meetings, but there was the possibility that industry would be willing to add additional monies into indemnity. And what I mean by that is that the current -- as the current regulation exists, any additional payment for indemnification of an animal is subtracted from what we pay.

So we've actually had discussion with our legal counsel. And as long as the fair market value of that animal is not exceeded, it's that we can eliminate that requirement.

So, in other words, what it means, a producer could be paid by, potentially, the Feds, the states and industry when a herd was depopulated.

Some of the other comments were concerns about what I mentioned about the

1
2 FACA, that industry can't be at the table in
3 a formal capacity on an advisory board.

4 Those are the ones that I -- that I
5 recall right now. Bill, do you?

6 MR. HENCH: Specifics aren't coming
7 to mind readily. I'm sure, as we go through
8 discussions, it will jog my memory, and I
9 will point those out as they come to me.

10 DR. ELLIS: Preemption concerns.

11 DR. THOMAS: Thank you.

12 DR. ELLIS: I'm just guessing.

13 DR. THOMAS: The question was
14 preemption concerns. Thank you, Dee. It
15 wasn't that I was withholding that one, I
16 promise.

17 DR. ELLIS: All right.

18 DR. THOMAS: Preemption is a
19 concern. And when we talk about preemption,
20 what we are talking about is we are now
21 being asked, when we do a rule-making, is to
22 address in our regulations whether or not we
23 are going to preempt a state's right to put
24 more stringent requirements in for -- and,
25 typically, it involves testing requirements

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for animals entering their state.

So the -- as we look at these rules and as we develop the rule, our goal is to create a level playing field by which a state wouldn't feel the need to institute higher testing requirements.

As Dee brought up, there's a lot of concerns, because states want to have this ability. So states want to preempt federal law.

There will be -- there have been discussions at every -- well, I can't speak to Bozeman, but I suspect, Bill, it was mentioned. Bill's nodding his head yes, it was mentioned at Bozeman. So it was an issue that came up, and we don't have any consensus on it.

We are having further internal discussions about what our position on preemption is going to be. But, again, the thought is that, if these program -- if there is a general consensus on the regulations, if they are transparently implemented, should there -- should a state

1
2 feel the need to implement higher movement
3 restrictions.

4 And, Dee, I think, for the most
5 part, aren't they movement requirements?

6 DR. ELLIS: Well, I can give you an
7 example. Texas right now doesn't recognize
8 free status for dairy animals for TB, and we
9 require tests and identification which exceeds
10 the concept. That's my thought about how
11 that would work.

12 DR. THOMAS: And, Dee, thank you.
13 That's a perfect segue into one of the
14 questions regarding interstate movement, that
15 hopefully you'll get to in the breakout
16 group, is are there commodity groups that
17 need to have testing requirements that the
18 Fed put in place.

19 So should these proposed reg --
20 should this proposed reg include an
21 interstate movement testing requirement for
22 dairy heifers moving across state lines?
23 And, actually, Dee, that goes back to one of
24 our proposed rules, because we were going to
25 propose that.

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I can tell you the feedback that we've gotten has been mixed on that issue.

DR. ELLIS: I know another example is North Dakota requires two tests for TB for feeder steers entering their state.

DR. THOMAS: So I think, again, that, if -- given the basis for this need, is it something that should be in the reg? Because, I mean, we don't want to preclude something that's needed overall for the national interest to help eradicate these diseases.

MR. SCOTT DEWALD: I don't know if this is the time or the place, but maybe you could provide a little bit of an update. I'm a layperson, Scott Dewald from the Oklahoma Cattlemen's Association. And it goes a bit to indemnity.

But the diagnostics for TB are just horrible, in terms of any kind of sound, 100 percent test. And I know that some work is being done on that. Can we get that ramped up?

Some things -- as you were

1
2 discussing maybe private industry involving
3 more funds into indemnity, I think we'd be
4 more interested in ramping up the research to
5 get the right diagnostic tool so that we're
6 not putting down animals that we don't need
7 to put down.

8 DR. THOMAS: To answer your question
9 have we participated, have we been involved
10 with, supported activities to look at
11 different diagnostic tests or different uses
12 of existing diagnostics, yes, we have.

13 We have just -- we're actually
14 wrapping up a cervid project, and the results
15 are looking promising for that. I suspect
16 your interest is on the beef cattle.

17 And the evaluations that we found,
18 actually, have not produced anything that was
19 ready to supplant the caudal fold test. We
20 recognize that it's not the best, about 85
21 percent sensitive. However, can you imagine
22 what would happen if we put something too
23 quickly out there that wasn't as good?

24 So we're working on it. The one --
25 the one fact, or the one issue is

1
2 Mycobacterium are very difficult agents to
3 have an antemortem diagnosis. In human
4 medicine -- I refer to human medicine.
5 Guess what test human medicine is still using
6 for TB. The skin test. So they have
7 evaluated serologic tests.

8 So I think it is really, really
9 tough, but we are looking at and we are
10 supporting, when we have the opportunity to
11 look at different diagnostic tests, yes. I
12 don't have specific results, though, off the
13 top of my head.

14 DR. JOE BAKER: Lee Ann, I wanted
15 to ask a little bit about the comment you
16 made about, if states aren't found to be
17 consistent, that one of the outcomes could be
18 reduction of funding or elimination of
19 funding.

20 And my question goes to the system
21 of funding through cooperative agreements that
22 has, frankly, been of tremendous benefit,
23 particularly to small states like New Mexico.

24 We recognize that those funds are
25 diminishing with budget constraints in DC.

1
2 If you're faced with a situation where,
3 because of budget limitations in the first
4 place, the state is not able to come up with
5 a plan that, A, they feel they can
6 successfully execute and, B, USDA will
7 recognize as consistent, and the outcome of
8 that lack of consistency is a reduction in
9 the funding, couldn't you just be creating a
10 bigger monster for that state?

11 In other words, you aren't able to
12 do what we think you ought to do, and part
13 of the reason is your state's financial
14 fiscal ability to address the TB issues it
15 has, and we're going to address that
16 shortcoming by reducing your funding.

17 DR. THOMAS: Right. No, I
18 understand. You make a good point. One
19 thing that I didn't mention when I talked
20 about the animal health plan is we will make
21 a template available.

22 We're also talking about is there a
23 way we can move away from a paper system and
24 have this actually be form driven, some sort
25 of data-capturing form that can be used, but

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we would provide a template.

So I think in regards to getting an animal health plan together, we are willing to provide some sort of template or baseline that can be used.

Another issue that has come up is -- during the working group discussions -- is that, although we talk about a template, it's going to be a case by case evaluation, because an animal health plan for -- sorry, Dee, I'm going to pick on Texas -- Texas is not going to be the same as an animal health plan for Rhode Island or New York or Vermont or New Hampshire.

And so, although there will be general components that will need to be addressed, they're not going to be the same.

DR. JOE BAKER: A spin-off question to what I asked, in regards to the USDA's 2015 plan. And our sense is that it's gradually going to shift more responsibilities to state agencies, like ours, the New Mexico Livestock Board. And isn't that going to kind of create a little bit of a double

1
2 whammy, in terms of what states like New
3 Mexico are going to be required to do?

4 DR. THOMAS: As I indicated earlier,
5 we're still considering that these will be
6 cooperative programs, even in the face of
7 2015. I think John has said, even publicly,
8 that we're not walking away from our
9 eradication programs.

10 I think the challenge that we all
11 face, and it's regardless of 2015, are the
12 flat and declining budgets and how can we
13 support these programs and the activities,
14 particularly indemnity, when no one has the
15 money, or it's a real challenge to have the
16 money.

17 DR. ELLIS: Well, I'd just kind of
18 echo what Joe's saying. I think we just all
19 need to think about this as we formulate our
20 comments. The potential, in general, for an
21 unfunded mandate, so to speak, if these rules
22 are not carefully crafted, will put burdens
23 on states, not only in their animal health
24 plan, which -- basically, where you get into
25 problems is with the risk mitigation for

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2 problems within that state that may not be
3 their fault, so to speak.

4 But also, on the importation side,
5 you know, something as simple as notifying
6 another state when imported animals leave one
7 state and go into another. So you've got
8 border states where these animals cross.
9 They may be commingled for less than a day,
10 re-sorted and then shipped out.

11 But that's -- any requirements for
12 live security at those places on a commodity
13 that was legally and properly imported under
14 USDA's authority, and then a burden put on
15 the states to then manage the risks for the
16 rest of the United States, without
17 cooperative funds to do that, is
18 unreasonable.

19 And I just want us to be careful
20 that we don't fall into that trap, because
21 what seems like maybe a good idea if you're
22 not from New Mexico or Texas, could be a
23 thing that we just simply can't do. And
24 then what happens? We lose our status as
25 per these rules and get downgraded.

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2 DR. THOMAS: You could lose. Again,
3 this is one of the things we want your
4 feedback in the role of an advisory board,
5 because what we want to do is -- because,
6 frankly, we have been criticized that it goes
7 into Riverdale and there's been a unilateral
8 decision made without input or evaluation by
9 an outside body.

10 So we want to create this advisory
11 board, given the challenges that that has.
12 And I'm using the term advisory board in
13 quotations, because of the connotations we
14 have with FACA, but everybody -- pseudorabies
15 had a control board, so maybe I should call
16 it a control board, but an advisory board, a
17 group that provides recommendations.

18 MS. MILLIS: All right. So what
19 I'd like to do is suggest that we take about
20 a 20-minute break right now. And we're
21 going to change up the rooms. And when we
22 return, we would love to hear more of those
23 types of comments and feedback and ideas that
24 you have and concerns that you have that you
25 want as part of the record.

1
2 We're going to be divided into three
3 groups. And in this group -- we're going to
4 close this wall off here. So if you're at
5 these center tables here, you might want to
6 move your stuff to where you eventually want
7 to end up.

8 In this room here -- these rooms are
9 divided according to those items, the eight
10 regulatory elements that are listed on the
11 document in your folder called the Proposed
12 Bovine Tuberculosis and Brucellosis Draft
13 Regulatory Framework.

14 And so the first three are program/
15 state requirements, zoning and surveillance,
16 and they'll be up here in this first room.
17 You'll have an opportunity to rotate through
18 each of these so that we can hear your
19 comments on each. We're just doing it in
20 small groups, because it's easier to hear
21 each other and understand in a smaller group.

22 In the second part of the room,
23 currently the back part of this room, we'll
24 be looking at Numbers 5 and 8 on there, the
25 indemnity and approval procedures related to

1 official tests and laboratories.

2
3 And, finally, in the back room there
4 that's currently closed off from us, we'll be
5 looking at the other three areas, Number 4,
6 6 and 7, the affected herd management and
7 epidemiological investigations, interstate
8 movement controls and importation requirements.

9 And in each of these rooms, as you
10 cycle through, we'll spend about 45 minutes
11 in each of the rooms. So we have time to
12 get at least a session in before we break
13 for lunch here. And I'll have to check on
14 the lunch break.

15 So let's just break for about 20
16 minutes so we can change up the rooms, and
17 then we'll ask you to cycle through those
18 and kind of sort yourself out so we have
19 reasonable numbers in each of the rooms.
20 And then we'll invite you to go to each of
21 the groups in turn.

22 **(Whereupon Recessed at 10:29 A.M.)**

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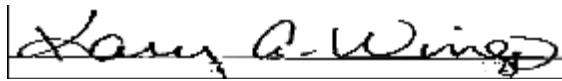
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CERTIFICATE

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14
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STATE OF TEXAS

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DATED: JUNE 17, 2011

91
SESSION 1

1
2

.

A		
ability 9:18 20:16 58:10 61:20 63:17 64:8 65:7 78:10 83:14	advisory 23:13 24:16 39:6 48:22,24 61:25 68:14,16,21 69:2,4,6,8,11,13 69:15,19,25 70:5,6 70:8 77:3 87:4,10 87:12,16	37:22 38:24 40:19 41:7,13 45:25 46:6 51:3,9,10,12,13,15 51:17,24 52:4 57:21,22 58:15 61:11,12 62:11 65:5,6,7,14 66:2,5 68:22 72:2,4 76:14 76:18 83:20 84:4 84:11,13 85:23
able 25:20 33:20 35:9 36:7 47:10 55:12 83:4,11	ag 12:24 28:9 age 57:21 59:11,12	animals 12:13 14:16 22:7 29:7,16 35:11 35:15,15 44:12 48:8,20 50:21 53:12 56:5 57:25 58:10 60:5,7,16,19 60:22 62:13 63:2 63:17 64:4,19,20 64:24 65:22 71:6 73:6 75:19,20 76:3 78:2 79:8 81:6 86:6,8
abortus 34:24 35:3	agencies 84:23	animal's 65:3
accept 20:17	agency 26:19	Ann 4:3 7:8 10:3 11:18 15:11 16:12 18:15 20:22 23:4 25:3 27:7 35:21 70:17 82:14
access 43:19	agent 35:19	answer 30:18 74:14 81:8
accidentally 29:17	agents 35:2 82:2	antemortem 82:3
accomplished 66:25	aggressive 67:20	anymore 14:12
accountability 36:22 44:4 52:16	ago 18:18 47:6	Anyway 31:12
accounted 51:6	agree 9:20 10:25 15:21 36:15 73:13	APHIS 3:24 5:10 36:8 37:13 59:2 61:20
Act 69:6 72:2,5	AGREED 2:3,5,7,8,10	apparent 19:24
action 46:8,9 49:7	agreements 42:7 82:21	apparently 3:20
actions 15:2 25:23 37:7 45:7 48:16	agricultural 12:4	appeal 58:11,15,20 58:24 74:9,18
active 61:6	ahead 10:3 11:17 15:11 18:15 20:22 23:4,12 25:3 27:6 30:2 57:9,10	appeals 74:12
activities 10:21 38:14 45:17,18 50:24 51:4 81:10 85:13	aiming 67:21	appear 13:12
activity 49:4 50:17	alleviated 50:14	appraisal 57:19 75:24
actual 33:3	allow 52:16 53:11 57:8 60:15 66:16 72:10	appraised 56:10
add 35:4 76:10	allowed 50:6	appreciate 8:2 30:15 74:7
added 71:21	allows 33:13 48:5 57:16	
adding 35:18	alpacas 35:8	
addition 44:18	alternative 46:22 69:24	
additional 6:25 55:7 57:13 70:13 76:10 76:13	alternatively 40:8	
address 6:4 51:14 68:11 72:10 77:22 83:14,15	Amarillo 1:8	
addressed 52:18 64:5 70:13 84:18	amenable 28:7	
addresses 51:14 66:9	amount 51:22	
adjoining 73:15	analysis 32:23 68:18	
administrative 33:16	and/or 35:10 53:11	
administrator 5:9 61:20	angle 3:21	
ado 4:23	animal 8:8 16:17,22 18:20 22:3 26:19 27:4 29:18 37:21	
ADT 13:11,20		

<p>approach 19:5 36:6 38:18 44:10 49:21 56:21</p> <p>appropriate 2:12 27:11,19 42:6 47:21 48:6 50:13 66:7</p> <p>appropriated 54:20</p> <p>approval 66:20,21 67:6 88:25</p> <p>approve 39:6 49:5</p> <p>approved 48:25 61:10 67:11</p> <p>approximately 55:19</p> <p>April 50:10</p> <p>archaic 36:13</p> <p>area 11:7,8,23,25 17:20 38:17 51:20 60:16,23</p> <p>areas 44:16 64:5 68:20,25 89:5</p> <p>Arkansas 47:3,5,7</p> <p>aside 54:19</p> <p>asked 8:13 9:6 17:17 17:19 44:6 77:21 84:20</p> <p>asking 17:12 37:6 68:15</p> <p>assess 63:14</p> <p>assessment 49:3 62:2</p> <p>assessments 48:10</p> <p>assistance 39:5</p> <p>associate 5:8</p> <p>associated 38:16 49:17</p> <p>Association 16:17 80:18</p> <p>assume 18:14</p> <p>assuming 39:4</p> <p>assurance 13:6 15:9 67:9</p> <p>assured 38:11</p> <p>assuring 18:24</p> <p>Atlanta 9:2</p> <p>attention 14:20</p> <p>attorneys 2:3</p>	<p>at-risk 13:16</p> <p>Austin 9:10</p> <p>authority 36:4,8,10 37:24 60:18 72:2,9 86:14</p> <p>automated 50:6</p> <p>automatically 42:4</p> <p>autonomy 20:17</p> <p>availability 56:17</p> <p>available 33:24 43:10,19 48:19 56:2 65:9 83:21</p> <p>average 56:9,12</p> <p>averaged 55:19</p> <p>aware 43:3 48:18 57:5</p> <p>a.m. 1:9 53:21 89:22</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>b 10:15 17:8 34:23 34:24,24 35:5,5,12 35:16 83:6</p> <p>back 5:5 16:20 21:11 21:12,20,23 22:17 22:18 28:14,21 39:11 40:7 44:5 53:17,18 57:14 68:19 74:17 79:23 88:23 89:3</p> <p>background 8:17 9:14 31:25 54:13</p> <p>backing 37:13,16</p> <p>BAKER 82:14 84:19</p> <p>balance 14:11</p> <p>Barton 8:23</p> <p>base 21:8 62:20</p> <p>based 35:25 55:5 57:9 58:8 59:9 62:9 63:19</p> <p>baseline 84:5</p> <p>basically 17:9 85:24</p> <p>basis 50:4 80:8</p> <p>beef 47:8 59:7,23 81:16</p> <p>beginning 19:15</p> <p>believe 20:24 27:25</p>	<p>46:15 50:10</p> <p>benefit 82:22</p> <p>best 7:19 31:17 63:16 81:20</p> <p>beyond 27:4</p> <p>big 27:18 28:6,19 30:16</p> <p>bigger 83:10</p> <p>Bill 75:11,12,13,14 77:5 78:14</p> <p>Bill's 78:15</p> <p>bingo 3:7,11 31:24</p> <p>bison 11:23 34:16</p> <p>bit 74:10 80:16,19 82:15 84:25</p> <p>board 39:6 48:22,24 68:14,16,17,21 69:2,4,11,14,19,25 70:6,8 77:3 84:24 87:4,11,12,15,16 87:16</p> <p>boards 69:15 70:5</p> <p>body 87:9</p> <p>border 62:13 86:8</p> <p>boss 67:19</p> <p>bother 74:10</p> <p>Bovine 88:12</p> <p>bovis 35:3</p> <p>Bozeman 8:24,24 78:14,16</p> <p>brand 65:12</p> <p>break 4:21 32:11,12 53:15,17 87:20 89:12,14,15</p> <p>breakout 7:14 27:10 39:21 68:15 79:15</p> <p>bred 59:8,8 70:21</p> <p>breeder 60:22</p> <p>breeding 29:16 65:20 72:16</p> <p>bring 69:22</p> <p>broad 7:4,4 69:9</p> <p>broke 16:11 44:24</p> <p>brought 78:8</p> <p>brucella 17:9 35:3</p> <p>brucellosis 1:2 5:14</p>
--	--	---

9:8 10:14 11:7,22 15:14,24 17:5,16 17:18,23 18:19,22 18:23,25 19:6 21:10 22:18 28:6 32:3 33:9 35:5,13 37:9 41:24 42:9,14 42:17 47:10 48:2 48:12 49:17,21,24 49:25 51:18 53:10 54:23 66:14 68:4,6 88:12 brucellosis-affected 46:16 budget 54:16 82:25 83:3 budgets 54:15 85:12 build 6:13 7:5 built 44:4 bulls 59:9 70:21 bull's 59:11 burden 29:19 33:16 86:14 burdens 10:19 29:10 85:22 burdensome 23:16 business 15:13 18:4 18:5 busy 7:24	capacity 32:3,5 77:3 caption 90:8,12 captive 34:17 card 66:13 care 74:8 careful 86:19 carefully 85:22 case 14:9 38:3 84:10 84:10 cases 27:18 categories 44:25 category 45:9 cattle 12:3 13:14,16 14:2,5 17:9 34:16 46:16 65:22 70:23 71:6,20 72:14,17 81:16 Cattlemen's 80:18 caudal 17:13 43:7 81:19 CCC 55:3,10,12,22 56:2 center 59:5 88:5 certain 10:19 40:3 40:17 41:11,11 45:7 53:6 60:10 certificate 64:23 65:11 90:2 certify 90:7 cervid 17:17 81:14 cervids 34:17 CFR 27:18 33:12 56:24 57:3 62:17 challenge 5:2 69:22 70:7,12 73:9 85:10 85:15 challenges 6:3,5 19:24 54:11 69:5 69:16 71:2 87:11 chance 7:10 change 5:22 6:11 10:3 12:4 15:4 29:24 57:10,11,14 67:3 87:21 89:16 changed 56:25,25 changes 27:22 57:6	66:24 check 89:13 chose 59:23 circumstances 40:18 52:21 53:7 60:10 71:17 75:23 citizens 23:19 Civil 2:10,11,12 claim 31:23 class 10:14,15,15,15 classification 60:19 classified 39:14 cleaning 60:9,12 Clifford 31:14 close 26:20 88:4 closed 89:4 coast 9:7 Code 62:17 cognizant 43:21 collaborate 41:19 collaborative 36:6 collections 71:5 Collins 58:23 come 6:2 7:25 45:8 53:18 74:16 77:9 83:4 84:7 comfort 43:17 48:19 50:20 coming 7:23 12:25 13:16 16:22 22:17 22:18 25:10 29:7 29:15 30:22 31:9 39:11 77:6 commencing 1:9 comment 6:25 28:21 28:24 33:24 34:9 39:7 57:8 58:20 67:3,3 76:4 82:15 commented 71:15 comments 3:14 10:2 12:16 14:23 23:8 23:11 24:14 31:2 32:18,20 33:5,5 39:12 57:13 69:3 70:13 73:23,25 75:5 76:24 85:20
C		
C 10:14 60:11 calculator 57:18,19 58:3,9 59:7,13,15 59:19,24,25 60:2,5 70:19 71:3,12 75:23 76:3,5 calculators 58:4,5 59:3 75:17 calf 12:5 59:12 call 24:24 87:15 called 72:14 88:11 caller 3:7,11 31:24 calls 20:25 24:23 31:17 capability 55:14		

<p>87:23 88:19 commingled 86:9 commingling 73:6 Commission 8:8 22:3 committee 16:23 17:11 23:14 24:16 69:6,8 committees 16:17 commodity 26:2 55:4 79:16 86:12 complete 30:8,9 38:25 43:23 completely 25:9 complex 12:14 20:2 38:25 59:24 compliance 13:23 17:14 36:22 44:3 complied 15:18 comply 15:7 component 11:12 12:19 40:23 50:22 50:23 66:5 components 37:18 84:17 composed 6:12 comprehensive 22:24 37:22 41:6 concentration 64:11 64:16,21 concept 6:9 11:2 12:16 16:14 18:16 18:21 21:9 33:2 47:15 48:4 54:4 70:11 79:10 concepts 21:18 33:6 34:5 51:22 68:8 concern 43:11 64:5 77:19 concerned 20:19 52:11 concerning 20:7 concerns 15:2 28:25 32:14 54:8 76:25 77:10,14 78:9 87:24 conduct 49:3</p>	<p>conducted 46:4 60:12 60:13 63:18 conducting 51:2 52:24 conference 24:24 47:6 confidence 13:5 conflict 13:11 conflicts 13:19 Congress 54:21 connotations 87:13 consensus 54:3 78:18 78:23 consequence 44:15 consequences 39:18 44:7,14 52:17,20 52:22 53:4 60:25 68:23 consider 17:12 23:7 56:7 57:20 61:21 68:17 69:24 consideration 47:19 59:10 65:21 66:8 71:11 considered 21:22 33:23 66:17 considering 65:16 67:18,19 85:5 considers 59:14 consistencies 33:14 consistency 83:8 consistent 40:2,7 65:14 82:17 83:7 constraints 82:25 consumer 13:5 contact 73:16 contain 47:11 containment 45:3,22 46:8,23 47:14 48:21 49:6,10 contains 90:16 contingent 56:17 continue 24:11 35:17 50:17 62:16,22 continuity 65:3 contractual 59:3</p>	<p>control 19:4 20:16 33:9 45:10 51:10 61:21 67:9 87:15 87:16 controlled 48:14 controlling 2:13 controls 60:14,16,20 61:8 62:4 89:8 cooperative 37:12 82:21 85:6 86:17 coordinate 41:19 coordinated 25:17 36:6 Corporation 55:4 corral 25:7 correct 40:3 90:16 correctly 90:8,10 cost 70:22 72:10,11 counsel 76:17 countries 29:16 country 6:21 13:3 62:11,21,25 63:3 63:14,19 64:2,2,9 couple 18:18 24:20 30:13 36:2 38:10 49:19 course 10:13 Court 1:10 covered 22:15 covers 22:14 59:7 cow 59:10,11 cows 59:8 70:21 cow's 59:11 cow-calf 59:8 crafted 85:22 create 16:24 28:15 47:20 48:6 78:5 84:25 87:10 created 10:23 creating 11:4 83:9 creation 37:17 47:25 credit 17:24 25:13 55:3 critical 21:6 36:25 42:24 43:8 50:18 66:5</p>
--	--	---

criticized 87:6	77:14 78:8 79:4,12	Dewald 80:14,17
cross 29:5 86:8	79:23 84:12	diagnosis 82:3
CSR 90:6,23	deemed 2:12 63:22	diagnostic 56:5
current 6:4,16 36:12	deer 11:24 12:3	66:21 75:17,22
45:16 56:19 58:4	22:19 38:9	81:5,11 82:11
59:7 69:18 70:24	Dee's 40:15	diagnostics 13:24,25
75:24 76:12,12	deficit 55:8	80:20 81:12
currently 34:14,15	define 50:3 56:14	dialog 18:7
35:12 59:13 62:19	60:18 66:7 73:10	dialogue 3:14,16
66:12 88:23 89:4	defined 58:2	7:16
cycle 89:10,17	defining 51:25	difference 16:9
	Denver 18:18	differences 57:24
	depopulate 36:9 56:6	59:14
D	56:9	different 22:6 25:9
D 60:11	depopulated 46:19	59:15 62:7 74:20
dairies 12:5	76:23	81:11,11 82:11
dairy 12:12 28:9,10	depopulations 75:25	difficult 71:7 82:2
59:25 60:2 79:8,22	Deposition 2:9	diminish 61:8
Dakota 9:2 80:5	deputy 5:8	diminishing 82:25
Darrell 59:5	describe 56:21 60:3	direction 30:10
data 38:11	describes 48:4 67:2	90:14
data-capturing 83:25	68:7	director 8:9 31:25
dated 10:11 90:24	desk 4:12	disapprove 49:6
day 12:20 13:5 18:11	destinations 62:15	discuss 27:24 53:19
20:11 21:4 22:25	destined 64:25	72:9
27:3 30:21 86:9	destroyed 60:6	discussed 27:9 41:8
days 56:9	detail 7:11 34:3,4	73:2
DC 58:23 82:25	detailed 56:23	discusses 70:20
deal 15:3 28:6	details 73:22	discussing 4:4 81:2
dealing 45:13	detect 25:20	discussion 13:10
dealt 72:13	determine 35:16	18:7 32:13 34:11
Deb 4:25	38:20	54:2 66:4 74:4
Deborah 3:10	determined 33:10	76:16
decades 5:25	35:8 39:19 41:23	discussions 41:10,21
December 48:3	45:25 75:20	58:18,19 71:9 77:8
decided 12:20,22	determines 52:2	78:13,20 84:8
decision 21:15 23:22	develop 7:20 17:7	disease 10:7,22 13:2
87:8	37:20 41:6 49:25	19:4,10,11 25:20
decisions 20:14	70:2 76:5 78:4	26:2,11,22 33:9,15
declining 54:15	developed 23:12 33:4	34:23 37:12 41:5
85:12	47:14 59:25 66:15	45:10,13,20 46:25
decrease 54:17,24	69:11	47:22 48:14 49:8
decreased 54:16	developing 32:10	50:5 51:9,24 52:12
Dee 4:2 5:19 7:7 8:5	40:19	55:11 60:17 61:11
8:6,7 31:8,22	development 32:24	66:5
32:16 33:21 36:12	52:4,6	diseases 6:2 10:20
36:23 43:6 66:3		

<p>15:7 26:5 32:4 39:2 56:8 75:21 80:13</p> <p>disinfectant 60:9,11 disinfection 60:12 disposal 60:7 distinction 45:7 diverse 23:18 25:7 divided 88:2,9 document 23:21 26:11 66:19 67:5 88:11 documentation 64:15 documented 64:13 documents 42:7 doing 7:3,25 15:13 27:17 33:16 52:9 63:7 88:19 dollar 54:24 dollars 54:18,21 55:16,20,21 56:5 domestic 26:11,14 72:16 door 4:10 double 84:25 downgrade 50:7 downgraded 50:11 86:25 Dr 3:25 4:2,3,24,25 5:8,19 7:7 8:5,7 8:20,22 9:2,6 11:13 25:5,5 31:4 31:6,7,12,13,14,22 36:4 53:22 59:5 71:2,24 72:18,25 73:22 74:14 75:9 77:10,11,12,13,17 77:18 79:6,12 80:4 80:7 81:8 82:14 83:17 84:19 85:4 85:17 87:2 Draft 88:12 driven 83:24 driving 19:15 drop 7:24 drove 11:3,21 14:3 Drs 30:20</p>	<p>due 58:15</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>earlier 44:6 58:17 65:25 85:4 early 34:11 68:14 easier 88:20 East 1:8 easy 7:24 31:20 eating 4:20 echo 85:18 economic 27:5 29:19 effect 57:11 68:2,3 effective 16:8 63:11 efficiently 57:2 efforts 62:20 eight 27:8 28:2 88:9 either 31:10 34:23 36:8 37:8 53:10 64:15 75:7 elaborate 72:23 element 53:25 66:3 elements 12:17 27:8 27:11 37:11 88:10 eligible 60:4 eliminate 76:19 eliminating 74:13 elimination 82:18 elk 11:22 17:20 Ellis 4:2 5:19 8:5,7 8:7 31:6,12 77:10 77:12,17 79:6 80:4 85:17 emphasis 36:21 employee 3:10 encourage 14:15 22:10 68:5,9 encouraged 17:2 endemic 49:23 enforce 36:21,21 41:4 engagement 21:2 enhance 19:3 ensure 17:14 36:20 43:23 63:16 64:8 64:11 65:2</p>	<p>ensures 33:14 entered 62:14 entering 78:2 80:6 entire 50:7 63:6 entry 64:7,12 environment 14:12 epi 46:3,18 50:12 51:19 52:8,17,24 epidemiological 43:6 89:7 eradicate 15:7 26:4 55:11,12 80:12 eradicated 10:7 46:25 eradicating 38:9 eradication 33:10 46:9 49:7 51:24 85:9 error 59:17 especially 12:11 13:16,25 20:20 26:8 36:2 establishments 4:21 evaluate 18:7 62:25 evaluated 82:7 evaluation 24:2 63:18 68:21 84:10 87:8 evaluations 63:25 81:17 event 42:8 65:21 eventually 88:6 everybody 31:23 43:16,17 53:15 87:14 exactly 19:12 example 12:13 21:25 45:11 46:11 47:2 55:17 60:21 79:7 80:4 examples 49:19 exceeded 76:18 exceeds 79:9 exceptions 71:12 exchange 7:15 20:12 26:25</p>
--	---	--

excluding 66:13	86:20	first 3:4,9,13 5:18
excuse 57:12 58:18	familiar 38:14 45:16	19:17 64:11,16,21
62:24 74:5	far 6:7 11:21	70:18 83:3 88:14
execute 83:6	fast 74:7	88:16
Executive 8:9	fault 86:3	fiscal 16:4,10 28:22
existing 10:10 35:10	fear 26:22	34:18 55:25 83:14
35:13,17 62:23,24	Fed 79:18	five 9:4 25:8,9
81:12	federal 2:9,11,12	55:15,20 59:14
exists 33:12 70:6	6:12 16:5 23:13,17	71:15,22
76:13	23:23 24:16 30:5	fix 26:17
exits 4:11	50:6,9 54:11 55:8	fixing 13:12
expand 75:8	56:17 62:17 67:2	flat 54:14 85:12
expedite 17:4 24:17	68:2 69:6 78:10	fleshed 12:10 14:18
expenses 60:4	federally 54:19	fleshing 28:13
experience 9:8	Feds 76:22	flexibility 33:14
experts 40:16	feedback 39:22 44:17	66:16
explain 50:4	71:18 75:5 80:2	flexible 11:5 16:25
export 43:25 64:4	87:4,23	25:16
express 4:19	feeder 12:6 13:17	floor 4:24
extend 3:5,19 31:8	22:2 29:17 70:23	foci 49:24
extended 31:5	71:20 80:6	focus 19:10 22:17
extending 34:17	feeders 13:13 29:6	35:25 75:15
extensively 56:23	feeding 17:20 71:22	focused 4:6 5:11
extreme 36:9	feedlots 53:13 61:10	focusing 36:10
extremely 74:2	feedyard 73:19	fold 17:13 43:7
	feedyards 22:5	81:19
F	feel 78:6 79:2 83:5	folder 88:11
FACA 23:14 69:7,7,18	felt 21:10 24:18	folks 11:14,14 24:9
77:2 87:14	fence 74:5	24:22 25:5,7 30:5
face 20:23,24 69:5	field 25:11 78:5	31:13
69:16 70:7 85:6,11	fighting 10:22	following 7:13 51:23
faced 83:2	figure 12:22 24:7	52:12
faces 71:3	70:22	foregoing 90:15
facilitate 64:18	filing 2:6	forgo 5:3
facility 35:8	final 7:2 23:9 62:15	form 2:7 83:24,25
facing 28:22 54:11	67:22,24	formal 69:8 77:3
fact 16:5 38:11 55:9	finalized 39:3	formally 69:11
81:25	finally 38:18 67:7	former 3:11
factors 36:23 56:7	89:3	forms 4:15
57:20 62:18	financial 83:13	formula 70:18
facts 90:9	find 22:11,12 28:19	formulate 85:19
failed 39:13	45:18	Fort 58:23
fair 58:8 72:6 76:17	finding 46:7	forth 90:9,12
fairly 34:10 65:22	fine 3:22 26:3	Fortunately 3:6
66:6	finished 26:24	forum 43:2
fall 19:16 51:5	fire 4:11	forward 26:15 36:25

43:22 70:10 forward-facing 42:8 found 47:24 81:17 82:16 four 8:13 55:21,22 frame 52:14,18 58:13 58:14 frames 52:8 53:8 framework 1:2 4:4 5:21 6:14,17 7:9 7:12 12:9 19:15 22:13 23:7 24:2 25:14,15 27:9 30:6 32:6,25 33:6 35:18 53:25 62:23 88:13 frankly 82:22 87:6 free 10:12,15 15:13 15:17 18:25 20:5,5 42:14,17 79:8 frequently 65:23 fresh 21:7,15 front 4:12 9:21 37:14 full 72:5 funding 16:10 17:18 34:19 44:19 55:3,5 56:2 82:18,19,21 83:9,16 funds 56:18 81:3 82:24 86:17 further 2:5,7,8,10 4:23 25:23 64:10 75:22 78:19 FY 54:15 55:25 56:3	75:5 79:6 given 54:20 59:10 80:8 87:11 90:17 giving 18:10 28:13 34:4 glad 30:16,18 go 7:11 8:16 10:2,3 11:17 12:23 13:10 14:23 15:11 16:12 18:14 20:22 21:22 22:12 23:4,12 25:3 27:6 30:2 32:21 36:7 37:11 47:3 56:3 57:8,10,14 74:17 77:7 86:7 89:20 goal 26:10 46:8 78:4 goals 25:22 goats 34:12,18,21 goes 3:8 28:21 58:21 79:23 80:19 82:20 87:6 going 5:17,18 6:5 7:16 9:13 10:5,8 12:7 13:21 15:25 18:8,14 20:9 23:24 24:10,10 26:4,5 27:9,12 28:19,20 28:23 29:8,10 32:5 32:15,21 33:19 34:4,15 35:4,17,25 35:25 36:24 37:8 42:24 43:23 44:4 45:13 49:15 51:21 51:23 55:13,13,23 56:3,4 60:8 70:24 71:23 73:23 75:9 75:14,15 76:7 77:23 78:21 79:24 83:15 84:10,12,13 84:18,22,24 85:3 87:21 88:2,3 good 3:4 18:14 20:8 21:13 24:25 25:18 26:25 27:13 28:13 29:24 30:12 31:6	45:11 46:11 81:23 83:18 86:21 gotten 71:18 80:3 government 8:2 16:5 16:6 24:4 30:14 grace 3:12 gradually 84:22 great 10:6 63:22 greater 45:3 group 4:6 5:20 6:12 8:16 18:6 19:16 20:23 21:9 22:17 23:4,18 25:7 30:6 34:10 40:14,17 54:4,7 58:17 61:25 69:20 74:11 79:16 84:8 87:17 88:3,21 groups 39:21 68:15 79:16 88:3,20 89:21 guarantee 31:19 guess 8:23 21:6 82:5 guessing 77:12 guidance 28:14 guy 14:22 GYA 38:5,15,17 49:13 49:14,17,22,23 68:11
<hr/> G <hr/>		
general 12:6 17:10 36:18 40:10,25 78:23 84:17 85:20 genetic 71:5 getting 7:18 10:22 32:17 39:17 69:3 70:2 72:7 84:3 give 9:14,15 14:22 17:24 21:25 25:13 55:17 67:16 74:11		
<hr/> H <hr/>		
		half 54:23 halfway 32:11 hall 4:9 Halstead 8:20 Halstead's 11:14 halt 63:21 Hampshire 84:15 HAND 90:18 handling 45:24 happen 81:22 happens 86:24 hard 21:13,17 22:2 24:25 27:12 harm 43:25 head 78:15 82:13 headquarters 43:13

<p>health 8:8 15:8 16:17,22 18:20 22:3 26:19 27:4,4 32:2 37:21,22 38:24 40:20 41:7 41:13 46:6 51:3,13 51:13 52:4 61:12 68:22 72:2,5 83:20 84:4,11,13 85:23</p> <p>healthy 63:17</p> <p>hear 4:2 5:4 7:7,14 31:23 73:24 87:22 88:18,20</p> <p>heard 5:4 75:6</p> <p>hearing 3:23 5:12,18</p> <p>heavily 55:3,9</p> <p>heifers 59:8 65:18 65:19 70:21 72:15 79:22</p> <p>help 6:13 22:23 24:6 65:25 75:7,14 80:12</p> <p>helped 9:9</p> <p>helpful 62:2 74:2</p> <p>helping 5:20</p> <p>Hench 75:11,12 77:6</p> <p>herd 28:4,18 41:24 45:19,24 46:2,7,16 46:16,17,18 47:8,9 50:12,13 51:19 52:2 56:9,11 59:9 70:21 76:22 89:6</p> <p>herds 47:16 52:3 56:6 60:19</p> <p>hey 18:24</p> <p>He'll 5:21</p> <p>higher 78:7 79:2</p> <p>high-risk 38:4 53:12 60:23 61:3</p> <p>high-value 71:5</p> <p>hold 3:20</p> <p>holding 6:21</p> <p>Holiday 1:8</p> <p>holistically 63:10</p> <p>home 47:3</p> <p>homework 24:5</p>	<p>hope 3:15 14:23 39:24</p> <p>hopefully 7:10 20:15 79:15</p> <p>hoping 4:13 33:18</p> <p>horrible 80:21</p> <p>hotel 4:16</p> <p>human 82:3,4,5</p> <p>hundreds 29:5</p> <p>hypothetical 47:2</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>ICVI 65:10</p> <p>ID 51:7,10 65:3,6,9 65:13</p> <p>Idaho 8:23</p> <p>idea 74:9 86:21</p> <p>ideas 5:16 6:10 7:15 87:23</p> <p>identification 79:9</p> <p>identified 51:17 64:12,17</p> <p>identify 52:2 65:25</p> <p>IDs 65:4,6</p> <p>imagine 81:21</p> <p>impact 27:2</p> <p>implement 37:21 39:9 39:13 41:4,6 46:5 49:25 64:13 66:17 79:2</p> <p>implementation 61:2</p> <p>implemented 39:12 43:4 49:20 61:11 71:14 78:25</p> <p>implications 19:9</p> <p>import 62:6,7,12 63:10 64:10,15</p> <p>important 11:13 26:13 32:21</p> <p>importation 14:5 25:24,25 26:2 29:4 62:12 86:4 89:8</p> <p>imported 63:3 65:18 72:14,15 86:6,13</p> <p>importing 14:8 63:17</p> <p>imports 19:10 63:21</p>	<p>impose 26:21</p> <p>improvement 14:3</p> <p>improvements 17:17</p> <p>inadvertently 28:15</p> <p>include 34:20 48:7 48:10,11 57:21,23 60:10 79:20</p> <p>included 23:18 34:12</p> <p>includes 37:23 69:9</p> <p>including 40:12 52:4 66:7 69:10</p> <p>inclusive 63:6</p> <p>inconsistent 39:15 39:19,24 40:9 41:17 42:4</p> <p>incorporate 34:23</p> <p>increase 63:20</p> <p>increased 44:11,20 64:3</p> <p>indemnification 76:14</p> <p>indemnity 17:18 28:18,21 32:13,14 53:18,19,24 54:22 54:25 55:18,20 56:15,16,16,22 58:7 59:22 60:4 70:19 75:15 76:11 80:19 81:3 85:14 88:25</p> <p>indicate 56:15 60:24</p> <p>indicated 40:15 66:3 71:4 85:4</p> <p>individuals 32:24 41:12 68:17 75:10</p> <p>industries 14:16 20:15</p> <p>industry 13:23 22:2 24:3,13 27:3 28:10 28:11 29:11 69:10 69:22 70:2 76:9,22 77:2 81:2</p> <p>industry-based 20:14</p> <p>infected 14:5,7 29:17 35:9 47:9</p> <p>infection 29:15</p>
--	--	---

influenced 11:9	introduce 3:9	June 1:7 3:3 30:25
influencing 10:20	introduction 19:10	31:3 90:24
16:15	investigation 45:24	
info 31:11	46:3,18 50:12 52:7	K
information 20:12	52:17,24	Kary 1:9 90:6,23
26:25 43:5,6,10,19	investigations 51:20	keenly 70:9
48:18,23 59:5	52:8,13 89:7	keep 13:8
63:24	invite 89:20	Keller 9:2
informational 8:17	involve 48:22 49:2,2	kept 22:17
informed 37:8	involved 8:21,23 9:3	key 28:17 30:25
infrastructure 16:8	11:9 16:16 22:3	37:18
41:3,22 42:3	47:25 81:9	kind 10:12 12:21
initial 66:20	involvement 45:21	19:19 22:7 73:21
Inn 1:8	involves 77:25	80:21 84:25 85:17
input 5:16 7:4,14,18	involving 81:2	89:18
23:15 30:4,4 39:17	in-country 63:24	kinds 22:7
70:3 87:8	Island 9:3 84:14	know 3:13 4:8,18
inside 28:3	issue 11:6,7,12	7:24 8:11 9:17,25
inspection 64:23	14:11 27:18 28:5	10:13 13:25 14:7
65:12,12	29:18 52:10 53:24	15:12 18:17 23:14
instance 34:12 35:7	54:12 63:9 71:25	25:5 28:23 30:20
47:15 53:14	72:8 73:2 74:4	32:13 34:2 47:4
institute 78:6	75:16 78:17 80:3	53:23 80:4,14,22
intended 24:16	81:25 84:7	86:5
intends 37:15	issues 12:2 13:18	knowingly 44:22
intent 15:11 29:13	30:2 34:25 40:3,6	known 49:23
29:13 73:5	43:14 49:16 51:15	
interaction 9:19	53:2 74:8 83:14	L
11:22 23:10 28:8	items 28:2 88:9	lab 29:22
29:15	it'll 21:6 24:20	labeling 13:3
interest 80:12 81:16	31:8	laboratories 66:22
interested 13:17	i.e 44:10	67:10 89:2
32:17 69:3 70:10		lack 60:25 83:8
81:4	J	large 42:9
interim 48:3 68:4,7	job 29:24 32:25	larger 12:5,5
68:10	JOE 82:14 84:19	law 78:11
intermittent 73:16	Joe's 85:18	laws 27:13 69:7,7,18
internal 78:19	jog 75:7 77:8	laws/regulations
international 15:9	John 85:7	41:3
26:12 43:20	JOSH 35:21 70:17	layperson 80:17
Internet 31:16	71:19 72:12,19	lead 49:4
interstate 48:9	73:11 75:3	leave 86:6
50:21 60:14,15	judgment 20:8	Lee 4:3 7:8 10:3
61:4,16,19 65:11	judicious 74:8	11:18 15:11 16:12
65:13 79:14,21	July 31:8	18:15 20:22 23:4
89:7	jump 9:11	25:3 27:6 35:21

70:17 82:14	look 5:20 7:10 11:4	manage 86:15
left 25:11	17:3,8,10,19 21:23	managed 52:3
legal 76:17	22:12 29:2,9,21	management 28:4,18
legally 30:13 86:13	33:11 39:13 42:11	38:3 49:13,22,25
legitimate 52:23	42:13,20 62:8 63:9	51:19 61:12 89:6
length 58:14	63:13,14,14 68:6	mandate 85:21
lengthy 58:16	70:4 74:19,23 78:3	map 42:12,13
lessen 64:6	81:10 82:11	Mark 9:6,11
let's 53:16 89:15	looked 16:20 20:3	market 58:8 70:25
level 26:20 29:11	21:11 62:6	72:6 76:18
41:21 43:17 48:19	looking 26:15 39:21	marketability 27:5
50:20 54:12 58:22	52:10 56:4 63:8	Marketing 59:4
78:5	81:15 82:9 88:24	markets 43:25
liberty 14:22	89:5	Mark's 9:11
life 46:13	looks 38:8 42:21	Marshall 9:3
limitations 83:3	70:19	matter 40:16 47:9
line 67:20	loopholes 12:24	mean 26:6 27:15
lines 44:13 48:10	lose 86:24 87:2	41:16 42:4 72:24
64:22 65:18,24	loss 44:10,19	73:11 74:19 76:11
79:22	lost 22:7	80:10
link 65:4	lot 8:11 9:8 10:16	means 19:12 25:25
list 51:25	11:21 14:2 21:2,13	42:5 69:21 72:20
listed 88:10	27:23 29:25 30:7	72:21 76:20
listen 12:15	32:14 33:13 34:2	meant 29:20
listened 18:13	36:2 38:23 68:7	measures 19:4 61:3
listening 6:8,20	78:8	meat 53:23
58:19	lots 13:2 15:14	mechanism 43:24 57:7
little 20:2 21:14	23:10 74:4	57:15 63:23 65:4
26:6 27:20 48:23	love 87:22	67:5,8 70:2
80:16 82:15 84:25	lower 64:6	mechanisms 37:3
live 86:12	lunch 4:15,22 89:13	63:19
livestock 26:22	89:14	medicine 82:4,4,5
45:21 59:4 84:24		meeting 1:7 3:12,15
llamas 35:7	M	8:25 18:18
local 71:16	magical 45:4	meetings 18:6 23:20
locally 70:5	maintain 10:23 15:17	74:15 75:6,11 76:8
located 40:22	16:8 25:19 52:15	melitensis 34:24
logistics 4:9	64:8	35:5
long 10:5,5 32:9	maintained 64:18	member 5:19
45:14 47:6 49:12	65:19 72:16	members 41:12
50:11 61:13 67:15	maintains 73:4	memory 75:8 77:8
76:17	maintenance 61:2	mention 83:19
longstanding 5:13	major 20:21	mentioned 32:16,16
long-term 45:2,2	make-up 24:22	33:22 36:11,12,23
46:23 47:13 48:13	making 39:11	39:11,24 42:23
48:21 49:2,6,10	makings 33:17	43:7 44:3 49:21

60:4 65:10 68:13 68:20 74:20 76:25 78:15,16 menu 4:19 met 19:17 20:23 40:5 40:14 Methods 27:19 Mexican 14:16 29:6,7 63:9 Mexico 15:15 36:15 63:5 82:23 84:23 85:3 86:22 Michalke 9:6 Michigan 8:21,22 11:8,14,24 22:19 38:6 49:11 microphone 3:8 milk 57:22 67:17 million 54:16,18,21 54:24 55:15,15,20 55:21 56:4 millions 29:6 Millis 3:4,10 87:18 mind 13:9 77:7 mindsets 25:9 minimize 27:2 Minnesota 11:25 38:6 38:8 minutes 2:6 89:10,16 missed 21:17 24:8 missing 22:21 mitigate 19:2,8,9 22:4 mitigation 38:13 61:3,6 85:25 mitigations 47:21 48:7 61:13 mixed 80:3 mobile 65:23 money 16:6,7 34:22 54:22 55:7,24 56:3 85:15,16 monies 54:20 55:10 55:13,22 76:10 moniker 35:4 monster 83:10	monthly 58:5 months 4:7 32:9 71:23 morning 3:4,23 MOUs 42:6 move 16:2 34:21 36:25 42:22 43:22 65:23 83:23 88:6 moved 40:7,8 62:14 64:20 movement 10:24 12:13 50:21 53:12 60:14 60:16,20 61:4,8,16 61:19,21,22,22 62:3,4 65:13 79:2 79:5,14,21 89:8 moving 30:9 44:12 48:8 60:22 70:10 75:4 79:22 Mycobacterium 35:3 82:2 Myers 3:25 4:24,25 5:8 25:5 30:20 31:13	73:14 74:7,23 76:5 78:6 79:2,17 80:8 81:6 84:17 85:19 needed 11:2 13:2,21 24:19 27:20 80:11 needs 13:6 51:17 neither 10:7 never 21:21 67:16 new 5:21 6:3,3,22 7:20 12:24 15:15 17:3 24:19 25:14 33:3 35:18 36:14 37:17 45:23 51:22 56:18,20 82:23 84:14,15,23 85:2 86:22 nodding 78:15 noncompliance 44:8 61:5 68:23 noncompliant 44:22 north 9:2 42:15 80:5 Northeast 42:15 northwestern 47:16 noted 51:6 notice 31:9 57:7,16 63:4 66:25 notified 64:25 notifying 86:5 notion 74:9 nuances 24:7 number 57:20 89:5 numbers 88:24 89:19 numerous 58:24
	<hr/> N <hr/>	
	name 5:7 national 15:8 19:2 38:2 50:22,23 69:18 80:12 nationally 15:24 nearest 4:11 necessarily 15:19 28:7 41:15 61:15 76:8 necessary 4:10 62:5 need 4:10,18 5:22 6:4 9:24 14:19 15:6,22 18:24 20:10 21:14,21 22:8,14,22 24:12 26:16,24 28:12 29:8,23 31:16 38:10 41:19 44:16 49:3 53:7 61:8 63:15 70:4 71:10	<hr/> O <hr/> objections 2:7 objectives 25:15 obvious 10:18 obviously 10:4 11:6 11:12 12:25 13:6 14:10 16:15 18:3 19:21 23:9 25:21 26:13 27:2 28:17 39:25 occur 45:18 62:9 occurred 46:14

occurring 43:17 62:10	outcomes 82:17	pen-side 66:10,12,15 66:18
occurs 3:14 50:5	outreach 6:6	people 18:24 24:23 41:16
offering 4:16	outside 30:5 47:22 48:9 59:6 87:9	percent 58:8 80:22 81:21
office 90:18	overall 59:18 80:11	perfect 79:13
official 66:21,22,23 89:2 90:18	overhauled 11:2	performance 33:21,22
officially 35:19	overreact 26:18	period 40:4,5 45:14
officials 3:25 23:23	owner 58:22	periodic 65:21
Oh 31:6		person 53:16
okay 27:17 53:15 73:17,20 76:3	P	personal 9:16
Oklahoma 80:18	package 32:7	perspective 9:23 10:2 22:16 24:13 27:16,25 30:19 73:12,13
old 15:12 19:21 21:11,23 22:12	paid 31:14 58:7 76:21	phone 20:25 31:17
once 39:12 40:4 64:4	pairs 59:8	physical 73:10
onerous 23:16 58:21	paper 6:18 18:22,23 19:6,7 83:23	physically 73:8
ones 77:4	papers 6:9 18:16,21 19:14 21:9,9	pick 47:2 84:12
ongoing 37:5,25 50:17,25	part 8:17,22 9:5 11:3 13:7 14:4,24 21:19 29:22 31:3 39:4 40:16 42:16 47:17,18 51:3 58:13 62:17 68:24 79:5 83:12 87:25 88:22,23	place 10:10 27:14 30:12 37:3 38:16 42:8 46:7 49:11,14 49:15 52:14 61:7 61:14 63:2,16 67:25 68:11 79:18 80:15 83:4 90:11 90:17
on-site 64:9	participate 38:2	places 12:9 86:12
open 18:6	participated 81:9	plan 37:21,23 38:24 38:25 39:8,14 40:20,24 41:7 46:6 46:23 47:14 48:13 48:21 49:6,22 50:2 50:3,14 51:3 52:5 61:12,12 68:22 83:5,20 84:4,11,14 84:21 85:24
opening 3:24	particularly 43:8 50:18 55:2 82:23 85:14	planning 42:8 70:22
operate 30:15	parties 2:4,11	plans 43:3 49:10,13 61:7
operations 12:5,6	partners 15:10 26:12 26:14 43:20 50:19	play 13:20 15:4
opinion 9:16 11:10 12:8,23 18:13 29:23	passed 21:21	playing 78:5
opportunities 21:3	passing 4:14	please 9:11
opportunity 5:7 6:15 6:25 9:15 18:10 21:2 34:8 40:3 47:20 74:18 82:10 88:17	pasture 73:3,14	plug 51:7
opposed 33:11 45:10 57:19 63:8	pastures 73:16	point 19:15 32:12
option 39:10	pasturing 73:3 74:3	
oral 33:5	pay 14:19 15:5 60:6 71:23 76:15	
order 4:14 50:6,9,15 68:3	paying 60:8	
organization 24:13	payment 56:16 59:20 59:22 60:5 76:13	
origin 13:3 62:11	Peel 59:5	
original 21:20	pen 6:18 73:7,20	
other's 26:22		
ought 83:12		
outcome 83:7		

<p>64:11,16,21 75:2 77:9 83:18 policies 35:14 politics 9:10 26:8 poor 15:15 popular 47:4 pose 12:7 60:17 posed 17:21 position 54:6,8 78:20 possibility 13:9,11 76:9 possible 13:19 29:9 possibly 11:10 posted 7:9 post-entry 65:16 post-import 62:8,13 65:2 pot 55:24 potential 38:12 55:10 85:20 potentially 57:13 63:21 65:25 76:21 practices 12:4,24 preach 29:2 preclude 61:7 80:10 preempt 77:23 78:10 preemption 77:10,14 77:18,19 78:21 presence 2:4 45:20 present 6:16 8:16 54:5 presentation 32:7,9 32:10 34:5 40:12 40:15 48:24 presenting 32:6 33:2 pressure 3:13 pretty 25:7 prevalence 5:25 prevent 25:23 47:21 previously 41:7 pre-import 62:7,10 62:16 price 59:9 prices 70:25 pricing 59:14</p>	<p>primarily 13:24 34:18 priorities 11:17 private 23:19 81:2 probably 21:16 23:24 26:9 44:21 45:8 46:11 53:24 55:8 56:2 problems 12:7 15:14 20:21 85:25 86:2 Procedure 2:10,11,13 procedures 88:25 proceedings 90:10,16 process 8:18 9:6,14 9:18 11:3,9,17 13:7 14:24 17:4 18:8 19:24 20:11 21:8 22:25 23:11 23:20 24:17,20 26:10,16,25 28:14 41:5 56:22 57:9 58:3,12,15,16,20 58:25 63:12 66:20 66:24 70:3 74:12 74:19,22 processes 22:5 produced 59:2 81:18 producer 59:20 76:21 product 13:4 production 57:22 72:11 professional 20:13 proficiency 67:10 program 7:6,19 10:5 10:18 34:6,14,23 36:18 37:19 40:10 40:25 42:25 45:17 55:9 56:23 57:2,14 66:6 78:22 88:14 programs 5:13,15,17 5:21,23 6:10 32:2 33:15 37:13 51:16 85:6,9,13 program/brucellosis 10:4 progress 10:6</p>	<p>project 81:14 promise 77:16 promising 81:15 promptly 52:12 properly 29:12 86:13 proposal 56:13 67:23 propose 38:19 51:12 79:25 proposed 1:2 6:24 13:12 21:12 22:5 28:20 34:7 38:18 65:15 67:2,21 79:19,20,24 88:11 proposing 6:10 22:4 36:16 51:11,21 54:9 57:18 58:11 prospective 30:2 Protection 72:2,5 protocol 46:4 53:10 protocols 17:8 provide 15:8 31:15 39:7 41:22 48:23 52:6 54:13 60:18 62:2 68:18,18 80:16 84:2,5 provided 2:9,11 23:25 provides 67:8 87:17 provisionally 39:25 48:25 pseudorabies 87:14 public 1:7 3:18 27:4 43:19 57:5,8 66:25 67:3 69:9 74:15 publication 57:15 publicly 85:7 public-facing 43:2 publish 6:23 published 6:9 33:25 34:6 48:3 50:9 publishing 57:7 pulled 21:12,20 pump 67:15 pun 74:5 punitive 36:14 44:10 purchase 56:5 60:11</p>
---	---	--

75:21 purchases 75:18 purposes 2:9 pushed 17:22 pushing 15:3 put 6:17 10:19 13:15 16:13 18:5,21 21:19 23:3,8 24:13 29:10,19,23 30:12 38:15 43:18 57:10 63:2,15 68:10 77:23 79:18 81:7 81:22 85:22 86:14 putting 49:14 81:6	rates 43:8 Razorbacks 47:3 reachable 26:10 reactor 75:20 read 2:5 67:14 68:9 readily 77:7 ready 71:20 81:19 real 12:7 35:22 46:13 47:4 70:18 85:15 realistic 25:16 realities 16:4,10 28:22 reality 10:9 really 5:11,15 8:2 11:21 12:19 14:9 14:14,17,19 15:16 20:8,19 22:21 26:14 27:6 28:12 29:8,22,25 32:17 32:21 44:16 54:9 74:18 82:8,8 reason 37:6 47:11 52:23 56:24 59:23 74:2 83:13 reasonable 89:19 reasoning 63:7 reasons 10:24 13:2 18:2 34:19,19 53:4 rebalance 11:16 recall 77:5 receive 53:11 received 32:8 34:2 receives 59:20 receiving 48:20 recertification 66:21 Recess 53:20 Recessed 89:22 recognition 57:23 recognize 42:6 43:18 53:6 79:7 81:20 82:24 83:7 recognized 40:23 recognizes 53:5 recognizing 53:9	70:11 recommend 13:8 21:22 recommendations 39:7 68:19 87:17 recommended 17:6 record 3:18 87:25 90:16 recorded 3:16 records 64:17 reducing 83:16 reduction 44:19 82:18 83:8 refer 82:4 Referee 2:4 reference 24:6 42:11 reg 79:19,20 80:9 regarding 34:11 38:25 50:20 54:12 61:18 79:14 regardless 85:11 regards 33:9 38:16 45:23 84:3,20 regional 9:7 57:24 regionalization 62:19,20 63:13 regions 58:23 59:15 71:15 register 67:2 regs 32:22 36:21 56:19 71:25 regulate 34:16 regulation 6:18 56:13 60:3 64:14 66:9,9,19 67:8 76:12 regulations 4:5 6:23 7:21 33:3 35:14,19 37:17 39:5 41:4 51:13 53:6 60:15 62:17,24 63:5 66:16 67:5,25 77:22 78:24 regulatory 1:2 32:23 33:3 62:23 63:12 88:10,13 rejuvenate 22:9
Q		
quality 13:5 59:12 67:8,9 quarantine 46:10 quarantined 46:2,17 53:13 61:10 quarantines 50:11 question 35:22 44:6 72:13 74:15 77:13 81:8 82:20 84:19 questions 30:19 31:21 34:3 41:9 52:19 67:13 68:16 70:16 79:14 quick 35:22 70:18 quicker 33:20 quickly 24:19 26:17 57:16 58:10 76:6 81:23 quite 9:12 12:10 19:21 quotations 87:13		
R		
raisers 12:6 ramped 80:23 ramping 81:4 range 69:9 rapidly 25:21 45:10 66:17 rate 17:13		

<p>related 55:8 88:25 relationship 59:4 release 46:10 reliance 55:12 relied 55:2,10,18 relieves 33:16 remain 67:25 remarks 3:24 remove 35:10,14 53:9 58:10,13,14 removed 56:11 repeat 32:15 replacement 72:4,6,8 72:10 report 37:4 reportable 41:5 reported 61:14 90:10 Reporter 1:10 reporting 36:19,24 38:4 42:22 43:22 43:24 52:7 63:25 representatives 6:13 represents 54:6 request 31:7 55:6,14 69:12 require 13:22 51:9 51:10 61:15 64:22 69:7,19 79:9 required 65:12 85:3 requirement 60:21 61:22 65:24 76:19 79:21 requirements 13:15 29:4 36:18,19 37:19 40:10,25 42:23 44:12,20 48:8 52:7 61:4,16 61:19,23 62:4,25 63:15,20 64:3,3,7 65:17 77:24,25 78:7 79:5,17 86:11 88:15 89:8 requires 55:6 64:14 80:5 research 17:7 81:4 reserved 2:8</p>	<p>reservoir 38:21 45:12 48:16 reservoirs 38:13 resist 9:15 resolution 16:24 17:12 43:7 resolutions 16:18,21 17:6 resolved 40:6 resource 24:6 resources 19:11 31:16 37:24 respect 2:13 respective 2:4 response 17:13 19:4 38:3 43:8 responsibilities 84:22 responsible 32:4 responsive 17:25 rest 40:12 86:16 restricted 53:12 restriction 65:17 restrictions 26:21 61:5 79:3 result 18:20 33:18 59:20 results 81:14 82:12 return 87:22 review 33:4 59:6 reviewed 59:6 reviews 64:9 revise 5:13 17:23 39:7 revised 15:22 revisions 39:8 re-sorted 86:10 Rhode 9:3 84:14 rich 3:16 right 9:12,21 14:24 15:23 16:2,2 17:15 19:7,20,22 20:4,19 21:7 23:6,8,25 26:16 29:13,14 30:9,25 77:5,17,23 79:7 81:5 83:17</p>	<p>87:18,20 rights 2:11 risk 14:11,12 17:21 19:3 20:14 22:6 38:13 42:21,21 48:10 49:3 50:5 60:17 63:21 85:25 risks 22:4 38:16 86:15 risk-based 17:2 19:5 Riverdale 19:17 87:7 rodeo 65:22 role 3:11 37:16 87:4 room 8:11 9:24 14:3 16:16 22:22 24:3 88:8,16,22,23 89:3 rooms 4:10 87:21 88:8 89:9,11,16,19 rotate 88:17 roughly 54:24 58:4 RPR 90:6,23 rule 6:24 7:2 13:15 14:4,19 23:9 33:11 33:17,19,25 34:7 34:13 35:24 39:3 48:3 53:5 60:24 65:15 67:22,22,24 68:4,7,10,24 78:4 rules 2:9,11,12 10:10 11:4 12:21 13:11,21,22 15:11 15:18,22,23,24 17:10,24 18:7 19:20,21 20:6 21:12,14,20,24 22:12 23:9,14 24:19 27:13,19 28:20 29:24 30:12 33:12,20 78:3 79:24 85:21 86:25 rule-making 10:9 16:25 28:14 30:24 31:3 42:20 77:21 rule-making's 15:25 Ruminant 32:2 run 10:13 35:6</p>
--	--	---

running 17:15	serves 69:12	six 71:22
<hr/>	services 5:9 37:2,15	skin 82:6
S	59:2 68:19	slaughter 13:13
salvage 59:16,21	session 1:7 3:2 8:16	50:24 59:10
sat 9:9	32:19 51:8 58:19	slide 14:7 33:7
saving 3:18	89:12	35:20,23 40:9 44:7
saw 53:16 54:23	sessions 6:8,20 7:14	44:23 46:23 49:18
saying 57:4 63:5	8:14 27:10	50:15 51:18 53:14
72:22 85:18	set 6:22 30:14 54:19	53:23 56:12 58:25
says 61:11 67:15	90:9,11	59:17,22 60:13
scenario 47:24 61:24	seven 32:9	61:17 62:5,15
schedule 7:24	share 24:11	64:25 66:2 67:14
science 26:7	sheep 34:12,18,20	small 42:2,3 82:23
science-based 17:2	shift 84:22	88:20
scientific 15:20	ship 71:21	smaller 88:21
20:13 73:18	shipped 86:10	smoothly 66:6
Scott 80:14,17	shortcoming 83:16	solicits 67:3
scratch 23:5	short-term 44:25	somewhat 10:11 36:13
se 36:7	45:8,9,15,22 46:20	soon 10:8
SEAL 90:18	shuffle 22:8	sorry 84:11
second 88:22	shy 30:22	sort 39:17 52:14
Secretary 69:13	side 17:5,16,23	83:24 84:5 89:18
Secretary's 69:13	18:19 20:20 86:4	sound 80:21
sections 2:12	sides 74:5	southeastern 47:5,18
security 86:12	side-tracked 9:5	spayed 65:19 72:15
see 18:12 23:6 26:9	sign 2:5 4:17	speak 18:10 78:13
30:16 31:24 45:2	significant 27:22	85:21 86:3
52:20 73:25	34:11 49:16 51:22	SPEAKER 74:6,25
seed 70:22 71:4	similar 47:23	speaking 38:21
seen 5:25 43:14	similarities 33:8	special 55:6
73:17	similarly 35:2,12	species 34:14,15,22
segregation 72:13	52:16 54:23	35:20
segue 79:13	simple 86:5	specific 51:15 56:15
semi-professional	simplistic 12:17	61:15 73:25 82:12
3:6	simply 86:23	specifically 11:24
sense 10:16 12:18	single 33:11	specifics 7:8 77:6
15:19 28:16 84:21	situation 35:7 36:9	specified 40:4
sensitive 81:21	38:6 40:20 41:18	spend 38:22 89:10
separate 33:17	41:23 42:10 46:13	spending 7:23
separated 73:8	46:24 47:7,12,12	spent 32:9
separately 65:19	49:12 55:6 62:3	spin-off 84:19
72:16,24	63:9 66:13 68:11	spread 25:24 47:11
separating 73:20	73:4,19 83:2	47:21 60:17
separation 73:4,10	situational 49:9	spreading 48:15
serologic 82:7	situations 14:10	staff 32:24
serve 3:7	37:4 45:11	Stage 23:6

<p>stages 62:7,9 stakeholder 18:6 stakeholders 23:19 69:10 stand 11:19 69:25 standard 46:3 standards 17:14 33:21,23 34:6 56:23 57:2,14 standing 69:19 standpoint 15:20 start 21:7,15 72:3 started 16:13 19:16 23:5 starting 26:21 state 1:10 4:2 6:12 8:5,9,15,21 9:4 11:11 13:22 16:6 19:25 20:7 22:19 23:23 25:8 26:19 26:20 27:12 28:5 29:11 30:5,19 37:6 37:7,19,23,25 38:13,19 39:8,13 39:18 40:2,7,11,11 40:22 41:2,11,17 41:19,25 42:2,5,10 42:21 43:3 44:13 44:22 45:19 46:5 46:20 47:3,17,18 47:19 48:5,10,16 48:20 50:7,10,25 54:6 56:19 58:21 58:22 61:6,9 64:21 64:24 65:23 70:5 78:2,6,25 79:22 80:6 83:4,10 84:23 86:2,6,7 88:15 90:4,7 states 10:19 11:25 14:15 15:15 17:13 20:4,15,22 22:23 25:18 29:4,8 36:2 37:2,5,20 38:15 41:20 42:14,16 43:3 44:2 48:17</p>	<p>49:14,22,23 50:8 50:19 51:4 52:11 52:22 53:11 54:14 63:6 68:12 76:22 78:9,10 82:16,23 85:2,23 86:8,15,16 90:8 state's 40:23 52:11 52:15 68:22,22 77:23 83:13 state/federal 37:12 state/tribal 15:2 status 10:12,12,14 10:25 15:13,17 20:5 26:11 36:12 44:5,11,19 68:23 79:8 86:24 statuses 10:23 15:13 19:13,19,20,25 steer 72:15 steers 65:18 80:6 Stenograph 90:11,13 step 6:19 30:23 steps 58:24 STIPULATED 2:3,5,7,8 2:10 STIPULATIONS 2:2 stock 65:20 70:23 71:4,5 stop 31:20 stops 74:20 stream 51:5 streamline 74:23 streamlining 74:12 stress 37:10 stringent 77:24 structure 41:14 struggle 31:18,19 struggled 12:19 struggling 20:4 studies 73:18 stuff 88:6 subject 40:16 60:20 submit 32:20 37:20 55:14 subpopulations 38:4</p>	<p>subtracted 59:16,21 76:14 success 42:25 successful 5:24 38:9 successfully 71:13 83:6 suffice 38:23 suggest 35:6 87:19 suggesting 57:4 suggestion 75:16 suis 17:8,9 34:24 35:5,12,16 summers 18:18 supervision 90:14 supplant 81:19 support 41:22 85:13 supported 81:10 supporting 82:10 supportive 70:10 sure 16:9 19:12 20:10 22:13,24 25:16,17,24 26:5 28:15 29:12,14,18 36:14 41:2 42:19 43:2,9 52:13 53:9 61:18 65:6,8 66:8 66:15 67:4,7 72:20 76:6 77:7 surveillance 19:2 25:19 28:17 37:24 38:3 44:20 50:13 50:16,16,24 51:2,5 51:9 88:15 suspect 35:15 75:20 78:14 81:15 suspend 67:6 suspended 15:23,24 20:6 system 10:12 15:8 16:25 22:6 25:19 30:14 35:10,17 36:13,16,17 44:5 64:13 75:24 82:20 83:23 systems 12:6,12,12 19:2 28:9,9</p>
--	--	---

T		
table 69:23 77:2	tends 36:13	80:25 87:3
tables 88:5	term 14:6 25:25 52:20 87:12	think 5:3 9:17,22,25 10:8 11:20 12:8,15 13:9,19 14:9,17 16:4,13 18:9,9,11 19:23 21:16,17 22:8 23:2,24 24:5 24:17 25:18,25 26:3,9,19 27:10,15 28:12,19 30:8,23 38:10 49:9,12,15 52:20 54:10 62:10 70:12,15,20 72:7 72:14,19 73:12,24 74:16,23 79:4 80:7 81:3 82:8 83:12 84:3 85:7,10,18,19
tacts 6:3	terminal 61:9	thinking 6:17 7:5 61:25
tail 67:15	terms 51:25 56:14 66:7 80:21 85:2	Thomas 4:3 7:8 25:5 30:20 31:4,7,13,22 36:4 53:22 71:2,24 72:18,25 73:22 74:14 75:9 77:11 77:13,18 79:12 80:7 81:8 83:17 85:4 87:2
take 5:6 6:4 7:10 11:3 14:17 17:10 17:19 19:5 21:23 24:20 29:2,9,21 32:11 37:7 53:16 71:10 87:19	test 17:7,15 35:10 36:8 53:9 66:10,11 66:13,15,18 80:22 81:19 82:5,6	thorny 74:4
taken 53:20 68:6	tested 60:23	thought 22:11 35:24 74:12 78:22 79:10
takes 56:8	testers 66:23 67:11	thoughts 5:16 7:18 24:11
talk 5:22 7:25 47:23 77:19 84:9	testing 17:17 44:11 48:7 61:4,16,22 62:4 63:20 64:3 65:17,21,24 66:22 67:9,10 77:25 78:7 79:17,21	thousands 29:5
talked 38:5 41:18 68:8 83:19	tests 17:3,3 66:22 79:9 80:5 81:11 82:7,11 89:2	three 20:24 34:22 36:11 38:15 39:23 62:6 88:2,14 89:5
talking 6:5 12:11 25:12 28:8 34:21 37:12 48:11 53:13 59:19 72:3 76:2 77:20 83:22	Texas 1:9,10 4:3 8:6 8:8,10,19 13:17 18:5 22:2 24:9 27:16,25 28:23 29:5,7 35:13 46:12 46:17,21 79:7 84:12,12 86:22 90:4,7	three-tiered 22:6 36:17
targeted 51:2	thank 4:25 7:22,22 9:17 25:4 30:21 31:13,22 75:2 77:11,14 79:12	tied 9:10
TB 5:14 9:8 10:4 11:8 12:2 13:24 15:14,23 16:23 17:11,23 18:19 19:7 20:4,20,22 21:10 28:6,10 32:3 33:8 35:9 37:8 38:9 41:24 42:9,13 42:17 43:8 47:9 50:6 53:10 54:15 55:9,18 65:25 66:2 66:14 68:2 79:8 80:5,20 82:6 83:14	Thanks 8:7	tiers 39:23
TB/brucellosis 4:5	theme 7:17	ties 44:5
TCFA's 73:13	thereto 2:13	time 2:8 7:23 8:3 10:6,8 19:18 23:10 24:4 27:24 34:7,9 38:23 40:4,4 45:14 47:6 49:12 52:8,14
technically 15:18	thing 16:11 23:25 37:10 68:13 72:22 75:4 83:19 86:23	
tell 16:23 19:18 20:3 30:8,22 73:5 80:2	things 9:23 12:12 15:6,16,17 21:5,17 21:18 22:9,14 23:24 24:7 27:21 37:23 39:16 57:16 57:17 73:2 74:17	
telling 55:21 67:16		
template 83:21 84:2 84:5,9		
tend 62:10		

<p>52:18 53:8 56:10 58:13,14 62:12 67:20 80:15 89:11 90:11,17 timeline 67:21 timely 32:12 52:24 times 9:16 11:10 20:24 25:10 today 3:15 4:4,15 5:11,15 6:7 7:17 7:23 18:2 25:2 30:3,17 31:10 32:6 32:18 38:5 75:4 told 20:18 tomorrow 31:11 tool 81:5 top 82:13 total 43:24 totally 74:13 tough 82:9 trace 65:8 traceability 12:25 13:3 51:8,14 65:15 tracing 64:18 65:9 trade 14:11 trading 15:9 26:12 26:14 43:20 50:18 traditions 51:24 transcribed 32:19 90:13 transcript 2:6,6 90:15,15 transcription 90:8 transcriptionist 3:17 transition 19:13,25 transmission 12:2 19:3 26:23 transparency 36:24 42:24 43:12 52:10 transparent 43:15 48:17 57:9 58:2 transparently 78:24 transportation 60:7 trap 86:20 tremendous 82:22</p>	<p>trial 2:8 tribal 6:13 40:15 60:15 tribe 40:19,21,22 46:5 tribes 37:20 40:13 40:18 52:23 53:11 tried 21:18 51:23 trooper 75:12 true 51:23 trust 15:5 try 5:4 21:23 31:17 trying 25:6 44:9 45:6 tuberculosis 1:2 55:2 88:12 turn 4:23 8:4 35:15 89:21 turnout 30:16 tweaking 21:14 27:20 two 5:13,17,22 6:10 16:19 18:16,21 19:14 22:20 33:11 33:15,17 38:5 39:2 41:11,12,16 43:13 44:24 69:15,20 70:18 73:20 76:3 80:5 type 24:17 49:20 57:21 types 60:18 87:23 typewriting 90:13 typically 42:15 77:25 T.J 3:25 4:24 5:8 32:16</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately 15:7 24:12 49:5 UM&R 33:22,23 understand 8:18 72:20 83:18 88:21 understanding 43:16 72:21 unfunded 85:21</p>	<p>UNIDENTIFIED 74:6,25 Uniform 27:19 unilateral 87:7 unique 71:5,16 United 20:22 22:23 25:18 37:5 44:2 63:6 86:16 unreasonable 86:18 update 80:16 updated 58:5 updating 31:10 58:3 urge 32:20 urgency 30:11 urging 16:24 18:20 USDA 3:10 5:10,14 9:17 14:22 16:13 16:24 17:12 18:9 25:4 28:22 29:24 31:13 69:15,20 83:6 USDA's 84:20 86:14 use 4:11,13 23:22 35:9 47:2 57:18 58:4 59:19 60:5 62:17,22 70:24 71:12 75:22,24 76:3 useful 69:2 uses 81:11 utilize 14:16 utilized 2:9 U.S 16:16,22 18:20 18:25 42:16 43:15 62:14 63:3</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vaccinate 51:18 vaccination 48:11 51:16 valid 53:3,3 validate 17:3 value 58:8 59:10,16 71:4,21 72:4,6,6,8 76:18 values 57:24 variances 53:7 61:21</p>
--	---	--

verification 13:4	way 9:5 12:10,21	23:6,24 30:24 38:4
Vermont 84:14	15:12 18:3,4 20:12	43:14 55:19 63:18
versus 13:14 74:13	20:17 24:25 30:4	68:8 71:9,18 73:17
vet 8:21 9:7 20:7	30:23 31:14,15	76:16 80:3
26:20 30:19	48:17 62:8 74:22	whammy 85:2
Veterinarian 8:9	83:23	whitetail 11:24
veterinary 5:9 37:2	ways 10:11 22:4	wildlife 11:8,12,20
37:15 41:13 42:3	43:13 69:24	12:18 14:2 17:7,8
59:2 64:23 65:11	wearing 14:21	19:3,9 28:5,8
68:19	web 7:9	35:24 36:3,5,5
vets 8:15 9:4 25:8	website 31:10	38:7,12,17,21
54:6	weekly 20:25	45:12,21 47:24
viability 27:5	weight 57:22 59:12	48:15 49:24
vicinity 4:20	welcome 3:5,20 4:17	willing 76:10 84:4
volunteered 8:20	5:7 8:10	willingness 37:4
VS 37:13 39:5,10	went 14:25 16:20	WINEGARNER 35:21
41:21,22 49:3,5	66:6	70:17 71:19 72:12
54:6 58:6	we'll 3:23,25 4:4	72:19 73:11 75:3
	6:23 7:7,13 12:22	Wingo 1:9 90:6,23
W	18:11,14 26:3 31:9	winter 17:19
Wahoo 71:6	32:11 33:19 39:16	withdraw 67:6
waived 2:4,6,12	39:20 51:25 52:2,6	withholding 77:15
waivers 13:13	53:17 66:6 68:15	witness 2:5
walk 5:3	88:23 89:4,10,17	word 23:15
walking 85:8	89:20	words 76:6,20 83:11
wall 88:4	we're 5:12,17 11:18	work 12:21 18:24,25
want 4:8 5:6 9:17	13:17 14:12 16:11	21:13,13 24:25
15:16 17:24 25:4	18:2 20:18 22:21	25:6 26:6,7 29:12
25:12 26:18,23	23:6 24:5 25:2	30:7 36:5 40:21
28:20 29:18 31:12	27:6,17 28:23 30:3	79:11 80:22
32:19 36:20 37:10	32:17,18 33:18	workable 7:6
41:2 42:19,25 43:5	34:21 35:4,13,16	worked 14:25 22:2
43:9 44:14,21	36:10,16 37:6,11	74:22
47:13 52:13 53:8	37:16 43:14,22	working 4:6 5:2,12
58:9 61:18 63:5	44:9 48:11 51:11	5:20 6:12 8:16
64:7,10 65:2,5,8	51:21,22 53:13	19:16 20:23 21:9
66:15 67:4,7,16	54:11 55:13,23,24	23:3 30:6 34:10
69:17 75:21 78:9	56:4 58:10 59:18	40:14,17 54:4
78:10 80:10 86:19	59:18 60:8 61:25	58:17 74:11 81:24
87:3,5,10,25 88:5	63:17 65:16 67:18	84:8
88:6	67:19 69:2 70:9	works 3:21 11:17
wanted 21:7,8 37:14	75:4 81:5,13,24	43:12
53:23 70:14 82:14	83:15,22 85:5,8	work-up 75:22
warm 3:5,19	87:20 88:2,3,19	world 63:10
wasn't 11:13 22:20	we've 5:25 6:7,8,11	worried 22:21
29:20 77:15 81:23	6:21 10:6 21:16	worthy 3:16

<p>wouldn't 61:15 78:6 wrapping 81:14 write 32:22 writing 6:18,22 written 28:25 32:20 33:4 38:24,25</p> <hr/> <p style="text-align: center;">x</p> <hr/>	<hr/> <p style="text-align: center;">1</p> <hr/> <p>1 1:7 3:2 1-40 1:8 10-minute 53:17 10:00 4:18 10:29 89:22 100 58:7 80:21 11 54:15 55:25,25 62:18 12 56:3 15.6 54:16 17 90:24 1911 1:8</p> <hr/>	<p>7 89:6 7:30 1:9</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 88:24 85 81:20</p> <hr/> <p style="text-align: center;">9</p> <hr/>
<p>X 73:25</p> <hr/> <p style="text-align: center;">y</p> <hr/> <p>Yeah 72:18 year 29:7 45:3,4 54:17,25 55:19,25 years 16:19 24:21 30:13 38:10 42:18 54:18 55:22 Yellowstone 11:7,15 11:23 17:20 22:18 26:8 yeoman's 25:6 York 84:14 y'all 8:11 9:24 14:15 16:16 18:17 19:18 21:22 22:10 23:7,25 24:4,12 25:13 28:19 30:15</p> <hr/> <p style="text-align: center;">z</p> <hr/>	<hr/> <p style="text-align: center;">2</p> <hr/> <p>2 23:6 20 42:18 55:15 89:15 20th 30:25 31:3 20-minute 87:20 2007 55:18 2010 17:11 48:4 50:10 55:19 2011 1:8 3:3 67:22 90:24 2012 67:22,25 2015 84:21 85:7,11 25 42:18 27th 48:4</p> <hr/>	<p>9 62:17 9:17 53:20 9:40 53:21 92 62:18</p>
<p>zero 6:2 14:12 zone 28:11 47:20,22 48:2,6,9 50:3,4 zones 19:13,25 28:7 zoning 12:11,16 15:17 27:22,23,25 28:3 38:19 44:24 45:8,15 46:20 48:13 49:2,20 88:15</p> <hr/> <p style="text-align: center;">\$</p> <hr/>	<hr/> <p style="text-align: center;">3</p> <hr/> <p>30 24:23</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 89:5 40 24:23 45 89:10</p> <hr/> <p style="text-align: center;">5</p> <hr/>	
<p>\$500,000 54:25 \$800,000 54:17</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>09 16:23 17:5 18:23</p>	<hr/> <p style="text-align: center;">6</p> <hr/> <p>6 1:7 3:3 89:6 60 56:9</p> <hr/> <p style="text-align: center;">7</p> <hr/>	

**PROPOSED TUBERCULOSIS AND BRUCELLOSIS
REGULATORY FRAMEWORK**

BREAKOUT SESSION NUMBER ONE ON
PROGRAM (STATE) REQUIREMENTS,
ZONING, AND SURVEILLANCE

Session 2 of the Public Meeting on June 6,
2011, at the Holiday Inn, 1911 1-40 East, Amarillo,
Texas, commencing at 10:57 a.m., before Kary A. Wingo, a
Court Reporter of the State of Texas.

SESSION 2

JUNE 6, 2011

Thereupon,

DR. ROBISON: So Group 1 --

DR. MYERS: May we just go around
and introduce ourselves?

DR. ROBISON: Okay. I'm Clayton
Robison. I work with the USDA Veterinary
Services here in Texas. I was one of the
working group members on this program.

DR. MICHALKE: I'm Mark Michalke,
and I'm with the Texas Animal Health
Commission. And I kind of got into the
group a little bit later as a replacement
for Dr. Ellis. He asked me to sit in for
him.

So I'm going to try to help Dr.
Robison facilitate, possibly.

DR. MYERS: I'm T.J. Myers with
APHIS Veterinary Services. I spoke earlier
this morning. I'll be sitting in for a
while. I may rotate through some of the
other groups too.

MS. BRADLEY: I'm Minnie Lou Bradley

SESSION 2

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2 from Memphis, Texas, a purebred Angus
3 breeder.

4 DR. BAKER: I'm Joe Baker. I'm a
5 field veterinarian for the New Mexico
6 Livestock Board.

7 MS. HUFFSTUTLER: Katrina Huffstutler.
8 I'm representing Texas and Southwestern Cattle
9 Raisers

10 DR. HALL: I'm Rod Hall. I'm with
11 the Oklahoma Department of Agriculture. I'm
12 a veterinarian in the Animal Industry
13 Services there.

14 DR. ROBISON: For the Group 1
15 breakout session, we've got the program
16 requirements, state requirements, and also
17 zoning and surveillance.

18 And these are some of the questions
19 we've come up with for this particular
20 session. The first one will be the program
21 or state requirements. Number one is working
22 group discuss the use of an advisory group
23 to provide assistance to Veterinary Services
24 in regards to certain program activities.

25 And under this, we have Parts A

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2 through E. Question A is: Do you agree
3 that these new regulations should include the
4 use of an advisory board used to provide a
5 variety of recommendations to Veterinary
6 Services?

7 DR. MYERS: Clayton, before you go
8 on, maybe I could just ask a general
9 question. Since everyone has been sitting
10 through some long presentations, I'd like to
11 just sort of get a general sense of what
12 folks thought about that first element for
13 state requirements, because what this does is
14 it shifts those two programs, the TB and
15 brucellosis programs, away from programs that
16 have -- that are based on state status based
17 on disease prevalence.

18 Because, in the past, if you had a
19 certain prevalence level, you were modified
20 accredited, or modified accredited advanced,
21 or free. And so that was all based on
22 prevalence. And now that the prevalence of
23 the disease is so low, we're talking about
24 shifting this program to one where the state
25 status is based on whether or not you're

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2 complying with the regulations, having a
3 system in place that allows a state to
4 respond to disease whenever it's identified.

5 So I guess, before getting into the
6 details of is an advisory board part of
7 that, et cetera, et cetera, I guess I'd just
8 throw it open to a general question of:
9 Does that shift in how we manage the program
10 make sense to you?

11 DR. HALL: To me, it makes sense, I
12 think, now that the prevalence is so much
13 lower. I like the thought of being able to
14 isolate an area if it's a problem, rather
15 than knocking a whole state down to Class A,
16 or whatever it's going to be.

17 I mean, just in our state, we had
18 an infected TB herd in the tip of our
19 Panhandle four years ago. And we've kind of
20 lived under the fear of -- you know, under
21 the old system, if we had discovered
22 another infected herd within, I believe, four
23 years, we could have lost our TB free
24 status.

25 You know, we would have loved to

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2 have chopped that part of the state off and
3 given it to New Mexico. So I think this is
4 a good step forward.

5 My only concern is that states that
6 do that -- and I think you all have talked
7 about it in the plan. You know, we have to
8 have the assurance that that state is
9 handling that portion of their state to the
10 extent that we can trust the animals coming
11 from there.

12 DR. MYERS: Yeah. And Dee kind of
13 spoke to that this morning, that concern
14 about, you know, states being interested in
15 the ability to take an action if they feel
16 like they're not getting that information.

17 And that's what Dr. Thomas was
18 talking about, transparency being so critical,
19 that, you know, if a state does have a case,
20 they need to be transparent in the actions
21 that they've taken to quarantine, to mitigate
22 that disease, to do additional surveillance,
23 and share that with everyone so that your
24 state is comfortable that another state has
25 put those mitigations in place and that

1
2 you're comfortable accepting animals from the
3 rest of the state.

4 So, now, Clayton, it gets to the
5 question about the advisory board, because
6 that's part of that transparency, having a
7 group that can help us make those evaluations
8 of whether or not a state is doing the
9 things that it needs to do.

10 MS. BRADLEY: May I ask a question?

11 DR. MYERS: Sure.

12 MS. BRADLEY: When we had
13 foot-and-mouth disease in Europe, all right,
14 when we had all these big meetings and all,
15 they were going to do it by so many miles.
16 You know, if it was an affected herd, it
17 would be so many miles.

18 Doesn't that make more sense today?
19 Because I'm on the border of Oklahoma. If
20 Oklahoma has an outbreak or if I have an
21 outbreak, you know, right there's the fence
22 line. He's okay; these people are
23 quarantined. That doesn't make much sense.

24 DR. MYERS: No. And that gets to
25 the issue of zoning that we talked about

1
2 here. So that is part of this plan.
3 You're right, it does make more sense to do
4 that.

5 You have to look at the individual
6 disease. Foot-and-mouth can be airborne
7 spread, so you really have a concern about
8 what's going on locally.

9 Something like TB, though, where it's
10 not necessarily airborne, but it depends more
11 on close contact of cattle, you have to look
12 at how those animals interact with other
13 animals, whether it's through a fence line or
14 whether it's through putting them on a truck
15 and moving them somewhere. That's what that
16 epidemiologic investigation does.

17 But you're right, that's part of
18 this program, because we do recognize that
19 disease doesn't just automatically stop at
20 the border of a state. We have to look
21 more at how that disease moves and put your
22 zone or quarantine or whatever mitigation you
23 place based on that understanding, rather
24 than just this is where the state line is.

25 MS. BRADLEY: Because mostly in

SESSION 2

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2 Texas, I think -- you guys know a lot more
3 about it than I do -- mostly it's confined
4 to dairy herds, that one you had in South
5 Texas.

6 DR. ROBISON: Usually, but there
7 have been beef herds too.

8 MS. BRADLEY: Well, I'm sure, but
9 very few. Now, as a purebred breeder, we
10 have real problems with every state having
11 different regulations.

12 We have a sale and then, if it goes
13 to certain states, we have to keep them so
14 long and do all this testing, even though
15 they're free. So I think we need to work
16 out something.

17 DR. MYERS: So your concern is
18 differences in state requirements.

19 MS. BRADLEY: Yeah.

20 DR. MYERS: I don't want to put
21 words in your mouth. You would rather see
22 what?

23 MS. BRADLEY: Well, we never know,
24 because we don't know who in New Mexico is
25 going to buy something or South Dakota or

1
2 wherever. And they've got their trailer
3 here. We have to send them home and test
4 them and then deliver them.

5 I would think maybe one rule ought
6 to --

7 DR. HALL: It would be nice if we
8 could ever get there. I don't know that
9 that will ever happen.

10 MS. BRADLEY: I understand.

11 MS. HUFFSTUTLER: I have a question
12 about the advisory board. Is there any way
13 you can clarify how that would be made up?
14 I know it says, I think, federal, state and
15 tribal experts, but beyond that, who would be
16 represented on this board, in general terms?

17 DR. MYERS: Well, I don't know if
18 you guys want to tackle that. You were on
19 the committee and talked about it more than
20 I was involved. But maybe I'll just give
21 you the big picture, and you guys can fill
22 in the details.

23 The issue that Dr. Thomas was
24 talking about, as far as the federal advisory
25 committee, really defines or builds a box

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2 around how the federal government can and
3 cannot bring in advice from the public.

4 So we are free to have what are
5 called government-to-government conversations.
6 So whenever we stood up this working group,
7 it's made up of federal, state and tribal
8 individuals, because those are all
9 government-to-government conversations.

10 So we have great latitude in putting
11 together that kind of a group. Whenever we
12 go beyond that government-to-government
13 discussion, that's when the Federal Advisory
14 Committee Act goes into effect. What that
15 act says is: Federal government, you can't
16 cherry-pick who comes and gives you advice.

17 So I can't, as a federal agent, say,
18 well, we need advice on TB and brucellosis,
19 so I'm going to pick up the phone and call
20 NCBA. And NCBA is going to tell -- National
21 Cattlemen's Beef Association -- and NCBA is
22 going to tell me what they think needs to be
23 in our new rule, and I'm not going to talk
24 to anybody else, and then I'm going to write
25 the rule. I can't do that.

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2 Now, I can try to be as fair as I
3 can and say, I want someone to come in and
4 talk to me from all the different cattle
5 associations and all the different food
6 consumer groups, but inevitably, I'm going to
7 forget someone.

8 So the Federal Advisory Committee Act
9 protects the public from the federal
10 government making that mistake and only
11 picking certain people to talk to.

12 So in order to have what's a
13 recognized federal advisory group, you have
14 to put an announcement in the federal
15 register saying: The USDA wants to have
16 advice on this particular issue and we need
17 the public to nominate people to that group.

18 So where we've done that recently is
19 we have created one of the two groups that
20 Dr. Thomas talked about, the Secretary's
21 Advisory Committee on Animal Health. So we
22 recently formed that group this past fall.

23 We asked for nominations to that
24 group. It includes state veterinarians; it
25 includes industry representatives; it includes

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2 consumer groups; it includes organic farmers;
3 it includes a variety of
4 things. And there's about 20 people on that
5 federal advisory committee. That is an
6 official Secretary's advisory committee.

7 So we can take this rule, or the
8 traceability rule, or anything we want for
9 that group, and say: Here, give us some
10 advice, and it's their responsibility to go
11 out and talk to all the people that they
12 represent and bring advice back to us.

13 It's a very lengthy, very cumbersome
14 process, but it assures that we are getting
15 that broad input.

16 So when this group talked about an
17 advisory committee, they were thinking about
18 -- and correct me if I'm wrong -- the old
19 model of the Pseudorabies Control Board.

20 It's a disease of swine that we eradicated a
21 number of years ago. But we used to have a
22 Pseudorabies Control Board that included -- I
23 don't know how many people were on it. Do
24 you guys remember? I wasn't involved in it.

25 But it was a small group of state

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2 veterinarians, some industry folks, and they
3 would provide advice on the eradication
4 program.

5 Well, if I were hard-pressed to tell
6 you whether or not that complied with FACA,
7 I'd have to say it didn't. And we probably
8 -- it was never included in the regulation.
9 It was just this sort of informal thing that
10 we did. It was before my time.

11 But it was very positive; it was
12 very helpful, but probably was not done
13 according to Hoyle, so to speak.

14 So when the working group that these
15 two gentlemen were on was looking at how do
16 we bring in some advice to help us make
17 those assessments of whether or not a state
18 is consistent or not consistent with this new
19 rule, if that's part of it, they thought,
20 well, an advisory group would be a good
21 thing.

22 So the way we proposed it in the
23 framework right now -- to try and finally
24 answer your question as to who would be on
25 it -- the way that the working group

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2 proposed it, would be to have that advisory
3 group be made up of federal, state and
4 tribal folks, so that it does not violate
5 the FACA rule.

6 But we recognize that it would be
7 nice to have industry input. So how do we
8 get that to happen? So that's kind of what
9 this list of questions that Clayton was
10 getting to. How can we do that without
11 running afoul of the FACA? Is there a way
12 that industry folks could provide advice and
13 input to the folks that are state
14 representatives, say, on the committee, or
15 the advisory group? So we're open to
16 ideas.

17 DR. MICHALKE: You pretty much hit
18 it on the head, as far as what -- you know,
19 my part or participation in the working
20 group. I mean, we realize that -- and being
21 from a state perspective, we realize that
22 industry is an important component and we
23 rely on, you know, your advice.

24 We work with the industry. So, you
25 know, we want to have them in that, you

1
2 know, capacity as fully as possible, you
3 know, realizing that we have some obstacles
4 there, so -- you know, and we knew that from
5 the onset.

6 But, you know, I think we would be
7 remiss if we didn't bring it up and speak to
8 it and look for any comments or suggestions
9 from the industry as possible fixes for that
10 or what would work within the industry,
11 because I think it would be -- I think no
12 one has any doubt -- and Dr. Myers said the
13 same thing, that, you know, that input would
14 be valuable.

15 So how do we go about doing that
16 to, I guess, maximize the bang for our buck,
17 what we can get out of it.

18 MS. HUFFSTUTLER: But you are
19 interested in working with those groups and
20 having some representation within, I guess,
21 the legality of your --

22 DR. MYERS: Right. Yeah.

23 MS. BRADLEY: Would chairmen of the
24 health committees, like on Texas Southwestern,
25 the chairman of that, would that work?

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DR. MICHALKE: Well, it still goes back to what Dr. Myers described about private industry in a setting with state, federal and tribal.

DR. MYERS: Because the way the board might be used is, let's say, for example, it's a board of five people. And let's say one of them is the state vet of Texas, one of them is the state vet of New York, one of them is the state vet of California, and then one is a representative of the Navajo Nation, and one of them is -- I don't know -- whoever.

DR. ROBISON: Michigan.

DR. MYERS: Yeah, the state vet of Michigan. Say that's your board. And what the framework talks about is we would want that board to help us evaluate, say, the state of Indiana, to see if they're doing everything they need to do to deal with an outbreak that they might be having, or to help us evaluate their state plan.

So if that group doesn't have any industry representation, can those folks that

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2 are on the board, since they're not federal
3 employees, can they just pick up the phone
4 and call and get some input from, say, an
5 industry group that has an animal health
6 committee? That's kind of what we're
7 thinking.

8 How would industry like to feed into
9 and apprise that group, since we can't
10 necessarily hand-pick who we're going to make
11 a phone call to?

12 MS. HUFFSTUTLER: Sure. It would be
13 more of a case of our representatives
14 visiting with Dr. Ellis, or whoever the
15 person was, and making sure that our concerns
16 are --

17 DR. MYERS: Right.

18 DR. ROBISON: Let me breeze through
19 the sub-units of this question here too.
20 Well, first, should we have an advisory
21 board? And the next one, should there be
22 two advisory boards, one for brucellosis and
23 one for TB?

24 Another one is what should be the
25 composition of the advisory board? How

1
2 should the members be chosen? Should they
3 have a defined length of service on the
4 board? And what roles would you like to see
5 for the advisory board? So all these little
6 sub-units could be discussed.

7 DR. HALL: Well, you almost have to
8 have some board or some method of -- in the
9 cases where -- you gave the -- you said
10 Indiana, so we'll continue using Indiana. If
11 they're having a problem, we need to make
12 sure they are handling it properly, so you
13 have to have some entity set up to handle
14 that.

15 So you'd have to pick one to work
16 in all those situations or you have to pick
17 a new one for each situation. So it looks
18 like it would be better to have something in
19 place, I would think, ready to go.

20 You don't anticipate a lot of that.
21 I mean, for the most part, states are going
22 to do their plans and I don't -- will the
23 AVICs look at that plan and say, this is
24 okay, and then pass it up to region, kind of
25 like they do proper agreements now? Or will

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2 each state go through a really comprehensive
3 evaluation of their plan?

4 DR. MYERS: You guys can probably
5 speak better to what the committee thought,
6 as far as what that review process might
7 look like.

8 DR. ROBISON: Well, as far as
9 reviewing state programs, I guess it would be
10 similar to what's in place already with the
11 staff, you know, the application or annual
12 renewal being sent to staff for review, and
13 they say, yes, it's okay, or, yeah, it's
14 okay, but you need to do this.

15 And if it got contentious, possibly
16 it could be sent to the advisory board, but
17 that's conjecture on my part too.

18 MR. MICHALKE: Well, it's open for
19 discussion.

20 DR. HALL: It makes sense. I would
21 think that would be the way that it would be
22 handled.

23 DR. BAKER: Would the advisory board
24 be something that would automatically be
25 engaged for a given state with a given

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2 problem, or a given region with a given
3 problem, or would it be on demand, on
4 request?

5 You know, we're talking about a
6 system where we want to get away from TB
7 being found and having an effect on an
8 entire state. We want to make it a zone
9 response or a regional response. And, yet,
10 we're getting right back to talking about
11 states.

12 And would the advisory board -- two
13 questions. Would the advisory board be
14 something that would automatically kick into
15 play and would they work with the officials
16 who have oversight for whatever that zone or
17 region encompasses, whether it be one state
18 or three or four?

19 And then the other question is is
20 that a board that would try to help that --
21 those states, that state's response be
22 considered consistent, so that it would, by
23 everyone's agreement in the framework of
24 these new rules, that state's approach would
25 be appropriate and adequate for the situation

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that exists in that identified area?

And I'm getting the sense that it would probably be an advisory board that would be more of an on-demand. And I'm kind of wondering if it might not be better to have an advisory board that would work with that state or states involved in the TB issue from the beginning.

DR. MICHALKE: And I think that's the comments we're looking for here, not so much to answer your question, but to take your thoughts back and record them overall, what your thought process is and how that board may function, whether it be two boards, one for brucellosis, one for TB, and the exact capacity that they would --

DR. MYERS: I'll just turn your questions around back on you. How would you answer those questions? What would you like to see?

DR. BAKER: I would like to see an advisory board, as has been suggested, as long as it doesn't violate federal standards for such a body. And I do think it ought

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2 to be something that is triggered by the
3 creation of a TB response zone or area,
4 whatever you prefer to ultimately call these
5 areas where TB's identified.

6 And I don't -- I do think it ought
7 to be -- the purpose of the board should be
8 to assist that state or those states involved
9 in the response to formulate a plan to be
10 consistent with USDA's expectations and try
11 to avoid that provisional consistency or
12 inconsistent categorization and the potential
13 consequences, whatever they may be.

14 So that would be my opinion is that
15 it should be created and should be
16 automatically triggered with those states in
17 formulating their plan.

18 DR. MICHALKE: I guess to that
19 thought and to try to move on -- we're all
20 on one. And moving on, are there any
21 thoughts from the group, as far as possibly
22 -- Clayton asked the composition of the
23 group. Are there any comments on that?

24 Because that's one of the, probably,
25 issues that is probably going to cause the

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2 most heartburn, I think, or be the most
3 complicated to look at. Does anybody have
4 any comments, suggestions?

5 MS. HUFFSTUTLER: I think, obviously,
6 we're all going to want our interests
7 represented. You know, but, I mean, that's
8 --

9 DR. MICHALKE: Of course, that's why
10 you're here.

11 MS. HUFFSTUTLER: Exactly. But, I
12 mean, beyond that, you know, I don't know
13 that there's a specific, just as long as all
14 of the stakeholders are adequately
15 represented. I think that that's our major
16 concern.

17 DR. MYERS: And how would you define
18 represented?

19 MS. HUFFSTUTLER: You know, I guess
20 not knowing -- coming in here, not having a
21 real good clarification of who was going to
22 be on the advisory board, you know,
23 obviously, we want someone representing Texas
24 beef industry. But, you know, I realize
25 that that's not really -- that's obviously --

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2 that's our wish, just as everyone is going
3 to have, you know, different --

4 DR. MYERS: Would you feel that
5 outreach by state folks on the advisory board
6 to industry representatives, would that make
7 you feel like you're part of that process
8 and have input, or not?

9 MS. HUFFSTUTLER: I think so. I
10 think if we're able to have communication
11 with whatever person or people who are --
12 you know, like I said, if the state
13 veterinarian of Texas is going to be on that
14 board, if we're in communication with him on
15 that, I think we feel confident, you know,
16 that we're going to be represented, or that,
17 at least, our voice is heard.

18 And I think that's our main concern,
19 is to get our voice heard on what our
20 concerns are of our, you know, 15,000-plus
21 members.

22 DR. HALL: What if the state
23 veterinarian of Texas is not on that board?
24 Because not every state veterinarian is going
25 to be able to be.

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MS. HUFFSTUTLER: Sure. I'm using that as an example. Clearly, that would be our preference, but, obviously, I understand that's not necessarily -- I guess whoever -- who is our point person, then, if that is -- we would want to know who are we supposed to communicate with. And maybe it's the state veterinarian of New Mexico or Oklahoma or someone totally different.

But, you know, we would, obviously, want to know who that person is so that we could develop that relationship and voice our concerns.

DR. HALL: Maybe we need to make sure that different states that are more focused on different types of industry or different regions -- I don't know how you do that, but just try to make sure that, on a small board like you're talking about here, that we do -- at least do the best job we can to equally represent the entire United States.

MS. HUFFSTUTLER: Sure.

DR. MICHALKE: And that goes to the

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point that Clayton asked earlier too. You know, is one board better, advisory board, or two? One for brucellosis; one for TB. What's the thoughts of the group on that?

I mean, I can see definite pros and cons, I mean, to both. They're two different diseases.

DR. HALL: You're focusing on different parts of the country on the two diseases, really.

DR. MICHALKE: Exactly.

MS. BRADLEY: I read the other day where over a third of all milker cows/beef cows in the United States are in Oklahoma, Texas, New Mexico, Colorado and Kansas. So when you're talking about over 30 percent right in this one area, they sure need representation.

DR. MICHALKE: That's certainly something that, you know, we can put down. And that's the type of comments that you would look at. Certainly, I don't think those things would be overlooked by those folks putting those groups together.

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DR. MYERS: So you certainly wouldn't want a board that's made up of all people from New England and nobody else in the country. You'd want that regional representation to make sure that --

MS. BRADLEY: Of course, I guess that would take in most of the feedyards too.

DR. MYERS: You know, when I rattled off just a hypothetical group, you know, my tendency, just because of the agency I work for and the diseases that we deal with, we tend to think of state representatives as state veterinarians.

But, I mean, Joe, you represent the New Mexico Livestock Board, and lots of states have livestock boards or other kinds of entities.

Are there other state entities that we could legitimately have on a board that would bring more of that industry sensibility than, say, a state veterinarian would?

MS. HUFFSTUTLER: In my opinion, if we're going to have a government

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2 representative, I'm probably most confident
3 with someone from Texas Animal Health
4 Commission, whether that's -- no matter who
5 that is.

6 But, I mean, I feel like they know
7 what's going on more, I mean, within the
8 proposed type of group that you've discussed,
9 with it being, you know, state government
10 type. I mean, we have other organizations,
11 of course, you know, Texas Department of
12 Agriculture, et cetera. But I think that
13 everyone's needs would probably be best
14 addressed by having that representative -- at
15 least that would be the case in Texas, I
16 feel like.

17 DR. HALL: I agree. If I'm state
18 veterinarian in Oklahoma, if I'm not
19 listening to Oklahoma Cattlemen's Association
20 and, in Texas, Southwest Cattle Feeders and
21 LMA, I'm not going to have the job very
22 long.

23 DR. BAKER: Would this be -- this
24 may be way beyond the capacity of the plan,
25 but would it be possible to consider advisory

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2 boards made up for each outbreak or issue?

3 Now, keeping in mind -- I mean, we
4 tend to talk about TB and brucellosis so
5 much that sometimes you'd think that the
6 entire cattle population of the United States
7 is infected with one or the other, when, in
8 fact, we're dealing with two diseases with
9 very low national prevalence. Local
10 prevalence? Different story. But national
11 prevalence for both TB and brucellosis are
12 extremely low.

13 And so you look historically -- for
14 example, in the five-year period I've worked
15 for the New Mexico Livestock Board, you look
16 at the number of TB affected herds in the
17 United States. Well, it's a significant
18 number. But look at the total number of
19 beef and dairy herds in the United States
20 and what percentage of those herds is
21 affected. It's a very small portion of our
22 national cattle herd.

23 And so it's not like we're going to
24 have things every day, every month, every
25 year in multiple states and so forth. I'm

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2 wondering if you couldn't have a system
3 where, okay, let's say we have TB identified
4 in a dairy in southeastern New Mexico, and
5 we're going to set up an established area --
6 and maybe it includes a little of West Texas
7 where there's some dairies also that it might
8 be wise to include in our control zone.

9 Why could we not have -- or could
10 we have an advisory board set up for that
11 response made up of people in the Texas and
12 New Mexico industries and the Texas and New
13 Mexico regulatory framework and so forth, so
14 it was responsive to that outbreak?

15 Because, ultimately, we could have a
16 situation where, okay, maybe Dee Ellis is the
17 state veterinarian on the committee and, all
18 of a sudden, we've got a problem in Indiana.
19 Well, the Indiana folks, you know, they might
20 like Dee's accent, but maybe not like his
21 opinions, or they may think, well, you're
22 from Texas; you don't know what Indiana's
23 needs are and what our producers want. And
24 that might be a valid argument, to a degree.

25 DR. MYERS: So rather than having a

1
2 standing board that, you know, we turn to on
3 a regular basis for any issue, have multiple
4 boards each time an outbreak occurs?

5 DR. BAKER: Or you could have
6 standing boards, but in a much more localized
7 region. For example, you could have each
8 state -- I don't know how this would work
9 for all the states, particularly I'm not
10 familiar with the eastern region states, but
11 you could have designated players that would
12 be potential board members, so that if you
13 had an issue, we already know, okay, if
14 Texas is involved in this, these are the
15 people that a board would be selected from.

16 It might not be every person that's
17 board-eligible in Texas. But out of that
18 pool of people that we've already said, you
19 know, these are the names and the
20 organizations that have been tapped. Now
21 we're going to pick a couple of them to sit
22 on this five-member board.

23 And the same thing in New Mexico.
24 So now we have a zone straddling those two
25 states. We're selecting from a pre-ordained

1
2 pool of potential board members, and we
3 create a board to help assist with that
4 problem.

5 You might keep the regional thing --
6 you know, the regional concerns and the state
7 concerns more satisfied and better addressed
8 and still have the representation that
9 everybody wants to have in this.

10 The other thing -- and I'm kind of
11 stream of consciousness here -- but is the
12 advisory board -- I mean, you look at it
13 from one standpoint and it could assist the
14 state or pair of states, or whatever, in
15 their response, but if you look at it
16 through other eyes, it could almost become a
17 lobbying board, you know: Don't do that,
18 because my constituents say -- you know, and
19 pretty soon I could see an advisory board
20 not giving much advice, but just trying to
21 protect turf.

22 DR. MICHALKE: And I guess that
23 brings up my question to you -- and y'all
24 can comment on it. You bring up two
25 interesting things, one, the concept of a

1
2 possibility of having a standing advisory
3 board, pick from an array out there.

4 I thought you might go with the
5 concept of having that board and having --
6 it just came into my mind -- and having X
7 number maybe fill in for that region affected
8 as part of it. You know, we've got
9 five, and we're going to turn three more or
10 two more, because of this area. I thought
11 you were going there.

12 The other thing, the comment that
13 you bring up that I'd like for you to
14 ruminate on -- and, yeah, things are big in
15 Texas and I'm a Texan and have always been
16 one, so Dr. Myers -- but, you know, we have
17 to look at it on the same scale, I think,
18 in all fairness, that as we are protecting
19 our interests, too, that those other folks
20 there have different issues, too, on this
21 board.

22 So what are the feelings there?

23 DR. MYERS: Well, I think what
24 you're getting at is, if I'm understanding
25 you correctly, some of the concepts that the

1
2 working group talked about is part of the
3 role of that board, as the working group
4 conceived it, was to have an independent,
5 unbiased group that could help us take a
6 look at either those annual plans or
7 particular on-the-ground situations.

8 So if you're dealing with a case of
9 TB and the advisory board is, say, seven
10 people, all of whom are outside of Texas
11 except for one, that one person could recuse
12 himself from reviewing the Texas plan and the
13 Texas response, but you'd have the other six
14 folks helping the USDA do that review.

15 So I think what you were getting at,
16 as far as a very local group, may be
17 something that might be better set up at the
18 state level to help deal with that particular
19 outbreak or occurrence. But -- and it gets
20 away from what you were talking about, as
21 far as becoming a lobbying -- or one of you
22 said sort of that, that lobbying flavor.

23 Because if you're dealing with
24 something in, say, the state of New Mexico,
25 and the folks on the board are from Rhode

1
2 Island, Washington and Florida and Missouri,
3 then you have that unjaundiced eye looking
4 at, okay, how is New Mexico doing? Are
5 there additional resources that we need to
6 encourage USDA to help New Mexico with or,
7 you know, providing that sort of outside
8 look.

9 So, anyway, that was just kind of a
10 couple of things that came to mind when you
11 were both talking.

12 DR. BAKER: I think, historically,
13 we -- I look at New Mexico and I'm somewhat
14 familiar with neighboring states, because
15 they're close. And you look at the way we
16 function as a state veterinarian's office in
17 New Mexico. I mean, ultimately, in my mind,
18 state veterinarian's offices all over the
19 country have to make animal health decisions
20 that are in the best interest of industry.

21 Well, industry is a broad swath.
22 And we might have requirements that the beef
23 people have no concerns with, but the dairy
24 people are ranting about. Vice versa.

25 But in New Mexico, I know one of

1
2 the things that I feel hurts us is, if you
3 look at producer buy-in for whatever the
4 disease issue, whatever is on the table at
5 that moment. And I'll use trichomoniasis as
6 an example.

7 I've talked to people from other
8 states where producer buy-in there on trich
9 rules is very high, so the amount of
10 resistance, the amount of blowback, the
11 amount of arguing and infighting that goes on
12 regarding the trich rules is very minimal.

13 In New Mexico, we have,
14 unfortunately, a substantial portion of our
15 producers who want to fight against our trich
16 rules.

17 And so you look at our compliance
18 level in our state versus maybe another state
19 who's got better producer buy-in, and it
20 might make us look like we're not getting
21 the job done. Well, we're fighting a lot of
22 forces. We have good telephone service in
23 New Mexico, and producers who don't like
24 something have caught on that they can find
25 their representative's and their legislator's

1
2 phone numbers and governor's phone number,
3 and they're on it.

4 And so you end up having to deal
5 with more than just animal health issues and
6 making decisions based on what's best,
7 because of the issue itself. It's the
8 politics. And that's why I made my comment
9 about this turning into just a big lobbying
10 board where every interest wants to say,
11 well, I want to protect my concern and I
12 want to -- and pretty soon you find yourself
13 not being advised, but being stymied by all
14 of the input.

15 And so, I guess, my fundamental
16 question is is the advisory board, is it
17 advisory? Is it going to help advise states
18 on how to construct a response to most
19 efficiently and effectively deal with their
20 TB or brucellosis issue, or is it going to
21 become more of an -- I don't know what --
22 an arbitration board, you know, make sure
23 everybody gets their voice.

24 And what I was beginning to say,
25 that I'll end up saying, is that, in my

1
2 mind, the state veterinarian, as Rod said,
3 they have to make decisions in the best
4 interest of their industry, and they best be
5 listening to industry. And we desperately
6 try to do that.

7 But what's interesting to me is we
8 can't reach industry like we think we ought.
9 We're reaching a component of it. We reach
10 the ones that want to listen.

11 And it's the ones that don't want to
12 listen that end up being our biggest
13 impediment in making progress and controlling
14 disease and so forth.

15 And that's an editorial that has
16 very little to do with advisory boards or
17 anything else. But I think that, you know,
18 ultimately, a state's going to have to
19 decide, in my mind, how to approach their TB
20 issues, based much more so on the science of
21 tuberculosis than all of the input from
22 producer groups and individual producers and
23 so forth.

24 And I'm not saying that to belittle
25 the value of the input from those groups,

1
2 but I'm saying that ultimately we can't let
3 our decision-making process be so guided by
4 politics that we lose the ability to make
5 sound decisions based on science.

6 And I think sometimes we're kind of
7 wavering away from good, sound decision-making
8 in our disease control efforts.

9 DR. MYERS: I think, at least from
10 my perspective, the value of having some
11 avenue for industry to provide input to those
12 members on the board becomes enlightening to
13 us on what those industry practices are that
14 impact disease control and movement, because
15 I don't purport to know how cattle move in
16 this country as well as industry folks do.

17 So, you know, I think having some
18 avenue of getting input in to the members
19 that sit on that board to really help us,
20 you know, understand how industry practices
21 impact responses to these.

22 DR. MYERS: We have, like, three
23 minutes, and we've only talked about the
24 advisory board. We were also supposed to
25 cover zoning and surveillance.

1
2 DR. HALL: I'd just like to say one
3 more thing about the advisory board. And
4 maybe I'm misunderstanding, but, you know,
5 I'm not sure -- to me, maybe another word
6 could be review board.

7 The way I understand it, also, if we
8 have an outbreak of TB in Oklahoma, there
9 should be -- that board, I'd like for it to
10 assist us and tell us, you know, where we're
11 going wrong, if we need to do something
12 differently to get it under control.

13 But I think part of that board
14 should also be there to ensure that we are
15 doing it properly so that they can assure
16 the other 49 states in the United States
17 that it is safe to accept cattle from
18 Oklahoma, you know, they have this under
19 control.

20 And for that reason, I think
21 that board -- there needs to be some
22 consistency on that board. So, I guess,
23 from that standpoint, Joe, I disagree a
24 little bit on picking a group for each
25 instance.

1
2 If we can't be consistent, then
3 you're opening yourself up to a lot more
4 problems.

5 DR. BAKER: Rod, your comment leads
6 me to a question I had on zoning. And I
7 wanted to throw this out.

8 T.J. knows, from an earlier
9 conversation today, that this is an issue
10 that gives me a lot of heartburn. There was
11 a cow determined to have TB in Ohio that was
12 traced back to a dairy in Kansas that had
13 literally been a brokerage for replacements,
14 30,000 head in less than 24 months, by the
15 veterinarian's own admission.

16 That cow was traced on back to a
17 New Mexico source dairy that had sent her,
18 among several other hundred, to the Kansas
19 facility. Okay. What Rod said is -- it
20 raises this question. We want people to
21 know it's safe to accept our cattle from
22 Oklahoma.

23 Well, the problem, particularly with
24 dairy cattle, is the way they move. That
25 Ohio cow may have picked up TB in Ohio. It

1
2 may have picked it up in Kansas. It
3 conceivably may have picked it up in New
4 Mexico. Where do you draw a zone around
5 that outbreak? Where is your zone?

6 And the allied question to that is
7 -- and I talked to T.J. about this -- one
8 of the things -- and this is the wrong group
9 to bring it up in, but one of the sessions
10 is going to have to do with epidemiology and
11 proper investigation.

12 Well, when you have a movement of
13 animals like that over a two and a half year
14 period and you've got people on each end
15 looking for TB and one entity in the middle
16 not, that creates a problem.

17 I think that, in beef cattle's case,
18 beef cattle tend to move through more
19 predictable pathways, as a rule. There's not
20 this spurious spinning off of, well, those
21 cows were supposed to go to slaughter, but
22 six of them ended up in this guy's herd.
23 That kind of thing goes on more in the dairy
24 industry, and the cross-country movement goes
25 on a lot more.

1
2 And so trying to draw a zone around
3 a dairy TB issue, to me, would be a huge
4 challenge, because of that movement. As I
5 said to T.J., all you've got to do is go to
6 any herd in the western United States and
7 start reading silver tags. And those first
8 two numbers tell you everything you need to
9 know. There's cows from bloody everywhere.

10 Another example, we were getting
11 shipments of cattle into New Mexico that were
12 ostensibly from Texas and Missouri, being
13 sent by the Connolly boys, a father/son.
14 One of them runs a deal out of Kentucky and
15 the other one out of Texas, but they gather
16 cattle, and they were ostensibly Texas and
17 Missouri cattle, or Texas and Kentucky
18 cattle.

19 But when you really got to looking
20 at them, they were from a myriad of states,
21 and they were all pooled together and coming
22 from Texas.

23 Well, those cows were no more coming
24 from Texas than I'm from Florida, and I'm
25 not; I'm from New Mexico. So, I mean,

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2 that's my problem with creating a zone around
3 a dairy outbreak is the movement of the
4 cattle.

5 MS. HUFFSTUTLER: A similar, kind of
6 based off that, concern that we had when we
7 looked over this was feral hogs being so
8 invasive, how that fits in, you know, with
9 the spread of brucellosis from -- amongst
10 feral hogs that are, you know, just going
11 everywhere and move so far. We were
12 concerned with how something like that fits
13 into the zone concept.

14 DR. MYERS: You guys were in all
15 these conversations much more so than I, so
16 I'll let you fill in the gaps here. But I
17 don't think the concept from the working
18 group was that a zone would always be
19 applied in every case. Zones would be
20 applied when it's appropriate to apply a
21 zone.

22 So, for example, in Michigan where
23 you have disease in wildlife, yes, a zone is
24 an appropriate measure to take. Where you
25 have, you know, a case in one herd that's

1
2 related epidemiologically to another herd all
3 the way across the country, your zone, if
4 you want to use that term, would be just a
5 quarantine of a facility.

6 So you apply zones as appropriate
7 based on the epidemiology. Do you want to
8 add to that, guys?

9 MS. HUFFSTUTLER: So, essentially,
10 that's not a hard and fast --

11 DR. MYERS: Right.

12 DR. ROBISON: And with brucellosis
13 in swine, it's a variant, brucella suis.
14 And, say, a cow does contract brucella suis.
15 And all we know, they're considered a
16 dead-end host. They'll still have the titer,
17 just the same as brucella abortus, and get
18 everybody all excited, of course. And, you
19 know, they can even shed it in the milk, but
20 we consider them to be a dead-end host.

21 It's not as much a problem. It's
22 just more -- it's tripping the test results,
23 and which -- you know, I don't know if I
24 should go there. When we were testing in
25 the market, if we found those kind at the

1
2 market, we could work them up and do
3 cultures.

4 If we find them in slaughter, it's a
5 different situation too. I'm getting off on
6 a tangent there. I better not go there.

7 DR. MYERS: We need to break for
8 lunch. Were there any other comments on
9 these three areas, the state requirements,
10 zoning, surveillance? Anything else burning
11 that you want to get out verbally?

12 DR. BAKER: Is the main thrust of
13 surveillance going to be slaughter
14 surveillance for both diseases?

15 DR. MYERS: Yeah, for the national
16 surveillance. But then there's also
17 surveillance for an adverse population,
18 targeted surveillance.

19 DR. BAKER: And that's going to be
20 up to the state to come up with?

21 DR. MYERS: Well, correct me if I'm
22 wrong, guys, but that would be part of the
23 state's plan. The state would identify:
24 This is a high-risk population in this state
25 for these reasons; we're going to have this

1
2 additional surveillance above and beyond the
3 national response.

4 DR. HALL: In areas where you have
5 a high-risk population in a state, is there
6 any possibility of USDA assisting with that
7 surveillance testing, or is the state going
8 to have to come up with all that?

9 DR. MICHALKE: I don't think that's
10 all been worked out completely.

11 DR. MYERS: No, but the way it
12 works now, whenever there is an outbreak,
13 we're right there to work on the epidemiology
14 and collect samples. So that's not going to
15 change, as long as, you know, we still have
16 funding.

17 So we're having lunch from 11:45 to
18 1:00 in the dining room over here. So when
19 you come back at 1:00, go to a different
20 group rather than this group. Go to one of
21 the other two and we'll do another 45
22 minutes in each of the other groups.

23 And then, at 3:00, we'll come back
24 and we'll pull these walls down again, come
25 back to the main large room we were in this

SESSION 2

1
2 morning. And then that will be just an
3 open, general discussion on any and all
4 topics and any closing comments that anyone
5 wants to make sure we get in the record.
6 Thank you, everyone. Good discussion.

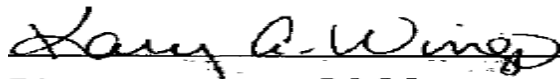
7 **(Whereupon recessed at 11:52 A.M.)**
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STATE OF TEXAS

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KARY A. WINGO, CSR, RPR

DATED: JUNE 20, 2011

A		
ability 6:15 40:4	Agriculture 3:11	assure 41:15
able 5:13 25:10,25	29:12	assures 13:14
abortus 46:17	airborne 8:6,10	automatically 8:19
accent 31:20	allied 43:6	20:24 21:14 23:16
accept 41:17 42:21	allows 5:3	avenue 40:11,18
accepting 7:2	Amarillo 1:7	AVICs 19:23
accredited 4:20,20	amount 37:9,10,11	avoid 23:11
act 11:14,15 12:8	Angus 3:2	a.m 1:7 49:7
action 6:15	animal 2:13 3:12	B
actions 6:20	12:21 18:5 29:3	back 13:12 17:3
activities 3:24	36:19 38:5	21:10 22:13,19
add 46:8	animals 6:10 7:2	42:12,16 48:19,23
additional 6:22 36:5	8:12,13 43:13	48:25
48:2	announcement 12:14	Baker 3:4,4 20:23
addressed 29:14 33:7	annual 20:11 35:6	22:22 29:23 32:5
adequate 21:25	answer 14:24 22:12	36:12 42:5 47:12
adequately 24:14	22:20	47:19
admission 42:15	anticipate 19:20	bang 16:16
advanced 4:20	anybody 11:24 24:3	based 4:16,16,21,25
adverse 47:17	anyway 36:9	8:23 38:6 39:20
advice 11:3,16,18	APHIS 2:21	40:5 45:6 46:7
12:16 13:10,12	application 20:11	basis 32:3
14:3,16 15:12,23	applied 45:19,20	becoming 35:21
33:20	apply 45:20 46:6	beef 9:7 11:21 24:24
advise 38:17	apprise 18:9	30:19 36:22 43:17
advised 38:13	approach 21:24 39:19	43:18
advisory 3:22 4:4	appropriate 21:25	beginning 22:9 38:24
5:6 7:5 10:12,24	45:20,24 46:6	believe 5:22
11:13 12:8,13,21	arbitration 38:22	belittle 39:24
13:5,6,17 14:20	area 5:14 22:2 23:3	best 26:21 29:13
15:2,15 18:20,22	27:18 31:5 34:10	36:20 38:6 39:3,4
18:25 19:5 20:16	areas 23:5 47:9 48:4	better 19:18 20:5
20:23 21:12,13	arguing 37:11	22:6 27:3 33:7
22:4,7,23 24:22	argument 31:24	35:17 37:19 47:6
25:5 27:3 29:25	array 34:3	beyond 10:15 11:12
31:10 33:12,19	asked 2:16 12:23	24:12 29:24 48:2
34:2 35:9 38:16,17	23:22 27:2	big 7:14 10:21 34:14
39:16 40:24 41:3	assessments 14:17	38:9
afoul 15:11	assist 23:8 33:3,13	biggest 39:12
agency 28:12	41:10	bit 2:15 41:24
agent 11:17	assistance 3:23	bloody 44:9
ago 5:19 13:21	assisting 48:6	blowback 37:10
agree 4:2 29:17	Association 11:21	board 3:6 4:4 5:6
agreement 21:23	29:19	7:5 10:12,16 13:19
agreements 19:25	associations 12:5	13:22 17:7,8,17,19
	assurance 6:8	

18:2,21,25 19:4,5 19:8 20:16,23 21:12,13,20 22:4,7 22:15,23 23:7 24:22 25:5,14,23 26:20 27:3,3 28:3 28:17,21 30:15 31:10 32:2,12,15 32:22 33:2,3,12,17 33:19 34:3,5,21 35:3,9,25 38:10,16 38:22 40:12,19,24 41:3,6,9,13,22 boards 18:22 22:15 28:18 30:2 32:4,6 39:16 board-eligible 32:17 body 22:25 border 7:19 8:20 box 10:25 boys 44:13 Bradley 2:25,25 7:10 7:12 8:25 9:8,19 9:23 10:10 16:23 27:13 28:7 break 47:7 breakout 1:4 3:15 breeder 3:3 9:9 breeze 18:18 bring 11:3 13:12 14:16 16:7 28:22 33:24 34:13 43:9 brings 33:23 broad 13:15 36:21 brokerage 42:13 brucella 46:13,14,17 brucellosis 1:2 4:15 11:18 18:22 22:16 27:4 30:4,11 38:20 45:9 46:12 buck 16:16 builds 10:25 burning 47:10 buy 9:25 buy-in 37:3,8,19	C	Colorado 27:16 come 3:19 12:3 47:20 48:8,19,23,24 comes 11:16 comfortable 6:24 7:2 coming 6:10 24:20 44:21,23 commencing 1:7 comment 33:24 34:12 38:8 42:5 comments 16:8 22:11 23:23 24:4 27:22 47:8 49:4 Commission 2:14 29:4 committee 10:19,25 11:14 12:8,21 13:5 13:6,17 15:14 18:6 20:5 31:17 committees 16:24 communicate 26:8 communication 25:10 25:14 completely 48:10 compliance 37:17 complicated 24:3 complied 14:6 complying 5:2 component 15:22 39:9 composition 18:25 23:22 comprehensive 20:2 conceivably 43:3 conceived 35:4 concept 33:25 34:5 45:13,17 concepts 34:25 concern 6:5,13 8:7 9:17 24:16 25:18 38:11 45:6 concerned 45:12 concerns 18:15 25:20 26:14 33:6,7 36:23 confident 25:15 29:2 confined 9:3 conjecture 20:17 Connolly 44:13
---	----------	--

cons 27:7	critical 6:18	30:10 34:20 47:5
consciousness 33:11	cross-country 43:24	48:19
consequences 23:13	CSR 50:6, 24	differently 41:12
consider 29:25 46:20	cultures 47:3	dining 48:18
considered 21:22	cumbersome 13:13	direction 50:14
46:15		disagree 41:23
consistency 23:11	D	discovered 5:21
41:22	dairies 31:7	discuss 3:22
consistent 14:18, 18	dairy 9:4 30:19 31:4	discussed 19:6 29:8
21:22 23:10 42:2	36:23 42:12, 17, 24	discussion 11:13
constituents 33:18	43:23 44:3 45:3	20:19 49:3, 6
construct 38:18	Dakota 9:25	disease 4:17, 23 5:4
consumer 12:6 13:2	DATED 50:25	6:22 7:13 8:6, 19
contact 8:11	day 27:13 30:24	8:21 13:20 37:4
contains 50:16	dead-end 46:16, 20	39:14 40:8, 14
contentious 20:15	deal 17:21 28:13	45:23
continue 19:10	35:18 38:4, 19	diseases 27:8, 11
contract 46:14	44:14	28:13 30:8 47:14
control 13:19, 22	dealing 30:8 35:8, 23	doing 7:8 16:15
31:8 40:8, 14 41:12	decide 39:19	17:20 36:4 41:15
41:19	decisions 36:19 38:6	doubt 16:12
controlling 39:13	39:3 40:5	Dr 2:5, 6, 8, 12, 16, 18
conversation 42:9	decision-making 40:3	2:20 3:4, 10, 14 4:7
conversations 11:5, 9	40:7	5:11 6:12, 17 7:11
45:15	Dee 6:12 31:16	7:24 9:6, 17, 20
correct 13:18 47:21	Dee's 31:20	10:7, 17, 23 12:20
50:16	define 24:17	15:17 16:12, 22
correctly 34:25 50:8	defined 19:3	17:2, 3, 6, 15, 16
50:10	defines 10:25	18:14, 17, 18 19:7
country 27:10 28:5	definite 27:6	20:4, 8, 20, 23 22:10
36:19 40:16 46:3	degree 31:24	22:18, 22 23:18
couple 32:21 36:10	deliver 10:4	24:9, 17 25:4, 22
course 24:9 28:7	demand 21:3	26:15, 25 27:9, 12
29:11 46:18	Department 3:11	27:20 28:2, 10
Court 1:8	29:11	29:17, 23 31:25
cover 40:25	depends 8:10	32:5 33:22 34:16
cow 42:11, 16, 25	described 17:3	34:23 36:12 40:9
46:14	designated 32:11	40:22 41:2 42:5
cows 27:15 43:21	desperately 39:5	45:14 46:11, 12
44:9, 23	details 5:6 10:22	47:7, 12, 15, 19, 21
cows/beef 27:14	determined 42:11	48:4, 9, 11
create 33:3	develop 26:13	draw 43:4 44:2
created 12:19 23:15	differences 9:18	
creates 43:16	different 9:11 12:4	E
creating 45:2	12:5 25:3 26:10, 16	E 4:2
creation 23:3	26:17, 18 27:8, 10	earlier 2:21 27:2

42:8	30:14 32:7 37:6	finally 14:23
East 1:7	44:10 45:22	find 37:24 38:12
eastern 32:10	excited 46:18	47:4
editorial 39:15	exists 22:2	first 3:20 4:12
effect 11:14 21:7	expectations 23:10	18:20 44:7
effectively 38:19	experts 10:15	fits 45:8,12
efficiently 38:19	extent 6:10	five 17:8 34:9
efforts 40:8	extremely 30:12	five-member 32:22
either 35:6	eye 36:3	five-year 30:14
element 4:12	eyes 33:16	fixes 16:9
Ellis 2:16 18:14		flavor 35:22
31:16	F	Florida 36:2 44:24
employees 18:3	FACA 14:6 15:5,11	focused 26:17
encompasses 21:17	facilitate 2:19	focusing 27:9
encourage 36:6	facility 42:19 46:5	folks 4:12 14:2 15:4
ended 43:22	fact 30:8	15:12,13 17:25
engaged 20:25	facts 50:9	25:5 27:25 31:19
England 28:4	fair 12:2	34:19 35:14,25
enlightening 40:12	fairness 34:18	40:16
ensure 41:14	fall 12:22	food 12:5
entire 21:8 26:22	familiar 32:10 36:14	foot-and-mouth 7:13
30:6	far 10:24 15:18 20:6	8:6
entities 28:19,20	20:8 23:21 35:16	forces 37:22
entity 19:13 43:15	35:21 45:11	foregoing 50:15
epidemiologic 8:16	farmers 13:2	forget 12:7
epidemiologically	fast 46:10	formed 12:22
46:2	father/son 44:13	formulate 23:9
epidemiology 43:10	fear 5:20	formulating 23:17
46:7 48:13	federal 10:14,24	forth 30:25 31:13
equally 26:22	11:2,7,13,15,17	39:14,23 50:9,12
eradicated 13:20	12:8,9,13,14 13:5	forward 6:4
eradication 14:3	15:3 17:5 18:2	found 21:7 46:25
essentially 46:9	22:24	four 5:19,22 21:18
established 31:5	feed 18:8	framework 1:2 14:23
et 5:7,7 29:12	Feeders 29:20	17:18 21:23 31:13
Europe 7:13	feedyards 28:8	free 4:21 5:23 9:15
evaluate 17:19,23	feel 6:15 25:4,7,15	11:4
evaluation 20:3	29:6,16 37:2	fully 16:2
evaluations 7:7	feelings 34:22	function 22:15 36:16
everybody 33:9 38:23	fence 7:21 8:13	fundamental 38:15
46:18	feral 45:7,10	funding 48:16
everyone's 21:23	field 3:5	
29:13	fight 37:15	G
exact 22:17	fighting 37:21	gaps 45:16
Exactly 24:11 27:12	fill 10:21 34:7	gather 44:15
example 17:8 26:3	45:16	general 4:8,11 5:8

10:16 49:3 gentlemen 14:15 getting 5:5 6:16 13:14 15:10 21:10 22:3 34:24 35:15 37:20 40:18 44:10 47:5 give 10:20 13:9 given 6:3 20:25,25 21:2,2 50:17 gives 11:16 42:10 giving 33:20 go 2:6 4:7 11:12 13:10 16:15 19:19 20:2 34:4 43:21 44:5 46:24 47:6 48:19,20 goes 9:12 11:14 17:2 26:25 37:11 43:23 43:24 going 2:18 5:16 7:15 8:8 9:25 11:19,20 11:22,23,24 12:6 18:10 19:21 23:25 24:6,21 25:2,13,16 25:24 28:25 29:7 29:21 30:23 31:5 32:21 34:9,11 38:17,20 39:18 41:11 43:10 45:10 47:13,19,25 48:7 48:14 good 6:4 14:20 24:21 37:22 40:7 49:6 government 11:2,15 12:10 28:25 29:9 government-to-gov... 11:5,9,12 governor's 38:2 great 11:10 group 2:5,11,15 3:14 3:22,22 7:7 11:6 11:11 12:13,17,22 12:24 13:9,16,25 14:14,20,25 15:3 15:15,20 17:24	18:5,9 23:21,23 27:5 28:11 29:8 35:2,3,5,16 41:24 43:8 45:18 48:20 48:20 groups 2:24 12:6,19 13:2 16:19 27:25 39:22,25 48:22 guess 5:5,7 16:16,20 20:9 23:18 24:19 26:5 28:7 33:22 38:15 41:22 guided 40:3 guys 9:2 10:18,21 13:24 20:4 45:14 46:8 47:22 guy's 43:22	45:25 46:2 herds 9:4,7 30:16,19 30:20 high 37:9 high-risk 47:24 48:5 historically 30:13 36:12 hit 15:17 hogs 45:7,10 Holiday 1:7 home 10:3 host 46:16,20 Hoyle 14:13 Huffstutler 3:7,7 10:11 16:18 18:12 24:5,11,19 25:9 26:2,24 28:24 45:5 46:9 huge 44:3 hundred 42:18 hurts 37:2 hypothetical 28:11
	<hr/> H <hr/>	<hr/> I <hr/>
	half 43:13 Hall 3:10,10 5:11 10:7 19:7 20:20 25:22 26:15 27:9 29:17 41:2 48:4 HAND 50:18 handle 19:13 handled 20:22 handling 6:9 19:12 hand-pick 18:10 happen 10:9 15:8 hard 46:10 hard-pressed 14:5 head 15:18 42:14 health 2:13 12:21 16:24 18:5 29:3 36:19 38:5 heard 25:17,19 heartburn 24:2 42:10 help 2:18 7:7 14:16 17:19,23 21:20 33:3 35:5,18 36:6 38:17 40:19 helpful 14:12 helping 35:14 herd 5:18,22 7:16 30:22 43:22 44:6	ideas 15:16 identified 5:4 22:2 23:5 31:3 identify 47:23 impact 40:14,21 impediment 39:13 important 15:22 include 4:3 31:8 included 13:22 14:8 includes 12:24,25,25 13:2,3 31:6 inconsistent 23:12 independent 35:4 Indiana 17:20 19:10 19:10 31:18,19 Indiana's 31:22 individual 8:5 39:22 individuals 11:8 industries 31:12 industry 3:12 12:25 14:2 15:7,12,22,24 16:9,10 17:4,25

18:5,8 24:24 25:6 26:17 28:22 36:20 36:21 39:4,5,8 40:11,13,16,20 43:24 inevitably 12:6 infected 5:18,22 30:7 infighting 37:11 informal 14:9 information 6:16 Inn 1:7 input 13:15 15:7,13 16:13 18:4 25:8 38:14 39:21,25 40:11,18 instance 41:25 interact 8:12 interest 36:20 38:10 39:4 interested 6:14 16:19 interesting 33:25 39:7 interests 24:6 34:19 introduce 2:7 invasive 45:8 investigation 8:16 43:11 involved 10:20 13:24 22:8 23:8 32:14 Island 36:2 isolate 5:14 issue 7:25 10:23 12:16 22:9 30:2 32:3,13 37:4 38:7 38:20 42:9 44:3 issues 23:25 34:20 38:5 39:20	<hr/> K <hr/>	legitimately 28:21 length 19:3 lengthy 13:13 let's 17:7,9 31:3 level 4:19 35:18 37:18 line 7:22 8:13,24 list 15:9 listen 39:10,12 listening 29:19 39:5 literally 42:13 little 2:15 19:5 31:6 39:16 41:24 lived 5:20 livestock 3:6 28:17 28:18 30:15 LMA 29:21 lobbying 33:17 35:21 35:22 38:9 local 30:9 35:16 localized 32:6 locally 8:8 long 4:10 9:14 22:24 24:13 29:22 48:15 look 8:5,11,20 16:8 19:23 20:7 24:3 27:23 30:13,15,18 33:12,15 34:17 35:6 36:8,13,15 37:3,17,20 looked 45:7 looking 14:15 22:11 36:3 43:15 44:19 looks 19:17 lose 40:4 lost 5:23 lot 9:2 19:20 37:21 42:3,10 43:25 lots 28:17 Lou 2:25 loved 5:25 low 4:23 30:9,12 lower 5:13 lunch 47:8 48:17
<hr/> J <hr/>	<hr/> L <hr/>	<hr/> M <hr/>
job 26:21 29:21 37:21 Joe 3:4 28:16 41:23 June 1:6 2:3 50:25	Kansas 27:16 42:12 42:18 43:2 Kary 1:7 50:6,24 Katrina 3:7 keep 9:13 33:5 keeping 30:3 Kentucky 44:14,17 kick 21:14 kind 2:14 5:19 6:12 11:11 15:8 18:6 19:24 22:5 33:10 36:9 40:6 43:23 45:5 46:25 kinds 28:18 knew 16:4 knocking 5:15 know 5:20,25 6:7,14 6:19 7:16,21 9:2 9:23,24 10:8,14,17 13:23 15:18,23,25 16:2,3,4,6,13 17:14 20:11 21:5 24:7,12,12,19,22 24:24 25:3,12,15 25:20 26:7,11,12 26:18 27:3,21 28:10,11 29:6,9,11 31:19,22 32:2,8,13 32:19 33:6,17,18 34:8,16 36:7,25 38:21,22 39:17 40:15,17,20 41:4 41:10,18 42:21 44:9 45:8,10,25 46:15,19,23,23 48:15 knowing 24:20 knows 42:8	

main 25:18 47:12 48:25 major 24:15 making 12:10 18:15 38:6 39:13 manage 5:9 Mark 2:12 market 46:25 47:2 matter 29:4 maximize 16:16 mean 5:17 15:20 19:21 24:7,12 27:6 27:7 28:16 29:6,7 29:10 30:3 33:12 36:17 44:25 measure 45:24 Meeting 1:6 meetings 7:14 members 2:11 19:2 25:21 32:12 33:2 40:12,18 Memphis 3:2 method 19:8 Mexico 3:5 6:3 9:24 26:9 27:16 28:17 30:15 31:4,12,13 32:23 35:24 36:4,6 36:13,17,25 37:13 37:23 42:17 43:4 44:11,25 Michalke 2:12,12 15:17 17:2 20:18 22:10 23:18 24:9 26:25 27:12,20 33:22 48:9 Michigan 17:15,17 45:22 middle 43:15 miles 7:15,17 milk 46:19 milker 27:14 mind 30:3 34:6 36:10 36:17 39:2,19 minimal 37:12 Minnie 2:25 minutes 40:23 48:22	Missouri 36:2 44:12 44:17 mistake 12:10 misunderstanding 41:4 mitigate 6:21 mitigation 8:22 mitigations 6:25 model 13:19 modified 4:19,20 moment 37:5 month 30:24 months 42:14 morning 2:22 6:13 49:2 mouth 9:21 move 23:19 40:15 42:24 43:18 45:11 movement 40:14 43:12 43:24 44:4 45:3 moves 8:21 moving 8:15 23:20 multiple 30:25 32:3 Myers 2:6,20,20 4:7 6:12 7:11,24 9:17 9:20 10:17 16:12 16:22 17:3,6,16 18:17 20:4 22:18 24:17 25:4 28:2,10 31:25 34:16,23 40:9,22 45:14 46:11 47:7,15,21 48:11 myriad 44:20	12:16 17:21 19:11 20:14 26:15 27:18 36:5 41:11 44:8 47:7 needs 7:9 11:22 29:13 31:23 41:21 neighboring 36:14 never 9:23 14:8 new 3:5 4:3 6:3 9:24 11:23 14:18 17:10 19:17 21:24 26:9 27:16 28:4,17 30:15 31:4,12,12 32:23 35:24 36:4,6 36:13,17,25 37:13 37:23 42:17 43:3 44:11,25 nice 10:7 15:7 nominate 12:17 nominations 12:23 number 1:4 3:21 13:21 30:16,18,18 34:7 38:2 numbers 38:2 44:8
		<hr/> O <hr/>
		obstacles 16:3 obviously 24:5,23,25 26:4,11 occurrence 35:19 occurs 32:4 office 36:16 50:18 offices 36:18 official 13:6 50:18 officials 21:15 Ohio 42:11,25,25 okay 2:8 7:22 19:24 20:13,14 31:3,16 32:13 36:4 42:19 Oklahoma 3:11 7:19 7:20 26:9 27:15 29:18,19 41:8,18 42:22 old 5:21 13:18 ones 39:10,11 onset 16:5
	<hr/> N <hr/>	
	names 32:19 Nation 17:13 national 11:20 30:9 30:10,22 47:15 48:3 Navajo 17:13 NCBA 11:20,20,21 necessarily 8:10 18:10 26:5 need 6:20 9:15 11:18	

<p>on-demand 22:5</p> <p>on-the-ground 35:7</p> <p>open 5:8 15:15 20:18 49:3</p> <p>opening 42:3</p> <p>opinion 23:14 28:24</p> <p>opinions 31:21</p> <p>order 12:12</p> <p>organic 13:2</p> <p>organizations 29:10 32:20</p> <p>ostensibly 44:12,16</p> <p>ought 10:5 22:25 23:6 39:8</p> <p>outbreak 7:20,21 17:22 30:2 31:14 32:4 35:19 41:8 43:5 45:3 48:12</p> <p>outreach 25:5</p> <p>outside 35:10 36:7</p> <p>overall 22:13</p> <p>overlooked 27:24</p> <p>oversight 21:16</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>pair 33:14</p> <p>Panhandle 5:19</p> <p>part 5:6 6:2 7:6 8:2 8:17 14:19 15:19 19:21 20:17 25:7 34:8 35:2 41:13 47:22</p> <p>participation 15:19</p> <p>particular 3:19 12:16 35:7,18</p> <p>particularly 32:9 42:23</p> <p>parts 3:25 27:10</p> <p>pass 19:24</p> <p>pathways 43:19</p> <p>people 7:22 12:11,17 13:4,11,23 17:8 25:11 28:4 31:11 32:15,18 35:10 36:23,24 37:7 42:20 43:14</p>	<p>percent 27:17</p> <p>percentage 30:20</p> <p>period 30:14 43:14</p> <p>person 18:15 25:11 26:6,12 32:16 35:11</p> <p>perspective 15:21 40:10</p> <p>phone 11:19 18:3,11 38:2,2</p> <p>pick 11:19 18:3 19:15,16 32:21 34:3</p> <p>picked 42:25 43:2,3</p> <p>picking 12:11 41:24</p> <p>picture 10:21</p> <p>place 5:3 6:25 8:23 19:19 20:10 50:11 50:17</p> <p>plan 6:7 8:2 17:23 19:23 20:3 23:9,17 29:24 35:12 47:23</p> <p>plans 19:22 35:6</p> <p>play 21:15</p> <p>players 32:11</p> <p>point 26:6 27:2</p> <p>politics 38:8 40:4</p> <p>pool 32:18 33:2</p> <p>pooled 44:21</p> <p>population 30:6 47:17,24 48:5</p> <p>portion 6:9 30:21 37:14</p> <p>positive 14:11</p> <p>possibility 34:2 48:6</p> <p>possible 16:2,9 29:25</p> <p>possibly 2:19 20:15 23:21</p> <p>potential 23:12 32:12 33:2</p> <p>practices 40:13,20</p> <p>predictable 43:19</p> <p>prefer 23:4</p> <p>preference 26:4</p>	<p>presentations 4:10</p> <p>pretty 15:17 33:19 38:12</p> <p>prevalence 4:17,19 4:22,22 5:12 30:9 30:10,11</p> <p>pre-ordained 32:25</p> <p>private 17:4</p> <p>probably 14:7,12 20:4 22:4 23:24,25 29:2,13</p> <p>problem 5:14 19:11 21:2,3 31:18 33:4 42:23 43:16 45:2 46:21</p> <p>problems 9:10 42:4</p> <p>proceedings 50:10,16</p> <p>process 13:14 20:6 22:14 25:7 40:3</p> <p>producer 37:3,8,19 39:22</p> <p>producers 31:23 37:15,23 39:22</p> <p>program 1:4 2:11 3:15,20,24 4:24 5:9 8:18 14:4</p> <p>programs 4:14,15,15 20:9</p> <p>progress 39:13</p> <p>proper 19:25 43:11</p> <p>properly 19:12 41:15</p> <p>proposed 1:2 14:22 15:2 29:8</p> <p>pros 27:6</p> <p>protect 33:21 38:11</p> <p>protecting 34:18</p> <p>protects 12:9</p> <p>provide 3:23 4:4 14:3 15:12 40:11</p> <p>providing 36:7</p> <p>provisional 23:11</p> <p>Pseudorabies 13:19 13:22</p> <p>public 1:6 11:3 12:9 12:17</p> <p>pull 48:24</p>
--	--	---

<p>purebred 3:2 9:9</p> <p>purport 40:15</p> <p>purpose 23:7</p> <p>put 6:25 8:21 9:20 12:14 27:21</p> <p>putting 8:14 11:10 27:25</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quarantine 6:21 8:22 46:5</p> <p>quarantined 7:23</p> <p>question 4:2,9 5:8 7:5,10 10:11 14:24 18:19 21:19 22:12 33:23 38:16 42:6 42:20 43:6</p> <p>questions 3:18 15:9 21:13 22:19,20</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>Raisers 3:9</p> <p>raises 42:20</p> <p>ranting 36:24</p> <p>rattled 28:10</p> <p>reach 39:8,9</p> <p>reaching 39:9</p> <p>read 27:13</p> <p>reading 44:7</p> <p>ready 19:19</p> <p>real 9:10 24:21</p> <p>realize 15:20,21 24:24</p> <p>realizing 16:3</p> <p>really 8:7 10:25 20:2 24:25 27:11 40:19 44:19</p> <p>reason 41:20</p> <p>reasons 47:25</p> <p>recessed 49:7</p> <p>recognize 8:18 15:6</p> <p>recognized 12:13</p> <p>recommendations 4:5</p> <p>record 22:13 49:5 50:16</p> <p>recuse 35:11</p>	<p>regarding 37:12</p> <p>regards 3:24</p> <p>region 19:24 21:2,17 32:7,10 34:7</p> <p>regional 21:9 28:5 33:5,6</p> <p>regions 26:18</p> <p>register 12:15</p> <p>regular 32:3</p> <p>regulation 14:8</p> <p>regulations 4:3 5:2 9:11</p> <p>regulatory 1:2 31:13</p> <p>related 46:2</p> <p>relationship 26:13</p> <p>rely 15:23</p> <p>remember 13:24</p> <p>remiss 16:7</p> <p>renewal 20:12</p> <p>replacement 2:15</p> <p>replacements 42:13</p> <p>reported 50:10</p> <p>Reporter 1:8</p> <p>represent 13:12 26:22 28:16</p> <p>representation 16:20 17:25 27:19 28:6 33:8</p> <p>representative 17:12 29:2,14</p> <p>representatives 12:25 15:14 18:13 25:6 28:14</p> <p>representative's 37:25</p> <p>represented 10:16 24:7,15,18 25:16</p> <p>representing 3:8 24:23</p> <p>request 21:4</p> <p>requirements 1:4 3:16,16,21 4:13 9:18 36:22 47:9</p> <p>resistance 37:10</p> <p>resources 36:5</p> <p>respond 5:4</p>	<p>response 21:9,9,21 23:3,9 31:11 33:15 35:13 38:18 48:3</p> <p>responses 40:21</p> <p>responsibility 13:10</p> <p>responsive 31:14</p> <p>rest 7:3</p> <p>results 46:22</p> <p>review 20:6,12 35:14 41:6</p> <p>reviewing 20:9 35:12</p> <p>Rhode 35:25</p> <p>right 7:13,21 8:3,17 14:23 16:22 18:17 21:10 27:18 46:11 48:13</p> <p>Robison 2:5,8,9,19 3:14 9:6 17:15 18:18 20:8 46:12</p> <p>Rod 3:10 39:2 42:5 42:19</p> <p>role 35:3</p> <p>roles 19:4</p> <p>room 48:18,25</p> <p>rotate 2:23</p> <p>RPR 50:6,24</p> <p>rule 10:5 11:23,25 13:7,8 14:19 15:5 43:19</p> <p>rules 21:24 37:9,12 37:16</p> <p>ruminate 34:14</p> <p>running 15:11</p> <p>runs 44:14</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>safe 41:17 42:21</p> <p>sale 9:12</p> <p>samples 48:14</p> <p>satisfied 33:7</p> <p>saying 12:15 38:25 39:24 40:2</p> <p>says 10:14 11:15</p> <p>scale 34:17</p> <p>science 39:20 40:5</p> <p>SEAL 50:18</p>
--	--	--

Secretary's 12:20 13:6	sort 4:11 14:9 35:22 36:7	36:14 37:8 38:17 41:16,16 44:6,20 50:8
see 9:21 17:20 19:4 22:21,22 27:6 33:19	sound 40:5,7	state's 21:21,24 39:18 47:23
selected 32:15	source 42:17	status 4:16,25 5:24
selecting 32:25	South 9:4,25	Stenograph 50:11,13
send 10:3	southeastern 31:4	step 6:4
sense 4:11 5:10,11 7:18,23 8:3 20:20 22:3	Southwest 29:20	stood 11:6
sensibility 28:22	Southwestern 3:8 16:24	stop 8:19
sent 20:12,16 42:17 44:13	speak 14:13 16:7 20:5	story 30:10
service 19:3 37:22	specific 24:13	straddling 32:24
Services 2:10,21 3:13,23 4:6	spinning 43:20	stream 33:11
session 1:4,6 2:2 3:15,20	spoke 2:21 6:13	stymied 38:13
sessions 43:9	spread 8:7 45:9	substantial 37:14
set 19:13 31:5,10 35:17 50:9,11	spurious 43:20	sub-units 18:19 19:6
setting 17:4	staff 20:11,12	sudden 31:18
seven 35:9	stakeholders 24:14	suggested 22:23
share 6:23	standards 22:24	suggestions 16:8 24:4
shed 46:19	standing 32:2,6 34:2	suis 46:13,14
shift 5:9	standpoint 33:13 41:23	supervision 50:14
shifting 4:24	start 44:7	supposed 26:7 40:24 43:21
shifts 4:14	state 1:4,8 3:16,21 4:13,16,24 5:3,15 5:17 6:2,8,9,19,24 6:24 7:3,8 8:20,24 9:10,18 10:14 11:7 12:24 13:25 14:17 15:3,13,21 17:4,9 17:10,11,16,20,23 20:2,9,25 21:8,17 22:8 23:8 25:5,12 25:22,24 26:8 28:14,15,20,23 29:9,17 31:17 32:8 33:6,14 35:18,24 36:16,18 37:18,18 39:2 47:9,20,23,24 48:5,7 50:4,7	sure 7:11 9:8 18:12 18:15 19:12 26:2 26:16,19,24 27:18 28:6 38:22 41:5 49:5
shipments 44:11		surveillance 1:5 3:17 6:22 40:25 47:10,13,14,16,17 47:18 48:2,7
significant 30:17		swath 36:21
silver 44:7		swine 13:20 46:13
similar 20:10 45:5		system 5:3,21 21:6 31:2
sit 2:16 32:21 40:19		
sitting 2:22 4:9		T
situation 19:17 21:25 31:16 47:5		table 37:4
situations 19:16 35:7		tackle 10:18
six 35:13 43:22	states 6:5,14 9:13 19:21 21:11,21 22:8 23:8,16 26:16 26:23 27:15 28:18 30:6,17,19,25 32:9 32:10,25 33:14	tags 44:7
slaughter 43:21 47:4 47:13		take 6:15 13:7 22:12 28:8 35:5 45:24
small 13:25 26:20 30:21		taken 6:21
somewhat 36:13		talk 11:23 12:4,11
soon 33:19 38:12		

13:11 30:4 talked 6:6 7:25 10:19 12:20 13:16 35:2 37:7 40:23 43:7 talking 4:23 6:18 10:24 21:5,10 26:20 27:17 35:20 36:11 talks 17:18 tangent 47:6 tapped 32:20 targeted 47:18 TB 4:14 5:18,23 8:9 11:18 18:23 21:6 22:8,16 23:3 27:4 30:4,11,16 31:3 35:9 38:20 39:19 41:8 42:11,25 43:15 44:3 TB's 23:5 telephone 37:22 tell 11:20,22 14:5 41:10 44:8 tend 28:14 30:4 43:18 tendency 28:12 term 46:4 terms 10:16 test 10:3 46:22 testing 9:14 46:24 48:7 Texan 34:15 Texas 1:7,8 2:10,13 3:2,8 9:2,5 16:24 17:10 24:23 25:13 25:23 27:16 29:3 29:11,15,20 31:6 31:11,12,22 32:14 32:17 34:15 35:10 35:12,13 44:12,15 44:16,17,22,24 50:4,7 Thank 49:6 thatboard 41:21 thing 14:9,21 16:13	32:23 33:5,10 34:12 41:3 43:23 things 7:9 13:4 27:24 30:24 33:25 34:14 36:10 37:2 43:8 think 5:12 6:3,6 9:2 9:15 10:5,14 11:22 16:6,11,11 19:19 20:21 22:10,25 23:6 24:2,5,15 25:9,10,15,18 27:23 28:14 29:12 30:5 31:21 34:17 34:23 35:15 36:12 39:8,17 40:6,9,17 41:13,20 43:17 45:17 48:9 thinking 13:17 18:7 third 27:14 Thomas 6:17 10:23 12:20 thought 4:12 5:13 14:19 20:5 22:14 23:19 34:4,10 thoughts 22:13 23:21 27:5 three 21:18 34:9 40:22 47:9 throw 5:8 42:7 thrust 47:12 time 14:10 32:4 50:11,17 tip 5:18 titer 46:16 today 7:18 42:9 topics 49:4 total 30:18 totally 26:10 traceability 13:8 traced 42:12,16 trailer 10:2 transcribed 50:13 transcript 50:15,15 transcription 50:8 transparency 6:18	7:6 transparent 6:20 tribal 10:15 11:7 15:4 17:5 trich 37:8,12,15 trichomoniasis 37:5 triggered 23:2,16 tripping 46:22 truck 8:14 trust 6:10 try 2:18 12:2 14:23 21:20 23:10,19 26:19 39:6 trying 33:20 44:2 tuberculosis 1:2 39:21 turf 33:21 turn 22:18 32:2 34:9 turning 38:9 two 4:14 12:19 14:15 18:22 21:12 22:15 27:4,7,10 30:8 32:24 33:24 34:10 43:13 44:8 48:21 type 27:22 29:8,10 types 26:17 typewriting 50:13 T.J 2:20 42:8 43:7 44:5
		U
		ultimately 23:4 31:15 36:17 39:18 40:2 unbiased 35:5 understand 10:10 26:4 40:20 41:7 understanding 8:23 34:24 unfortunately 37:14 United 26:22 27:15 30:6,17,19 41:16 44:6 unjaundiced 36:3 USDA 2:9 12:15 35:14 36:6 48:6

USDA's 23:10	way 10:12 14:22,25	yeah 6:12 9:19 16:22
use 3:22 4:4 37:5	15:11 17:6 20:21	17:16 20:13 34:14
46:4	29:24 36:15 41:7	47:15
Usually 9:6	42:24 46:3 48:11	year 30:25 43:13
<hr/>	West 31:6	years 5:19,23 13:21
V	western 44:6	York 17:11
valid 31:24	we'll 19:10 48:21,23	y'all 33:23
valuable 16:14	48:24	<hr/>
value 39:25 40:10	we're 4:23 15:15	Z
variant 46:13	18:6,10 21:5,10	zone 8:22 21:8,16
variety 4:5 13:3	22:11 23:19 24:6	23:3 31:8 32:24
verbally 47:11	25:10,14,16 28:25	43:4,5 44:2 45:2
versa 36:24	30:8,23 31:5 32:21	45:13,18,21,23
versus 37:18	32:25 34:9 37:20	46:3
vet 17:9,10,11,16	37:21 39:9 40:6	zones 45:19 46:6
veterinarian 3:5,12	41:10 47:25 48:13	zoning 1:5 3:17 7:25
25:13,23,24 26:9	48:17	40:25 42:6 47:10
28:23 29:18 31:17	we've 3:15,19 5:19	<hr/>
39:2	12:18 31:18 32:18	1
veterinarians 12:24	34:8 40:23	1 2:5 3:14
14:2 28:15	wildlife 45:23	1-40 1:7
veterinarian's 36:16	Wingo 1:7 50:6,24	1:00 48:18,19
36:18 42:15	wise 31:8	10:57 1:7
Veterinary 2:9,21	wish 25:2	11:45 48:17
3:23 4:5	wondering 22:6 31:2	11:52 49:7
Vice 36:24	word 41:5	15,000-plus 25:20
violate 15:4 22:24	words 9:21	1911 1:7
visiting 18:14	work 2:9 9:15 15:24	<hr/>
voice 25:17,19 26:13	16:10,25 19:15	2
38:23	21:15 22:7 28:12	2 1:6 2:2
<hr/>	32:8 47:2 48:13	20 13:4 50:25
W	worked 30:14 48:10	2011 1:7 2:3 50:25
walls 48:24	working 2:11 3:21	24 42:14
want 9:20 10:18 12:3	11:6 14:14,25	<hr/>
13:8 15:25 17:18	15:19 16:19 35:2,3	3
21:6,8 24:6,23	45:17	3:00 48:23
26:7,12 28:3,5	works 48:12	30 27:17
31:23 37:15 38:11	wouldn't 28:3	30,000 42:14
38:12 39:10,11	write 11:24	<hr/>
42:20 46:4,7 47:11	wrong 13:18 41:11	4
wanted 42:7	43:8 47:22	45 48:21
wants 12:15 33:9	<hr/>	49 41:16
38:10 49:5	X	<hr/>
Washington 36:2	X 34:6	6
wasn't 13:24	<hr/>	6 1:6 2:3
wavering 40:7	Y	<hr/>

**PROPOSED TUBERCULOSIS AND BRUCELLOSIS
REGULATORY FRAMEWORK**

BREAKOUT SESSION NUMBER TWO ON
PROGRAM (STATE) REQUIREMENTS,
ZONING, AND SURVEILLANCE

Session 3 of the Public Meeting on June 6,
2011, at the Holiday Inn, 1911 1-40 East, Amarillo,
Texas, commencing at 1:06 p.m., before Kary A. Wingo, a
Court Reporter of the State of Texas.

SESSION 3**JUNE 6, 2011**

Thereupon,

DR. ROBISON: I'm going to be trying to kind of lead everybody through these discussions. We're going to be talking about state/program requirements, zoning and surveillance.

Let's start off first with some introductions. I'm Clayton Robison with Veterinary Services here in Texas.

DR. MICHALKE: Mark Michalke with TAHC.

MR. CHAPMAN: I'm Terry Chapman with Livestock Marketing Association.

MR. WILLIAMS: Brad Williams, Animal Health Commission.

MR. WINEGARNER: Josh Winegarner with Texas Cattle Feeders Association.

MR. CARVER: Jesse Carver, Livestock Marketing Association.

MR. DEWALD: Scott Dewald, Oklahoma Cattlemen's.

DR. ELLIS: Dee Ellis, Animal Health

1
2 Commission of Texas.

3 DR. ROBISON: We will begin our
4 topic through the state requirements, zoning
5 and surveillance, and do a quick overview of
6 some of the topics for each.

7 We didn't get too far in the last
8 group, but I'll just give y'all a quick
9 overview of some questions, general group
10 questions we have. One pertains to that the
11 group will discuss the use of an advisory
12 group to provide assistance to Veterinary
13 Services in regards to certain program
14 activities, and there's questions about, if
15 we had a board, how would it be -- what
16 would it consist of, and a lot of other
17 things.

18 Another part of the state/program
19 requirements is the working group discussed
20 that one possible consequence of noncompliance
21 is loss of state status, otherwise known as
22 inconsistent, or a reduced status, which is
23 provisionally consistent, and questions for
24 that.

25 The working group discussed the

1
2 importance of states or tribes reporting
3 certain TB or brucellosis activities in their
4 state and tribal lands. That came up quite
5 often. It was about how to get the
6 information out, instead of hearing things
7 through the grapevine kind of deal, to make
8 that information available.

9 The working group discussed that
10 certain situations require a review of a
11 state to determine if its status was
12 appropriate. And the working group was in
13 consensus that a state or tribe's status
14 should not be downgraded automatically because
15 disease was found in wildlife, and only in
16 wildlife.

17 On zoning, there was some discussion
18 about between the short-term and long-term.
19 On the long-term plan, we discussed that it
20 should be required when TB or brucellosis was
21 not eradicated within a one-year period, and
22 formal zoning could be part of this
23 containment plan.

24 And, finally, on zoning, the working
25 group discussed long-term containment plan

1
2 would be reviewed by advisory board and
3 Veterinary Services.

4 And then on surveillance, it was a
5 fairly short one. It says the working group
6 discussed several components to surveillance
7 that included national surveillance, slaughter
8 surveillance, surveillance of at-risk
9 populations and other surveillance. So the
10 main part would be focusing on slaughter and
11 at-risk populations to maximize use of their
12 funds.

13 So if y'all have any general
14 thoughts about any of this, y'all can speak
15 up at any time. I'll just start trying to
16 go down the list, however y'all want to
17 approach it.

18 Some questions for the thought of
19 establishing an advisory group, some of the
20 questions here would be: Should we have an
21 advisory board to provide a variety of
22 recommendations to Veterinary Services?
23 Should there be two advisory boards, one for
24 brucellosis and one for TB?

25 Who should be on the advisory board?

1
2 How should the members be chosen? What
3 should be the length of service on the
4 board? And what roles would you like to see
5 for the advisory board?

6 DR. MICHALKE: Open it up to any
7 discussion on the advisory board.

8 DR. ELLIS: Well, my question is
9 what's the intended role of -- what does
10 USDA have in mind for an advisory board?
11 Because this is obviously their idea.

12 So, I mean, the only one that I'm
13 familiar with is the Pseudorabies Advisory
14 Board, which really wasn't advisory. They
15 were actually making decisions about state
16 statuses and about rules and regulations and
17 movement of hogs.

18 So my question would be is that the
19 intent here? Is the USDA abdicating their
20 authority to an advisory board, or are they
21 just asking for input and they're going to
22 retain the right to do things as they see
23 fit? And that's a big difference.

24 There, obviously, needs to be two
25 different groups. Brucellosis and TB, in my

1
2 opinion, are different diseases. Texas
3 Cattle Feeders may absolutely need to be on
4 the TB advisory board, and they may not have
5 any interest at all in brucellosis.

6 So I think, from the industry
7 standpoint, at least, you're going to have to
8 separate it out so different parties can
9 participate as they see fit.

10 MR. WINEGARNER: From my perspective,
11 it does depend on the role of the advisory
12 committee. Is it just something for them to
13 come and talk and feel like they've been
14 able to air concerns, or is it to provide
15 input that's going to be taken and used
16 productively to make the program better?

17 My guys don't need to attend any
18 more meetings. That's kind of why they send
19 me to meetings. But since -- you know, I
20 probably can't serve on the advisory group.
21 Anybody in my capacity probably couldn't be
22 able to, for a number of reasons.

23 But I would feel -- I'd hate to
24 nominate somebody for the advisory group and
25 then them get there and feel like it was

1
2 just a waste of their time. So I think if
3 we flesh out a little bit more what the
4 advisory group will do, their role, I'd say
5 -- well, I'll leave it at that for now.

6 She's making me nervous on how
7 free-flowing I can get with some of the
8 things I say.

9 DR. ELLIS: That was Josh from the
10 Cattle Feeders, by the way.

11 DR. ROBISON: It's open to
12 discussion. Should there even be a board,
13 and what it consists of? What do you want
14 them to be able to do? How far do you
15 want to carry it?

16 MR. WINEGARNER: Well, I mean, we
17 obviously want to have an opportunity to
18 provide input throughout the process, and
19 from that aspect, the board is a great idea
20 -- or the committee or advisory group, or
21 whatever we call it.

22 But, again, if it's just to show up
23 at a meeting, air your concerns, and then
24 we're going to ignore them later, that's not
25 productive either. I'm not saying that

1
2 that's what happens or that's what you're
3 going to do, but it's a concern.

4 DR. ELLIS: Well, is it just another
5 advisory group to the Secretary of Ag, or is
6 it actually the board's going to establish
7 state statuses and whether they're consistent
8 or inconsistent or whatever the term is?

9 My understanding, the Pseudorabies
10 Board, they made the call and it was
11 effective. But I would agree with Josh. If
12 this is just a group that's going to give
13 input, it's not as good an idea.

14 DR. MICHALKE: I think what I've
15 heard in the working group and everything,
16 just my honest take on it and everything, I
17 think it may be going down the primrose path
18 a little bit, because right now I don't see
19 any movement to actually have industry, per
20 se, as part of that group or work group.

21 I mean, probably what's on the table
22 right now is animal health officials. And
23 what they're looking at -- and this is just
24 from what I get from the working group -- is
25 maybe a subgroup thereto, which we have

1
2 already. I mean, you've got that in Texas.

3 MR. WINEGARNER: From a Texas
4 perspective, I would feel comfortable, I
5 mean, with any of the staff of the Animal
6 Health Commission, or if the commissioners
7 themselves, most of them, wanted to be on
8 the advisory board. And I think it would be
9 productive.

10 And that's where I don't -- if it's
11 going to be what Dee's talking about and
12 they're going to make the call on state
13 status and things like that, then it makes a
14 lot of sense for it to be more of a
15 veterinary-focused group, animal health related
16 group.

17 But I still think you're going to
18 need some perspective from the actual
19 day-to-day producers on how some of the ideas
20 will be translated in the countryside or how
21 they'll be enacted.

22 DR. ELLIS: Well, business models of
23 the different industries, from feeders, to
24 cow/calf, to dairies, are different enough
25 that you can't expect, really, any one person

1 to understand all the nuances.

2
3 And I would want industry
4 representation on there if it's real
5 board-making decisions that USDA is going to
6 follow. Then that's going to make it fall
7 under the FACA rules, and it changes the
8 process, but I'm okay with that, I mean,
9 personally.

10 DR. ROBISON: I might mention some
11 aspects that came up in the last group. It
12 was presented, well, what if, say, you had
13 five or six state veterinarians on the
14 advisory board. And these state
15 veterinarians would have the input from the
16 producer groups in their state and they could
17 listen to their concerns and then carry that
18 forward into the group itself.

19 DR. MICHALKE: There's no real
20 makeup of this. I mean, there's been
21 suggestions, and that's what we were looking
22 for in the other group. They talked about,
23 you know, pros and cons, but the fact of a
24 possibility -- and this was just brought up.
25 I'm just bringing up -- it was brought up.

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I'm not agreeing or disagreeing with it.

But the fact of having maybe the option to set up an advisory board to deal with the situation, maybe not have a set one. On the flip side of that, you know, there needs to be consistency there too. So, you know, although it may sound like a good idea to deal with this part or that part of the United States, if you don't have consistency, then you really don't have a lot of anything either, and that was brought up.

MR. WINEGARNER: And that's -- to the idea of putting five or six state vets on it, I mean, I don't know that that's -- if all five or six of those came from the Northeast, the Midwest, and the Upper Midwest, and then one of the center states, then it doesn't really reflect all production throughout the country, I guess, is where I would go with that.

So the people that you may have on the board wouldn't understand what a feeder animal is or crossing of Mexican steers for feeder purposes. Unless it was set that

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2 you're going to have geographical
3 representation on there, then I don't think
4 it would make a lot of sense.

5 MR. CHAPMAN: Or even regional
6 advisory, because every region is going to
7 have its own setup.

8 MR. CARVER: Everybody is going to
9 have their own problems.

10 DR. MICHALKE: Peculiar to that
11 region.

12 MR. CHAPMAN: Exactly.

13 MR. CARVER: And it would be hard
14 for five or six state vets from across the
15 country to sit down and try to relate to a
16 particular involvement in South Texas, if
17 they're not prone to the environment or how
18 things operate.

19 DR. MICHALKE: Well, I told them it
20 didn't count if Texas wasn't on there anyway.

21 MR. WINEGARNER: And there may be
22 some -- I don't know. Just thinking out
23 loud, I wonder if there's a role that the TB
24 committee at USAHA could play in this. I
25 mean, you've got both animal health

1
2 professionals and industry involved with that
3 committee. I don't know how that would work
4 out, but it's a thought.

5 DR. ROBISON: So you're saying have
6 the TB committee be the advisory board kind
7 of thing?

8 MR. WINEGARNER: I don't know. I'm
9 just wondering what -- is there something
10 with that relationship that's already
11 established that we could use.

12 DR. ROBISON: Resident experts
13 already in place?

14 MR. WINEGARNER: Yeah.

15 DR. MICHALKE: You could liaison
16 somebody from that into a role.

17 MR. DEWALD: Well, I think Josh has
18 a really valid point about USAHA or NCBA, or
19 any of these other organizations. All have
20 policy-making opportunities, can draft
21 resolutions, can forward them to USDA, with
22 directives, with attention given to particular
23 areas.

24 So the thing that concerns me about
25 an advisory board on these two programs is

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2 we need to make a rule that's as
3 un-cumbersome as possible. We talked earlier
4 about how hard it is to do an appeal. And
5 I don't know that you want to add another
6 layer there that slows down this thing that
7 you're trying to speed up. It may be
8 counter-intuitive, when we already have these
9 other vehicles out there.

10 I mean, I really appreciate USDA
11 even thinking about this. It tells me that
12 they're really open to suggestions and input.

13 But I think, from a -- I wouldn't
14 formalize something that's going to slow down
15 the process would be my comment.

16 DR. MICHALKE: Any other issues or
17 comments on advisory? If not, consequences
18 of staying within state requirements,
19 consequences of noncompliance and loss of
20 status. Any comments on -- should there be
21 any noncompliance issues, you know, that are
22 out there that automatically require a state
23 to be given an inconsistent status, such as
24 lack of reporting, failure to conduct
25 surveillance, et cetera?

1
2 And under which situations, if any,
3 would inconsistent status be tied to
4 increased testing requirements or interstate
5 movement? Should there be a limit on the
6 amount of time a state's allowed to stay in
7 a provisional status?

8 MR. WINEGARNER: What page is that
9 on. I need to read that.

10 DR. MICHALKE: Well, as far as draft
11 -- three, four and five.

12 MR. CARVER: Reporting requirements,
13 compliance, accountability and scope of the
14 program.

15 DR. ROBISON: If they have the
16 standards for each state or tried to -- the
17 standards for them to meet, and apparently
18 they're not meeting part of those standards,
19 how to go at it.

20 DR. MICHALKE: I guess at what point
21 -- you know, are there any comments at what
22 point it would trigger an inconsistent status
23 or would trigger restrictions? Any comments
24 on that?

25 MR. WILLIAMS: I think those

1
2 guidelines -- sorry, Josh. Go ahead, if you
3 want.

4 MR. WINEGARNER: I understand the
5 need for some sort of a consequence, but if
6 the goal of the program is to eradicate the
7 disease, then if you put a consequence on a
8 state that's further -- more restrictive than
9 what they have today, and they can't meet
10 what they're supposed to meet today, then
11 there's no way they're going to be able to
12 meet additional requirements.

13 So the only consequence, then, falls
14 on the producer. They're the ones that are
15 going to be punished, not the states for
16 being unable to comply with the requirements.
17 So that's where I think it gets a little
18 tricky on how you put this together.

19 And a lot of it may just be that
20 the state doesn't have the money or people,
21 manpower, to follow all the requirements that
22 we have on them -- that we'll have on them.

23 DR. MICHALKE: Brad, do you have
24 something?

25 MR. WILLIAMS: Yeah. I think, you

1
2 know, taking what Josh said, but I think
3 there's going to be a fine line in there
4 that you have to have some sort of
5 requirement in there just to make sure the
6 process is followed, not like we were before,
7 two infected herds and you're out. I don't
8 think we need to go back down that road.

9 But at the same time, if it's not
10 -- you know, not really looking at an
11 incidence or, I guess, the percent of herds
12 infected, that type of stuff, but more of
13 are they doing what they're supposed to; are
14 they reporting.

15 I mean, if a state just doesn't do
16 the reporting and fails to notify the other
17 states what their problems are, I don't think
18 we can just let that go on indefinitely,
19 because it puts the producers in the other
20 states at risk by bringing those animals in.

21 So there's a fine line in there
22 between punishing the producer, but still
23 making the state do what they need to do.

24 DR. MICHALKE: Well, I don't think
25 the intention of this is, you know, one

1
2 strike and you're out deal. I think it's
3 more of an infrastructure, the state itself
4 dealing with, you know, more than probably
5 one situation is what I would think, you
6 know, a program problem that needs to be
7 fixed.

8 It's not focused on one area. And
9 I think that's where they're going with this
10 and what I've gleaned from it.

11 MR. WILLIAMS: I could see that, if
12 there was an advisory board, being able to
13 look at that and judge it on a case by
14 case. You know, anything could happen. I
15 mean, in Texas, we may have half the state
16 burning this year and a hurricane this
17 summer. And if we have TB on top of
18 everything else, we might not fit the
19 requirements for that year. It happens every
20 other year.

21 So I think we need to look at the
22 big picture and there needs to be some
23 consequence just to make sure we are
24 following the process, but it doesn't need to
25 be a hard line.

1
2 DR. MICHALKE: No. And there was
3 talk within the working group -- I'll say
4 this -- to that point, that by doing it on
5 this platform, taking it out of the more
6 formal, that there could be a little bit
7 more variability and a little bit more
8 flexibility within those things.

9 You know, of course, there's always
10 two sides to everything. You know, it
11 depends on if it's you or if it's somebody
12 else, you know, and who you're protecting or
13 what you're protecting.

14 MR. WINEGARNER: What role would the
15 APHIS personnel be able to do to assist
16 state animal health officials in compliance?
17 Say you were a small state that didn't have
18 the resources to have the staff available to
19 do everything they needed to.

20 Could Federal assist the state with
21 being able to comply? That would be, you
22 know, additional manpower to help out a
23 cash-strapped state.

24 DR. ROBISON: Well, yeah, that's
25 been bounced around too. We refer to the

1
2 smaller states -- everybody always picks on
3 Rhode Island. They have two people in the
4 whole deal, but if they kind of form a
5 coalition with the neighbors on things and
6 also make their needs known to the Veterinary
7 Services Agency, you know, this is what we're
8 looking at, what can we do kind of thing.

9 MR. WINEGARNER: But take it to a
10 bigger state, like New Mexico. I mean,
11 they're a big state and they have a lot of
12 cattle. They don't have a lot of money and
13 a lot of manpower resources. That's where
14 I'm looking at it.

15 I think the Vermonts and Rhode
16 Islands can kind of fend for themselves,
17 because they don't have a lot of animals
18 they need to --

19 DR. ROBISON: Well, I'll give you --
20 I think I understand what you're saying.
21 Like, say, we have a large dairy herd in New
22 Mexico or California that's infected, and
23 you've got tens of thousands of animals that
24 need to be tested, not only that herd, but
25 trace-out herds.

1
2 We can call up a task force and
3 have people coming in from other states and
4 helping test the cattle. So, you know, that
5 has been done already. Is that in line with
6 what you're thinking, or something else?

7 MR. WINEGARNER: That's part of it.
8 To gain the certification initially, I'm
9 guessing, you're going to have to meet
10 certain factors, be it just administrative,
11 but also some --

12 DR. MICHALKE: Just the
13 infrastructure, I think, is what he's talking
14 about, to set up the program.

15 MR. WINEGARNER: Right.

16 DR. MICHALKE: And I'm going to
17 defer to you, because he asked the Feds.

18 DR. ROBISON: Well, as far as being
19 --

20 MR. WINEGARNER: And I don't have to
21 get an answer today. I'm just throwing that
22 up as a potential question that maybe needs
23 to be addressed as we go through the
24 rule-making process.

25 DR. MICHALKE: You know, that's

1
2 certainly legit. I mean, from the state
3 aspect, you know, us in Texas, well, New
4 Mexico is right next to us. And they're
5 good neighbors and everything, but we're
6 doing all we can to keep the alligators off
7 our butts right now while we're draining the
8 swamp.

9 You know, so I mean, as far as
10 those coalitions, it sounds good and maybe
11 they'll work up there in the Northeast and
12 everything, but I don't know, when you start
13 talking big country and a lot more -- how
14 that's going to work.

15 And I think that's what you were
16 kind of -- y'all were getting to a little
17 bit, as far as that.

18 MR. WINEGARNER: And I would say
19 that, if there is a situation that a state
20 needs to be given time to comply instead of
21 just immediately losing certification or
22 classification, maybe they'd have a
23 provisional status that allows them time to
24 fix the problem and regain that without
25 having officially been reclassified.

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DR. ROBISON: And I would presume that that should be the case, unless there's some outrageous violation where they need to be downgraded immediately. That's been brought up in our working groups.

DR. MICHALKE: Yeah, I think that's always been the thought within the working group. It just goes back to your other question of, you know, how do you get that basic plan and everything in place there to start with, is where I, you know, question it, you know, look at what we've heard, some questions about that. And that's something that's not worked out.

DR. ROBISON: Any other thoughts on that particular topic? Another thing we all thought there was a need for is sharing information. You hear about an infected herd, you know, somebody got a TB infected herd up in Ohio or Virginia or something, and that's about all you hear. What's going on?

And you may or may not get a trace to your state. If you do get a trace,

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2 well, it would be good to have some
3 background information, so just be more open,
4 as much as feasible, while still protecting
5 person, somebody's personal information.

6 You know, here in Texas, they have
7 the news releases. I think Bonnie's doing
8 that. I think those are real good.

9 MR. WINEGARNER: See, I thought
10 that's how Mark hurt his finger.

11 DR. MICHALKE: I tried to use that
12 on my staff. They don't go for it. They
13 say you just use these two anyway.

14 DR. ROBISON: Do y'all have any
15 thoughts on how to -- what you'd like to
16 hear, or have we got good enough?

17 MR. WINEGARNER: Well, you kind of
18 talked about it a little bit over in the
19 other, about your concerns.

20 MR. DEWALD: Well, I think we do
21 need more information to the state
22 veterinarians; that's clear. I think we need
23 to, though, be careful that we don't just
24 have completely open process where every test
25 result is sent out, that's open to the media

1
2 and everybody else, because it serves no
3 function.

4 But if the information serves a
5 function and the animal health professionals
6 in each state are -- need to be receiving
7 that in a timely fashion. I think the
8 equine herpes example is a great example. I
9 mean, all the data is there. Boom. You
10 know exactly what's going on.

11 It was helpful for me as a layperson
12 and, working at Cattlemen's, I'm getting
13 calls from our members: What are you
14 hearing about this? And you say: Oh, I've
15 got the report right here; here's the
16 situation.

17 It's a lot easier to manage under
18 those scenarios than: Oh, we're in the
19 blind; we have no idea what HQ's doing.

20 And so that's -- I think you can
21 give that information out at particular
22 levels and it can be held in confidence, you
23 know, with the state veterinarians.

24 And like you say, I think it also
25 allows them to gear up in the event that

1
2 they do have a trace to their state and be
3 more familiar with what the heck's going on
4 and have their hierarchy informed: This is
5 what's happening; this is what could happen;
6 if it does, we're going to do this, this and
7 this, and everybody's not running around at
8 the last minute.

9 DR. ROBISON: Make a good, informed
10 decision.

11 MR. DEWALD: Exactly.

12 MR. CHAPMAN: Is that possible to
13 disseminate that information without it being
14 total public information?

15 MR. DEWALD: Oh, I think so. I
16 mean --

17 MR. CHAPMAN: And I know where
18 you're going, the Mississippi cow.

19 MR. DEWALD: Yeah.

20 MR. CHAPMAN: I mean, was -- and
21 because of the open policy that they had
22 developed, that thing hit the news -- and
23 there was nothing to it. The end result was
24 there was nothing to it, but it was very
25 damaging.

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MR. DEWALD: It caused a panic.

MR. WINEGARNER: And that's where I think maybe you set it up in such a way that, if you have a presumption of a diseased animal, that is shared amongst the animal health professionals only.

If you have a confirmation, then that's different. I think that can be disseminated to everybody, because, if it's just on a presumption, you have the risk of causing a market shift on a rumor, rather than on a fact.

DR. ROBISON: Which has happened before.

MR. WINEGARNER: It's happened a lot.

DR. MICHALKE: A couple of times.

MR. WINEGARNER: And, you know, that's scary, from our standpoint, especially.

DR. MICHALKE: Well, I guess this is more geared towards state more so than industry, really, that question and that quandary there, because there are those issues between -- and it doesn't matter if

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2 it's, you know, a state and federal
3 cooperative within a state. I mean, there's
4 disparity in some information, to say the
5 least. I guess I would say that. Or lack
6 of information, at times.

7 DR. ROBISON: And some of these
8 states, you never really hear anything
9 whatsoever out of them.

10 MR. WINEGARNER: And I still think
11 there will probably be rumors associated with
12 this, because somebody's going to tell
13 somebody else. But if they have accurate
14 information on a presumption and it's
15 translated that way, then that's still going
16 to be different than, hey, did you hear that
17 Arkansas has got this. You know, it's going
18 to be a --

19 MR. CARVER: Well, just like the
20 news releases. I mean, they're pretty short.
21 You know, what you guys put out, I mean, if
22 those get passed around, then that's not that
23 bad.

24 DR. MICHALKE: Because it's
25 controlled.

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MR. CARVER: It's controlled; it's accurate, but it's not putting more than --

DR. MICHALKE: And even in the best intentions -- a good example of that is with EHV. I didn't have any horses down in my region. Actually, in Texas, you can kind of draw a line from Kerrville straight across the state, and everything was above.

In this case, we were free, but the statement came out in one of the deals about Brazos Valley Equine Clinic, or whatever. Well, we're in Brazos Valley. Well, it was in Weatherford, actually, you know, because it was a couple of brothers that had -- and a lot of people failed to read any past that. So, I mean, that's the thing that you watch.

So Weatherford, you know, we're talking 300 miles north. You know, that was the name of it, I mean, because they were in partnership, brothers, or however they've got their business set up. But, I mean, it stirred up -- I mean, phones started ringing.

DR. ROBISON: Let's move on to

1
2 another one. This one -- the last one on
3 the program requirements or state requirements
4 pertains to disease found in wildlife.

5 The working group was in consensus
6 that the state status should not be
7 downgraded because disease is found in
8 wildlife -- only in wildlife. What
9 activities would you want to encourage if
10 disease is found only in wildlife?

11 MR. WINEGARNER: Well, this is where
12 I'm confused, because when I asked the
13 question this morning, USDA doesn't have
14 authority over wildlife, so --

15 DR. MICHALKE: I guess what they're
16 asking here in this question is your thoughts
17 on increased surveillance on what they have
18 authority over. I mean, because they do not
19 -- I mean, and thoughts on, okay, you know,
20 state status is not going to be downgraded
21 because it's found only in wildlife right
22 now.

23 But, you know, if you're in State X
24 and you've got -- if you're in Michigan and
25 you've got it in deer and you say you only

1
2 have it in deer, there's going to be a lot
3 of states out there that's going to want you
4 to prove that you only have it in deer.

5 So it's to the point of what your
6 thoughts would be. I'm assuming that's where
7 they're going with this, Josh.

8 DR. ROBISON: To follow up on the
9 wildlife angle, as far as jurisdiction, you
10 know, since we've found what we have in
11 Michigan and Yellowstone, basically the state
12 animal health officials would be partnering
13 with the local wildlife -- it would be like
14 Texas Parks and Wildlife.

15 So we have done some things, like we
16 had that TB herd there in Central Texas
17 where we had some disease surveillance around
18 where that herd was, and that was in
19 partnership with the Texas Parks and
20 Wildlife, under their guidance, if you will.

21 MR. WINEGARNER: USDA Wildlife
22 Services doesn't have component plans at all?

23 DR. ROBISON: They do some
24 surveillance, but they have to get permission
25 as well.

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2 DR. ELLIS: I think their point is
3 that if you have -- I think where they're
4 headed is if you have a wildlife reservoir,
5 they're going to require those states that
6 have a wildlife reservoir to write it in
7 their annual plans how they're going to
8 prevent the transmission from wildlife to
9 domestic livestock.

10 MR. WINEGARNER: Well, I don't know
11 -- yeah, the reservoirs, we've got a few of
12 them. I mean, we're getting more and more
13 of them. But what about just the wild,
14 roaming actual wildlife, you know, that's not
15 on the reservoir? That's also a concern, I
16 guess. At least in Texas, wildlife's owned
17 by the state. Is it the same in Oklahoma?

18 DR. ELLIS: Well, their intention is
19 that, if you have a TB or brucellosis herd,
20 they're going to expect you to do
21 surveillance around that herd, just like we
22 did in Texas with this last cattle herd we
23 had in South Texas. We went and caught
24 animals. We did it with the dairy that Brad
25 was talking about in San Angelo. And we're

1
2 doing it from now on on TB infected feeders
3 on grass.

4 We're going to probably be obligated
5 -- we might as well just start. We're
6 looking to prove a negative, but I think --
7 I don't even know how you would find it in
8 the wildlife if it was not in the livestock,
9 because you wouldn't necessarily be looking.

10 So that's where they don't have the
11 authority. USDA is not going to tell the
12 Parks Service, or whoever, to go catch deer.

13 I think as it relates to a domestic
14 disease, you've got to rule out that as a
15 possible source. And I think it's okay. I
16 think it's probably warranted right now.
17 Some of the cattle problems in the Midwest,
18 there's absolutely a connection between deer
19 and elk and cattle.

20 MR. WINEGARNER: I'm looking at it,
21 I guess, from a funding aspect, the focus
22 being on the actual production animals rather
23 than on wildlife. And is there a way to
24 capture revenue from some other means to pay
25 for the wildlife component of it?

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2 DR. ELLIS: I mean, just look at
3 Michigan, look at it both ways. USDA's
4 authority is to tell the Michigan Animal
5 Health Department to take care of the issue,
6 which they've done.

7 Then it is a state problem. It's a
8 state industry/wildlife perspective at the
9 state level. And you're right, it could
10 become punitive. If you're a small state
11 without resources, it could be hard to manage
12 that.

13 Look at it from this way. If
14 you're next door to that state, you want
15 them to figure it out, or you don't want
16 their animals. So it's probably a reasonable
17 discussion to have. I think it's probably
18 okay. That's our position.

19 MR. WINEGARNER: I mean, I agree
20 with the discussion. I'm just trying to
21 figure out the role that we play in this and
22 how do we -- I mean, like you mentioned a
23 second ago, do you use -- and maybe you
24 answered the question, Dee, is that you're
25 not going to have it in wildlife unless you

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already have it in the domestic population.

DR. ELLIS: You're probably not going to know. Look at Minnesota next to Michigan. Michigan says they have a reservoir; they admit it; we've got it. Minnesota had deer with TB, but they said, no, this is not a reservoir; it's a component, but it's a reflection of cattle disease spreading in deer, not a permanent problem in the deer.

I think our perspective from a long ways off would be, all right, we might take it at face value, but we're going to expect you to continue to do some surveillance to prove that, because that's easy to say and hard to prove.

And I think that probably is reasonable for USDA to require states like that to continue to do surveillance so we feel comfortable, because they did get their status upgraded.

MR. WINEGARNER: How easily transmissible is it from species to species, and is it more of an issue with regard to

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captives, captive cervids?

DR. ELLIS: Well, the simple animal to find it is coyotes. That's the best animal, if you think you have a wildlife reservoir, because they eat everything that's dead or they eat something else that got it.

So I think if you were to get it established, which is hard -- in some areas, you don't have the stocking rate. Up in Michigan, up in the north, they get -- they have the number of deer, and they're congregated in feeding locations. So it's probably pretty easy -- obviously, it's pretty easy to spread.

Was it hard to get started? Yes. It probably took many, many years. But a state like Texas where we don't have the stocking -- you know, have the density of deer per acre, it would be a lot harder for us to have that. But could we get a little localized outbreak? Absolutely.

And that's why we're going to look for it, and we would expect other states to do the same. So far, Wildlife Services, you

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2 know, which is another USDA agency, has been
3 amenable to helping us at no cost. They
4 were able to go catch wild hogs for us and
5 they went out there and -- and also the
6 academic institutions sometimes have a
7 research interest.

8 So on focused -- on an area like
9 where you just have one case, it won't -- it
10 shouldn't be hard for a state to get
11 surveillance around that ranch pretty easily,
12 with the resources they have.

13 But if you had a whole part of a
14 state, you know, infected, where you have to
15 have long-term surveillance over a wide area,
16 then it could become a funding issue for
17 sure.

18 But in whose interest is it? It's
19 in that state's industry -- their cattle
20 industry's interest to get it out of there.
21 So I think the bigger the scope, probably
22 the easier it is to get the attention of
23 those that need to provide funding, at least
24 it has been so far.

25 MR. DEWALD: Doesn't the first part

1
2 of that say that the working group's
3 recommendation is that, in the event that
4 it's found in the native deer population,
5 that does not count against the state? Is
6 that correct?

7 DR. ROBISON: Correct.

8 DR. MICHALKE: Correct.

9 MR. DEWALD: I totally agree with
10 that. I think that's --

11 DR. ELLIS: It warrants further
12 investigation.

13 MR. DEWALD: Sure, sure. That's one
14 of those things that has been hanging over
15 our head, wondering. I think the State of
16 Oklahoma has done some surveillance during
17 deer season, and so far everything has looked
18 really good.

19 But we have a growing cervid
20 population, deer farms, and that interface
21 between that -- and those deer are moving a
22 lot. So that's probably my major --

23 DR. ELLIS: You would think captive
24 cervids, they're not supposed to be
25 commingling with wild deer, so their

1
2 transmission risk to cattle maybe right
3 across the fence is legitimate, but that's
4 probably less likely to be a wide-spread,
5 in-the-forest kind of an issue. That's going
6 to be one ranch to another ranch, or one set
7 of animals to another in close proximity.

8 MR. DEWALD: I guess my concern --
9 and this may not be scientifically sound.
10 If it isn't, please tell me and I'll quit
11 worrying about it. We require a TB test on
12 cervids coming into the state of Oklahoma,
13 but we know what the accuracy is on those
14 tests and we know that two years later,
15 after they come into the state, they could
16 be in complete confinement and still have a
17 reaction, because the test is just not that
18 good.

19 So as that industry kind of blossoms
20 right now, I'm curious if maybe we're drawing
21 some in. Yeah, we're testing for it, and
22 the deer guys will say, oh, we test. I
23 mean, there's no -- that's not accurate.
24 Just because you test doesn't mean it doesn't
25 have TB. It could manifest years later,

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correct?

DR. ELLIS: (Nods head up and down.)

MR. DEWALD: And that's where my
kind of concern is.

DR. ROBISON: I'll just start
reading here. On zoning, it says the
working group discussed that zoning should
consist of short-term and long-term
containment activities.

In short-term containment, the
following activities must occur: The
issuance of quarantines, conducting
epidemiological investigations, testing of
adjacent contact or potential herds, and
addressing or evaluating other potential
risks.

What other actions, if any, are
needed that would help ensure that other
states do not implement interstate movement
requirements? Basically, what all besides
that needs to be done to give some assurance
to other states that things are under
control, that we don't need extra testing?

MR. WILLIAMS: I think, going back

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2 to what we talked about before, it's probably
3 just assumed that it would happen, but after
4 the other questions, I'm not so sure. You
5 can go through all that, but if that's not
6 reported to other states, they may not feel
7 comfortable with their program.

8 So the transparency and the reporting
9 of all the activities that they're doing is
10 going to be needed for other states not to
11 increase their regulations.

12 DR. ROBISON: So good communication.
13 Like status report? Situation report?

14 MR. WILLIAMS: Well, there's some
15 things we don't hear about until the end
16 after the investigation is totally wrapped
17 up. And it leaves you, as a neighboring
18 state, wondering what's going on, sometimes
19 for two years, while they're getting to the
20 bottom of it.

21 So I think status reports and, you
22 know, just having a communication line that
23 you can ask questions and, you know, see if
24 your fears are scientifically based, or are
25 you just scared because you're ignorant of

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the information.

DR. ELLIS: Yeah, the communication would include open evaluation of the activities, because you have states now with TB investigations under way. We would assume USDA's involved in that and is ensuring that they're done professionally and completely, but I don't have any way to prove that.

So if your industry wants that assurance, the state vet has to have a way to tell them, with some authority or certainty, that they know -- or they feel comfortable that everything is taking place.

We have states whose state vets have been replaced on short notice. They have resource issues. And it may not even be their fault, but this process needs to allow for open evaluation. In other words, one state's epidemiologist should be able to evaluate what another state's epidemiologist is up to.

And if they don't feel it's appropriate -- and as I said in the beginning -- and I'm Dee Ellis from Texas --

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2 preemption. States should have the right to
3 make decisions about entry requirements into
4 their state. If they're wrong, they'll pay
5 the economic price; their industries will
6 suffer. If they're not wrong, they're
7 protecting themselves.

8 So until you have a process that
9 allows us to make our own judgments, then we
10 have to depend upon USDA. And with the
11 Vision 2015 reductions and their involvement,
12 something's got to give. Either give us
13 more information or do it yourself and tell
14 us what you came up with, but there needs to
15 be some way for us to evaluate actions in
16 other states.

17 MR. WINEGARNER: Dee, I agree with
18 your comment on preemption. But I have a
19 little bit of a concern, because I don't
20 want a state, based off of political
21 reasoning, not scientific reasoning, making
22 rules to protect -- what they consider taking
23 protectionist actions that they think will
24 help their local industry, but could harm the
25 national industry.

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DR. ELLIS: Has that happened? Do you have an example of that?

MR. WINEGARNER: Country of origin labeling is an example.

DR. ELLIS: That's international.

MR. WINEGARNER: That's international.

DR. ELLIS: I'm just not aware that at the state level that's really happened. Our systems are too intermingled. I mean, you guys, you have members in multiple states.

MR. WINEGARNER: Oh, I understand that. But I could see where there's a misunderstanding or a concern amongst some people about importation of Mexican feeders or Canadian feeders that say that, well, we're no longer going to take any animals from Texas or New Mexico or Arizona.

So that limits the ability of breeding stock and commercial cows to move to those other states, and could impact -- you know, you've got two different segments.

DR. ELLIS: I agree with you. Like I said, though, in my remarks, the hole in

1
2 this right now is on the systems, the
3 industries that have channels of animals that
4 move from place to place.

5 And, you know, if the rules are
6 really based on regionalization and
7 risk-based, science-based decisions, then your
8 concerns should be addressed in a process
9 that allows one state to prove to another
10 state that there's not a disease risk.

11 Of course, politics, you can't -- I
12 can't figure that out. I just know at the
13 interstate level, so far, most state vets are
14 very reluctant to impose movement restrictions
15 without really good reason, because they know
16 it could turn around on them in a heartbeat.

17 So I just have -- I think it's more
18 likely that a state's not taking care of
19 their business than it would be that a state
20 would impose, you know, a hardship on you to
21 move your product, because I see the one
22 thing happening now and I don't see the
23 other thing. In my career, it hasn't
24 happened. That's just my perspective on it.

25 MS. MILLIS: If you've not had an

1
2 opportunity to weigh in on the third round
3 of feedback, you can join up with that group
4 at about five minutes after the hour.

5 It's 1:56, by my clock right now.
6 Thank you for your robust feedback here.
7 When we're done with that, I think we'll
8 join up in the middle room. And that's just
9 as a close-out for anybody who may have any
10 final comments. I think we have the most
11 tables in that middle room.

12 DR. ROBISON: That will be roughly
13 3:00?

14 MS. MILLIS: Yeah, right about then.
15 Let's say 3:05 or 3:07.

16 MR. WINEGARNER: On the concept of
17 zoning, I like the idea of being able,
18 especially for a state the size of Texas, to
19 not have movement restrictions on the whole
20 state if you know that the disease incident
21 is in a particular portion of the state.

22 But Dee's got a good point, also,
23 that besides just geographical concerns, we
24 might want to look at industry segments.
25 You know, if it's a dairy issue and you

1
2 haven't had an interaction with that group of
3 dairy animals, then why should there be any
4 movement restriction on other segments of the
5 beef industry?

6 DR. ELLIS: Well, California is a
7 perfect example of your point. They've had
8 four TB infected herds, and they can't --
9 there's really not a close correlation
10 between any one of the four. So what's that
11 tell you? They have a dairy problem.

12 So their beef cattle, absolutely, the
13 way the rules are set right now, allow
14 states to assume their beef are free. In
15 Texas, we are allowing California beef cattle
16 to enter as they're free. It was the right
17 thing to do.

18 But what's that mean, back to the
19 zoning? It doesn't make sense. It doesn't
20 make sense to geographically zone the Chino
21 Valley when infections are not related to
22 proximity, when you look at the DNA
23 fingerprints. So that goes back to -- that
24 would lead you to think that's a national
25 issue that needs a national approach, or a

1
2 systems approach for the dairy industry,
3 rather than a geographical zoning.

4 Another concern I have with the
5 long-term --

6 MR. WINEGARNER: But it could be
7 also a geographical and segmented component
8 together.

9 DR. ELLIS: It absolutely could.
10 I'm just saying, in that particular case, the
11 epidemiology is not showing that there's a --
12 the only correlations are all dairy cattle
13 right now. And this is my secondhand
14 knowledge.

15 But the long-term zoning says, if
16 you're going to have a problem for more than
17 a year, then you need to have a zone plan.
18 And my question would be how does that
19 interact with the fact that quarantines for
20 TB are routinely three or four years long?

21 So if you have a three-year
22 quarantine on a herd, does that mean you
23 have a longer than a one-year infection,
24 which would throw you into a zone. And I
25 hope that's not the case, because you don't

1
2 want to have to set a zone up just because
3 you have a long-term plan in place.

4 I want to go on the record here,
5 too, that, for the dairy industry, they need
6 a milk ordinance. They need the return of a
7 national milk ordinance test. Every three
8 years or four years they test their cattle
9 for TB, because the dairy industry does have
10 a problem that they have not figured out
11 where they're getting infected. They just
12 haven't figured it out. You have to make
13 the assumption it's in the industry itself.
14 So I just want to put that into the
15 comments.

16 MR. DEWALD: One thing I want to
17 add -- and let me back up just a little
18 bit. I don't know how -- I don't understand
19 how USDA could subvert states' rights, back
20 to your issue of the State of Texas or the
21 State of Oklahoma can do things more
22 stringent than what the Feds have set up,
23 and that's always been the way.

24 I would be almost surprised it's
25 legal the Feds could say: You can't preempt

1
2 us on this. I'm trying to think of a case
3 where they have been able to be more -- or
4 to say you can't be more strict than we are.

5 DR. ELLIS: Well, it's a slippery
6 slope. And for animal disease traceability,
7 I actually agree with them not allowing
8 states to -- you know, one state to drive
9 the issue for the other 49.

10 Chronic Wasting Disease Program in
11 deer, they haven't solved that problem. So
12 I'm not just a full-blown states' rights.
13 There are times when it's not appropriate.
14 I just feel, for TB and brucellosis, that it
15 depends -- so much of the success of these
16 programs depends upon the resources the state
17 has, experience of their staff, the number of
18 staff they have, and then the exchange of
19 information with other states to get to the
20 source.

21 There's so many things that can
22 cause a disease eradication program to not be
23 effective, that you have to be able to say:
24 Time out. Until y'all get your hands on
25 this problem, we're going to do X.

1
2 So, in this case, it is appropriate;
3 you're exactly right. It should be allowed.
4 But there are other situations where
5 preemption doesn't make as much sense, and
6 animal ID program is one of them.

7 You can't have the brand states tell
8 all the other states: You've got to have a
9 fire brand or we're not going to take your
10 animal. I mean, that's where it doesn't
11 make sense.

12 DR. ROBISON: I appreciate y'all
13 participating.

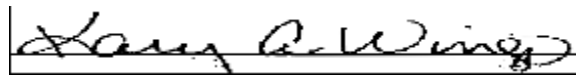
14 **(Whereupon recessed at 2:03 P.M.)**

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CERTIFICATE

STATE OF TEXAS

I, KARY A. WINGO, CSR, RPR in and for the State of Texas, certify that the caption to this transcription correctly states the facts set forth herein, that the proceedings were correctly reported in Stenograph by me at the time and place set forth in said caption, and have been transcribed from Stenograph into typewriting under my direction and supervision in the foregoing transcript; and that said transcript contains a correct record of the proceedings had at said time and place. GIVEN UNDER MY HAND AND OFFICIAL SEAL of office.



KARY A. WINGO, CSR, RPR

DATED: JUNE 20, 2011

A		
abdicated 6:19	alligators 23:6	associated 29:11
ability 45:20	allow 43:18 48:13	Association 2:16,20 2:22
able 7:14,22 8:14	allowed 16:6 52:3	assume 43:6 48:14
17:11 19:12 20:15	allowing 48:15 51:7	assumed 42:3
20:21 38:4 43:20	allows 23:23 26:25	assuming 32:6
47:17 51:3,23	44:9 46:9	assumption 50:13
absolutely 7:3 34:18	Amarillo 1:11	assurance 41:22 43:11
37:22 48:12 49:9	amenable 38:3	attend 7:17
academic 38:6	amount 16:6	attention 14:22 38:22
accountability 16:13	Angelo 33:25	at-risk 5:8,11
accuracy 40:13	angle 32:9	authority 6:20 31:14 31:18 34:11 35:4 43:12
accurate 29:13 30:3	animal 2:17,25 9:22	automatically 4:14 15:22
40:23	10:5,15 12:24	available 4:8 20:18
acre 37:20	13:25 20:16 26:5	aware 45:8
actions 41:18 44:15	28:6,7 32:12 35:4	
44:23	37:3,5 51:6 52:6	B
activities 3:14 4:3	52:10	back 18:8 24:9 41:25 48:18,23 50:17,19
31:9 41:10,12 42:9	animals 18:20 21:17	background 25:3
43:5	21:23 33:24 34:22	bad 29:23
actual 10:18 33:14	35:16 40:7 45:18	based 42:24 44:20 46:6
34:22	46:3 48:3	basic 24:11
add 15:5 50:17	annual 33:7	basically 32:11 41:21
additional 17:12	answer 22:21	beef 48:5,12,14,15
20:22	answered 35:24	beginning 43:25
addressed 22:23 46:8	anybody 7:21 47:9	best 30:4 37:4
addressing 41:16	anyway 13:20 25:13	better 7:16
adjacent 41:15	APHIS 20:15	big 6:23 19:22 21:11 23:13
administrative 22:10	apparently 16:17	bigger 21:10 38:21
admit 36:6	appeal 15:4	bit 8:3 9:18 20:6,7 23:17 25:18 44:19 50:18
advisory 3:11 5:2,19	appreciate 15:10 52:12	blind 26:19
5:21,23,25 6:5,7	approach 5:17 48:25	blossoms 40:19
6:10,13,14,20 7:4	49:2	board 3:15 5:2,21,25 6:4,5,7,10,14,20 7:4 8:12,19 9:10
7:11,20,24 8:4,20	appropriate 4:12	
9:5 10:8 11:14	43:24 51:13 52:2	
12:4 13:6 14:6,25	area 19:8 38:8,15	
15:17 19:12	areas 14:23 37:9	
Ag 9:5	Arizona 45:19	
agency 21:7 38:2	Arkansas 29:17	
ago 35:23	asked 22:17 31:12	
agree 9:11 35:19	asking 6:21 31:16	
39:9 44:17 45:24	aspect 8:19 23:3 34:21	
51:7	aspects 11:11	
agreeing 12:2	assist 20:15,20	
ahead 17:2	assistance 3:12	
air 7:14 8:23		

10:8 11:14 12:4,23 14:6,25 19:12 boards 5:23 board's 9:6 board-making 11:5 Bonnie's 25:7 Boom 26:9 bottom 42:20 bounced 20:25 Brad 2:17 17:23 33:24 brand 52:7,9 Brazos 30:12,13 BREAKOUT 1:5 breeding 45:21 bringing 11:25 18:20 brothers 30:15,22 brought 11:24,25 12:12 24:6 brucellosis 1:2 4:3 4:20 5:24 6:25 7:5 33:19 51:14 burning 19:16 business 10:22 30:23 46:19 butts 23:7	case 19:13,14 24:3 30:10 38:9 49:10 49:25 51:2 52:2 cash-strapped 20:23 catch 34:12 38:4 cattle 2:20 7:3 8:10 21:12 22:4 33:22 34:17,19 36:9 38:19 40:2 48:12 48:15 49:12 50:8 Cattlemen's 2:24 26:12 caught 33:23 cause 51:22 caused 28:2 causing 28:12 center 12:18 Central 32:16 certain 3:13 4:3,10 22:10 certainly 23:2 certainty 43:13 CERTIFICATE 53:2 certification 22:8 23:21 certify 53:7 cervid 39:19 cervids 37:2 39:24 40:12 cetera 15:25 changes 11:7 channels 46:3 Chapman 2:15,15 13:5 13:12 27:12,17,20 Chino 48:20 chosen 6:2 Chronic 51:10 classification 23:22 Clayton 2:11 clear 25:22 Clinic 30:12 clock 47:5 close 40:7 48:9 close-out 47:9 coalition 21:5 coalitions 23:10	come 7:13 40:15 comfortable 10:4 36:21 42:7 43:14 coming 22:3 40:12 commencing 1:12 comment 15:15 44:18 comments 15:17,20 16:21,23 47:10 50:15 commercial 45:21 commingling 39:25 Commission 2:18 3:2 10:6 commissioners 10:6 committee 7:12 8:20 13:24 14:3,6 communication 42:12 42:22 43:3 complete 40:16 completely 25:24 43:8 compliance 16:13 20:16 comply 17:16 20:21 23:20 component 32:22 34:25 36:9 49:7 components 5:6 concept 47:16 concern 9:3 33:15 40:8 41:5 44:19 45:15 49:4 concerns 7:14 8:23 11:17 14:24 25:19 46:8 47:23 conduct 15:24 conducting 41:13 confidence 26:22 confinement 40:16 confirmation 28:8 confused 31:12 congregated 37:13 connection 34:18 cons 11:23 consensus 4:13 31:5 consequence 3:20
C		
California 21:22 48:6,15 call 8:21 9:10 10:12 22:2 calls 26:13 Canadian 45:17 capacity 7:21 caption 53:8,12 captive 37:2 39:23 captives 37:2 capture 34:24 care 35:5 46:18 career 46:23 careful 25:23 carry 8:15 11:17 Carver 2:21,21 13:8 13:13 16:12 29:19 30:2		

17:5,7,13 19:23 consequences 15:17 15:19 consider 44:22 consist 3:16 41:9 consistency 12:7,11 consistent 3:23 9:7 consists 8:13 contact 41:15 containment 4:23,25 41:10,11 contains 53:16 continue 36:15,20 control 41:24 controlled 29:25 30:2 cooperative 29:3 correct 39:6,7,8 41:2 53:16 correctly 53:8,10 correlation 48:9 correlations 49:12 cost 38:3 count 13:20 39:5 counter-intuitive 15:8 country 12:20 13:15 23:13 45:4 countryside 10:20 couple 28:18 30:15 course 20:9 46:11 Court 1:13 cow 27:18 cows 45:21 cow/calf 10:24 coyotes 37:4 crossing 12:24 CSR 53:6,23 curious 40:20	data 26:9 DATED 53:24 day-to-day 10:19 dead 37:7 deal 4:7 12:4,9 19:2 21:4 dealing 19:4 deals 30:11 decision 27:10 decisions 6:15 11:5 44:3 46:7 Dee 2:25 35:24 43:25 44:17 deer 31:25 32:2,4 34:12,18 36:7,10 36:11 37:12,20 39:4,17,20,21,25 40:22 51:11 Dee's 10:11 47:22 defer 22:17 density 37:19 Department 35:5 depend 7:11 44:10 depends 20:11 51:15 51:16 determine 4:11 developed 27:22 Dewald 2:23,23 14:17 25:20 27:11,15,19 28:2 38:25 39:9,13 40:8 41:4 50:16 difference 6:23 different 6:25 7:2,8 10:23,24 28:9 29:16 45:23 direction 53:14 directives 14:22 disagreeing 12:2 discuss 3:11 discussed 3:19,25 4:9,19,25 5:6 41:8 discussion 4:17 6:7 8:12 35:17,20 discussions 2:7 disease 4:15 17:7 31:4,7,10 32:17	34:14 36:10 46:10 47:20 51:6,10,22 diseased 28:6 diseases 7:2 disparity 29:4 disseminate 27:13 disseminated 28:10 DNA 48:22 doing 18:13 20:4 23:6 25:7 26:19 34:2 42:9 domestic 33:9 34:13 36:2 door 35:14 downgraded 4:14 24:5 31:7,20 DR 2:5,13,25 3:3 6:6 6:8 8:9,11 9:4,14 10:22 11:10,19 13:10,19 14:5,12 14:15 15:16 16:10 16:15,20 17:23 18:24 20:2,24 21:19 22:12,16,18 22:25 24:2,7,16 25:11,14 27:9 28:14,18,21 29:7 29:24 30:4,25 31:15 32:8,23 33:2 33:18 35:2 36:3 37:3 39:7,8,11,23 41:3,6 42:12 43:3 45:2,6,8,24 47:12 48:6 49:9 51:5 52:12 draft 14:20 16:10 draining 23:7 draw 30:8 drawing 40:20 drive 51:8
D		E
dairies 10:24 dairy 21:21 33:24 47:25 48:3,11 49:2 49:12 50:5,9 damaging 27:25		earlier 15:3 easier 26:17 38:22 easily 36:23 38:11 East 1:11

easy 36:16 37:14,15	27:11 52:3	figure 35:15,21 46:12
eat 37:6,7	example 26:8,8 30:5 45:3,5 48:7	figured 50:10,12
economic 44:5	exchange 51:18	final 47:10
effective 9:11 51:23	expect 10:25 33:20 36:14 37:24	finally 4:24
EHV 30:6	experience 51:17	find 34:7 37:4
either 8:25 12:12 44:12	experts 14:12	fine 18:3,21
elk 34:19	extra 41:24	finger 25:10
Ellis 2:25,25 6:8 8:9 9:4 10:22 33:2 33:18 35:2 36:3 37:3 39:11,23 41:3 43:3,25 45:2,6,8 45:24 48:6 49:9 51:5	<hr/> F <hr/>	fingerprints 48:23
enacted 10:21	FACA 11:7	fire 52:9
encourage 31:9	face 36:14	first 2:10 38:25
ensure 41:19	fact 11:23 12:3 28:13 49:19	fit 6:23 7:9 19:18
ensuring 43:7	factors 22:10	five 11:13 12:14,16 13:14 16:11 47:4
enter 48:16	facts 53:9	fix 23:24
entry 44:3	failed 30:16	fixed 19:7
environment 13:17	fails 18:16	flesh 8:3
epidemiological 41:14	failure 15:24	flexibility 20:8
epidemiologist 43:20 43:21	fairly 5:5	flip 12:6
epidemiology 49:11	fall 11:6	focus 34:21
equine 26:8 30:12	falls 17:13	focused 19:8 38:8
eradicate 17:6	familiar 6:13 27:3	focusing 5:10
eradicated 4:21	far 3:7 8:14 16:10 22:18 23:9,17 32:9 37:25 38:24 39:17 46:13	follow 11:6 17:21 32:8
eradication 51:22	farms 39:20	followed 18:6
especially 28:20 47:18	fashion 26:7	following 19:24 41:12
establish 9:6	fault 43:18	force 22:2
established 14:11 37:9	fears 42:24	foregoing 53:15
establishing 5:19	feasible 25:4	form 21:4
et 15:25	federal 20:20 29:2	formal 4:22 20:6
evaluate 43:21 44:15	Feds 22:17 50:22,25	formalize 15:14
evaluating 41:16	feedback 47:3,6	forth 53:9,12
evaluation 43:4,19	feeder 12:23,25	forward 11:18 14:21
event 26:25 39:3	feeders 2:20 7:3 8:10 10:23 34:2 45:16,17	found 4:15 31:4,7,10 31:21 32:10 39:4
everybody 2:6 13:8 21:2 26:2 28:10	feeding 37:13	four 16:11 48:8,10 49:20 50:8
everybody's 27:7	feel 7:13,23,25 10:4 36:21 42:6 43:13 43:23 51:14	FRAMEWORK 1:2
exactly 13:12 26:10	fence 40:3	free 30:10 48:14,16
	fend 21:16	free-flowing 8:7
		full-blown 51:12
		function 26:3,5
		funding 34:21 38:16 38:23
		funds 5:12

further 17:8 39:11	great 8:19 26:8	32:12 35:5
<hr/>	group 3:8, 9, 11, 12, 19	hear 24:19, 22 25:16
G	3:25 4:9, 12, 25 5:5	29:8, 16 42:15
gain 22:8	5:19 7:20, 24 8:4	heard 9:15 24:13
gear 26:25	8:20 9:5, 12, 15, 20	hearing 4:6 26:14
geared 28:22	9:20, 24 10:15, 16	heartbeat 46:16
general 3:9 5:13	11:11, 18, 22 20:3	heck's 27:3
geographical 13:2	24:9 31:5 41:8	held 26:22
47:23 49:3, 7	47:3 48:2	help 20:22 41:19
geographically 48:20	groups 6:25 11:16	44:24
getting 23:16 26:12	24:6	helpful 26:11
33:12 42:19 50:11	group's 39:2	helping 22:4 38:3
give 3:8 9:12 21:19	growing 39:19	herd 21:21, 24 24:20
26:21 41:22 44:12	guess 12:20 16:20	24:21 32:16, 18
44:12	18:11 28:21 29:5	33:19, 21, 22 49:22
given 14:22 15:23	31:15 33:16 34:21	herds 18:7, 11 21:25
23:20 53:17	40:8	41:15 48:8
gleaned 19:10	guessing 22:9	herpes 26:8
go 5:16 12:21 16:19	guidance 32:20	hey 29:16
17:2 18:8, 18 22:23	guidelines 17:2	hierarchy 27:4
25:12 34:12 38:4	guys 7:17 29:21	hit 27:22
42:5 50:4	40:22 45:11	hogs 6:17 38:4
goal 17:6	<hr/>	hole 45:25
goes 24:9 48:23	H	Holiday 1:11
going 2:5, 7 6:21 7:7	half 19:15	honest 9:16
7:15 8:24 9:3, 6, 12	HAND 53:18	hope 49:25
9:17 10:11, 12, 17	hands 51:24	horses 30:6
11:5, 6 13:2, 6, 8	hanging 39:14	hour 47:4
15:14 17:11, 15	happen 19:14 27:5	HQ's 26:19
18:3 19:9 22:9, 16	42:3	hurricane 19:16
23:14 24:22 26:10	happened 28:14, 16	hurt 25:10
27:3, 6, 18 29:12, 15	45:2, 9 46:24	<hr/>
29:17 31:20 32:2, 3	happening 27:5 46:22	I
32:7 33:5, 7, 20	happens 9:2 19:19	ID 52:6
34:4, 11 35:25 36:4	hard 13:13 15:4	idea 6:11 8:19 9:13
36:14 37:23 40:5	19:25 35:11 36:17	12:9, 14 26:19
41:25 42:10, 18	37:9, 16 38:10	47:17
45:18 49:16 51:25	harder 37:20	ideas 10:19
52:9	hardship 46:20	ignorant 42:25
good 9:13 12:9 23:5	harm 44:24	ignore 8:24
23:10 25:2, 8, 16	hate 7:23	immediately 23:21
27:9 30:5 39:18	head 39:15 41:3	24:5
40:18 42:12 46:15	headed 33:4	impact 45:22
47:22	health 2:18, 25 9:22	implement 41:20
grapevine 4:7	10:6, 15 13:25	importance 4:2
grass 34:3	20:16 26:5 28:7	importation 45:16

impose 46:14,20	interaction 48:2	12:8,15 13:22 14:3
incidence 18:11	interest 7:5 38:7,18	14:8 15:5,21 16:21
incident 47:20	38:20	18:2,10,25 19:4,6
include 43:4	interface 39:20	19:14 20:9,10,12
included 5:7	intermingled 45:10	20:22 21:7 22:4,25
inconsistent 3:22	international 45:6,7	23:3,9,12 24:10,12
9:8 15:23 16:3,22	interstate 16:4	24:13,20 25:6
increase 42:11	41:20 46:13	26:10,23 27:17
increased 16:4 31:17	introductions 2:11	28:19 29:2,17,21
indefinitely 18:18	investigation 39:12	30:14,19,20 31:19
industries 10:23	42:16	31:23 32:10 33:10
44:5 46:3	investigations 41:14	33:14 34:7 36:4
industry 7:6 9:19	43:6	37:19 38:2,14
11:3 14:2 28:23	involved 14:2 43:7	40:13,14 42:22,23
38:19 40:19 43:10	involvement 13:16	43:13 45:23 46:5
44:24,25 47:24	44:11	46:12,15,20 47:20
48:5 49:2 50:5,9	in-the-forest 40:5	47:25 50:18 51:8
50:13	Island 21:3	knowledge 49:14
industry's 38:20	Islands 21:16	known 3:21 21:6
industry/wildlife	issuance 41:13	
35:8	issue 35:5 36:25	<hr/> L <hr/>
infected 18:7,12	38:16 40:5 47:25	labeling 45:5
21:22 24:19,20	48:25 50:20 51:9	lack 15:24 29:5
34:2 38:14 48:8	issues 15:16,21	lands 4:4
50:11	28:25 43:17	large 21:21
infection 49:23		layer 15:6
infections 48:21	<hr/> J <hr/>	layperson 26:11
information 4:6,8	Jesse 2:21	lead 2:6 48:24
24:19 25:3,5,21	join 47:3,8	leave 8:5
26:4,21 27:13,14	Josh 2:19 8:9 9:11	leaves 42:17
29:4,6,14 43:2	14:17 17:2 18:2	legal 50:25
44:13 51:19	32:7	legit 23:2
informed 27:4,9	judge 19:13	legitimate 40:3
infrastructure 19:3	judgments 44:9	length 6:3
22:13	June 1:10 2:3 53:24	Let's 2:10 30:25
initially 22:8	jurisdiction 32:9	47:15
Inn 1:11		level 35:9 45:9
input 6:21 7:15 8:18	<hr/> K <hr/>	46:13
9:13 11:15 15:12	Kary 1:12 53:6,23	levels 26:22
institutions 38:6	keep 23:6	liaison 14:15
intended 6:9	Kerrville 30:8	limit 16:5
intent 6:19	kind 2:6 4:7 7:18	limits 45:20
intention 18:25	14:6 21:4,8,16	line 18:3,21 19:25
33:18	23:16 25:17 30:7	22:5 30:8 42:22
intentions 30:5	40:5,19 41:5	list 5:16
interact 49:19	know 7:19 11:23 12:6	listen 11:17

<p>little 8:3 9:18 17:17 20:6,7 23:16 25:18 37:21 44:19 50:17 livestock 2:16,21 33:9 34:8 local 32:13 44:24 localized 37:22 locations 37:13 long 36:12 49:20 longer 45:18 49:23 long-term 4:18,19,25 38:15 41:9 49:5,15 50:3 look 19:13,21 24:13 35:2,3,13 36:4 37:23 47:24 48:22 looked 39:17 looking 9:23 11:21 18:10 21:8,14 34:6 34:9,20 losing 23:21 loss 3:21 15:19 lot 3:16 10:14 12:11 13:4 17:19 21:11 21:12,13,17 23:13 26:17 28:17 30:16 32:2 37:20 39:22 loud 13:23</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>main 5:10 major 39:22 makeup 11:20 making 6:15 8:6 18:23 44:21 manage 26:17 35:11 manifest 40:25 manpower 17:21 20:22 21:13 Mark 2:13 25:10 market 28:12 Marketing 2:16,22 matter 28:25 maximize 5:11 mean 6:12 8:16 9:21</p>	<p>10:2,5 11:8,20 12:15 13:25 15:10 18:15 19:15 21:10 23:2,9 26:9 27:16 27:20 29:3,20,21 30:17,21,23,24 31:18,19 33:12 35:2,19,22 40:23 40:24 45:10 48:18 49:22 52:10 means 34:24 media 25:25 meet 16:17 17:9,10 17:12 22:9 meeting 1:10 8:23 16:18 meetings 7:18,19 members 6:2 26:13 45:11 mention 11:10 mentioned 35:22 Mexican 12:24 45:16 Mexico 21:10,22 23:4 45:19 Michalke 2:13,13 6:6 9:14 11:19 13:10 13:19 14:15 15:16 16:10,20 17:23 18:24 20:2 22:12 22:16,25 24:7 25:11 28:18,21 29:24 30:4 31:15 39:8 Michigan 31:24 32:11 35:3,4 36:5,5 37:11 middle 47:8,11 Midwest 12:17,18 34:17 miles 30:20 milk 50:6,7 MILLIS 46:25 47:14 mind 6:10 Minnesota 36:4,7 minute 27:8 minutes 47:4</p>	<p>Mississippi 27:18 misunderstanding 45:15 models 10:22 money 17:20 21:12 morning 31:13 move 30:25 45:21 46:4,21 movement 6:17 9:19 16:5 41:20 46:14 47:19 48:4 moving 39:21 multiple 45:11</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name 30:21 national 5:7 44:25 48:24,25 50:7 native 39:4 NCBA 14:18 necessarily 34:9 need 7:3,17 10:18 15:2 16:9 17:5 18:8,23 19:21,24 21:18,24 24:4,18 25:21,22 26:6 38:23 41:24 49:17 50:5,6 needed 20:19 41:19 42:10 needs 6:24 12:7 19:6 19:22 21:6 22:22 23:20 41:22 43:18 44:14 48:25 negative 34:6 neighboring 42:17 neighbors 21:5 23:5 nervous 8:6 never 29:8 New 21:10,21 23:3 45:19 news 25:7 27:22 29:20 Nods 41:3 nominate 7:24 noncompliance 3:20</p>
--	--	---

15:19,21 north 30:20 37:11 Northeast 12:17 23:11 notice 43:16 notify 18:16 nuances 11:2 number 1:5 7:22 37:12 51:17	P	play 13:24 35:21 please 40:10 point 14:18 16:20,22 20:4 32:5 33:2 47:22 48:7 policy 27:21 policy-making 14:20 political 44:20 politics 46:11 population 36:2 39:4 39:20 populations 5:9,11 portion 47:21 position 35:18 possibility 11:24 possible 3:20 15:3 27:12 34:15 potential 22:22 41:15,16 preempt 50:25 preemption 44:2,18 52:5 presented 11:12 presume 24:2 presumption 28:5,11 29:14 pretty 29:20 37:14 37:15 38:11 prevent 33:8 price 44:5 primrose 9:17 probably 7:20,21 9:21 19:4 29:11 34:4,16 35:16,17 36:3,18 37:14,17 38:21 39:22 40:4 42:2 problem 19:6 23:24 35:7 36:11 48:11 49:16 50:10 51:11 51:25 problems 13:9 18:17 34:17 proceedings 53:10,16 process 8:18 11:8 15:15 18:6 19:24
O		
obligated 34:4 obviously 6:11,24 8:17 37:14 occur 41:12 office 53:18 OFFICIAL 53:18 officially 23:25 officials 9:22 20:16 32:12 oh 26:14,18 27:15 40:22 45:13 Ohio 24:21 okay 11:8 31:19 34:15 35:18 Oklahoma 2:23 33:17 39:16 40:12 50:21 ones 17:14 one-year 4:21 49:23 open 6:6 8:11 15:12 25:3,24,25 27:21 43:4,19 operate 13:18 opinion 7:2 opportunities 14:20 opportunity 8:17 47:2 option 12:4 ordinance 50:6,7 organizations 14:19 origin 45:4 outbreak 37:22 outrageous 24:4 overview 3:5,9 owned 33:16	page 16:8 panic 28:2 Parks 32:14,19 34:12 part 3:18 4:22 5:10 9:20 12:9,10 16:18 22:7 38:13,25 participate 7:9 participating 52:13 particular 13:16 14:22 24:17 26:21 47:21 49:10 parties 7:8 partnering 32:12 partnership 30:22 32:19 passed 29:22 path 9:17 pay 34:24 44:4 Peculiar 13:10 people 12:22 17:20 21:3 22:3 30:16 45:16 percent 18:11 perfect 48:7 period 4:21 permanent 36:10 permission 32:24 person 10:25 25:5 personal 25:5 personally 11:9 personnel 20:15 perspective 7:10 10:4,18 35:8 36:12 46:24 pertains 3:10 31:4 phones 30:24 picks 21:2 picture 19:22 place 14:13 24:11 43:14 46:4,4 50:3 53:11,17 plan 4:19,23,25 24:11 49:17 50:3 plans 32:22 33:7 platform 20:5	

22:24 25:24 43:18 44:8 46:8 producer 11:16 17:14 18:22 producers 10:19 18:19 product 46:21 production 12:19 34:22 productive 8:25 10:9 productively 7:16 professionally 43:8 professionals 14:2 26:5 28:7 program 1:6 3:13 7:16 16:14 17:6 19:6 22:14 31:3 42:7 51:10,22 52:6 programs 14:25 51:16 prone 13:17 PROPOSED 1:2 pros 11:23 protect 44:22 protecting 20:12,13 25:4 44:7 protectionist 44:23 prove 32:4 34:6 36:16,17 43:9 46:9 provide 3:12 5:21 7:14 8:18 38:23 provisional 16:7 23:23 provisionally 3:23 proximity 40:7 48:22 Pseudorabies 6:13 9:9 public 1:10 27:14 punished 17:15 punishing 18:22 punitive 35:10 purposes 12:25 put 17:7,18 29:21 50:14 puts 18:19 putting 12:14 30:3 p.m 1:12 52:14	Q	regards 3:13 region 13:6,11 30:7 regional 13:5 regionalization 46:6 regulations 6:16 42:11 REGULATORY 1:2 relate 13:15 related 10:15 48:21 relates 34:13 relationship 14:10 releases 25:7 29:20 reluctant 46:14 remarks 45:25 replaced 43:16 report 26:15 42:13 42:13 reported 42:6 53:10 Reporter 1:13 reporting 4:2 15:24 16:12 18:14,16 42:8 reports 42:21 representation 11:4 13:3 require 4:10 15:22 33:5 36:19 40:11 required 4:20 requirement 18:5 requirements 1:6 2:8 3:4,19 15:18 16:4 16:12 17:12,16,21 19:19 31:3,3 41:21 44:3 research 38:7 reservoir 33:4,6,15 36:6,8 37:6 reservoirs 33:11 Resident 14:12 resolutions 14:21 resource 43:17 resources 20:18 21:13 35:11 38:12 51:16 restriction 48:4 restrictions 16:23
	R	quandary 28:24 quarantine 49:22 quarantines 41:13 49:19 question 6:8,18 22:22 24:10,12 28:23 31:13,16 35:24 49:18 questions 3:9,10,14 3:23 5:18,20 24:14 42:4,23 quick 3:5,8 quit 40:10 quite 4:4
		ranch 38:11 40:6,6 rate 37:10 reaction 40:17 read 16:9 30:16 reading 41:7 real 11:4,19 25:8 really 6:14 10:25 12:11,19 14:18 15:10,12 18:10 28:23 29:8 39:18 45:9 46:6,15 48:9 reason 46:15 reasonable 35:16 36:19 reasoning 44:21,21 reasons 7:22 receiving 26:6 recessed 52:14 reclassified 23:25 recommendation 39:3 recommendations 5:22 record 50:4 53:16 reduced 3:22 reductions 44:11 refer 20:25 reflect 12:19 reflection 36:9 regain 23:24 regard 36:25

46:14 47:19	rumors 29:11	setup 13:7
restrictive 17:8	running 27:7	shared 28:6
result 25:25 27:23		sharing 24:18
retain 6:22	<hr/> S <hr/>	shift 28:12
return 50:6	San 33:25	short 5:5 29:20
revenue 34:24	saying 8:25 14:5	43:16
review 4:10	21:20 49:10	short-term 4:18 41:9
reviewed 5:2	says 5:5 36:5 41:7	41:11
Rhode 21:3,15	49:15	show 8:22
right 6:22 9:18,22	scared 42:25	showing 49:11
22:15 23:4,7 26:15	scary 28:20	side 12:6
31:21 34:16 35:9	scenarios 26:18	sides 20:10
36:13 40:2,20 44:2	science-based 46:7	simple 37:3
46:2 47:5,14 48:13	scientific 44:21	sit 13:15
48:16 49:13 52:3	scientifically 40:9	situation 12:5 19:5
rights 50:19 51:12	42:24	23:19 26:16 42:13
ringing 30:24	scope 16:13 38:21	situations 4:10 16:2
risk 18:20 28:11	Scott 2:23	52:4
40:2 46:10	se 9:20	six 11:13 12:14,16
risks 41:17	SEAL 53:18	13:14
risk-based 46:7	season 39:17	size 47:18
road 18:8	second 35:23	slaughter 5:7,10
roaming 33:14	secondhand 49:13	slippery 51:5
Robison 2:5,11 3:3	Secretary 9:5	slope 51:6
8:11 11:10 14:5,12	see 6:4,22 7:9 9:18	slow 15:14
16:15 20:24 21:19	19:11 25:9 42:23	slows 15:6
22:18 24:2,16	45:14 46:21,22	small 20:17 35:10
25:14 27:9 28:14	segmented 49:7	smaller 21:2
29:7 30:25 32:8,23	segments 45:23 47:24	solved 51:11
39:7 41:6 42:12	48:4	somebody 7:24 14:16
47:12 52:12	send 7:18	20:11 24:20 29:13
robust 47:6	sense 10:14 13:4	somebody's 25:5
role 6:9 7:11 8:4	48:19,20 52:5,11	29:12
13:23 14:16 20:14	sent 25:25	something's 44:12
35:21	separate 7:8	sorry 17:2
roles 6:4	serve 7:20	sort 17:5 18:4
room 47:8,11	serves 26:2,4	sound 12:8 40:9
roughly 47:12	service 6:3 34:12	sounds 23:10
round 47:2	Services 2:12 3:13	source 34:15 51:20
routinely 49:20	5:3,22 21:7 32:22	South 13:16 33:23
RPR 53:6,23	37:25	speak 5:14
rule 15:2 34:14	Session 1:5,10 2:2	species 36:24,24
rules 6:16 11:7	set 12:4,5,25 22:14	speed 15:7
44:22 46:5 48:13	28:4 30:23 40:6	spread 37:15
rule-making 22:24	48:13 50:2,22 53:9	spreading 36:10
rumor 28:12	53:11	staff 10:5 20:18

25:12 51:17,18 standards 16:16,17 16:18 standpoint 7:7 28:20 start 2:10 5:15 23:12 24:12 34:5 41:6 started 30:24 37:16 state 1:6,13 3:4,21 4:4,11,13 6:15 9:7 10:12 11:13,14,16 12:14 13:14 15:18 15:22 16:16 17:8 17:20 18:15,23 19:3,15 20:16,17 20:20,23 21:10,11 23:2,19 24:25 25:21 26:6,23 27:2 28:22 29:2,3 30:9 31:3,6,20,23 32:11 33:17 35:7,8,9,10 35:14 37:18 38:10 38:14 39:5,15 40:12,15 42:18 43:11,15 44:4,20 45:9 46:9,10,13,19 47:18,20,21 50:20 50:21 51:8,16 53:4 53:7 statement 30:11 states 4:2 12:10,18 17:15 18:17,20 21:2 22:3 29:8 32:3 33:5 36:19 37:24 41:20,23 42:6,10 43:5,15 44:2,16 45:12,22 48:14 50:19 51:8 51:12,19 52:7,8 53:8 state's 16:6 38:19 43:20,21 46:18 state/program 2:8 3:18 status 3:21,22 4:11 4:13 10:13 15:20	15:23 16:3,7,22 23:23 31:6,20 36:22 42:13,21 statuses 6:16 9:7 stay 16:6 staying 15:18 steers 12:24 Stenograph 53:11,13 stirred 30:24 stock 45:21 stocking 37:10,19 straight 30:8 strict 51:4 strike 19:2 stringent 50:22 stuff 18:12 subgroup 9:25 subvert 50:19 success 51:15 suffer 44:6 suggestions 11:21 15:12 summer 19:17 supervision 53:14 supposed 17:10 18:13 39:24 sure 18:5 19:23 38:17 39:13,13 42:4 surprised 50:24 surveillance 1:7 2:9 3:5 5:4,6,7,8,8,9 15:25 31:17 32:17 32:24 33:21 36:15 36:20 38:11,15 39:16 swamp 23:8 systems 45:10 46:2 49:2	taken 7:15 talk 7:13 20:3 talked 11:22 15:3 25:18 42:2 talking 2:7 10:11 22:13 23:13 30:20 33:25 task 22:2 TB 4:3,20 5:24 6:25 7:4 13:23 14:6 19:17 24:20 32:16 33:19 34:2 36:7 40:11,25 43:6 48:8 49:20 50:9 51:14 tell 29:12 34:11 35:4 40:10 43:12 44:13 48:11 52:7 tells 15:11 tens 21:23 term 9:8 Terry 2:15 test 22:4 25:24 40:11,17,22,24 50:7,8 tested 21:24 testing 16:4 40:21 41:14,24 tests 40:14 Texas 1:12,13 2:12 2:20 3:2 7:2 10:2 10:3 13:16,20 19:15 23:3 25:6 30:7 32:14,16,19 33:16,22,23 37:18 43:25 45:19 47:18 48:15 50:20 53:4,7 Thank 47:6 thereto 9:25 they'd 23:22 thing 14:7,24 15:6 21:8 24:17 27:22 30:17 46:22,23 48:17 50:16 things 3:17 4:6 6:22 8:8 10:13 13:18 20:8 21:5 32:15
	T	
	table 9:21 tables 47:11 TAHC 2:14 take 9:16 21:9 35:5 36:13 45:18 52:9	

<p>39:14 41:23 42:15 50:21 51:21 think 7:6 8:2 9:14 9:17 10:8,17 13:3 14:17 15:13 16:25 17:17,25 18:2,8,17 18:24 19:2,5,9,21 21:15,20 22:13 23:15 24:7 25:7,8 25:20,22 26:7,20 26:24 27:15 28:4,9 29:10 33:2,3 34:6 34:13,15,16 35:17 36:12,18 37:5,8 38:21 39:10,15,23 41:25 42:21 44:23 46:17 47:7,10 48:24 51:2 thinking 13:22 15:11 22:6 third 47:2 thought 5:18 14:4 24:8,18 25:9 thoughts 5:14 24:16 25:15 31:16,19 32:6 thousands 21:23 three 16:11 49:20 50:7 three-year 49:21 throw 49:24 throwing 22:21 tied 16:3 time 5:15 8:2 16:6 18:9 23:20,23 51:24 53:11,17 timely 26:7 times 28:18 29:6 51:13 today 17:9,10 22:21 told 13:19 top 19:17 topic 3:4 24:17 topics 3:6 total 27:14 totally 39:9 42:16</p>	<p>trace 24:24,25 27:2 traceability 51:6 trace-out 21:25 transcribed 53:13 transcript 53:15,15 transcription 53:8 translated 10:20 29:15 transmissible 36:24 transmission 33:8 40:2 transparency 42:8 tribal 4:4 tribes 4:2 tribe's 4:13 tricky 17:18 tried 16:16 25:11 trigger 16:22,23 try 13:15 trying 2:5 5:15 15:7 35:20 51:2 TUBERCULOSIS 1:2 turn 46:16 two 1:5 5:23 6:24 14:25 18:7 20:10 21:3 25:13 40:14 42:19 45:23 type 18:12 typewriting 53:13</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>unable 17:16 understand 11:2 12:23 17:4 21:20 45:13 50:18 understanding 9:9 United 12:10 un-cumbersome 15:3 upgraded 36:22 Upper 12:17 USAHA 13:24 14:18 USDA 6:10,19 11:5 14:21 15:10 31:13 32:21 34:11 36:19 38:2 44:10 50:19 USDA's 35:3 43:7</p>	<p>use 3:11 5:11 14:11 25:11,13 35:23</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>valid 14:18 Valley 30:12,13 48:21 value 36:14 variability 20:7 variety 5:21 vehicles 15:9 Vermonts 21:15 vet 43:11 veterinarians 11:13 11:15 25:22 26:23 Veterinary 2:12 3:12 5:3,22 21:6 veterinary-focused 10:15 vets 12:14 13:14 43:15 46:13 violation 24:4 Virginia 24:21 Vision 44:11</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>want 5:16 8:13,15,17 11:3 15:5 17:3 31:9 32:3 35:14,15 44:20 47:24 50:2,4 50:14,16 wanted 10:7 wants 43:10 warranted 34:16 warrants 39:11 wasn't 6:14 13:20 waste 8:2 Wasting 51:10 watch 30:18 way 8:10 17:11 28:4 29:15 34:23 35:13 43:6,9,11 44:15 48:13 50:23 ways 35:3 36:13 Weatherford 30:14,19 weigh 47:2</p>
--	--	---

<p>went 33:23 38:5 we'll 17:22 47:7 we're 2:7 8:24 21:7 23:5,7 26:18 27:6 30:13,19 33:12,25 34:4,5 36:14 37:23 40:20,21 45:18 47:7 51:25 52:9 we've 24:13 32:10 33:11 36:6 whatsoever 29:9 wide 38:15 wide-spread 40:4 wild 33:13 38:4 39:25 wildlife 4:15,16 31:4,8,8,10,14,21 32:9,13,14,20,21 33:4,6,8,14 34:8 34:23,25 35:25 37:5,25 wildlife's 33:16 Williams 2:17,17 16:25 17:25 19:11 41:25 42:14 Winegarner 2:19,19 7:10 8:16 10:3 12:13 13:21 14:8 14:14 16:8 17:4 20:14 21:9 22:7,15 22:20 23:18 25:9 25:17 28:3,16,19 29:10 31:11 32:21 33:10 34:20 35:19 36:23 44:17 45:4,7 45:13 47:16 49:6 Wingo 1:12 53:6,23 wonder 13:23 wondering 14:9 39:15 42:18 words 43:19 work 9:20 14:3 23:11 23:14 worked 24:15 working 3:19,25 4:9 4:12,24 5:5 9:15</p>	<p>9:24 20:3 24:6,8 26:12 31:5 39:2 41:8 worrying 40:11 wouldn't 12:23 15:13 34:9 wrapped 42:16 write 33:6 wrong 44:4,6</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 31:23 51:25</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 14:14 17:25 20:24 24:7 27:19 33:11 40:21 43:3 47:14 year 19:16,19,20 49:17 years 37:17 40:14,25 42:19 49:20 50:8,8 Yellowstone 32:11 y'all 3:8 5:13,14,16 23:16 25:14 51:24 52:12</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zone 48:20 49:17,24 50:2 zoning 1:7 2:8 3:4 4:17,22,24 41:7,8 47:17 48:19 49:3 49:15</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1-40 1:11 1:06 1:12 1:56 47:5 1911 1:11</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2:03 52:14 20 53:24 2011 1:11 2:3 53:24 2015 44:11</p>	<hr/> <p style="text-align: center;">3</p> <hr/> <p>3 1:10 2:2 3:00 47:13 3:05 47:15 3:07 47:15 300 30:20</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>49 51:9</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 1:10 2:3</p>
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**PROPOSED TUBERCULOSIS AND BRUCELLOSIS
REGULATORY FRAMEWORK**

BREAKOUT SESSION NUMBER THREE ON
PROGRAM (STATE) REQUIREMENTS,
ZONING, AND SURVEILLANCE

Session 4 of the Public Meeting on June 6,
2011, at the Holiday Inn, 1911 1-40 East, Amarillo,
Texas, commencing at 2:11 p.m., before Kary A. Wingo, a
Court Reporter of the State of Texas.

SESSION 4

JUNE 6, 2011

Thereupon,

DR. ROBISON: I appreciate y'all coming. Our group will be talking about state/program requirements, zoning and surveillance. And I've got a couple of pages of potential questions here, and we'll maybe get some discussion going. I'll start off with introductions.

My name is Clayton Robison. I'm with Veterinary Services here in Texas. I've been on the working group, TB/brucellosis working group.

DR. MICHALKE: I'm Mark Michalke, and I'm with Texas Animal Health Commission. And I've been on the working group, not as long as Dr. Robison. I kind of took Dr. Ellis' place in a pinch and pinch hit for him, but starting to pick up a little bit on it, so hopefully we'll be able to conduct a reasonable discussion.

MR. CARSON: Ben Carson, and I'm a field BMO with USDA.

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MR. DEAN: I'm Tim Dean. I'm an animal identification coordinator for USDA.

MS. BUZZARD: I'm Andrea Buzzard. I work for the New Mexico Attorney General, and I represent the New Mexico Livestock Board.

MR. CULBERTSON: They won't let me out of town without her following me. My name is Myles Culbertson. I'm the director of the New Mexico Livestock Board.

MR. FROST: I'm Bob Frost, and I'm a rancher in New Mexico, and I'm also on the New Mexico Livestock Board.

MR. HALL: Jody Hall. I'm with the Texas Animal Health Commission.

DR. VARNER: Kevin Varner, area vet-in-charge for USDA in Texas.

DR. ROBISON: As mentioned, topics will be the state/program requirements, zoning and surveillance. And I'll do kind of a quick overview of each and then we'll see how far we can get into these different topics.

As far as state/program requirements, there are five general areas listed here.

SESSION 4

1
2 The first one was the working group discussed
3 the use of an advisory group, parentheses, to
4 provide assistance to Veterinary Services in
5 regards to certain program activities, any
6 questions related to that.

7 Number two, the working group decided
8 that one possible consequence of noncompliance
9 was loss of status, or inconsistent status,
10 or reduced status, which is otherwise known
11 as provisionally consistent, and some
12 questions there.

13 Number three, the working group
14 discussed the importance of states or tribes
15 reporting certain TB or brucellosis activities
16 in their area.

17 Number four, the working group
18 discussed that certain situations would
19 require a review of a state to determine if
20 its status was appropriate.

21 Number five, the working group was
22 in consensus that a state/tribe status should
23 not be downgraded because a disease was found
24 in wildlife, and only in wildlife.

25 I'll repeat that one. The working

1
2 group was in consensus that a state's status
3 should not be downgraded -- well, downgraded
4 automatically -- because disease was found in
5 wildlife, and only in wildlife. That's the
6 last part of the state requirements.

7 Under zoning, working group discussed
8 that zoning would consist of short-term and
9 long-term containment activities. In
10 short-term containment, the following
11 activities must occur: The issuance of
12 quarantines; conducting epidemiological
13 investigations; testing of adjacent contact or
14 potential herds; and addressing or evaluating
15 other potential risks.

16 Number two, the working group
17 discussed that a long-term containment plan
18 would be required when TB or brucellosis was
19 not eradicated within a one-year period.
20 Formal zoning would be part of this
21 containment plan, and then there are several
22 questions here pertaining to that.

23 And number three under zoning, the
24 last one, the working group discussed that
25 the long-term containment plan would be

1 reviewed by the advisory board and Veterinary
2 Services.
3

4 Then under surveillance, there's a
5 short one. The working group discussed
6 several components to surveillance, that
7 included national slaughter surveillance;
8 surveillance of at-risk populations, otherwise
9 known as targeted surveillance; and other
10 surveillance.

11 So surveillance targeted at the most
12 cost effective means would be
13 slaughter-targeted surveillance, you know, if
14 we come up with something else too.

15 So we can jump in here anywhere
16 anybody has a special interest, or we can
17 start number one on the list here. Anybody
18 have any thoughts at this point?

19 First on the list, back to the
20 state/program requirements, was the working
21 group discussed the use of an advisory group
22 to provide assistance to Vet Services in
23 regards to certain program activities.

24 And several questions here pertaining
25 to that would be: Do you agree that these

1
2 new regulations should include the use of an
3 advisory board to provide a variety of
4 recommendations to Veterinary Services?

5 Should there be two advisory boards, one for
6 brucellosis and one for tuberculosis, or just
7 one?

8 What should the composition of the
9 advisory board be? How should members of
10 the advisory board be chosen? Should the
11 advisory board members have a defined length
12 of service on the board? And what roles
13 would you like to see for the advisory
14 board?

15 And based on what I think I've been
16 hearing here today is it will be more of
17 regulatory personnel as opposed to industry
18 on this board, if we see the need to have
19 an advisory board. Also brought up the fact
20 that we had an advisory council for
21 pseudorabies.

22 DR. MICHALKE: Right.

23 DR. ROBISON: For the pseudorabies
24 program. So that has been done before. So
25 it's basically having input and

1
2 recommendations to Veterinary Services. So
3 if anybody has any general thoughts or
4 questions at this point in time.

5 MR. CULBERTSON: Just so I
6 understand, these are state level boards,
7 right? Or is it across the --

8 DR. ROBISON: Well, that's been the
9 discussion. You know, we've talked about,
10 well, maybe a national board where you have
11 five or six state veterinarians. Somebody
12 talked about the other extreme where you have
13 a problem in one state, one part of one
14 state, and you have an advisory board for
15 that.

16 Another one -- another discussion has
17 been, if you have a board -- an advisory
18 board for different regions of the country.
19 So there's been a lot of different thoughts
20 thrown out in this discussion here today.

21 DR. MICHALKE: Our thoughts from
22 that, there was some concern. Most folks, I
23 think, thought that, given the proper
24 authority and proper use of an advisory
25 board, it would be good. Just to have up

1
2 there as a wallflower, it probably would be
3 a waste of time. That's the comments we got
4 today.

5 There was some issues there of
6 concerns of a national board, where we'd
7 represent all regions and how would that
8 work, thus what Dr. Robison said about, you
9 know, possibility of regionalized boards.
10 But then that leads to inconsistency.

11 Those issues were all thrown out
12 there. So, I mean, we're just looking for
13 points. And that's just some of the broad
14 points that were brought up earlier today, as
15 far as advisory boards.

16 MR. CULBERTSON: It would have to be
17 -- I think it would have to be national;
18 otherwise, you know, you get 50 different
19 advisory perspectives.

20 DR. MICHALKE: Well, the issue there
21 was, you know, the number, the amount, you
22 know. I think there was some fair
23 consensus, or a lot of talk on two advisory
24 boards, one for brucellosis and one for TB,
25 probably to tackle that. And that would

1
2 give you a little bit more variability there.

3 But yeah, you tend to lose, as you
4 get away from national, any type of impact
5 you may have or any consistency.

6 MR. CULBERTSON: Would the advisory
7 board be looked to more for sort of policy
8 perspective, or would they be looked to for
9 sort of technical execution of these
10 regulations?

11 Maybe we need to go back over a
12 little bit about what this advisory board
13 would be asked to do.

14 DR. ROBISON: Yeah. Well, it's all
15 open for discussion. Number one is should
16 there even be an advisory board. The
17 working group thought, yeah, it could be a
18 good idea, but as in a lot of things, it
19 could be the devil's in the details. So how
20 it would be made up and what would they do
21 exactly?

22 I think we were leaning more towards
23 that we'd have the Veterinary Services
24 protocol, regulations, and then you've got a
25 particular situation that needs to be looked

1
2 at.

3 I keep thinking of kind of like,
4 maybe, a peer review type situation where,
5 say, potentially a state status is on the
6 line for whatever reason. You could have,
7 like, a peer review of that state and decide
8 if they're doing what's necessary, or maybe
9 they need to do a little better, or maybe
10 they're just not doing their job at all and
11 there needs to be consequences.

12 There's all kinds of different
13 scenarios that could come up for this type
14 of situation.

15 DR. MICHALKE: I think the idea has
16 been more towards, with the addition of what
17 Clayton said, more toward technical support,
18 probably, and review, in that case, not so
19 much policy probably.

20 MR. CULBERTSON: That's why the
21 consensus has been it should be more like
22 regulatory professionals or veterinarians
23 rather than industry?

24 DR. MICHALKE: Well, no, I don't
25 think that has anything -- I mean, certainly

1
2 there's been a lot of industry that's said,
3 hey, if that's what it's going to be, then
4 that's what we need to have on that board.

5 But I think the main driving factor
6 in making a functioning board is some of the
7 legal ramifications that they have with that
8 in trying to make that happen with whatever
9 -- what act is? FACA or whatever?

10 DR. ROBISON: FACA.

11 DR. MICHALKE: Yeah, as far as the
12 industry. And, you know, given in one
13 session we were in, if that's what they're
14 going to function as, as a technical and as
15 a review type and not so much policy, you
16 know, should that be a state regulatory type
17 -- state or tribal, I guess, regulatory type
18 officials?

19 Again, open all for discussion still.
20 I mean, nothing's been set in concrete. I'm
21 just recapping some of what we've had in the
22 other two.

23 DR. ROBISON: You other fellows can
24 speak up too.

25 MR. HALL: Well, I was going to ask

1
2 Dr. Varner's input on -- I mean, if we're
3 talking policy versus technical. I mean, in
4 a way, don't the USAHA committees already
5 kind of fill those roles, from a policy
6 standpoint? Or am I mistaken about that?

7 DR. VARNER: I mean, they will. I
8 mean, the model that we're talking about here
9 is the Pseudorabies Board. I mean, that's
10 the most current model for this kind of a
11 board.

12 And I think that's where we really
13 are is deciding what this -- if this board
14 is necessary and what this board would do.
15 You can see a couple of things. One is
16 what's the toughest decision that we would
17 make? USDA is downgrading a state from
18 consistent to nonconsistent. Or what's the
19 other -- the middle one?

20 DR. ROBISON: Provisionally
21 consistent.

22 DR. VARNER: Yeah. You know, that's
23 the kind of thing that you do with a board.
24 The board also -- I mean, I think that's
25 really -- you know, then the board could

1
2 also be an advisory group, as far as the
3 direction the program is going and that kind
4 of thing.

5 We really haven't sorted out how
6 USAHA would function. I mean, USAHA, the TB
7 committee and the brucellosis committee,
8 they're fundamental in programming -- in
9 charting the course for the program through
10 the years, you know, addressing today's
11 problems and how we fix it going forward.

12 So they're kind of like an adjunct,
13 so I see them all functioning kind of -- but
14 the day-to-day, there again, those tough
15 decisions about downgrading a state, I mean,
16 that's tough to do, unless you've got a
17 really -- a committee that's got kind of a
18 standing where everybody says, hey, they're
19 reasonable people and they're going to look
20 at it and do a fair job of it.

21 DR. MICHALKE: And there was some
22 discussion -- I'm glad you brought that up
23 about USAHA. There was some discussion in
24 one of the groups about the possibility of
25 some utilization of maybe those committees or

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2 -- there was no specific plan given, but
3 maybe where you could liaison them into
4 something with that, possibly.

5 Again, that was just a suggestion.
6 I'm just recapping, again, what another group
7 brought up.

8 DR. ROBISON: All right. Well, let
9 me move on to another aspect of this
10 state/program requirements. The working group
11 discussed that one possible consequence of
12 noncompliance is a loss of status or a
13 reduced status. And several questions were
14 posed as to are there any noncompliant issues
15 -- noncompliance issues that should
16 automatically require a state be given
17 inconsistent status, such as lack of
18 reporting, failure to conduct surveillance and
19 so forth?

20 Under what situations, if anything,
21 should inconsistent status be tied to
22 increased testing requirements for interstate
23 movement? Should there be a limit to the
24 amount of time that a state is allowed to be
25 in provisional status? If so, what sort of

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2 limit? And the last one is what role do
3 you see for the advisory board in regards to
4 status determinations or downgrades?

5 MR. HALL: Dr. Michalke, since you
6 were on the working group, can you explain
7 to a simple-minded person like me what the
8 real difference is between this and what we
9 use -- the present status? I mean, is it
10 just the same thing under a different name?

11 DR. MICHALKE: I think a lot of it
12 they're looking for -- they're looking for,
13 you know, something to tweak on it a little
14 bit and put it in a little different area.
15 But a lot of it's similar to what we use
16 today. Wouldn't you agree, Clayton?

17 DR. ROBISON: (Nods head up and
18 down.)

19 DR. MICHALKE: I mean, the questions
20 are out there, you know, for comment, I
21 guess. And, yeah, it follows today, but
22 would you think of anything that would cause
23 a state to automatically lose its status? I
24 mean, would you look at any -- you know, are
25 there any comments on time frame and, you

1
2 know, is there something that we can do to
3 improve, which we're probably basically
4 discussing business like we're doing today,
5 are there any improvements there?

6 You know, Dr. Varner brought up the
7 fact, in the last question there, you know,
8 what do you see the role of an advisory
9 board in regards to status determinations and
10 downgrades?

11 So you're right on target saying
12 this is the basic operating procedure today.
13 Are there things that we need to -- and
14 that's coming from a real simple mind too,
15 Jody, by the way.

16 MR. CULBERTSON: It raises a
17 question, though. Consistency or compliance,
18 nonconsistency, you know, when you start
19 placing states into that position, if you
20 have a state that's diligently pursuing its
21 protection under these proposed -- under this
22 proposed scenario, and you have an outbreak
23 of TB anyway -- you know, you've got a very
24 highly consistent state with TB in it. It's
25 not impossible.

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DR. MICHALKE: No, not at all. It happens.

MR. CULBERTSON: And if the status designations are designations that have to do with the practices in a state, as far as surveilling or protecting or whatever, and yet the disease is found in a dairy or a ranch or a feedlot or whatever, has that been anticipated?

DR. VARNER: I mean, that's the reality. I mean, in this world today you've got -- we've got TB in the dairy industry. We've got potential -- we've got rodeo steers from Mexico and everywhere. We've got wildlife. So that's the reality.

Even in the best run program, you're going to have possibilities, especially with the quality of the test that we use, the diagnostics we've got available. There's always a risk you're going to have TB.

The idea behind this program is all of a sudden you have flexibility. California has one dairy under the old program that has TB. They get a second dairy, and all of a

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2 sudden they're downgraded. That means every
3 beef producer in the state is affected by
4 the downgrade. Now you've got to start
5 testing cattle to move them out of the
6 state.

7 And they're saying: Wait a minute.
8 This is -- you've got two dairies affected.
9 You've got three -- at that point, we had
10 five animals with lesions of TB -- and
11 you're going to affect the whole state.

12 That's the old program. Everybody
13 gets lumped in because I'm in California,
14 even though it was purely a limited outbreak
15 in the dairy industry.

16 Under the new program -- let's say
17 California is a consistent state. They find
18 TB in the dairy industry. They do their own
19 epidemiological; they quarantine the herds
20 they need to quarantine. They look at is it
21 a wildlife component/not a wildlife component;
22 do we have to have a zone or not a zone.

23 But through all that process, the
24 beef guys aren't affected, because the
25 reality is we've shown in this TB program

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2 that, once we find the herds, there's very
3 little risk of spread once we've got a hold
4 of that herd. We shut them down.

5 So, I mean, that's the beauty of
6 this is there's that flexibility built in.
7 I mean, that's the upside. I mean, it's not
8 perfect, but it's trying to address that.

9 The guys in California, the beef
10 guys, said the program's worse than the
11 disease. And that's what this is all --
12 this is really what started this whole
13 process a couple of years ago is to try to
14 say -- and, you know, New Mexico, I mean,
15 you guys just fought through this too. You
16 ought to know.

17 MR. CULBERTSON: Well, that is a
18 very hopeful scenario, I think, because if
19 you've got a state that's working hard to
20 reduce the risk of tuberculosis, a single or
21 even a couple of cases of tuberculosis
22 doesn't signify the failure of that program.
23 It may signify the success.

24 DR. VARNER: One other issue here
25 that there were a number of different points

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2 being talked about in the other room, we
3 have to just figure out how that all works.
4 If you look at risk, you know, do we need
5 to address the risk of Mexican animals? I
6 mean, does that have to be addressed?

7 What do we do about the dairy
8 industry? We know they circulate TB. What
9 can be done -- you know, certainly, we all
10 are in agreement we shouldn't be raising
11 dairy heifers next to Mexican steers in a
12 feedlot, but that happens.

13 MR. CULBERTSON: You might infect
14 those Mexican steers.

15 DR. VARNER: You must be a beef
16 guy. But, I mean, still we know we've got
17 issues. You know, this program, I mean,
18 that we're proposing, in my view, is
19 flexible, much more flexible than the old
20 program. But there's still lots -- the
21 devil's in the details. We don't know --

22 MR. CULBERTSON: But that's a very
23 hopeful thing. And it hadn't -- the light
24 hadn't really turned on until we got into
25 this discussion about it, because we've said

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2 for a long time that states ought to be sort
3 of earning a premium for finding it, rather
4 than being punished for not finding it.

5 Because if you're finding it, it means you're
6 dealing with it.

7 DR. MICHALKE: It means you have a
8 surveillance program out there.

9 MR. CULBERTSON: Do we?

10 DR. MICHALKE: I mean, it means
11 you've got one. If you're finding it,
12 you've got a surveillance.

13 DR. VARNER: And we're pushing for,
14 like, response rates -- one way not to find
15 TB --

16 MR. CULBERTSON: Is don't look for
17 it.

18 DR. VARNER: -- is don't push your
19 veterinarians to actually do the test right.
20 And that's really -- that's at the heart of
21 this too, because I've said that over the
22 years.

23 The guys that really do their job
24 who are pushing to find the disease, they're
25 the ones that get -- that have the negative

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fallout.

Our goal should be to eradicate the disease, not to hurt every producer in the state.

MR. CULBERTSON: That's -- you know, if the program continues to get developed with that in mind, then I think the right details and the right decisions on the details will be --

DR. VARNER: Because that is the genesis. I mean, this whole thing is out of California and the mess -- first, it was, I mean, obviously, Michigan, but then we had the issues in New Mexico, Arizona.

And then we broke the bank in California. And that's when we ran up against the rocks. We ran into that RuAnn Dairy that was valued at 35 to 45 million dollars. They had one animal. We never found more than one animal.

That animal did have TB. It came out of the herd. We brought a diagnostic lab, opened it up, and it had TB. And it was unrelated to the other herds, you know,

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2 but what do you do? And in the old
3 program, it's let's buy that herd and then
4 downgrade everybody else. And all the beef
5 guys are going: What are you guys doing to
6 us?

7 MR. CULBERTSON: Good point.

8 DR. ROBISON: I'm going to jump over
9 to the zoning topic. New Mexico has had
10 some zoning issues in recent years. Number
11 one, the working group discussed that zoning
12 should consist of short-term and long-term
13 activities. In short-term, you've got to
14 have issuance of quarantines, conduct
15 epidemiological investigations, testing of
16 adjacent contact/potential herds, and
17 addressing and evaluating other potential
18 risks.

19 And the question is what other
20 actions, if any, are needed to help ensure
21 that other states do not implement interstate
22 movement requirements. Let's go through some
23 other questions here as well.

24 What situations, if any, would
25 automatically require that a state formally

1
2 establish a zone? What is your
3 recommendation regarding the formal formation
4 of a zone if TB or brucellosis is found only
5 in wildlife?

6 If a state has a high-risk
7 population, such as dairy heifers or rodeo
8 cattle, should these populations be zoned and
9 subject to interstate testing requirements, or
10 are other mitigations necessary?

11 When and under what circumstances
12 should a zone be modified, increased or
13 decreased in size? And when and under what
14 criteria should a zone be removed? For
15 instance, should there be a requirement for a
16 zone to be free of disease for a certain
17 period of time before a zone can be removed?
18 Do any of these --

19 MR. CULBERTSON: You know, so much
20 of this, what comes to my mind is the need
21 to -- the need for the ability to understand
22 the concept of risk. And risk is not an
23 all or none situation. In other words, when
24 you say, well, the existence of a class of
25 cattle. The existence of that class of

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2 cattle may mean nothing, in terms of risk,
3 or very little, as compared to the management
4 of those cattle or the volume or repetitive
5 movement in and out of an area of a certain
6 type.

7 You know, there are conditions --
8 some of it's management and some of it's
9 man-made; some of it's natural, or whatever.
10 That all accumulates into levels of risk.

11 You know, if we use Mexican cattle
12 for the example. Mexican cattle sequestered
13 in its own feedlot, just for an example,
14 there isn't any risk there. Mexican cattle
15 mixed with dairy heifers like we're talking
16 about, then there's a risk quotient.

17 You know, Mexican -- or dairy cattle
18 -- you know, recycling old dairy cows, the
19 risk goes right through the roof. Or rodeo
20 cattle living with a milk cow out at the
21 ranch. What I'm saying is that there are
22 combinations of factors that create risk.

23 And so in a zone, I think a
24 well-developed and evolving program of risk
25 -- of the understanding and assessment of

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2 risk, with a broader -- you know, in broader
3 terms, should be some part of the
4 determination about how long a zone should be
5 in place, how big it ought to be.

6 You know, it's not only what exists
7 in that area. It's what's going on in that
8 area; what are the management practices;
9 what's the diversity of species or the
10 diversity of types of the same species; how
11 much movement is there.

12 I don't know how many risk factors
13 there are, but I think you have to look at
14 it in terms of combinations of risks, rather
15 than just singular, sort of the old accepted
16 norms about what we think we don't like or
17 what we think we do like.

18 So I think we have to drill a
19 little bit deeper and let those things
20 determine whether a zone is ready to either
21 be released or placed. I don't know. I
22 may have confused you more than I've
23 clarified it.

24 MR. HALL: Well, I was just going
25 to ask if, what he's talking about, if that

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2 came into play in the discussion about, okay,
3 having a transparent system in place to
4 ensure other states about the risk in a
5 zone. Was that discussed as part of --
6 under an advisory board or whatever?

7 DR. MICHALKE: Transparency in
8 reporting and status and situation reports
9 were brought up in that, you know, and an
10 open evaluation of the activity also was
11 brought up in the working group, and also in
12 some of the other talks.

13 I got into the working group late,
14 but a lot of -- and I'm going to -- you
15 can get me extra points with the boss. I'm
16 going to have to agree with him to some
17 extent, and I hate that. And if you repeat
18 it this evening, I will deny it.

19 But zoning isn't all about
20 geographics. You know, Dee makes a good
21 point about some of it, and you were leading
22 to it in management and so many other
23 factors. I mean, there can be things there
24 that geography has nothing to do with it;
25 it's just what the practice is out there.

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2 A lot of this zoning, I think,
3 stemmed from Michigan and Greater Yellowstone.
4 And there was a lot of heartburn over time
5 in the working group, you know, how are we
6 going to do this and they're worried about
7 this canyon here and public grazing and
8 everything. So I think a lot of that stems
9 from there.

10 But I thought where you were kind of
11 going a little different in some of your
12 statements, whether you said it -- you know,
13 it's not just all about -- and in lots of
14 cases it is. But in some cases, you know,
15 there's other factors in there.

16 MR. CULBERTSON: Well, it makes
17 sense that, if you've got some uncontrollable
18 aspects, like the buffalo herd in Montana, or
19 something like that, that a zone might be
20 inevitable.

21 But I think the risk factors may be
22 -- they need to be considered operation by
23 operation, or at least a much smaller --

24 DR. VARNER: I mean, in some cases,
25 a zone may be the perimeter of the premises,

1
2 the affected premises, and that's the
3 quarantine. I mean, that's your
4 epidemiologist having the ability to flexibly
5 go in and understand what's going on, and we
6 need to restrict this premises; we need to
7 test here, here and here, that kind of
8 thing. But that's maybe your zone is you
9 set the premises.

10 The worst case scenario is in
11 Michigan that we have today, on the TB side.
12 On the brucellosis side, it's Greater
13 Yellowstone. Those are a lot tougher because
14 of the wildlife component.

15 MR. CULBERTSON: Yeah, they're things
16 we have to draw a line around.

17 DR. VARNER: But, see, in New Mexico
18 the zone might well have been maybe just one
19 or two premises, or one premises.

20 MR. CULBERTSON: And maybe an
21 important point to kind of add into all the
22 commentary is that it may be that, or it may
23 -- because of analyses, it may be as small
24 as one premises or as large as a milkshed or
25 something.

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DR. MICHALKE: Yeah, I'm not advocating that, you know, it's going to be. But in cases it could be that small. And, I mean, you're only going to get benefit from that. I mean, anything else, you're not.

DR. ROBISON: It had been discussed in the working group that you can have a geographic area for whatever reason, a wildlife problem or just a milkshed or whatever. You have this, hopefully, defined geographic area. And it could be a segment of the industry.

We talked about the dairy heifers going here and there and how they're raised and what circumstances, management issues, and should further restrictions be placed on a defined area of one industry, because they are more of a higher risk.

MR. CULBERTSON: I think there is. You know, the things that make them a higher risk are the extended periods of time in close quarters, high velocity of movement. Those are very, very big risk factors,

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2 whether it would be -- even if it was beef
3 cattle being handled that way, the risk would
4 be way up.

5 Beef cattle, traditionally, aren't
6 managed that way. But anything -- the risk
7 factor isn't the existence of a dairy cow.
8 The risk factor is the way they live. So,
9 yeah, you may want to look at conditions.

10 Nine times out of 10, you're going
11 to snag the dairy industry into that risk
12 profile because they live a long time in
13 close quarters, which is a very high-risk
14 situation.

15 DR. ROBISON: The way the industry
16 has evolved to meet the needs, the current
17 situation, as opposed to 50 or 75 years ago
18 you'd have a little dairy herd and it was
19 just a small, closed herd. But it's not
20 that way anymore.

21 MR. CULBERTSON: And if you want to
22 look -- you know, drill a little bit deeper,
23 if we use these dairies for an example, it
24 may not necessarily be all those cattle in a
25 group that's such a big deal, but then it

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2 becomes the movement between those different
3 premises of large numbers of cattle.

4 That's really where it gets scary,
5 when culled animals are not going to
6 slaughter, you know, when some of them are
7 starting to get recycled, when traders are
8 really working the countryside and buying and
9 selling these things and new dairies popping
10 up and then closing and, you know, this
11 dispersal of dairy animals.

12 So what happens between all those
13 points of concentration, you know, that's
14 another one of those risk factors that has
15 to be paid a lot of respect to. So, you
16 know, we have to look at it that way. We
17 can't look at it in just pure basic terms,
18 you know, is it a dairy cow; is it a
19 Mexican. You know, that's only one part of
20 what's going on.

21 And if that's creating a risk for
22 you in a state, what are you doing to
23 address that risk in order to demonstrate to
24 the rest of the country that you're
25 controlling the health of your state? And

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so that ties itself back over to the compliant or the consistent and nonconsistent criteria.

MR. DEWALD: What do you have to do to take the zone out? I mean, what is the procedure for that?

DR. ROBISON: Well, that's open for discussion too.

MR. DEWALD: No, I asked the question.

DR. MICHALKE: No, we're supposed to be asking the questions. You're supposed to be giving the answers. That's our job. That is open.

DR. ROBISON: What criteria should be used to make everybody feel comfortable that everything's okay and that's the end of it?

MR. DEWALD: Well, you have to go back to look at why you made that zone in that area. I mean, if there was a herd here, and there wasn't anything up in here, why did you make it that big?

DR. ROBISON: So have those factors

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2 been addressed appropriately and everybody is
3 comfortable that it's taken care of, and then
4 -- so as a tailored situation for each zone?

5 MR. CULBERTSON: You know, I think
6 that there would be -- it probably would be
7 tailored for each zone, but there would
8 probably -- there are probably two things
9 that would provoke a zone, one, the existence
10 of the disease itself, obviously, a zone and
11 a quarantine or whatever.

12 The other would be the existence of
13 high enough risk factors that, even though
14 you're not finding the disease there, you
15 know you need to control the situation.
16 And, you know, I think those risk factors
17 are going to have to be evolved.

18 You know, I would envision this
19 program getting started with a rather
20 rudimentary set of risk criteria for that
21 sort of thing and let it develop and
22 sophisticate as you go. There's one of two
23 things, either it's scary as hell, but no
24 disease, or the disease exists.

25 Poor -- you know, obvious bad live

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2 security, obvious extreme high velocities of
3 uncontrolled trade, you know, there are a lot
4 of reasons why a state animal health
5 authority might say, you know what, we're
6 going to zone that, and there are going to
7 be requirements about how cattle come and go.

8 DR. ROBISON: Based on risky
9 behavior.

10 MR. CULBERTSON: Based on risky
11 behavior, yeah, risk factors that are -- or
12 may or may not be under the control of the
13 people in the business there, but yeah.

14 And so what would lift it -- then
15 the question was, well, what would lift that?
16 Well, the removal of the risk, the removal
17 of those practices or those conditions or the
18 disease itself or whatever.

19 DR. MICHALKE: Well, I think, to
20 that, you may add the proof that -- you
21 know, you're going to establish a zone.
22 You're going to go, hopefully, ahead, outside
23 of this risk or this disease and everything.

24 And the surveillance and the proof
25 that it is contained and everything, that

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2 would be your premise for release of that
3 zone, containment and proof that it hasn't
4 spread, through surveillance.

5 MR. CULBERTSON: And, therefore, the
6 transparency and the reporting, maybe this is
7 where the advisory group has a role.

8 DR. MICHALKE: And there's a
9 question that comes in there at the end
10 right there, you know, under: Working group
11 discussed long-term containment plan would be
12 reviewed by the advisory board and Veterinary
13 Services.

14 Any other people need to, you know,
15 review the containment plan and what
16 circumstances would require a containment plan
17 to be supported by a risk assessment?

18 MR. CULBERTSON: A lot of this is
19 going to take a long time to develop.
20 You're going to have the rules and then
21 figure out -- the program is going to have
22 to be flexible.

23 DR. ROBISON: Maybe if you have a
24 tailored situation developing, maybe you
25 should state from the get-go: Here's what

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got you here and here's what it takes to get you out.

MR. CULBERTSON: Yeah, set it up, set the plan up.

DR. ROBISON: I was told we've got less than 10 minutes to regroup for the general session. So do y'all want to shut it down now and take a break before that starts up? We can keep talking if you want.

DR. MICHALKE: It's been a good discussion.

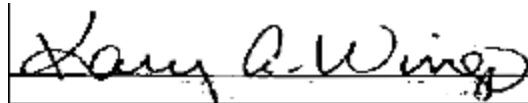
DR. ROBISON: We appreciate y'all coming in and giving your input.

(Whereupon recessed at 2:55 P.M.)

CERTIFICATE

STATE OF TEXAS

I, KARY A. WINGO, CSR, RPR in and for the State of Texas, certify that the caption to this transcription correctly states the facts set forth herein, that the proceedings were correctly reported in Stenograph by me at the time and place set forth in said caption, and have been transcribed from Stenograph into typewriting under my direction and supervision in the foregoing transcript; and that said transcript contains a correct record of the proceedings had at said time and place. GIVEN UNDER MY HAND AND OFFICIAL SEAL of office.



KARY A. WINGO, CSR, RPR

DATED: JUNE 20, 2011

A		
ability 25:21 30:4	appreciate 2:5 38:13	8:18,25 9:6 10:7
able 2:22	appropriate 4:20	10:12,16 12:4,6
accepted 27:15	appropriately 35:2	13:9,11,13,14,23
accumulates 26:10	area 3:16 4:16 16:14	13:24,25 16:3 17:9
act 12:9	26:5 27:7,8 31:10	28:6 37:12
actions 24:20	31:13,19 34:22	boards 7:5 8:6 9:9
activities 4:5,15	areas 3:25	9:15,24
5:9,11 6:23 24:13	Arizona 23:15	Bob 3:11
activity 28:10	asked 10:13 34:10	boss 28:15
add 30:21 36:20	asking 34:13	break 38:9
addition 11:16	aspect 15:9	BREAKOUT 1:6
address 20:8 21:5	aspects 29:18	broad 9:13
33:23	assessment 26:25	broader 27:2,2
addressed 21:6 35:2	37:17	broke 23:16
addressing 5:14	assistance 4:4 6:22	brought 7:19 9:14
14:10 24:17	Attorney 3:5	14:22 15:7 17:6
adjacent 5:13 24:16	at-risk 6:8	23:23 28:9,11
adjunct 14:12	authority 8:24 36:5	brucellosis 1:2 4:15
advisory 4:3 6:2,21	automatically 5:4	5:18 7:6 9:24 14:7
7:3,5,9,10,11,13	15:16 16:23 24:25	25:4 30:12
7:19,20 8:14,17,24	available 18:20	buffalo 29:18
9:15,19,23 10:6,12		built 20:6
10:16 14:2 16:3	B	business 17:4 36:13
17:8 28:6 37:7,12	back 6:19 10:11 34:2	buy 24:3
advocating 31:3	34:21	buying 33:8
affect 19:11	bad 35:25	Buzzard 3:4,4
ago 20:13 32:17	bank 23:16	
agree 6:25 16:16	based 7:15 36:8,10	C
28:16	basic 17:12 33:17	California 18:23
agreement 21:10	basically 7:25 17:3	19:13,17 20:9
ahead 36:22	beauty 20:5	23:13,17
allowed 15:24	beef 19:3,24 20:9	canyon 29:7
Amarillo 1:12	21:15 24:4 32:2,5	caption 39:8,12
amount 9:21 15:24	behavior 36:9,11	care 35:3
analyses 30:23	Ben 2:24	Carson 2:24,24
Andrea 3:4	benefit 31:5	case 11:18 30:10
animal 2:17 3:3,15	best 18:17	cases 20:21 29:14,14
23:20,21,22 36:4	better 11:9	29:24 31:4
animals 19:10 21:5	big 27:5 31:25 32:25	cattle 19:5 25:8,25
33:5,11	34:24	26:2,4,11,12,14,17
answers 34:14	bit 2:21 10:2,12	26:20 32:3,5,24
anticipated 18:10	16:14 27:19 32:22	33:3 36:7
anybody 6:16,17 8:3	BMO 2:25	cause 16:22
anymore 32:20	board 3:6,10,13 6:2	certain 4:5,15,18
anyway 17:23	7:3,9,10,11,12,14	6:23 25:16 26:5
	7:18,19 8:10,14,17	certainly 11:25 21:9

CERTIFICATE 39:2	24:14	17:16 18:4 20:17
certify 39:7	conducting 5:12	21:13,22 22:9,16
charting 14:9	confused 27:22	23:6 24:7 25:19
chosen 7:10	consensus 4:22 5:2	29:16 30:15,20
circulate 21:8	9:23 11:21	31:21 32:21 35:5
circumstances 25:11	consequence 4:8	36:10 37:5,18 38:4
31:17 37:16	15:11	culled 33:5
clarified 27:23	consequences 11:11	current 13:10 32:16
class 25:24,25	considered 29:22	
Clayton 2:12 11:17	consist 5:8 24:12	D
16:16	consistency 10:5	dairies 19:8 32:23
close 31:24 32:13	17:17	33:9
closed 32:19	consistent 4:11	dairy 18:8,13,24,25
closing 33:10	13:18,21 17:24	19:15,18 21:7,11
combinations 26:22	19:17 34:3	23:19 25:7 26:15
27:14	contact 5:13	26:17,18 31:15
come 6:14 11:13 36:7	contact/potential	32:7,11,18 33:11
comes 25:20 37:9	24:16	33:18
comfortable 34:17	contained 36:25	DATED 39:25
35:3	containment 5:9,10	day-to-day 14:14
coming 2:6 17:14	5:17,21,25 37:3,11	deal 32:25
38:14	37:15,16	dealing 22:6
commencing 1:13	contains 39:16	Dean 3:2,2
comment 16:20	continues 23:7	decide 11:7
commentary 30:22	control 35:15 36:12	decided 4:7
comments 9:3 16:25	controlling 33:25	deciding 13:13
Commission 2:17 3:15	coordinator 3:3	decision 13:16
committee 14:7,7,17	correct 39:16	decisions 14:15 23:9
committees 13:4	correctly 39:8,10	decreased 25:13
14:25	cost 6:12	Dee 28:20
compared 26:3	council 7:20	deeper 27:19 32:22
compliance 17:17	country 8:18 33:24	defined 7:11 31:12
compliant 34:3	countryside 33:8	31:19
component 19:21	couple 2:8 13:15	demonstrate 33:23
30:14	20:13,21	deny 28:18
components 6:6	course 14:9	designations 18:5,5
component/not 19:21	Court 1:14	details 10:19 21:21
composition 7:8	cow 26:20 32:7 33:18	23:9,10
concentration 33:13	cows 26:18	determination 27:4
concept 25:22	create 26:22	determinations 16:4
concern 8:22	creating 33:21	17:9
concerns 9:6	criteria 25:14 34:4	determine 4:19 27:20
concrete 12:20	34:16 35:20	develop 35:21 37:19
conditions 26:7 32:9	CSR 39:6,24	developed 23:7
36:17	Culbertson 3:7,9 8:5	developing 37:24
conduct 2:22 15:18	9:16 10:6 11:20	devil's 10:19 21:21

DEWALD 34:5,10,20	22:7,10,13,18	extra 28:15
diagnostic 23:23	23:11 24:8 28:7	extreme 8:12 36:2
diagnostics 18:20	29:24 30:17 31:2,8	
difference 16:8	32:15 34:8,12,16	F
different 3:22 8:18	34:25 36:8,19 37:8	FACA 12:9,10
8:19 9:18 11:12	37:23 38:6,11,13	fact 7:19 17:7
16:10,14 20:25	draw 30:16	factor 12:5 32:7,8
29:11 33:2	drill 27:18 32:22	factors 26:22 27:12
diligently 17:20	driving 12:5	28:23 29:15,21
direction 14:3 39:14		31:25 33:14 34:25
director 3:9	E	35:13,16 36:11
discussed 4:2,14,18	earlier 9:14	facts 39:9
5:7,17,24 6:5,21	earning 22:3	failure 15:18 20:22
15:11 24:11 28:5	East 1:12	fair 9:22 14:20
31:8 37:11	effective 6:12	fallout 23:2
discussing 17:4	either 27:20 35:23	far 3:22,24 9:15
discussion 2:10,23	Ellis 2:20	12:11 14:2 18:6
8:9,16,20 10:15	ensure 24:20 28:4	feedlot 18:9 21:12
12:19 14:22,23	envision 35:18	26:13
21:25 28:2 34:9	epidemiological 5:12	feel 34:17
38:12	19:19 24:15	fellows 12:23
disease 4:23 5:4	epidemiologist 30:4	field 2:25
18:8 20:11 22:24	eradicate 23:3	figure 21:3 37:21
23:4 25:16 35:10	eradicated 5:19	fill 13:5
35:14,24,24 36:18	especially 18:18	find 19:17 20:2
36:23	establish 25:2 36:21	22:14,24
dispersal 33:11	evaluating 5:14	finding 22:3,4,5,11
diversity 27:9,10	24:17	35:14
doing 11:8,10 17:4	evaluation 28:10	first 4:2 6:19 23:13
24:5 33:22	evening 28:18	five 3:25 4:21 8:11
dollars 23:20	everybody 14:18	19:10
downgrade 19:4 24:4	19:12 24:4 34:17	fix 14:11
downgraded 4:23 5:3	35:2	flexibility 18:23
5:3 19:2	everything's 34:18	20:6
downgrades 16:4	evolved 32:16 35:17	flexible 21:19,19
17:10	evolving 26:24	37:22
downgrading 13:17	exactly 10:21	flexibly 30:4
14:15	example 26:12,13	folks 8:22
Dr 2:5,16,19,19 3:16	32:23	following 3:8 5:10
3:18 7:22,23 8:8	execution 10:9	follows 16:21
8:21 9:8,20 10:14	existence 25:24,25	foregoing 39:15
11:15,24 12:10,11	32:7 35:9,12	formal 5:20 25:3
12:23 13:2,7,20,22	exists 27:6 35:24	formally 24:25
14:21 15:8 16:5,11	explain 16:6	formation 25:3
16:17,19 17:6 18:2	extended 31:23	forth 15:19 39:9,12
18:11 20:24 21:15	extent 28:17	forward 14:11

<p>fought 20:15 found 4:23 5:4 18:8 23:21 25:4 four 4:17 frame 16:25 FRAMEWORK 1:3 free 25:16 Frost 3:11,11 function 12:14 14:6 functioning 12:6 14:13 fundamental 14:8 further 31:18</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>general 3:5,25 8:3 38:8 genesis 23:12 geographic 31:10,13 geographics 28:20 geography 28:24 getting 35:19 get-go 37:25 give 10:2 given 8:23 12:12 15:2,16 39:17 giving 34:14 38:14 glad 14:22 go 10:11 24:22 30:5 34:20 35:22 36:7 36:22 goal 23:3 goes 26:19 going 2:10 12:3,14 12:25 14:3,11,19 18:18,21 19:11 24:5,8 27:7,24 28:14,16 29:6,11 30:5 31:3,5,16 32:10 33:5,20 35:17 36:6,6,21,22 37:19,20,21 good 8:25 10:18 24:7 28:20 38:11 grazing 29:7 Greater 29:3 30:12</p>	<p>group 2:6,14,15,18 4:2,3,7,13,17,21 5:2,7,16,24 6:5,21 6:21 10:17 14:2 15:6,10 16:6 24:11 28:11,13 29:5 31:9 32:25 37:7,10 groups 14:24 guess 12:17 16:21 guy 21:16 guys 19:24 20:9,10 20:15 22:23 24:5,5</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>Hall 3:14,14 12:25 16:5 27:24 HAND 39:18 handled 32:3 happen 12:8 happens 18:3 21:12 33:12 hard 20:19 hate 28:17 head 16:17 health 2:17 3:15 33:25 36:4 hearing 7:16 heart 22:20 heartburn 29:4 heifers 21:11 25:7 26:15 31:15 hell 35:23 help 24:20 herd 20:4 23:23 24:3 29:18 32:18,19 34:22 herds 5:14 19:19 20:2 23:25 24:16 hey 12:3 14:18 high 31:24 35:13 36:2 higher 31:20,22 highly 17:24 high-risk 25:6 32:13 hit 2:20 hold 20:3</p>	<p>Holiday 1:12 hopeful 20:18 21:23 hopefully 2:22 31:12 36:22 hurt 23:4</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 10:18 11:15 18:22 identification 3:3 impact 10:4 implement 24:21 importance 4:14 important 30:21 impossible 17:25 improve 17:3 improvements 17:5 include 7:2 included 6:7 inconsistency 9:10 inconsistent 4:9 15:17,21 increased 15:22 25:12 industry 7:17 11:23 12:2,12 18:13 19:15,18 21:8 31:14,19 32:11,15 inevitable 29:20 infect 21:13 Inn 1:12 input 7:25 13:2 38:14 instance 25:15 interest 6:16 interstate 15:22 24:21 25:9 introductions 2:11 investigations 5:13 24:15 issuance 5:11 24:14 issue 9:20 20:24 issues 9:5,11 15:14 15:15 21:17 23:15 24:10 31:17</p>
---	---	---

J	liaison 15:3	13:24 14:6,15 16:9
job 11:10 14:20	lift 36:14,15	16:19,24 18:11,12
22:23 34:14	light 21:23	20:5,7,7,14 21:6
Jody 3:14 17:15	limit 15:23 16:2	21:16,17 22:10
jump 6:15 24:8	limited 19:14	23:12,14 26:2
June 1:11 2:3 39:25	line 11:6 30:16	28:23 29:24 30:3
	list 6:17,19	31:5,6 34:6,22
K	listed 3:25	means 6:12 19:2 22:5
Kary 1:13 39:6,24	little 2:21 10:2,12	22:7,10
keep 11:3 38:10	11:9 16:13,14 20:3	meet 32:16
Kevin 3:16	26:3 27:19 29:11	Meeting 1:11
kind 2:19 3:20 11:3	32:18,22	members 7:9,11
13:5,10,23 14:3,12	live 32:8,12 35:25	mentioned 3:18
14:13,17 29:10	Livestock 3:6,10,13	mess 23:13
30:7,21	living 26:20	Mexican 21:5,11,14
kinds 11:12	long 2:19 22:2 27:4	26:11,12,14,17
know 6:13 8:9 9:9,18	32:12 37:19	33:19
9:21,22 12:12,16	long-term 5:9,17,25	Mexico 3:5,6,10,12
13:22,25 14:10	24:12 37:11	3:13 18:15 20:14
16:13,20,24 17:2,6	look 14:19 16:24	23:15 24:9 30:17
17:7,18,23 20:14	19:20 21:4 22:16	Michalke 2:16,16
20:16 21:4,8,9,16	27:13 32:9,22	7:22 8:21 9:20
21:17,21 23:6,25	33:16,17 34:21	11:15,24 12:11
25:19 26:7,11,17	looked 10:7,8,25	14:21 16:5,11,19
26:18 27:2,6,12,21	looking 9:12 16:12	18:2 22:7,10 28:7
28:9,20 29:5,12,14	16:12	31:2 34:12 36:19
31:3,22 32:22 33:6	lose 10:3 16:23	37:8 38:11
33:10,13,16,18,19	loss 4:9 15:12	Michigan 23:14 29:3
35:5,15,16,18,25	lot 8:19 9:23 10:18	30:11
36:3,5,21 37:10,14	12:2 16:11,15	middle 13:19
known 4:10 6:9	28:14 29:2,4,8	milk 26:20
	30:13 33:15 36:3	milkshed 30:24 31:11
	37:18	million 23:19
L	lots 21:20 29:13	mind 17:14 23:8
lab 23:24	lumped 19:13	25:20
lack 15:17		minute 19:7
large 30:24 33:3	M	minutes 38:7
late 28:13	main 12:5	mistaken 13:6
leading 28:21	making 12:6	mitigations 25:10
leads 9:10	managed 32:6	mixed 26:15
leaning 10:22	management 26:3,8	model 13:8,10
legal 12:7	27:8 28:22 31:17	modified 25:12
length 7:11	man-made 26:9	Montana 29:18
lesions 19:10	Mark 2:16	move 15:9 19:5
let's 19:16 24:3,22	mean 9:12 11:25	movement 15:23 24:22
level 8:6	12:20 13:2,3,7,8,9	26:5 27:11 31:24
levels 26:10		

33:2 Myles 3:9	office 39:18 OFFICIAL 39:18 officials 12:18 okay 28:2 34:18 old 18:24 19:12 21:19 24:2 26:18 27:15 once 20:2,3 ones 22:25 one-year 5:19 open 10:15 12:19 28:10 34:8,15 opened 23:24 operating 17:12 operation 29:22,23 opposed 7:17 32:17 order 33:23 ought 20:16 22:2 27:5 outbreak 17:22 19:14 outside 36:22 overview 3:21	placed 27:21 31:18 placing 17:19 plan 5:17,21,25 15:2 37:11,15,16 38:5 play 28:2 point 6:18 8:4 19:9 24:7 28:21 30:21 points 9:13,14 20:25 28:15 33:13 policy 10:7 11:19 12:15 13:3,5 Poor 35:25 popping 33:9 population 25:7 populations 6:8 25:8 posed 15:14 position 17:19 possibilities 18:18 possibility 9:9 14:24 possible 4:8 15:11 possibly 15:4 potential 2:9 5:14 5:15 18:14 24:17 potentially 11:5 practice 28:25 practices 18:6 27:8 36:17 premise 37:2 premises 29:25 30:2 30:6,9,19,19,24 33:3 premium 22:3 present 16:9 probably 9:2,25 11:18,19 17:3 35:6 35:8,8 problem 8:13 31:11 problems 14:11 procedure 17:12 34:7 proceedings 39:10,16 process 19:23 20:13 producer 19:3 23:4 professionals 11:22 profile 32:12 program 1:7 4:5 6:23
<hr/> N <hr/>	<hr/> P <hr/>	
name 2:12 3:9 16:10 national 6:7 8:10 9:6,17 10:4 natural 26:9 necessarily 32:24 necessary 11:8 13:14 25:10 need 7:18 10:11 11:9 12:4 17:13 19:20 21:4 25:20,21 29:22 30:6,6 35:15 37:14 needed 24:20 needs 10:25 11:11 32:16 negative 22:25 never 23:20 new 3:5,6,10,12,13 7:2 19:16 20:14 23:15 24:9 30:17 33:9 Nine 32:10 Nods 16:17 noncompliance 4:8 15:12,15 noncompliant 15:14 nonconsistency 17:18 nonconsistent 13:18 34:3 norms 27:16 nothing's 12:20 number 1:6 4:7,13,17 4:21 5:16,23 6:17 9:21 10:15 20:25 24:10 numbers 33:3	pages 2:9 paid 33:15 parentheses 4:3 part 5:6,20 8:13 27:3 28:5 33:19 particular 10:25 peer 11:4,7 people 14:19 36:13 37:14 perfect 20:8 perimeter 29:25 period 5:19 25:17 periods 31:23 person 16:7 personnel 7:17 perspective 10:8 perspectives 9:19 pertaining 5:22 6:24 pick 2:21 pinch 2:20,20 place 2:20 27:5 28:3 39:11,17	
<hr/> O <hr/>		
obvious 35:25 36:2 obviously 23:14 35:10 occur 5:11		

7:24 14:3,9 18:17 18:22,24 19:12,16 19:25 20:22 21:17 21:20 22:8 23:7 24:3 26:24 35:19 37:21 programming 14:8 program's 20:10 proof 36:20,24 37:3 proper 8:23,24 proposed 1:2 17:21 17:22 proposing 21:18 protecting 18:7 protection 17:21 protocol 10:24 provide 4:4 6:22 7:3 provisional 15:25 provisionally 4:11 13:20 provoke 35:9 pseudorabies 7:21,23 13:9 public 1:11 29:7 punished 22:4 pure 33:17 purely 19:14 pursuing 17:20 push 22:18 pushing 22:13,24 put 16:14 p.m 1:13 38:15	34:13 quick 3:21 quotient 26:16 <hr/> R <hr/> raised 31:16 raises 17:16 raising 21:10 ramifications 12:7 ran 23:17,18 ranch 18:9 26:21 rancher 3:12 rates 22:14 ready 27:20 real 16:8 17:14 reality 18:12,16 19:25 really 13:12,25 14:5 14:17 20:12 21:24 22:20,23 33:4,8 reason 11:6 31:10 reasonable 2:23 14:19 reasons 36:4 recapping 12:21 15:6 recessed 38:15 recommendation 25:3 recommendations 7:4 8:2 record 39:16 recycled 33:7 recycling 26:18 reduce 20:20 reduced 4:10 15:13 regarding 25:3 regards 4:5 6:23 16:3 17:9 regionalized 9:9 regions 8:18 9:7 regroup 38:7 regulations 7:2 10:10,24 regulatory 1:3 7:17 11:22 12:16,17 related 4:6 release 37:2	released 27:21 removal 36:16,16 removed 25:14,17 repeat 4:25 28:17 repetitive 26:4 reported 39:10 Reporter 1:14 reporting 4:15 15:18 28:8 37:6 reports 28:8 represent 3:6 9:7 require 4:19 15:16 24:25 37:16 required 5:18 requirement 25:15 requirements 1:7 2:7 3:19,24 5:6 6:20 15:10,22 24:22 25:9 36:7 respect 33:15 response 22:14 rest 33:24 restrict 30:6 restrictions 31:18 review 4:19 11:4,7 11:18 12:15 37:15 reviewed 6:2 37:12 right 7:22 8:7 15:8 17:11 22:19 23:8,9 26:19 37:10 risk 18:21 20:3,20 21:4,5 25:22,22 26:2,10,14,16,19 26:22,24 27:2,12 28:4 29:21 31:20 31:23,25 32:3,6,8 32:11 33:14,21,23 35:13,16,20 36:11 36:16,23 37:17 risks 5:15 24:18 27:14 risky 36:8,10 Robison 2:5,12,19 3:18 7:23 8:8 9:8 10:14 12:10,23 13:20 15:8 16:17
<hr/> Q <hr/> quality 18:19 quarantine 19:19,20 30:3 35:11 quarantines 5:12 24:14 quarters 31:24 32:13 question 17:7,17 24:19 34:11 36:15 37:9 questions 2:9 4:6,12 5:22 6:24 8:4 15:13 16:19 24:23		

24:8 31:8 32:15 34:8,16,25 36:8 37:23 38:6,13 rocks 23:18 rodeo 18:14 25:7 26:19 role 16:2 17:8 37:7 roles 7:12 13:5 roof 26:19 room 21:2 RPR 39:6,24 RuAnn 23:18 rudimentary 35:20 rules 37:20 run 18:17	shut 20:4 38:8 side 30:11,12 signify 20:22,23 similar 16:15 simple 17:14 simple-minded 16:7 single 20:20 singular 27:15 situation 10:25 11:4 11:14 25:23 28:8 32:14,17 35:4,15 37:24 situations 4:18 15:20 24:24 six 8:11 size 25:13 slaughter 6:7 33:6 slaughter-targeted 6:13 small 30:23 31:4 32:19 smaller 29:23 snag 32:11 Somebody 8:11 sophisticate 35:22 sort 10:7,9 15:25 22:2 27:15 35:21 sorted 14:5 speak 12:24 special 6:16 species 27:9,10 specific 15:2 spread 20:3 37:4 standing 14:18 standpoint 13:6 start 2:10 6:17 17:18 19:4 started 20:12 35:19 starting 2:21 33:7 starts 38:10 state 1:7,14 4:19 5:6 8:6,11,13,14 11:5,7 12:16,17 13:17 14:15 15:16 15:24 16:23 17:20 17:24 18:6 19:3,6	19:11,17 20:19 23:5 24:25 25:6 33:22,25 36:4 37:25 39:4,7 statements 29:12 states 4:14 17:19 22:2 24:21 28:4 39:8 state's 5:2 state/program 2:7 3:19,24 6:20 15:10 state/tribe 4:22 status 4:9,9,10,20 4:22 5:2 11:5 15:12,13,17,21,25 16:4,9,23 17:9 18:4 28:8 steers 18:14 21:11 21:14 stemmed 29:3 stems 29:8 Stenograph 39:11,13 subject 25:9 success 20:23 sudden 18:23 19:2 suggestion 15:5 supervision 39:14 support 11:17 supported 37:17 supposed 34:12,13 surveillance 1:8 2:8 3:20 6:4,6,7,8,9 6:10,11,13 15:18 22:8,12 36:24 37:4 surveilling 18:7 system 28:3
<hr/> S <hr/>		<hr/> T <hr/>
saying 17:11 19:7 26:21 says 14:18 scary 33:4 35:23 scenario 17:22 20:18 30:10 scenarios 11:13 SEAL 39:18 second 18:25 security 36:2 see 3:21 7:13,18 13:15 14:13 16:3 17:8 30:17 segment 31:13 selling 33:9 sense 29:17 sequestered 26:12 service 7:12 Services 2:13 4:4 6:3,22 7:4 8:2 10:23 37:13 session 1:6,11 2:2 12:13 38:8 set 12:20 30:9 35:20 38:4,5 39:9,11 short 6:5 short-term 5:8,10 24:12,13 shown 19:25		tackle 9:25 tailored 35:4,7 37:24 take 34:6 37:19 38:9 taken 35:3 takes 38:2 talk 9:23 talked 8:9,12 21:2

31:15 talking 2:6 13:3,8 26:15 27:25 38:10 talks 28:12 target 17:11 targeted 6:9,11 TB 4:15 5:18 9:24 14:6 17:23,24 18:13,21,25 19:10 19:18,25 21:8 22:15 23:22,24 25:4 30:11 TB/brucellosis 2:14 technical 10:9 11:17 12:14 13:3 tend 10:3 terms 26:2 27:3,14 33:17 test 18:19 22:19 30:7 testing 5:13 15:22 19:5 24:15 25:9 Texas 1:13,14 2:13 2:17 3:15,17 39:4 39:7 thing 13:23 14:4 16:10 21:23 23:12 30:8 35:21 things 10:18 13:15 17:13 27:19 28:23 30:15 31:22 33:9 35:8,23 think 7:15 8:23 9:17 9:22 10:22 11:15 11:25 12:5 13:12 13:24 16:11,22 20:18 23:8 26:23 27:13,16,17,18 29:2,8,21 31:21 35:5,16 36:19 thinking 11:3 thought 8:23 10:17 29:10 thoughts 6:18 8:3,19 8:21 three 1:6 4:13 5:23	19:9 thrown 8:20 9:11 tied 15:21 ties 34:2 Tim 3:2 time 8:4 9:3 15:24 16:25 22:2 25:17 29:4 31:23 32:12 37:19 39:11,17 times 32:10 today 7:16 8:20 9:4 9:14 16:16,21 17:4 17:12 18:12 30:11 today's 14:10 told 38:6 topic 24:9 topics 3:18,23 tough 14:14,16 tougher 30:13 toughest 13:16 town 3:8 trade 36:3 traders 33:7 traditionally 32:5 transcribed 39:13 transcript 39:15,15 transcription 39:8 transparency 28:7 37:6 transparent 28:3 tribal 12:17 tribes 4:14 try 20:13 trying 12:8 20:8 tuberculosis 1:2 7:6 20:20,21 turned 21:24 tweak 16:13 two 4:7 5:16 7:5 9:23 12:22 19:8 30:19 35:8,22 type 10:4 11:4,13 12:15,16,17 26:6 types 27:10 typewriting 39:13	<hr/> U <hr/> uncontrollable 29:17 uncontrolled 36:3 understand 8:6 25:21 30:5 understanding 26:25 unrelated 23:25 upside 20:7 USAHA 13:4 14:6,6,23 USDA 2:25 3:3,17 13:17 use 4:3 6:21 7:2 8:24 16:9,15 18:19 26:11 32:23 utilization 14:25 <hr/> V <hr/> valued 23:19 variability 10:2 variety 7:3 Varner 3:16,16 13:7 13:22 17:6 18:11 20:24 21:15 22:13 22:18 23:11 29:24 30:17 Varner's 13:2 velocities 36:2 velocity 31:24 versus 13:3 Vet 6:22 veterinarians 8:11 11:22 22:19 Veterinary 2:13 4:4 6:2 7:4 8:2 10:23 37:12 vet-in-charge 3:17 view 21:18 volume 26:4 <hr/> W <hr/> Wait 19:7 wallflower 9:2 want 32:9,21 38:8,10 wasn't 34:23 waste 9:3 way 13:4 17:15 22:14
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<p>32:3,4,6,8,15,20 33:16 well-developed 26:24 we'll 2:9,22 3:21 we're 9:12 13:2,8 17:3,4 21:18 22:13 26:15 34:12 36:5 we've 8:9 12:21 18:13,14,14,15,20 19:25 20:3 21:16 21:25 38:6 wildlife 4:24,24 5:5 5:5 18:16 19:21,21 25:5 30:14 31:11 Wingo 1:13 39:6,24 words 25:23 work 3:5 9:8 working 2:14,15,18 4:2,7,13,17,21,25 5:7,16,24 6:5,20 10:17 15:10 16:6 20:19 24:11 28:11 28:13 29:5 31:9 33:8 37:10 works 21:3 world 18:12 worried 29:6 worse 20:10 worst 30:10 Wouldn't 16:16</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 10:3,14,17 12:11 13:22 16:21 30:15 31:2 32:9 36:11,13 38:4 years 14:10 20:13 22:22 24:10 32:17 Yellowstone 29:3 30:13 y'all 2:5 38:8,13</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zone 19:22,22 25:2,4 25:12,14,16,17 26:23 27:4,20 28:5</p>	<p>29:19,25 30:8,18 34:6,21 35:4,7,9 35:10 36:6,21 37:3 zoned 25:8 zoning 1:8 2:7 3:19 5:7,8,20,23 24:9 24:10,11 28:19 29:2</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1-40 1:12 10 32:10 38:7 1911 1:12</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2:11 1:13 2:55 38:15 20 39:25 2011 1:12 2:3 39:25</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>35 23:19</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 1:11 2:2 45 23:19</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>50 9:18 32:17</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 1:11 2:3</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>75 32:17</p>	
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**PROPOSED TUBERCULOSIS AND BRUCELLOSIS
REGULATORY FRAMEWORK PUBLIC MEETING
AMARILLO, TEXAS**

BREAKOUT SESSION NUMBER TWO:

AFFECTED HERD MANAGEMENT AND
EPIDEMIOLOGICAL INVESTIGATIONS

INTERSTATE MOVEMENT CONTROLS

IMPORTATION REQUIREMENTS

SESSION 6, held Pursuant to Notice and Agreement on June 6, 2011, at the Holiday Inn, 1911 1-40 East, Amarillo, Texas, 79102, before Sondra Cargle, a Notary Public of the State of Texas.

SESSION 6

JUNE 6, 2011

DR. HENCH: Good afternoon everyone. I'm Dr. Bill Hench with the TB staff, rumen health programs. And helping out today is Dr. Mark Schoenbaum, who's the Western Regional TB Epi --

(Whereupon off the record.)

DR. HENCH: As I said, helping out is Dr. Mark Schoenbaum, the Western Regional TB Epidemiologist. Mark and I were technical support to the Working Group. We sat in and listened in on the calls, but it was the Working Group members proper who worked through the different elements.

This breakout session has been identified to look at affected herds management and epidemiological investigations, interstate movements, and imports. When we talk about imports, we mean international imports, not state-to-state movements.

And as we began the last group, we started with affected herd management and epi investigations. And Myles, you wanted to --

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2 MR. CULBERTSON: I flunked. I had
3 to come back.

4 DR. HENCH: -- start on interstate
5 movements. So, since you're here, we'll
6 start with the movements that you expressed
7 an interest in.

8 What we're looking for is to get
9 your input on interstate movement requirements
10 for such things as maybe classes of animals
11 that might be at higher risk than other
12 classes within the U.S.

13 One example that's frequently cited
14 is dairy heifers. So, without much more
15 ado, why don't you jump in and get us off
16 and running.

17 MR. CULBERTSON: Well, okay. I was
18 hoping to hear -- you know, learn more than
19 I could teach on that, because, you know,
20 the way it is right now, there are -- there
21 are interstate -- there are interstate
22 restrictions or rules or whatever or
23 agreements or whatever that are made between
24 states where a -- one state -- if we took
25 New Mexico for the example, there were states

1
2 that would not receive New Mexico cattle
3 without certain -- you know, without certain
4 tests or whatever.

5 It wasn't -- it wasn't consistent
6 across the country. I don't know that that
7 was a big deal to us, but it -- but there
8 -- you know, there was an inconsistency.

9 I guess it was -- it's more of a
10 question than anything else. Does USDA
11 anticipate trying to smooth all that out, or
12 just is this something that states will
13 continue to work out between themselves?

14 DR. HENCH: To make sure I'm
15 understanding you, you're saying that, using
16 New Mexico as an example, different states
17 throughout the country would have different
18 requirements for New Mexico cattle entering
19 their state.

20 MR. CULBERTSON: That's right.

21 DR. HENCH: And the question is:
22 Do we anticipate some sort of effort to
23 harmonize the requirements amongst the states
24 for other states? That's --

25 MR. CULBERTSON: And just -- and I'm

1
2 not necessarily looking for a yes answer on
3 that, but --

4 DR. HENCH: No, I understand.

5 And this particular topic has been
6 brought up by other states in a slightly
7 different format, but generally, it's the
8 same thing, you know, level playing field.

9 We have some thoughts and ideas
10 along those lines, but we'd like to hear
11 what you might have to suggest first.

12 MR. CULBERTSON: You know, I'm a
13 believer in strong communication and
14 agreements between states that the USDA can
15 support, rather than an imposition by USDA of
16 a standard that the states all have to
17 figure out how to support.

18 And, you know, with that in mind, I
19 don't know whether the new program -- whether
20 -- you know, how it would look at that sort
21 of thing, but I think it's appropriate for
22 one state, for its own reasons, to place
23 particular restrictions on another.

24 Sometimes that's done not wisely;
25 sometimes it is. But, you know, I guess one

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2 question that has come up is, is it -- are
3 there -- are there legal or constitutional
4 issues with the state doing something that's
5 more stringent than the federal standard, or
6 the reverse of that, the federal government
7 being able to do something that's more
8 stringent than what the states want,
9 recognizing it's all interstate movement.
10 So, there's the federal stake in it,
11 obviously.

12 DR. HENCH: What might we, in our
13 new program, do to help -- do to help you
14 all with that type of issue?

15 DR. MYERS: Maybe I can make a
16 comment on that.

17 DR. HENCH: Sure.

18 DR. MYERS: A little over a year
19 ago, when the Obama administration came in,
20 they issued an Executive Order that requires
21 all agencies during rule-making to look at
22 the issue of preemption and to make a
23 conscious statement as to whether or not this
24 rule does or does not need to preempt state
25 action. So, we will have to consider that

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when working on this rule.

I think, basically, what I'm hearing you say is that you feel there are times when a state might need to take some additional restrictions.

And I guess the question that I have is: What is it that drives a state to want to do that? And I think the answer is -- if I can answer my own question -- is that they feel that there is a risk that's not being addressed by anyone else.

And so, what Dr. Thomas talked about this morning is the discussion that was held in the Working Group of trying to set up a system whereby we have transparency in reporting, so that whenever state X is dealing with an outbreak or a case or an incident, that they are sharing information on how they are responding to that case so that the rest of the 49 states have an assurance that, yes, that case that appeared in that particular state is being well managed, and that anything leaving that facility or zone or whatever is established

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2 is being tested, is -- or that risk is being
3 mitigated.

4 So, I guess my question to you is:
5 If that type of system provided a state
6 enough assurance in a transparent way that a
7 state is handling a particular situation,
8 would your state or another state feel that
9 need to put additional restrictions in place?

10 MR. CULBERTSON: It's a good point,
11 if we were looking to the program to be a
12 reasonable or an accurate measure of the risk
13 that exists in that other state.

14 And -- and that could be better than
15 the perception of one state's -- a level of
16 risk in one state. And, you know, New
17 Mexico has suffered a perception problem.
18 And the reality is quite different. And the
19 perception problem came because of status --

20 DR. MYERS: Uh-huh.

21 MR. CULBERTSON: -- rather than
22 compliance. So, if you have a noncompliant
23 state, that should be meaningful to other
24 states.

25 DR. MYERS: Right.

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2 MR. CULBERTSON: But if you have a
3 reduced status, then even though we were able
4 to isolate to a zone, it didn't really
5 matter in another state. It's still New
6 Mexico.

7 And so, a state that has probably
8 done more to search out, to ferret out TB
9 than probably any state in the United States,
10 except maybe some of the northern -- quite
11 far north, is, therefore, probably as low a
12 risk as you could have for tuberculosis.
13 And yet, the system created the perception
14 about New Mexico so other states had some
15 pretty stringent requirements.

16 States nearby, maybe less so. I
17 mean, Texas, New Mexico, probably had more of
18 an understanding of what they were really
19 looking at.

20 So, maybe the new -- you know, I'm
21 just thinking out loud here, but maybe the
22 new approach you have here gives the ability
23 to have a much more accurate understanding of
24 what's going on in those other states.

25 I don't -- you know, I don't know

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2 that I have an attitude or opinion about
3 whether or how disparate different states
4 ought to be on their own behalf, but it is
5 something that has come up.

6 And the interstate movement, to New
7 Mexico, is very important, because we're not
8 a feeding state, to a large degree anymore.
9 We have no large packing facilities. So,
10 the production in New Mexico has got to
11 cross the state line at some time.

12 So, anyway, it's just more questions
13 than answers, I guess, but that's -- it is
14 pretty important in New Mexico, and the
15 ability to provide an accurate picture of
16 where we really are, or any other state, is
17 pretty important, too.

18 DR. MYERS: So describe for us what
19 that accurate picture would include. What
20 kind of information would you want as a
21 state, and what kind of information would you
22 want to share to other states for cases that
23 occurred in your state?

24 MR. CULBERTSON: I think quality of
25 program, level of surveillance, the kinds of

1 things that give evidence of a reduction of
2 risk rather than an increase in risk, you
3 know, what's going on in that state.
4

5 You know, if we were -- if we were
6 taking cattle from a state that basically had
7 no TB program -- and there's a lot of them
8 that really -- compared to what we've done,
9 have no TB program, you know, we should
10 treat that with a lot more care than a state
11 who's had to deal with these things and are
12 in an active level of surveillance.

13 Yet the ones that have to deal with
14 these things are the ones with the big
15 scarlet letter on them. You know, I -- lots
16 of people before me, you know, have said, if
17 you want to find TB, all you have to do is
18 look for it. If you want to say you don't
19 have it, all you have to do is not look for
20 it.

21 And so, if there's a way to -- you
22 know, and I don't know how you do it in the
23 new program. If there's a way to give
24 respect and credibility to the levels of
25 surveillance and the level of the quality of

1
2 the program in a state, it shows that
3 they're active and proactive rather than
4 disengaged. I think that that's -- that's
5 an important marketing component.

6 So, transparency gets that. I
7 guess, the ability to know -- or to assess
8 the quality of the work that's being done in
9 a state. That's more important than just
10 saying, they're modifying meds or they're
11 modifying or -- whatever.

12 DR. MYERS: And as a part of the
13 program that Dr. Thomas described this
14 morning, the -- essentially, the quality of
15 the program and the level of surveillance
16 would be part of that information that we
17 would post for each state, saying, this is
18 what a state is doing from the standpoint of
19 how they're managing their program, how
20 they're doing on surveillance and high risk
21 populations.

22 I'll just turn to the rest of you.
23 Are there other things you'd like to see
24 reported on a regular basis or that you
25 would like to make sure are in your reports?

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MR. CULBERTSON: Somebody else needs to do the talking here.

DR. MYERS: I was trying to get it off your back there, Myles.

DR. HENCH: This is a tough one. It can take a lot of thinking.

You know, if you're thinking about bringing in cattle from state X, you know there's TB in that state, what do you want to know to assure yourself that the animals that are coming in are the best they can be? What do you want to know?

We have the state requirements. We have the surveillance that's being done in that state. What else would you like to know about that state?

UNIDENTIFIED SPEAKER: You know, I think, as a producer, the one thing that we'd have to say that we would be -- want assurances on is that our Texas Animal Health Commission could deviate when warranted from the federal guidelines that you all are discussing.

Because you don't know, nor do I,

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2 what might or might be an issue in front of
3 us here that would require our Texas Animal
4 Health Commission to say, we need to be
5 outside of this; it needs to be more
6 stringent for this reason.

7 And I'd say, just as long as we
8 know that our Animal Health Commission would
9 have that authority to go forward with that
10 would be something that would be important to
11 a producer.

12 DR. HENCH: Any other thoughts?
13 Mark, you've been quiet.

14 DR. SCHOENBAUM: You're doing fine,
15 Bill.

16 MR. KELLER: I think, overall, you
17 can have, across the U.S., the same
18 regulations, but the states can go beyond
19 that.

20 So you have a platform that you deal
21 with, and they can go and put extra
22 requirements -- you know, have the
23 flexibility to do so, but that you have a
24 clear -- you know, that you don't go, well,
25 what's this state want, what's that state

1
2 want, what's -- you know, that -- but you
3 have some sense of direction here.

4 Otherwise, it's confused. I mean, you have
5 to make 100 calls to figure out, you know,
6 what you need.

7 So, that you implement a base level
8 program that each state abides by, but that
9 you have the flexibility that, if need be,
10 Texas Animal Health Commission can implement
11 further steps here that are necessary for
12 them to gain confidence, whether that be
13 additional testing, premovement testing,
14 whether that is additional information
15 required, but that overall, that -- you know,
16 that there's some base level here that you
17 know that every state has. And I think
18 that's important.

19 MR. CULBERTSON: I'd agree with
20 that. I think if we couple that to the
21 ability for a state to know what they're
22 looking at, where they're not guessing at the
23 status or the condition or the risk level in
24 their state, so that the Animal Health
25 Commission in Texas, or the Livestock Board

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2 in New Mexico or, you know, a state
3 veterinarian in Colorado or whatever, if
4 they're going on more than just the sort of
5 high level statement that a state has had
6 tuberculosis or is in a program or whatever.

7 And so, the ability to make those
8 decisions -- because you're affecting --
9 you're affecting commerce when you make those
10 decisions. You're affecting the ability to
11 move cattle and sell them.

12 And so, that can very well be a
13 right decision, placing higher standards on
14 cattle coming from one area or another, but
15 enough information needs to be forthcoming
16 for any state veterinarian or any state
17 animal health organization to be able to make
18 an educated call.

19 DR. HENCH: So, trying to combine
20 these two, what I'm picking up here is a
21 uniform starting point for interstate
22 movements, with the abilities, allowances,
23 what have you, whatever you want to call it,
24 for states to -- help me with the right word
25 here, Myles -- increase, be more -- you

1
2 know, increase restrictions, increase
3 requirements.

4 MR. CULBERTSON: Or just --

5 DR. HENCH: Sort of a level field
6 with maybe a little bit of a bump here or a
7 bump there.

8 MR. CULBERTSON: Yeah. You're
9 talking about a baseline -- a standard
10 baseline with sort of state-centric
11 requirements, or additional requirements, if
12 necessary, something like that, where the
13 states -- you know, we don't want to take
14 the discretion away from a state that feels
15 like they need to do something.

16 DR. HENCH: Uh-huh.

17 MR. CULBERTSON: So, yeah, I think
18 if the federal standard is somewhere common
19 to all states, then those states can make up
20 their mind about the rest of it.

21 DR. MYERS: As the framework was
22 presented this morning, though, that federal
23 standard would include, in the case of an
24 outbreak or an incident, increased testing.
25 It would include movement restrictions. It

1
2 would include all of those kinds of actions
3 that would be appropriate to control that
4 disease.

5 So -- because what I'm hearing you
6 ask us to do is to walk this line where you
7 want the federal folks to essentially assure
8 that those things are happening, but then
9 still reserve the right to take additional
10 actions if you feel necessary. I understand
11 that.

12 So, are you saying that if the
13 federal program has those safeguards in there
14 that would require additional testing,
15 movement restrictions, et cetera, et cetera,
16 in response to an outbreak, and that that is
17 shared in a transparent way with all the
18 other states, then the likelihood of a state
19 needing to take those additional actions
20 would be minimized? Is that -- are you
21 saying that as well?

22 MR. CULBERTSON: Yeah. You bring up
23 an interesting point that I hadn't given
24 enough thought to.

25 You know, if we're thinking in terms

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2 of response to an outbreak as opposed to
3 just sort of a general preemptive and
4 protective measure for the state, which is
5 two things, then in a reactive sense, if
6 there's an outbreak, then I think there's --
7 there are -- then I think the role that the
8 USDA plays obviously ramps up to another
9 level.

10 But in the day-in, day-out trade,
11 sometimes there are reasons why states might
12 want to place restrictions and what they need
13 to know, you know, between --

14 DR. MYERS: You asked --

15 MR. CULBERTSON: -- one free state
16 -- New Mexico's a free state right now. You
17 know, New Mexico's a free state. We've not
18 had tuberculosis in New Mexico for two years.
19 We have a zone which is working its way to
20 completion.

21 So, I think New Mexico is sort of
22 actually placed in that day-in, day-out trade
23 situation where the perception by, I think,
24 Colorado, is that they need to watch out
25 very closely for the feeder cattle that come

1
2 in to Colorado from New Mexico.

3 And, you know, I'm not sure.

4 Oklahoma may have changed now, but for a
5 while, even cattle coming out of, you know,
6 New Mexico generally -- the fact we've got
7 this zone in there classifies us in the
8 minds of some states to be -- you know, as
9 having TB.

10 So, I suppose that's fine for them
11 to do it, but I -- the observation here is
12 that we've got two things we've got to deal
13 with.

14 One is, if you've got an outbreak,
15 if we are reacting to a situation, then
16 there are obviously rules that come into
17 play. There's movement restriction that
18 comes into play.

19 Other states are -- but if it's just
20 daily trade, I think we find states sometimes
21 not trusting that and continuing to want --
22 and for good -- you know, for reasonable --
23 for good reasons.

24 Dairy cattle, when they cross state
25 lines, at least between us and other states,

1
2 require a TB test. That's a good thing.
3 That's not a federal requirement; that's what
4 states are asking. And in doing so, we're
5 protecting our own industry.

6 So, I think -- I keep coming back
7 to the same thing, but I believe -- I
8 believe it's better for states to be able to
9 have the ability in -- under normal
10 circumstances to raise the bar wherever they
11 think it needs to be raised to protect their
12 own state.

13 Maybe -- I don't know what the
14 federal baselines should even be there, but
15 maybe there are some, but when there's an
16 outbreak, well then, the game changes.

17 So, that's two different -- that may
18 be two different -- and maybe these rules
19 don't even need to address the nonreactive
20 side of it. I don't know.

21 I was just -- I was more curious,
22 you know, what the ideas were from the
23 USDA's development up to this point about
24 interstate movement, what the roles are going
25 to be, other than identification. What's the

1
2 role that the USDA believes they will play,
3 to what degree?

4 DR. MYERS: Well, and Lee Ann
5 presented that this morning. I don't know
6 whether she didn't go into enough detail.

7 But do you want to speak to that,
8 Bill, as far as some of the -- just sort of
9 that federal baseline for interstate movement
10 and the particular requirements that the
11 group talked about?

12 DR. HENCH: The input we were hoping
13 to get was similar along the lines of your
14 requirements for dairy heifers.

15 Do you folks feel that there are
16 some classes of animals that may require
17 additional testing, like dairy heifers?

18 Another possible example might be the
19 rodeo animals. We were looking for input on
20 where these interstate movement controls would
21 be useful for your concerns. When we end up
22 in the -- a long-term containment operation
23 with folks called zoning, you know,
24 certainly, we will have requirements for
25 moving out of that zones.

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2 On a day-to-day basis, where you --
3 as you were describing, where maybe we get
4 some bumps in the baseline, we're trying to
5 find out, you know, what would you like to
6 see those bumps cover, and dairy heifers
7 being one, which is particularly -- New
8 Mexico is sensitive to. And we can
9 certainly appreciate that.

10 But are there other ideas that folks
11 might have?

12 MR. CULBERTSON: You know, none of
13 those are going to be common to the entire
14 country.

15 The thought occurs to me that down
16 here, you know, dairy cattle is the topic.
17 But you go into other parts of the west and
18 it's beef cattle that's the topic.

19 And, you know -- so, the rule of --
20 you know, the movement of beef females, beef
21 heifers out of certain areas in the country
22 would give you pause for concern.

23 And if you go way further north --
24 of course, we don't move wildlife, but the
25 wildlife effect on beef herds is -- can be

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pretty dramatic.

So you probably could never just come up with a baseline and say, well, if they're dairy heifers, you know, there's certain requirements, because that's the risk orb here. The risk factor in North Dakota might be something else, or Wisconsin.

DR. HENCH: Trying to think of a way how we could handle that. You know, you're absolutely right.

Dairy seems to be an issue in the southwest. We turn -- in fact, the dairies out there are, you know, here and there.

You get into the upper midwest and it's certainly beef herds. And GYA is beef herds. So, you're right. Regionally, there may be different concerns.

You know, what's important to New Mexico may not be important in Michigan. So, the challenge would be, how could we do something at our level to address those differences.

MR. CULBERTSON: That's one reason, you know, states have to be able to figure

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these things out for themselves.

So, maybe the question is, how does the federal government provide regulatory support to a state.

DR. HENCH: Let's see what our times are.

MR. CULBERTSON: Anyway, that great unanswerable has remained unanswered. Maybe we want to move to the next topic.

DR. HENCH: We can certainly do that, but getting to grasp the problem is a big help. This has helped, I think, flesh out what the problem is.

And thoughts, ideas anyone? Being tough, you've only seen this for a couple of hours and you have to think on it.

We've spent hours and hours and hours. And even this is kind of a new idea that's going to take some consideration.

As you prepare your written comments to us, you know, if you come up with any ideas, please include it.

We've got about ten minutes left, two topics. We have imports -- international

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2 imports, or we have affected herd management,
3 epi investigations.

4 And where would y'all like to jump
5 in, affected herds management or imports?
6 You passed this part in the last one.

7 Well, let's take a look at imports.
8 We'll try starting with that one this time.

9 Briefly, in our framework, we broke
10 international imports down into three
11 segments, if you will, the pre-import
12 segment, which is the country looking to
13 export to the U.S.

14 We're proposing to address that in
15 much a similar fashion that we do now with
16 our 11 points of regionalization. This would
17 be confirmed in the country looking to export
18 to the U.S. by various means.

19 We could do site -- on-site reviews,
20 paper reviews, combination of what have you,
21 and it would be very similar to what we have
22 now.

23 At the border, or at import, as we
24 call it, this would be consisting of our
25 port people checking documentation, verifying

1
2 that all pre-import requirements have been
3 met.

4 And we're sort of stretching the
5 border a little bit, if you will, to include
6 some requirements to identify where these
7 animals will be moved to once they clear the
8 port.

9 Some of our import documentation has
10 the address of the importer. And that can
11 be on the river walk at Austin, and they
12 don't sort cattle there.

13 So, we're interested in identifying
14 where these cattle are making their first
15 movement to, and if they move -- are going
16 to be moved interstate from that point, we're
17 thinking that we need a mechanism to alert
18 the receiving state that these cattle are on
19 their way.

20 And then the final portion of that
21 is post the import, or long-term follow-up,
22 feeder animals, feeder-type cattle, we're
23 looking for mechanisms to prevent their
24 commingling with our domestic breeding herd,
25 and we're looking for mechanisms to follow up

1
2 the rodeo animals, in particular.

3 So, we've sort of identified these
4 big chunks and looking to see if we're on
5 the right track, if we're going down the
6 wrong road, if anybody has any alternate
7 ideas or suggestions for accomplishing the
8 goals, and those goals being to reduce the
9 potential import of disease through our
10 verification at pre-imports, the tracking of
11 the animals from import to their first point
12 of destination, and alerting receiving states
13 if they move interstate from there, and then
14 maintaining a separation between these
15 imported animals and our domestic herd.
16 Thoughts, ideas?

17 UNIDENTIFIED SPEAKER: All those
18 animals you're talking about have already
19 been inspected, and they've already met all
20 the requirements that the fed has said you
21 had to meet to come in, and then you're
22 saying you want to check them again and not
23 mix them again?

24 DR. HENCH: These animals have met
25 import requirements. They're --

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2 UNIDENTIFIED SPEAKER: Which are
3 federal.

4 DR. HENCH: They're entered into the
5 U.S. under federal requirements. And what we
6 want to do is to, as you point out, maintain
7 separation from our domestic breeding herd.

8 We know from experience that even
9 with meeting all the standards, all the
10 testing standards, disease does come in.

11 The rate of that, the case rate, has
12 been dropping significantly over the past
13 couple of years, but it's not zero. So,
14 we're looking to mitigate the risk even
15 further.

16 And these are our thoughts at this
17 point on how to do it. We're welcome and
18 open to any and all ideas that can help us
19 achieve that goal.

20 UNIDENTIFIED SPEAKER: How does that
21 stand with our trading partners, having
22 another restriction of no commingling and
23 further identification further down the line?

24 DR. HENCH: We have not had any
25 feedback from them at this point. They have

1
2 been made aware of our frameworks.

3 The public comment period, I would
4 anticipate some initial feedback from them on
5 that. They have asked us to keep them
6 advised of our progress, which we have agreed
7 to do.

8 Direct feedback on it, we have not
9 had any, unless you've had more at your
10 level.

11 DR. MYERS: No, we've met with
12 Mexico about a month ago, and then I'm going
13 to Mexico, and so is Dr. Thomas, next week
14 for our semiannual BNC meeting, national
15 committee meeting. So, you know, we'll be
16 talking with them about the framework similar
17 there.

18 But mostly, the changes that Bill
19 was talking about are once they've happened.
20 So, I don't know that they're concerned about
21 that too much.

22 So they're more looking at how the
23 changes to this program by getting rid of
24 modified credit and modified credit advanced,
25 all of those statuses, will affect our review

1
2 of their states. So, that's more where
3 their concerns are.

4 So, your thoughts on the impact of
5 having those additional requirements on the
6 U.S. side?

7 UNIDENTIFIED SPEAKER: Well, I've
8 never been in favor of having -- if you've
9 passed all the tests and then met all the
10 requirements, and then because you came from
11 Canada, or because you came from Mexico,
12 placing an additional burden on that
13 producer, because, quite honestly, he said
14 they were okay when they passed him.

15 DR. MYERS: Well, I think the issue
16 is the quality of the testing, because you
17 can carry TB and not show positive on that
18 for a number of months.

19 So, I think that's the point that
20 Bill was trying to make. They can come in
21 having met the requirements. That doesn't
22 mean that they're not --

23 UNIDENTIFIED SPEAKER: When they go
24 to slaughter at a federally inspected plant,
25 aren't they segregated on the floor? Are

1
2 they commingled in the -- in the community?

3 DR. MYERS: No. I don't believe
4 so. I mean --

5 DR. HENCH: I'm sorry? Can you
6 repeat the question, please.

7 UNIDENTIFIED SPEAKER: Yes. I just
8 asked the question if you segregate them
9 while they're out in the pasture and you
10 segregate them when you federally inspect
11 them at a plant.

12 DR. HENCH: When slaughter animals
13 hit the plant, they come in in lots, and
14 those lots are determined by whoever makes
15 them up.

16 Do they generate lots based on
17 country of origin? Not to my knowledge,
18 specifically.

19 Generally, we find that as these
20 animals move through the production cycle,
21 they do stay in lots and that it's often --
22 predominantly, if they're imported from
23 Mexico, that lot is oftentimes -- and you
24 can help me out here, Kevin -- that lot is
25 usually Mexican cattle all the way through.

1
2 It's one of the things that helps us
3 at least identify these cases we find as
4 Mexican origin when they don't have ID, when
5 they --

6 UNIDENTIFIED SPEAKER: But they still
7 have the tag in their ear?

8 DR. HENCH: If they still have the
9 tag in their ear, boy, we love it, because
10 we can take a photograph of that and we can
11 send it to SAGARPA and say, there you go;
12 you can go find where this came from.

13 If it's a lot of Mexican steers that
14 may have originated in Chihuahua and we don't
15 have the official ID but we know it crossed
16 at this line, that could be 14 or 15
17 contributing farms down there to that lot,
18 that's a little bit harder sell.

19 So we can generally ID that, yeah,
20 it was Mexican origin. Where exactly did it
21 originate, we're unsure.

22 MR. CULBERTSON: Clay brings up a
23 good point, though. That test is not
24 totally reliable, whether the cattle come out
25 of Mexico or cattle coming out of Texas to

1
2 New Mexico. It's the same test and the same
3 level of reliability, no matter if it's
4 interstate or international.

5 DR. HENCH: It does present its
6 challenges. I know when we get into the
7 sensitivities and specificities and start
8 looking at prevalences and, you know,
9 positive and negative predictive values, it
10 can get kind of confusing when you think
11 about it.

12 So, you're right, the -- a better
13 test would be a terrific thing to have.

14 MR. CULBERTSON: Well, you know,
15 then the -- then reasonableness of that close
16 of monitoring of a set of Mexican cattle,
17 who have been tested en route to a state
18 somewhere, as opposed to a set of dairy
19 heifers who have been tested and are headed
20 to a state somewhere, the level of risk may
21 not be much different.

22 And so, it may be -- there may be a
23 lot of work here for not enough, you know,
24 profit.

25 DR. HENCH: I might suggest that the

1
2 level of risk could be very much different
3 depending upon who's administering the test.

4 And that gets back to the concept of
5 caudal fold response rates. If somebody who
6 has a caudal fold response rate of .01
7 percent is administering a test, would I have
8 as much faith in that as somebody who has a
9 one percent response rate, given everything
10 else being equal? I'm not sure I would.

11 MR. CULBERTSON: No, I wouldn't
12 either. We've got war stories in our own
13 office about people in other states whose
14 veterinarians were bragging that they had
15 zero. And, you know, and that's not
16 international; that's interstate.

17 DR. HENCH: And this is one of the
18 things that would be -- I believe it was in
19 the -- it was in the program requirements
20 elements.

21 You know, this is one of the things
22 we're going to -- we have an interest in.
23 So, would a hundred Mexican steers that are
24 all tested negative be equal to a hundred
25 California dairy heifers that are tested

1
2 negative, as far as risk goes?

3 MR. CULBERTSON: They won't. I'll
4 take the Mexicans.

5 DR. HENCH: I don't think the risk
6 would be equal between the two groups.

7 MR. CULBERTSON: No, they wouldn't
8 be equal, but it does bring out the point.

9 And that is -- and maybe where this
10 is taking us is that if we can determine
11 what we want to call risk, what do we want
12 to call -- you know, if -- if we develop --
13 it would -- come up with a more developed
14 system for identifying risk, because I think
15 there are plenty of cases in the United
16 States where there are certain cattle herds
17 that pose a much higher risk than certain
18 Mexican herds, and we're not dealing with
19 that.

20 We're just presuming if they're in
21 the United States, that there's a mulligan in
22 there somewhere for them. And maybe there
23 isn't. And so, maybe in the states
24 themselves, part of the program for
25 compliance or noncompliance or a quality

1
2 program has to do with some aspects to their
3 own risk assessment that would cause these
4 things out.

5 You know, if -- if you had -- if
6 you had a cow herd and you were
7 intermingling Mexican steers with a cow herd
8 on a ranch, there are a lot of people who
9 believe that that increases the level of risk
10 on the cows. It does.

11 If you had a cow herd somewhere on
12 a ranch and you were trading in dairy
13 heifers and they were out there, I think the
14 risk is at least as high.

15 And so, rather than looking at that
16 -- Clay, does it make any sense? Rather
17 than looking at another country, or, you
18 know, that type of cattle, maybe there are
19 levels of risk -- straight level risks that
20 may include any number of things there,
21 including dairy cattle from states who claim
22 that they're TB free. You know, that may --
23 that may be risk in itself.

24 DR. HENCH: Well, I think they're
25 here to tell us that we've run five minutes

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over.

MS. MILLIS: You overestimate my powers. I was just checking on how much time you needed or if you were at a stopping point.

DR. HENCH: I want to thank y'all for coming out here. If there's anything that jumps up at you, please let us know.

The package you received has contact information for submitting comments. The simplest one to remember is regulations.gov. You don't need the wwwwww. Do a search for tuber and it should bring you right to these public meetings.

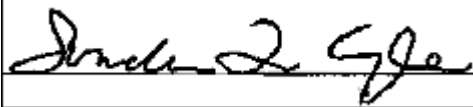
And you can ferret out how to submit comments there. Plus, you can read comments that have already been submitted. Regulations.gov, search for tuber, and please send us your thoughts.

MS. MILLIS: And if you wanted to sit in on the third round of inquiries or comments, let's join up with that group at five minutes after the hour.

DR. HENCH: Thank y'all.

CERTIFICATE

I, SONDRA L. CARGLE, CSR, RPR, do hereby certify that the foregoing proceedings were reported by me, and that the foregoing transcript constitutes a full, true and correct transcription of my stenographic notes.

A handwritten signature in cursive script, reading "Sondra L. Cargle", is written over a horizontal line. The signature is contained within a rectangular box that has a vertical line on the left side.

SONDRA L. CARGLE,

DATED: JUNE 23, 2011

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A		
abides 14:20	21:21,24 26:7,22	behalf 9:21
abilities 16:8	27:1,10,14,17,23	believe 20:13,14
ability 9:15 10:7	31:7,15	30:23 34:10 35:24
11:22 15:8,18,21	Ann 21:9	believer 5:10
20:15	answer 4:24 7:4,5	believes 21:7
able 6:3 8:21 16:3	answers 10:5	best 13:1
20:14 24:3	anticipate 4:9,20	better 8:8 20:14
absolutely 23:14	29:1	33:5
accomplishing 27:6	anybody 27:5	beyond 14:6
accurate 8:6 9:16	anymore 9:25	big 4:5 11:5 24:15
10:7,11	anyway 10:4 24:10	27:3
achieve 28:17	appeared 7:17	Bill 2:5 14:3 21:13
action 6:21	appreciate 22:13	29:15 30:16
actions 17:11,19	approach 9:15	bit 16:16 26:5 32:12
18:3	appropriate 5:18	BNC 29:11
active 11:3,18	17:12	Board 15:12
additional 7:1 8:3	area 15:25	border 25:24 26:5
14:25 15:1 16:21	areas 22:25	boy 32:3
17:18,23 18:3	asked 18:22 29:2	bragging 34:6
21:22 30:1,8	31:3	breakout 1:7 2:17
address 20:25 23:25	asking 20:10	breeding 26:24 28:5
25:15 26:10	aspects 35:17	Briefly 25:10
addressed 7:7	assess 11:22	bring 18:6 34:24
administering 33:20	assessment 35:18	37:3
33:24	assurance 7:17,25	bringing 12:23
administration 6:15	assurances 13:10	brings 32:16
ado 3:14	assure 12:25 17:16	broke 25:10
advanced 29:21	attitude 9:19	brought 5:3
advised 29:3	Austin 26:11	BRUCELLOSIS 1:2
affect 29:22	authority 13:22	bump 16:16,17
afternoon 2:4	aware 28:24	bumps 22:8,10
agencies 6:17		burden 30:8
ago 6:15 29:9	B	
agree 15:6	back 3:2 12:19 20:12	C
agreed 29:3	33:21	California 34:17
Agreement 1:20	bar 20:16	call 16:4,9 25:25
agreements 3:22 5:11	base 14:19 15:3	35:2,3
alert 26:17	based 31:11	called 22:3
alerting 27:11	baseline 16:19,20	calls 2:14 14:17
allowances 16:8	21:14 22:8 23:7	Canada 30:7
alternate 27:5	baselines 20:20	care 11:1
Amarillo 1:4,21	basically 6:23 10:22	Cargle 1:21 38:4,14
animal 13:10,16,21	basis 12:14 22:6	carry 30:13
14:22 15:11 16:3	beef 22:22,24,24	case 7:13,15,17 17:8
animals 3:9 12:25	23:4,19,19	28:9
	began 2:23	cases 10:14 31:22

<p>35:6 cattle 3:25 4:16 10:22 12:23 15:22 15:25 19:8,12 20:6 22:20,22 26:12,14 26:18,22 31:20 32:18,19 33:9 35:7 36:8,11 caudal 33:22,23 cause 35:18 certain 4:1,1 22:25 23:9 35:7,8 certainly 22:4,13 23:19 24:13 CERTIFICATE 38:2 certify 38:5 cetera 17:24,24 challenge 23:24 challenges 32:24 changed 19:11 changes 20:22 29:15 29:20 check 27:21 checking 26:1 36:18 Chihuahua 32:8 chunks 27:3 circumstances 20:16 cited 3:12 claim 36:11 classes 3:9,11 21:21 classifies 19:14 Clay 32:16 36:6 clear 14:12 26:7 close 33:8 closely 19:8 Colorado 15:14 19:7 19:9 combination 25:21 combine 16:5 come 3:2 5:23 9:22 19:8,23 23:7 24:24 27:20 28:8 30:16 31:8 32:18 35:4 comes 19:25 coming 13:1 15:25 19:12 20:12 32:19</p>	<p>36:22 comment 6:12 28:25 comments 24:23 36:25 37:6,6,12 commerce 15:20 commingled 30:22 commingling 26:24 28:20 Commission 13:11,17 13:21 14:22 15:12 committee 29:12 common 17:3 22:17 communication 5:10 community 30:22 compared 10:24 completion 19:3 compliance 8:16 35:16 component 11:20 concept 33:21 concern 23:1 concerned 29:17 concerns 22:1 23:21 29:24 condition 15:10 confidence 14:24 confirmed 25:18 confused 14:16 confusing 33:3 conscious 6:19 consider 6:21 consideration 24:22 consistent 4:3 consisting 25:25 constitutes 38:7 constitutional 5:24 contact 36:24 containment 22:2 continue 4:11 continuing 20:3 contributing 32:11 control 17:12 controls 1:12 21:25 correct 38:8 country 4:4,15 22:18 22:25 25:13,18</p>	<p>31:12 36:7 couple 15:7 24:18 28:11 course 23:3 cover 22:10 cow 35:21,22 36:1 cows 35:25 created 9:6 credibility 11:15 credit 29:21,21 cross 10:3 20:6 crossed 32:9 CSR 38:4 CULBERTSON 3:1,16 4:18,23 5:9 8:4,15 8:20 10:16 12:16 15:6 16:14,18 17:2 18:6,23 22:16 24:2 24:10 32:16 33:7 34:3,19,23 curious 21:2 cycle 31:15</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>daily 20:2 dairies 23:16 dairy 3:13 20:6 21:19,22 22:10,20 23:8,15 33:11 34:17 36:2,11 Dakota 23:10 DATED 38:15 day-in 18:18 19:5 day-out 18:18 19:5 day-to-day 22:6 deal 4:5 11:2,4 14:8 19:19 dealing 7:13 35:9 decision 15:24 decisions 15:19,21 degree 9:25 21:8 depending 33:20 describe 10:10 described 12:3 describing 22:7 destination 27:11</p>
--	---	---

<p>detail 21:11 determine 35:1 determined 31:9 develop 35:3 developed 35:4 development 21:4 deviate 13:11 differences 24:1 different 2:16 4:14 4:15 5:4 8:12 9:20 20:23,24 23:21 33:14,19 Direct 29:5 direction 14:15 discretion 16:24 discussing 13:13 discussion 7:9 disease 17:13 27:8 28:8 disengaged 11:19 disparate 9:20 documentation 26:1,9 doing 5:25 12:8,10 14:2 20:10 domestic 26:24 27:14 28:5 Dr 2:4,5,7,10,11 3:3 4:12,19 5:1 6:8,11 6:13,14 7:8 8:14 8:19 10:10 12:2,3 12:18,20 13:25 14:2 16:5,15 17:1 17:6 18:22 21:9,17 23:12 24:8,13 27:23 28:2,22 29:8 29:10 30:11,23,25 31:7 32:2,23 33:18 34:9,21 36:14,21 37:14 dramatic 23:5 drives 7:3 dropping 28:10</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>ear 32:1,3 East 1:21</p>	<p>educated 16:4 effect 23:4 effort 4:20 either 34:4 elements 2:16 34:12 en 33:10 entered 28:2 entering 4:16 entire 22:17 epi 2:8,24 25:4 epidemiological 1:10 2:19 Epidemiologist 2:12 equal 34:2,16,22,24 essentially 12:4 17:16 established 7:20 et 17:24,24 evidence 10:18 exactly 32:14 example 3:12,24 4:14 21:23 Executive 6:16 exists 8:7 experience 28:6 export 25:14,18 expressed 3:5 extra 14:9</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>facilities 10:1 facility 7:20 fact 19:13 23:16 factor 23:10 faith 33:25 far 9:4 21:13 34:18 farms 32:11 fashion 25:16 favor 30:4 fed 27:19 federal 6:1,2,6 13:12 17:3,7,16,22 20:9,20 21:14 24:6 28:1,3 federally 30:20 31:5 feedback 28:23 29:1</p>	<p>29:5 feeder 19:8 26:22 feeder-type 26:22 feeding 9:25 feel 6:24 7:6 8:2 17:19 21:20 feels 16:24 females 22:24 ferret 9:1 37:5 field 5:5 16:15 figure 5:14 14:17 24:3 final 26:20 find 11:8 20:2 22:9 31:14,22 32:6 fine 14:2 19:17 first 5:8 26:14 27:10 five 36:15 37:13 flesh 24:15 flexibility 14:11,21 floor 30:21 flunked 3:1 fold 33:22,23 folks 17:16 21:20 22:3,14 follow 26:25 follow-up 26:21 foregoing 38:5,6 format 5:4 forthcoming 16:1 forward 13:22 framework 1:3 17:6 25:10 29:13 frameworks 28:24 free 18:23,24,25 36:12 frequently 3:12 front 13:15 full 38:7 further 14:23 23:2 28:13,21,21</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gain 14:24 game 20:22</p>
---	--	---

general 18:11	heifers 3:13 21:19	identifying 26:13
generally 5:4 19:13	21:22 22:10,25	35:5
31:14 32:13	23:8 33:12 34:17	impact 29:25
generate 31:11	36:3	implement 14:19,22
getting 24:14 29:20	held 1:19 7:9	import 25:24 26:9,21
give 10:18 11:14	help 6:9,9 16:10	27:8,10,24
23:1	24:15 28:16 31:19	important 9:24 10:6
given 18:7 34:1	helped 24:15	10:9 11:20,24
gives 9:15	helping 2:6,10	13:23 15:5 23:22
go 13:22 14:6,9,12	helps 31:21	23:23
21:11 22:21 23:2	Hench 2:4,5,10 3:3	IMPORTATION 1:14
30:19 32:5,6	4:12,19 5:1 6:8,13	imported 27:14 31:17
goal 28:17	12:20 13:25 16:5	importer 26:10
goals 27:7,7	16:15 17:1 21:17	imports 2:20,21,22
goes 34:18	23:12 24:8,13	25:2,3,6,8,11
going 9:17 10:20	27:23 28:2,22	imposition 5:12
15:15 21:5 22:17	30:25 31:7 32:2,23	incident 7:14 17:9
24:22 26:15 27:4	33:18 34:9,21	include 10:11 17:8
29:9 34:14	36:14,21 37:14	17:10,11 24:25
good 2:4 8:4 20:4,5	herd 1:9 2:24 25:3	26:5 36:10
20:8 32:17	26:24 27:14 28:5	including 36:11
government 6:2 24:6	35:21,22 36:1	inconsistency 4:6
grasp 24:14	herds 2:18 23:4,19	increase 10:19 16:11
great 24:10	23:20 25:6 35:7,9	16:12,12
group 2:13,15,23	high 12:10 15:16	increased 17:9
7:10 21:16 37:12	36:4	increases 35:24
groups 34:22	higher 3:10 15:24	industry 20:11
guess 4:7 5:22 7:2	35:8	information 7:14
7:23 10:5 11:22	hit 31:8	10:12,13 12:6 15:1
guessing 15:9	Holiday 1:20	16:1 36:25
guidelines 13:12	honestly 30:9	initial 29:1
GYA 23:19	hoping 3:17 21:17	Inn 1:20
	hour 37:13	input 3:8 21:17,24
H	hours 24:19,20,20,21	inquiries 37:11
handle 23:13	hundred 34:15,16	inspect 31:5
handling 8:1		inspected 27:18
happened 29:16	I	30:20
happening 17:17	ID 31:23 32:9,13	interest 3:6 34:14
harder 32:12	idea 24:21	interested 26:13
harmonize 4:21	ideas 5:6 21:3 22:14	interesting 18:7
headed 33:12	24:17,25 27:6,15	intermingling 35:22
health 2:6 13:10,17	28:16	international 2:21
13:21 14:22 15:11	identification 21:6	25:2,11 32:22 34:8
16:3	28:21	interstate 1:12 2:20
hear 3:17 5:7	identified 2:18 27:2	3:3,8,20,20 6:5
hearing 6:23 17:14	identify 26:6 31:22	9:23 16:7 21:5,14

21:25 26:16 27:12 32:22 34:8 investigations 1:10 2:19,25 25:4 isolate 8:22 issue 6:10,18 13:15 23:15 30:11 issued 6:16 issues 5:25	leaving 7:19 Lee 21:9 left 25:1 legal 5:24 letter 11:6 let's 24:8 25:8 37:12 level 5:5 8:9 10:17 11:3,16 12:5 14:19 15:3,10,16 16:15 18:17 23:25 29:7 32:21 33:13,19 35:24 36:9 levels 11:15 36:9 likelihood 18:2 line 10:3 17:15 28:21 32:10 lines 5:7 20:7 21:18 listened 2:14 little 6:14 16:16 26:5 32:12 Livestock 15:12 long 13:20 long-term 22:2 26:21 look 2:18 5:17 6:17 11:9,10 25:8 looking 3:7 4:24 8:5 9:12 15:9 21:24 25:13,18 26:23,25 27:3 28:12 29:19 33:1 36:5,7 lot 10:23 11:1 12:21 31:18,19 32:7,11 33:16 35:23 lots 11:6 31:8,9,11 31:16 loud 9:14 love 32:3 low 9:4	2:24 25:3,6 managing 12:9 Mark 2:7,11,12 14:1 marketing 11:20 matter 8:23 32:21 mean 2:21 9:10 14:16 30:18,24 meaningful 8:17 means 25:19 measure 8:6 18:12 mechanism 26:17 mechanisms 26:23,25 meds 11:25 meet 27:20 meeting 1:3 28:7 29:11,12 meetings 37:4 members 2:15 met 26:3 27:18,23 29:8 30:5,17 Mexican 31:20,23 32:7,14 33:9 34:15 35:9,22 Mexicans 34:20 Mexico 3:24,25 4:14 4:16 8:11,24 9:7 9:10,24 10:2,6 15:13 19:1,4,9,13 22:12 23:23 29:9 29:10 30:7 31:18 32:19,20 Mexico's 18:24,25 Michigan 23:23 midwest 23:18 MILLIS 36:17 37:10 mind 5:15 17:5 minds 19:15 minimized 18:4 minutes 25:1 36:15 37:13 mitigate 28:12 mitigated 7:22 mix 27:22 modified 29:21,21 modifying 11:25 12:1 monitoring 33:9
J		
join 37:12 jump 3:14 25:5 jumps 36:23 June 1:20 2:3 38:15		
K		
keep 20:12 29:2 KELLER 14:4 Kevin 31:19 kind 10:12,13 24:21 33:3 kinds 10:17 17:11 know 3:17,18 4:1,4,6 5:5,9,15,16,17,22 8:10 9:13,18,18 10:20,21,25 11:6,7 11:13,13,22 12:22 12:23,25 13:2,6,7 13:14,21 14:10,12 14:14,17 15:2,4,8 15:13 16:12,23 18:9,21,21,25 19:10,12,15 20:4 20:19 21:1,3,10 22:3,9,16,20,23,24 23:8,13,17,22 24:3 24:24 28:6 29:12 29:17 32:9,24 33:1 33:7,16 34:7,13 35:3,20 36:8,12,23 knowledge 31:12		
L		
L 38:4,14 large 9:25 10:1 learn 3:17		
	M	
	maintain 28:4 maintaining 27:13 making 6:17 26:14 managed 7:19 management 1:9 2:19	

<p>month 29:9</p> <p>months 30:14</p> <p>morning 7:9 12:4 17:7 21:10</p> <p>move 15:22 23:3 24:12 26:15 27:12 31:15</p> <p>moved 26:7,16</p> <p>movement 1:12 3:8 6:5 9:23 17:10,24 19:24 21:5,14,25 22:24 26:15</p> <p>movements 2:20,22 3:4,5 16:8</p> <p>moving 22:5</p> <p>mulligan 35:12</p> <p>MYERS 6:11,14 8:14 8:19 10:10 12:2,18 17:6 18:22 21:9 29:8 30:11,23</p> <p>Myles 2:25 12:19 16:11</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>national 29:11</p> <p>nearby 9:9</p> <p>necessarily 4:24</p> <p>necessary 14:23 16:22 17:19</p> <p>need 6:20,25 8:3 13:17 14:18,21 16:25 18:20 19:7 20:25 26:17 37:2</p> <p>needed 36:19</p> <p>needing 18:3</p> <p>needs 12:16 13:18 16:1 20:17</p> <p>negative 33:2 34:16 34:18</p> <p>never 23:6 30:4</p> <p>new 3:24,25 4:14,16 5:16 6:9 8:10,23 9:7,10,13,15,23 10:2,6 11:14 15:13 18:24,25 19:1,4,9 19:13 22:11 23:22</p>	<p>24:21 32:20</p> <p>noncompliance 35:16</p> <p>noncompliant 8:16</p> <p>nonreactive 20:25</p> <p>normal 20:15</p> <p>north 9:4 23:2,10</p> <p>northern 9:3</p> <p>Notary 1:22</p> <p>notes 38:9</p> <p>Notice 1:19</p> <p>number 1:7 30:14 36:10</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>Obama 6:15</p> <p>observation 19:18</p> <p>obviously 6:7 18:16 19:23</p> <p>occurred 10:15</p> <p>occurs 22:19</p> <p>office 34:5</p> <p>official 32:9</p> <p>oftentimes 31:18</p> <p>okay 3:16 30:10</p> <p>Oklahoma 19:11</p> <p>once 26:7 29:16</p> <p>ones 11:4,5</p> <p>on-site 25:20</p> <p>open 28:16</p> <p>operation 22:2</p> <p>opinion 9:19</p> <p>opposed 18:10 33:11</p> <p>orb 23:10</p> <p>Order 6:16</p> <p>organization 16:3</p> <p>origin 31:12,23 32:14</p> <p>originate 32:15</p> <p>originated 32:8</p> <p>ought 9:21</p> <p>outbreak 7:13 17:9 17:25 18:10,14 19:21 20:22</p> <p>outside 13:18</p> <p>overall 14:4 15:2</p> <p>overestimate 36:17</p>	<hr/> <p style="text-align: center;">P</p> <hr/> <p>package 36:24</p> <p>packing 10:1</p> <p>paper 25:21</p> <p>part 12:2,6 25:7 35:15</p> <p>particular 5:2,20 7:18 8:1 21:15 27:1</p> <p>particularly 22:11</p> <p>partners 28:19</p> <p>parts 22:21</p> <p>passed 25:7 30:5,10</p> <p>pasture 31:4</p> <p>pause 23:1</p> <p>people 11:7 26:1 34:5 35:23</p> <p>percent 33:24 34:1</p> <p>perception 8:9,11,13 9:6 19:6</p> <p>period 28:25</p> <p>photograph 32:4</p> <p>picking 16:6</p> <p>picture 10:7,11</p> <p>place 5:19 8:3 18:20</p> <p>placed 19:5</p> <p>placing 15:24 30:8</p> <p>plant 30:20 31:6,8</p> <p>platform 14:8</p> <p>play 19:24,25 21:7</p> <p>playing 5:5</p> <p>plays 18:16</p> <p>please 24:25 31:1 36:23 37:8</p> <p>plenty 35:6</p> <p>Plus 37:6</p> <p>point 8:4 16:7 18:7 21:4 26:16 27:10 28:4,15,23 30:15 32:17 34:24 36:20</p> <p>points 25:17</p> <p>populations 12:11</p> <p>port 26:1,8</p> <p>portion 26:20</p> <p>pose 35:8</p> <p>positive 30:13 33:2</p>
---	---	--

possible 21:23	provide 10:7 24:6	Regional 2:8,11
post 12:7 26:21	provided 7:24	regionalization 25:17
potential 27:8	public 1:3,22 28:25 37:4	Regionally 23:20
powers 36:18	Pursuant 1:19	regular 12:14
predictive 33:2	put 8:3 14:9	regulations 14:6
predominantly 31:17		regulations.gov 37:1 37:8
preempt 6:20	<hr/> Q <hr/>	regulatory 1:3 24:6
preemption 6:18	quality 10:16 11:16 11:23 12:4 30:12 35:16	reliability 32:21
preemptive 18:11	question 4:8,19 5:23 7:2,5,23 24:5 31:1 31:3	reliable 32:18
premovement 14:25	questions 10:4	remained 24:11
prepare 24:23	quiet 14:1	remember 37:1
present 32:23	quite 8:12 9:3 30:9	repeat 31:1
presented 17:7 21:10		reported 12:14 38:6
presuming 35:11	<hr/> R <hr/>	reporting 7:12
pretty 9:8 10:6,9 23:5	raise 20:16	reports 12:15
prevalences 33:1	raised 20:17	require 13:16 17:23 20:8 21:21
prevent 26:23	ramps 18:16	required 15:2
pre-import 25:12 26:2	ranch 35:23 36:2	requirement 20:9
pre-imports 27:9	rate 28:9,9 33:23 34:1	requirements 1:14 3:8 4:16,21 9:8 13:3 14:10 16:13 16:21,21 21:15,19 22:4 23:9 26:2,6 27:19,24 28:3 30:1 30:6,17 34:11
proactive 11:18	rates 33:22	requires 6:16
probably 8:25 9:2,4 9:10 23:6	reacting 19:22	reserve 17:18
problem 8:11,13 24:14,16	reactive 18:13	respect 11:15
proceedings 38:5	read 37:6	responding 7:15
producer 13:8,24 30:9	reality 8:12	response 17:25 18:10 33:22,23 34:1
production 10:2 31:15	really 8:22 9:11 10:8,24	rest 7:16 12:12 17:5
profit 33:17	reason 13:19 24:2	restriction 19:24 28:20
program 5:16 6:9 8:5 10:17,23,25 11:14 11:17 12:3,5,9 14:20 15:17 17:22 29:20 34:11 35:15 35:17	reasonable 8:6 20:4	restrictions 3:21 5:20 7:1 8:3 16:12 17:10,24 18:20
programs 2:6	reasonableness 33:8	reverse 6:2
progress 29:3	reasons 5:19 18:19 20:5	review 29:22
proper 2:15	receive 3:25	reviews 25:20,21
PROPOSED 1:2	received 36:24	rid 29:20
proposing 25:15	receiving 26:18 27:11	right 3:19 4:18 8:19 15:24 16:10 17:18
protect 20:17	recognizing 6:5	
protecting 20:11	record 2:9	
protective 18:12	reduce 27:7	
	reduced 8:21	
	reduction 10:18	

18:24 23:14,20 27:4 33:5 37:3 risk 3:10 7:6,21 8:6 8:10 9:5 10:19,19 12:10 15:10 23:9 23:10 28:12 33:13 33:19 34:18,21 35:2,5,8,18,24 36:4,9,13 risks 36:9 river 26:11 road 27:5 rodeo 21:24 27:1 role 18:15 21:7 roles 21:5 round 37:11 route 33:10 RPR 38:4 rule 6:17,20,22 22:23 rules 3:21 19:23 20:24 rumen 2:5 run 36:15 running 3:15	send 32:5 37:9 sense 14:15 18:13 36:6 sensitive 22:12 sensitivities 32:25 separation 27:13 28:5 session 1:7,19 2:2 2:17 set 7:10 33:9,11 share 10:14 shared 18:1 sharing 7:14 show 30:13 shows 11:17 side 21:1 30:2 significantly 28:10 similar 21:18 25:16 25:22 29:13 simplest 37:1 sit 37:11 site 25:20 situation 8:1 19:6 19:22 slaughter 30:20 31:7 slightly 5:3 smooth 4:9 somebody 12:16 33:22 33:25 Sondra 1:21 38:4,14 sorry 30:25 sort 4:20 5:17 15:15 16:15,20 18:11 19:4 21:13 26:4,12 27:2 southwest 23:16 speak 21:12 SPEAKER 13:7 27:16 27:25 28:18 30:3 30:19 31:2,25 specifically 31:13 specificities 32:25 spent 24:20 staff 2:5 stake 6:6 stand 28:19	standard 5:13 6:1 16:19 17:3,8 standards 15:24 28:7 28:8 standpoint 12:8 start 3:3,5 32:25 started 2:24 starting 16:7 25:9 state 1:22 3:23 4:17 5:19,25 6:20,25 7:3,12,18,24 8:1,2 8:2,7,10,17,23,25 9:2,25 10:3,8,13 10:15,20,22 11:1 11:17,24 12:7,8,23 12:24 13:3,5,6 14:13,13,20 15:4,8 15:11,13,16 16:2,2 16:24 18:2,12,23 18:24,25 20:6,18 24:7 26:18 33:10 33:13 statement 6:19 15:16 states 3:23,24 4:10 4:14,21,22 5:3,11 5:13 6:4 7:16 8:18 9:2,7,9,17,20 10:14 14:6 16:10 16:23 17:4,4 18:2 18:19 19:15 20:1,2 20:7,10,14 24:3 27:11 29:23 34:5 35:7,12,14 36:11 state's 8:9 state-centric 16:20 state-to-state 2:22 status 8:13,21 15:10 statuses 29:22 stay 31:16 steers 32:7 34:15 35:22 stenographic 38:8 steps 14:23 stopping 36:19 stories 34:4 straight 36:9
S		
safeguards 17:22 SAGARPA 32:5 sat 2:13 saying 4:13 11:25 12:7 17:21 18:5 27:21 scarlet 11:6 Schoenbaum 2:7,11 14:2 search 9:1 37:2,8 see 12:13 22:10 24:8 27:3 seen 24:18 segment 25:13 segments 25:12 segregate 31:3,5 segregated 30:21 sell 15:22 32:12 semiannual 29:11		

<p>stretching 26:4 stringent 6:1,4 9:8 13:19 strong 5:10 submit 37:5 submitted 37:7 submitting 36:25 suffered 8:11 suggest 5:8 33:18 suggestions 27:6 support 2:13 5:12,14 24:7 suppose 19:17 sure 4:12 6:13 12:15 19:10 34:2 surveillance 10:17 11:3,16 12:5,10 13:4 system 7:11,24 9:6 35:5</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tag 32:1,3 take 6:25 12:21 16:23 17:18 18:3 24:22 25:8 32:4 34:20 talk 2:21 talked 7:8 21:16 talking 12:17 16:19 27:17 29:13,16 TB 2:5,8,12 9:1 10:23,25 11:8 12:24 19:16 20:8 30:13 36:12 teach 3:18 technical 2:12 tell 36:15 ten 25:1 terms 18:9 terrific 33:6 test 20:8 32:17,20 33:6,20,24 tested 7:21 33:10,12 34:16,17 testing 14:25,25</p>	<p>17:9,23 21:22 28:8 30:12 tests 4:2 30:5 Texas 1:4,21,22 9:10 13:10,16 14:22 15:12 32:19 thank 36:21 37:14 thing 5:5,18 13:8 20:8,13 33:6 things 3:9 10:18 11:2,5 12:13 17:17 18:13 19:19 24:4 31:21 34:10,13 35:19 36:10 think 5:18 6:23 7:4 10:16 11:19 13:8 14:4 15:4,7 17:2 18:14,15 19:4,6 20:2,12,17 23:12 24:15,19 30:11,15 33:3 34:21 35:5 36:3,14 thinking 9:14 12:21 12:22 18:9 26:17 third 37:11 Thomas 7:8 12:3 29:10 thought 18:8 22:19 thoughts 5:6 13:25 24:17 27:15 28:14 29:25 37:9 three 25:11 time 10:3 25:9 36:19 times 6:24 24:8 today 2:6 topic 5:2 22:20,22 24:12 topics 25:2 totally 32:18 tough 12:20 24:18 track 27:4 tracking 27:9 trade 18:18 19:5 20:2 trading 28:19 36:2 transcript 38:7</p>	<p>transcription 38:8 transparency 7:11 11:21 transparent 7:25 18:1 treat 11:1 true 38:7 trusting 20:3 try 25:9 trying 4:9 7:10 12:18 16:5 22:8 23:12 30:16 tuber 37:3,8 tuberculosis 1:2 9:5 15:17 19:1 turn 12:12 23:16 two 1:7 16:6 18:13 19:1,19 20:23,24 25:2 34:22 type 6:10 7:24 36:8</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>Uh-huh 8:14 17:1 unanswerable 24:11 unanswered 24:11 understand 5:1 17:19 understanding 4:13 9:11,16 UNIDENTIFIED 13:7 27:16,25 28:18 30:3,19 31:2,25 uniform 16:7 United 9:2 35:6,12 unsure 32:15 upper 23:18 USDA 4:8 5:11,12 18:16 21:7 USDA's 21:4 useful 22:1 usually 31:20 U.S 3:11 14:5 25:14 25:19 28:3 30:2</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>values 33:2 various 25:19</p>
--	---	--

<p>verification 27:9 verifying 26:1 veterinarian 15:14 16:2 veterinarians 34:6</p>	<p>working 2:13,15 6:22 7:10 19:2 wouldn't 34:3,23 written 24:23 wrong 27:5 wwwwww 37:2</p>	<p>79102 1:21</p>
<hr/> <p style="text-align: center;">W</p> <hr/>	<hr/> <p style="text-align: center;">X</p> <hr/>	
<p>walk 17:15 26:11 want 6:4 7:3 10:12 10:14 11:8,9 12:24 13:2,9 14:13,14 16:9,23 17:16 18:20 20:3 21:12 24:12 27:21 28:4 35:2,2 36:21 wanted 2:25 37:10 war 34:4 warranted 13:11 wasn't 4:3,3 watch 19:7 way 3:19 7:25 11:12 11:14 18:1 19:2 23:2,13 26:19 31:20 week 29:10 welcome 28:15 west 22:21 Western 2:7,11 we'll 3:4 25:9 29:12 we're 3:7 9:24 18:9 20:10 22:8 25:15 26:4,13,16,22,25 27:3,4 28:12,15 32:15 34:14 35:9 35:11 we've 10:24 18:25 19:13,19,19 24:20 25:1 27:2 29:8 34:4 36:15 wildlife 23:3,4 Wisconsin 23:11 wisely 5:21 word 16:10 work 4:11 11:23 33:16 worked 2:15</p>	<p>X 7:12 12:23</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yeah 16:18 17:2 18:6 32:13 year 6:14 years 19:1 28:11 y'all 25:5 36:21 37:14</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero 28:11 34:7 zone 7:20 8:22 19:2 19:14 zones 22:5 zoning 22:3</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>01 33:23</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1-40 1:20 100 14:17 11 25:17 14 32:10 15 32:10 1911 1:20</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2011 1:20 2:3 38:15 23 38:15</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>49 7:16</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>61:19,20 2:2,3</p> <hr/> <p style="text-align: center;">7</p> <hr/>	

**PROPOSED TUBERCULOSIS AND BRUCELLOSIS
REGULATORY FRAMEWORK PUBLIC MEETING
AMARILLO, TEXAS**

BREAKOUT SESSION NUMBER THREE:

AFFECTED HERD MANAGEMENT AND
EPIDEMIOLOGICAL INVESTIGATIONS

INTERSTATE MOVEMENT CONTROLS

IMPORTATION REQUIREMENTS

SESSION 7, held Pursuant to Notice and
Agreement on June 6, 2011, at the Holiday Inn, 1911 1-40
East, Amarillo, Texas, 79102, before Sondra Cargle, a
Notary Public of the State of Texas.

2
SESSION 7

SESSION 7

JUNE 6, 2011

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4 DR. HENCH: Good afternoon, everyone.
5 We're down to the home stretch.

6 I'm Dr. Bill Hench with the TB
7 staff, been on staff for a little over five
8 years. Started in Michigan testing cattle in
9 the barnyard.

10 Dr. Mark Schoenbaum's here. He's
11 the Western Regional TB Epidemiologist, and
12 we were on the technical advisory group to
13 the Working Group.

14 We listened in on the calls, but we
15 weren't Working Group members who developed
16 these elements.

17 This particular session is to look
18 at the concepts that we've proposed
19 surrounding affected herd management and
20 epidemiological investigations, interstate
21 movement requirements, and imports. And when
22 we speak of imports, we're talking
23 international imports.

24 We've had some good discussions in
25 the previous two groups covering all those

1
2 three different areas. The last group, we
3 particularly focused on interstate movement
4 requirements.

5 And what did we finish up with? We
6 tried to move over to -- we went to imports,
7 and it still sort of drifted back to
8 interstate movement requirements.

9 So, you have all -- any of you have
10 any feelings on which topic you'd like to
11 start with, affected herds, interstate
12 movements, or international imports?

13 UNIDENTIFIED SPEAKER: Interstate.

14 DR. HENCH: Interstate movements.

15 Okay.

16 The element interstate movements is
17 one of the things we're looking to get input
18 on. And the example that they throw out is
19 dairy heifers.

20 And one of the things we're looking
21 for input on is, do you feel that there are
22 any particular classes of cattle, or
23 commodity groups, as they call them, where
24 movement requirements would be applicable?
25 And if so, what might those requirements look

1
2 like, what would they consist of?

3 We'll throw it out there. There is
4 some concern in dairy heifers. I believe
5 both Texas and New Mexico have instituted
6 change of ownership testing on dairy animals.

7 UNIDENTIFIED SPEAKER: We have
8 requirements in Oklahoma requiring they be
9 tested when they're imported into the state,
10 not change in ownership in the state, on the
11 young animals anyway. We do feel like
12 they're a greater risk.

13 DR. HENCH: So, in Oklahoma, you
14 have import requirements on just young dairy
15 animals coming in or any dairy animals?

16 UNIDENTIFIED SPEAKER: Any dairy
17 animals.

18 DR. HENCH: Any dairy animals.
19 Okay.

20 UNIDENTIFIED SPEAKER: With the
21 exception of steers or spayed heifers going
22 to a feedlot.

23 DR. HENCH: Okay. Steers and spayed
24 heifers to a feedlot, even though they are
25 of a dairy breed, do not need an interstate

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movement test?

UNIDENTIFIED SPEAKER: No, not a test.

DR. HENCH: Okay.

UNIDENTIFIED SPEAKER: I guess I should -- kind of depends on what feedlot they're going to.

You know, if they're going to a feedlot that does a lot of backgrounding where they could be in a pen next to a beef animal that's going to be going back out, then we do require that, but we've got several feedlots in the state that feed the dairy-type animals. So, we don't require the test going into those.

DR. HENCH: Those would be terminal feedlots where everything that comes in goes out through the slaughter house?

UNIDENTIFIED SPEAKER: Yes.

DR. HENCH: Okay. A hundred percent terminal operation?

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: Well, with one exception. I think you have -- you allow

1
2 for those groups of animals to move out to
3 pasture by themselves, as long as they're not
4 commingled with anything else, if conditions
5 are right, and then go back into the feed
6 yard.

7 So, they're still under the control
8 of the feed yard and not commingled with any
9 breeding cattle at that time.

10 UNIDENTIFIED SPEAKER: I think
11 another class of animals that are probably
12 subject to the same type of requirements are
13 rodeo cattle, Mexican origin animals. Texas
14 has that for Mexican roping steers -- roping
15 steers.

16 DR. HENCH: So, Mexican rodeo
17 animals, you would like to see a regular
18 test on them for interstate movement
19 purposes?

20 UNIDENTIFIED SPEAKER: We have them
21 in Texas now, and I think some other states
22 do, too. And there would be some -- I
23 guess it would be nice, in some instances,
24 to have some uniformity across the states.

25 If they're a big enough risk for

1
2 certain states to put restrictions on them, I
3 think we need to look at it and make
4 everybody uniform.

5 UNIDENTIFIED SPEAKER: Does it really
6 matter the origin, or should it be just all
7 rodeo stock?

8 UNIDENTIFIED SPEAKER: Right. And
9 that's a good question.

10 If you have all domestic rodeo
11 stock, you're one contractor that just has
12 American calves, are you really at a higher
13 risk if they haven't been mixed. But being
14 able to tell if they've been mixed or not is
15 a good question, a good point.

16 UNIDENTIFIED SPEAKER: And I say
17 that, I think, because they are grouped
18 together and spend a lot of time together
19 and you've got different contractors coming
20 in and out, you've got more of an
21 opportunity to have a disease penetrate that.

22 The one exception I would have would
23 be those people that might take some steers
24 from a feedyard to use at a local roping and
25 then go back into the feed yard.

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I don't know if they would necessarily need that same thing, because again, they're under the control of the owner or the feed yard manager the entire time.

They're not mixed with any other animals at that event because it's just a team roping. There aren't any other bovine animals there. I think -- I wouldn't say that those animals would need to be tested any differently, but --

UNIDENTIFIED SPEAKER: More than likely, if they went across the state line, they wouldn't be subject to any --

UNIDENTIFIED SPEAKER: But again, if you're on the Texas-New Mexico border and it's going back and forth, that might be an issue.

UNIDENTIFIED SPEAKER: We have those same restrictions in Oklahoma also, and it would be nice if it were a uniform rule, because we get the question all the time, well, why do you guys require it and Kansas doesn't or North Dakota or whoever. So, that would -- that would be one thing that

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would really be nice.

UNIDENTIFIED SPEAKER: I would hate for the federal rule to come out and be -- if we're talking about dairy calves -- intact dairy heifers coming over, if the federal rule wasn't as stringent as the current Texas rule, I would hate for us to go backwards.

So, allowing the states to have the authority to do that in and above the federal rule, I think, is important also.

UNIDENTIFIED SPEAKER: A good example of that, look how many free states that, by federal rule, wouldn't be required to test their dairy animals coming into Texas or Oklahoma have been found to have at least one affected herd in the last five years.

UNIDENTIFIED SPEAKER: Would this be the area where the -- like, the commuter herd agreements fall into this area of movement control?

UNIDENTIFIED SPEAKER: Yeah, I think so.

UNIDENTIFIED SPEAKER: Because we utilize those to a degree. We want to make

1
2 sure that we don't adversely affect our
3 ability to do those.

4 DR. HENCH: At this time, commuter
5 herd agreements are anticipated to remain.
6 And those are -- the exact reason for that
7 is for folks who have grazing on both sides
8 of the state line.

9 And that involves, of course, you
10 know, the agreements between both states,
11 their state veterinarians, their ADICs.
12 Everybody's happy with the arrangement, and
13 we just go back and forth as part of normal
14 business.

15 It's anticipated that that will
16 continue. I don't foresee any major changes
17 to the concept.

18 UNIDENTIFIED SPEAKER: Thank you.

19 DR. HENCH: Uh-huh. Any other
20 thoughts on movement requirements? Joe, you
21 haven't said nothing.

22 UNIDENTIFIED SPEAKER: Okay, I'll
23 bite.

24 We've faced -- we, in New Mexico,
25 have a split state status currently. And

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2 we've implemented import requirements and
3 movement requirements, change of ownership
4 requirements and so forth, that, frankly,
5 we've promoted as being temporary while we
6 were under split state status.

7 And we've been trying to assure our
8 producers that once we were able to achieve
9 an accredited free state status statewide,
10 that a lot of these testing requirements
11 would go away.

12 In light of the comment about, we
13 hate to take a step back -- and I understand
14 the comment. You know, if we keep those
15 same kind of testing requirements in place as
16 more of a national standard, I think we
17 could see some heartburn amongst New Mexico
18 producers that feel they've been shouldering
19 a good bit of expense and responsibility in
20 following the testing rules that we
21 implemented. And I don't know how that
22 would play out if it became more of the
23 norm.

24 DR. HENCH: Well, correct me here if
25 I'm wrong, but your testing requirements in

1
2 that are for movements within New Mexico,
3 correct?

4 UNIDENTIFIED SPEAKER: Well, change
5 of ownership within, import requirements, and
6 so forth.

7 So, let's say we're telling somebody
8 that because of the MAA zone, there has to
9 be a test on change of ownership, or has to
10 be a test of cattle coming out of the zone,
11 and now because of the way these rules
12 evolved, that testing is still going to be
13 required, even though our zone is gone.

14 It -- I could see it playing out
15 that way where -- this is where you kind of
16 get into the sticky wicket of the preemption
17 issue that Lee Ann and Dee Ellis kicked
18 around there for a few seconds in the group
19 meeting, this idea that states have,
20 heretofore, had the right and the ability to
21 have more restrictive or additional
22 requirements versus the federal movement
23 requirements.

24 And I just -- I don't have a
25 solution. I don't really have a question.

1
2 I have just this pondering, okay, what's
3 going to happen if the requirements carry on
4 even if our state status changes.

5 UNIDENTIFIED SPEAKER: Well, to stay
6 on preemption real quick -- and this is
7 going to be a little bit contradictory to
8 what I just said, but it's going to be
9 consistent with what I said in the other
10 room, and that is --

11 UNIDENTIFIED SPEAKER: I was for it
12 -- before, I was against it.

13 UNIDENTIFIED SPEAKER: How'd you like
14 that one?

15 UNIDENTIFIED SPEAKER: It depends on
16 what is is.

17 UNIDENTIFIED SPEAKER: I have a
18 slight concern with the use of preemption to
19 facilitate political agendas rather than
20 animal health agendas, and especially in
21 certain states to where the -- they're trying
22 to be protectionist of their local industry
23 and use an issue like importation of Canadian
24 feeder cattle or Mexican feeder cattle to
25 keep breeding stock or commercial cattle from

1
2 one state from entering their state.

3 So, I don't know how to stop that,
4 or even if it -- it is a problem or will
5 become a problem, but it's certainly a
6 concern that I have based on some actions on
7 the international front that seem that
8 they've used that same philosophy.

9 DR. HENCH: It is a challenge.
10 What the -- what the absolute correct answer
11 is, I don't know. We're hoping -- the
12 reason for these meetings is to get feedback
13 and ideas. Ideas generate ideas.

14 UNIDENTIFIED SPEAKER: I think the
15 answer is to make sure that everything's
16 based on sound science, but implementation of
17 that is the -- is the tricky thing, because
18 everybody has their own agenda that they're
19 trying to achieve and can manipulate the
20 evidence to further their cause.

21 UNIDENTIFIED SPEAKER: Someone explain
22 to me, Dr. Ellis, in the -- kind of in his
23 opening remarks, mentioned the fact that
24 there could be -- or he felt like there
25 could be problems between this rule and the

1
2 interstate movement requirements and the
3 animal disease traceability rule. And I'm
4 not sure exactly what his point was there.
5 Does anyone -- Brad, have y'all talked about
6 it?

7 UNIDENTIFIED SPEAKER: I was at a
8 different meeting this morning, but let me
9 look through here and see if I can't see
10 something --

11 UNIDENTIFIED SPEAKER: I want to say
12 he might have been referring to the
13 brucellosis program, rather than the TB
14 program, and that if the brucellosis program
15 transitions like some think that it will,
16 then you lose the -- already, the
17 identification component of that program and
18 the TB rule for some of the -- some of
19 those animals that we're all hoping will help
20 facilitate implementation of the disease
21 traceability program. I think I said that
22 right.

23 DR. HENCH: I'm sorry. I truly do
24 not remember those particular comments. I
25 think I might have been off getting a dose

1
2 of Tylenol for my back.

3 Any other thoughts on interstate
4 movement requirements? Shall we move on to
5 a different topic?

6 Where would you like to go, affected
7 herds or international imports?

8 UNIDENTIFIED SPEAKER: I'd like to
9 talk a little bit, Bill, about the epi
10 investigations.

11 And this is pursuant to a
12 conversation Mark and I had at lunch. And
13 it was very enlightening, and I appreciate
14 learning. And I'll give you a capsule of
15 what we talked about.

16 I was talking about the trace of the
17 Ohio affected cow, in tracing her back
18 through a Kansas dairy to New Mexico dairies.
19 And I told him I had heartburn because it
20 appeared that Kansas was basically going to
21 sit and take a step back and wait to see
22 what the status of the New Mexico herds was
23 going to be.

24 And in looking at that whole trace
25 scenario, understanding that a lot of cows

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2 moved through the west Kansas dairy in a
3 fairly short period of time and went to a
4 lot of places and so forth, I've been
5 concerned all along that Kansas wasn't doing
6 more to start tracking where cows had come
7 in from and gone to and so forth and through
8 that facility.

9 And Mark pointed out to me that,
10 well, the way the rules are written, we --
11 we, USDA, can't really call those cows high
12 risk or coming from an affected -- or going
13 to -- you know, because it's just not the
14 way our rules are written, so it would be
15 premature of us to tell Kansas, you've got
16 to figure out where all those cows came from
17 and went to.

18 And so, they kind of go back to the
19 herd of origin, which in this case, appeared
20 to be the New Mexico herd. And that kind
21 of explained to me why we had to kind of
22 act first and so forth.

23 But in looking at it strictly from
24 an epi standpoint, not from a rules
25 standpoint or anything else, looking at what

1
2 I perceive as a -- as factors of elevated
3 risk for TB in that Kansas dairy, and
4 realizing that because the system -- whatever
5 the reasons, the system has allowed them to
6 wait and see what happened in New Mexico,
7 and because of the way things played out
8 more slowly than I think everybody would have
9 liked in New Mexico, we're now, what, some
10 nine months farther behind the curve in
11 tackling any of the trace work that may have
12 to be done on the cattle that went through
13 these dairy in Kansas.

14 And I think -- you know, when I
15 hear the comment about completing
16 epidemiologic investigations in the time
17 frames required and so forth, what's going to
18 be required? And maybe we need to look at:
19 How do we approach epi.

20 I mean, to me, you kind of maybe
21 would be smarter to look in multiple places,
22 and then -- instead of saying, well, New
23 Mexico -- we feel New Mexico's the highest
24 risk of the source of that TB, so we'll look
25 there first and nowhere else, even though we

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2 went through another dairy and then to the
3 Ohio dairy and so forth.

4 I would think that it would be in
5 everyone's interest if everybody was looking
6 everywhere to try to get their hands around
7 the spread of this disease and where it came
8 from and where it might have gone from
9 there.

10 DR. HENCH: We're at a point where
11 we can address those inconsistencies in epi
12 tracing, and your input on it would certainly
13 be helpful.

14 There have been comments in the past
15 that epidemiological investigations need to be
16 completed in 90 days, 120 days, 180 days,
17 and put a finite time limit on it.

18 The problem there arises is the epi
19 investigations associated with a 40 cow-calf
20 herd where the guy gets a bull every third
21 year and sells everything are going to be
22 very much different than the epi
23 investigations associated with a 15,000 head
24 genetics herd. One could probably be
25 completed in 60 days. The other one might

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take well over a year.

So, an alternate idea's been thrown out, periodic sit reps -- situation reports, if you will, periodic updates on what's going on. And this ties in with our transparency concept of, you know, making this stuff available.

As Lee Ann pointed out, it's great for letting the states know what's going on. We've got to be careful with our international trading partners.

But the availability of a regular update on the epi progress of an affected herd -- you know, we've found -- identified six more traceout herds, and two were over in this state so we alerted that state. That's -- that is another way we could go with it.

Thoughts? Ideas? You know, what else can we do is what we're looking for.

You know, you've identified a potential problem, yeah. We've got it here, and it's the bookends thing. What happened in between?

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UNIDENTIFIED SPEAKER: I think that it might be useful to notify -- and this is where I think we have to be careful about what the information is we're providing.

If we know that there's a confirmation of the disease, then I think that information can be disseminated more widely.

If we have a suspected case, or there is a cohort that's in another state, I think if you -- I think if you notify the animal health officials in that state and let them know, then at least they're on alert, but the information is not a rumor that could affect market.

So, I think there's a sensitivity there on, is it a suspected case or is it a confirmed case. And the audience for delivering those two is different.

I'd like to go one step further, though, and I think we need better information on slaughter surveillance also.

It's a little different than this topic, but I don't think that we have an

1
2 accurate understanding of the number of
3 animals that actually are -- that come back
4 with TB lesions at slaughter except for, I
5 think, that information is provided at USAHA.

6 So maybe there's an opportunity to
7 -- in the name of transparency, to come up
8 with a system to provide that information to
9 -- to at least the state vets, but maybe to
10 industry as a whole or segments of the
11 industry or something so that we can kind of
12 identify those areas where we think there
13 really may be a problem, and when we get the
14 information once a year in that report, we
15 have a better understanding of where it
16 actually came from.

17 DR. HENCH: There have been a couple
18 of resolutions, recommendations come out of
19 USAHA in the national assembly. We have
20 been addressing that.

21 And Dee, haven't we made those
22 reports available on the national assembly
23 calls here recently, slaughter cases, what
24 have you?

25 DR. ELLIS: Kind of. At some

1
2 level, yes, they've been discussed. I'm not
3 sure that -- and I've missed some of the
4 calls, but I'm not sure they're always
5 discussed to the detail or the information's
6 provided that some would like, --

7 DR. HENCH: Were you --

8 DR. ELLIS: -- but the USDA's making
9 a better effort -- concerted effort to
10 provide that information.

11 DR. HENCH: We're feeling our way
12 along here.

13 DR. ELLIS: Right. Baby steps.

14 DR. HENCH: Yeah. We are working
15 down that line, so hopefully, we can fine
16 tune this to what everybody needs.

17 Anything else on the epi
18 investigations?

19 UNIDENTIFIED SPEAKER: Well, the
20 other was, I think what we talked about
21 earlier this morning is that we need a
22 better test.

23 DR. HENCH: We need what?

24 UNIDENTIFIED SPEAKER: We need a
25 better test. We need --

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DR. SCHOENBAUM: It would be nice.

UNIDENTIFIED SPEAKER: We've got to get some recert dollars put into that to come up with a way to do it. And that's my -- that's more in the industry is to put political pressure on people that can appropriate the funds to USDA or to the -- to the people that develop the test, I guess.

DR. HENCH: Well, the tests are typically developed by private industry.

UNIDENTIFIED SPEAKER: Right.

DR. HENCH: There's somewhere between four and six right now that are in the pipeline.

UNIDENTIFIED SPEAKER: Do y'all do -- I don't know the right word right now, whatever time it is, but pilot projects with some of the -- with some of the new technology, the new tests? Do y'all sometimes do both caudal fold and that just as a way for them to beta test it?

DR. HENCH: That's -- at that stage of development, that type of comparison is

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premature.

When we have a more mature test, we'll take it out and do comparisons with current test technology.

That is currently underway for captive cervids. One particular test is being compared to the skin testing in captive cervids. We had a strong effort into that this past testing season, this past winter.

If I recall correctly -- I'm sort of on the periphery of that -- we achieved all the sample numbers we were looking for in elk, white-tailed deer.

We're anticipating getting the numbers of samples we were searching for in reindeer here in summer. It's a big commercial animal in Alaska, and there's several herds that are going to be doing significant harvests, and we're going to obtain samples at that time to evaluate serological tests.

We are working on it. It's just a matter of getting a test that's somewhat fieldable, if you will, rather than a breadboard to compare.

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2 So, until the tests are mature
3 enough to be run that way, it's difficult to
4 really take it out in the field and put it
5 side by side.

6 But we do compare it side by side
7 as part of our evaluations. And the goal is
8 to develop new tests to put in the field
9 that are better, that are faster, and as
10 they said on the Six Million Dollar Man,
11 stronger.

12 UNIDENTIFIED SPEAKER: This is --
13 that's, in my mind, critically important.
14 And I think if we're able to accomplish
15 that, then affected herd management becomes
16 much a easier situation.

17 This sentence says: Establish
18 criteria for defining -- or for determining
19 an individual animal as negative. In all
20 reality, that's a toughie.

21 DR. HENCH: That's a hard one to do
22 is say a hundred percent.

23 UNIDENTIFIED SPEAKER: Yes.

24 DR. HENCH: It's a hard one to do.
25 And when you're testing an affected herd, you

1
2 really want to know if that animal is going
3 to test negative, that it really is negative.
4 That's a hundred percent sensitivity, and
5 we're not quite there yet.

6 UNIDENTIFIED SPEAKER: As Mark
7 Gamacho (phon.) so eloquently points out, you
8 can't divorce specificity and sensitivity.
9 And inherently, you're always going to have
10 false positives and false negatives.

11 And even if you were to approach a
12 hundred percent specificity, if your
13 sensitivity is not real high, then you're
14 going to have a lot of false information
15 given to you, because it's going to pick up
16 things other than what really is TB and on
17 and on and on.

18 This is not unique to TB testing;
19 this is inherent to any test. It's like the
20 liver enzymes should be between this number
21 and that number. Well, that's an average,
22 but there's people with liver disease with
23 normal values and people with healthy livers
24 with elevated values, and it's an unfortunate
25 part of testing.

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2 That gold standard of a hundred
3 percent really is only by culturing the bug.

4 DR. HENCH: And then when you get a
5 bug that specializes in hiding from the
6 humoral immune system, that's what brings us
7 together.

8 UNIDENTIFIED SPEAKER: Can any
9 changes be made to affected herd management
10 without a better test?

11 DR. HENCH: What changes might you
12 have in mind?

13 UNIDENTIFIED SPEAKER: Well, we have
14 a herd in Oklahoma right now that has a cow
15 that came from the infected herd in Indiana.
16 She's positive on a single cervical, but she
17 also is positive for fecal PCR for Johne's.

18 I don't think anybody thinks this
19 cow has TB. None of the other cohorts from
20 the same year from that herd have tested
21 positive, and there's been 20 some odd of
22 those.

23 And it takes a long time to go
24 through the whole scenario, but in a lot of
25 ways, this -- the herd that that cow is now

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2 separated from, she's isolated away from the
3 herd, that herd is no different than another
4 herd that had that animal in the herd, but
5 because she was not in the herd, that herd
6 was allowed to be tested and turned loose.
7 And it just -- it's causing us some problems
8 right now.

9 You know, I can make an argument --
10 and not that I'm -- I mean, I'm not a state
11 veterinarian, but if I was, I still wouldn't
12 say, well, no, we're going to turn that herd
13 loose without USDA's blessing.

14 But it just seems like there should
15 be some way of managing that herd without
16 having to, you know, kill that cow if we
17 allowed the previous herd to go free with a
18 herd test.

19 DR. HENCH: Might that actually be
20 more of an epi investigation as opposed to
21 an affected herd management?

22 UNIDENTIFIED SPEAKER: Well, I don't
23 know what you'd call it.

24 DR. HENCH: No, I -- you know,
25 affected herd management, in my mind, means

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we've confirmed disease in that herd.

At this point, in your herd, it's a herd whose disease status is, say, in question. And that would be under the epi investigations.

And there certainly is room in the new program to address that under an epidemiological investigations; you know, how could we do that; you know, what -- as you point out, the one herd that she passed through was tested once, tested negative, and released from quarantine. Maybe under the new program, we could find or develop some specifics.

And again, we're getting down into the details, which is not exactly what we were aiming for here, but it's certainly good background.

As we develop the standards for epi investigations, maybe we could come up with something, you know, pull this animal out, hold her separate, test the rest of the herd once or twice or something. You know, we can certainly address that.

1
2 There are provisions to do that in
3 the current program, to hold that animal out
4 and test her and test the other herd -- part
5 of the herd. There are provisions in the
6 UM&R to do that under the current program.

7 UNIDENTIFIED SPEAKER: Well, those
8 haven't been presented to us as an option,
9 really. And we were given four scenarios
10 that, you know, we could operate on, and the
11 producer basically picked the scenario that
12 -- to test that individual cow.

13 And had she tested negative, then we
14 would have been on down the road. But since
15 she responded to the single cervical, that
16 meant she was classified as a reactor.

17 And so -- and I understand the need
18 for consistency, you know. If -- I know
19 that we have to be careful in the way we
20 handle those things in that, you know, if
21 you do one thing on this herd, then, you
22 know, you have to be prepared to do it on
23 the next herd.

24 So I understand consistency, but it
25 would sure be nice if -- ideally, we'd have

1
2 a test that we could test the animal and
3 say, she's either got it or she doesn't, but
4 that's not going to happen anytime soon.

5 But it would be nice if there was a
6 little bit of leeway to be scientific and be
7 proper but still maybe not negatively impact
8 a producer.

9 UNIDENTIFIED SPEAKER: You brought up
10 -- and I wonder if, at some point, you --
11 it becomes statistically significant that 20
12 cohorts are negative.

13 UNIDENTIFIED SPEAKER: That what?
14 Say that again.

15 UNIDENTIFIED SPEAKER: Twenty cohorts
16 to this cow are negative. Is that
17 statistically significant to lead us to
18 believe -- like Rod says, none of us believe
19 she has TB.

20 So, I don't know if there's some way
21 to -- if you've tested 20, how many are we
22 going to put down before we say it doesn't
23 happen -- she doesn't have it.

24 DR. ELLIS: Well, what's your risk?
25 That gets back to what's your risk for being

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wrong?

UNIDENTIFIED SPEAKER: That's a good question.

DR. ELLIS: And what are the repercussions if you are wrong? I mean, that's where you -- that's your Catch-22 in TB.

UNIDENTIFIED SPEAKER: And I understand that as well.

DR. ELLIS: I mean, I'm not saying -- I'm just saying that's the danger.

Did y'all talk about -- not to change the subject, but I know we're almost out of time. Did y'all talk about definitions while I was out? I came in late, and I'm sorry.

DR. HENCH: Have not touched on definitions at all today.

DR. ELLIS: Especially with Josh sitting here. You guys from the cattle feeding industry, you really need to take a look.

There's some proposed definitions for an affected feedlot, which -- and in the

1
2 Working Group, I tried to say that's not
3 even -- that shouldn't even be in there,
4 because if the feedlot biosecurity plan was
5 adopted that was submitted with prior
6 rule-making, the three-tiered system, where
7 you have a -- high risk animals, you've got
8 no risk animals, in other words, domestic
9 animals being backgrounded and then you might
10 have a mixed status, that shouldn't matter,
11 because if you find an infected animal at a
12 slaughter plant that has been fed prior to
13 that, biosecurity procedures should not
14 implicate other animals that are still on
15 feed in there.

16 And the existing protocol to clean
17 and disinfect pens and to not share sick
18 pens or working facilities between high risk
19 and lower risk animals, if they're following,
20 I don't even believe that should be a
21 definition that's included.

22 But you guys need to really watch
23 that in the feeder industry, because what
24 they -- for folks that don't understand the
25 system and other states that don't accept

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2 Mexican feeder animals, for example, this
3 could be, with the best of intentions,
4 misconstrued and cause economic harm to your
5 commodity groups.

6 So, it's pretty important that that
7 be -- my recommendation is that we make sure
8 industry guys are involved in the decisions
9 about how to define terms that affect only
10 their business.

11 It's just like we were -- a dairy
12 issue, you need to let the dairy people play
13 a major role in that.

14 And that's the role -- when you put
15 together working groups with just a few
16 people representing the whole United States,
17 it's easy to not have an expert, so to
18 speak, at the table. So these kinds of
19 processes are important to get the word out.

20 UNIDENTIFIED SPEAKER: Dee, before
21 you came in, I asked a question before you
22 got here. Would you explain your comment
23 this morning? I didn't quite understand it
24 exactly, about that this program could
25 contradict the animal disease traceability

1
2 program somehow and the interstate movement,
3 I think.

4 DR. ELLIS: Yeah. The animal
5 disease traceability concept, as I understand
6 it, the rules are not released yet, but will
7 allow for a waiver for identification of
8 feeder animals for some length of time after
9 this program began.

10 This rule, as I understand it --
11 now, obviously, the rule's not out either,
12 but the framework that is there is that
13 states and industries will have to ensure
14 identification on at risk populations. And
15 so, there's your conflict.

16 If this rule says they've got to be
17 ID'd for their entire lives, and the other
18 rule says, well, we're going to waive that,
19 this -- they're not -- there's a conflict
20 there. And I think probably the intent in
21 this rule would overpower the intent of the
22 other.

23 If this rule says a state has to
24 make sure that -- in the industry that
25 Mexican feeders always have a tag and they're

1
2 never mixed with breeding animals, and you
3 always keep up with them, they've always got
4 a health certificate, and it's always written
5 down on that health certificate, that's going
6 to trump the waiver that was intended to be
7 put in place for those other animals in that
8 other program.

9 That's where two trains on separate
10 tracks running about the same speed, you may
11 not have the same content in the rule-making.

12 UNIDENTIFIED SPEAKER: Why did --
13 does the animal disease traceability -- and I
14 can't remember either, but I thought it's --
15 I thought it didn't allow that waiver to be
16 allowed on Mexican cattle. I thought it
17 required them to be ID'd.

18 DR. ELLIS: I think it would.
19 Right now, it's not out yet, but my
20 understanding is that feeder cattle -- I
21 mean, it's just feeder cattle.

22 UNIDENTIFIED SPEAKER: It's not a
23 waiver, though. The proposed rule won't
24 address feeder cattle. It will only address
25 adult cattle, and they'll come back later

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2 with the feeder cattle component. So there's
3 not actually a waiver on it. It's the same
4 intent, but --

5 DR. ELLIS: It's silent, which is
6 actually worse, in a way. If it's silent,
7 then it doesn't address it. And then this
8 rule comes out saying they're going to have
9 ID, they're going to have to have ID.

10 UNIDENTIFIED SPEAKER: But I'm about
11 --

12 DR. ELLIS: I would interpret it
13 that way.

14 UNIDENTIFIED SPEAKER: Yeah. But I
15 don't see a concern, though, maintaining ID
16 on a population, or however we determine the
17 risk, if it's an elevated risk.

18 I mean, that's why we have ID on
19 dairy cattle, imported dairy cattle. We've
20 got it on Mexican cattle coming across.

21 I mean, we have a better ID now on
22 Mexican and Canadian cattle than we do on
23 domestic cattle. And I -- I think that's
24 the way we operate currently, so I don't --

25 DR. ELLIS: Well, it comes down to

1
2 the recording of the ID for interstate
3 movement.

4 UNIDENTIFIED SPEAKER: And that's --
5 yeah, that's --

6 DR. ELLIS: The traceability
7 requirement's going to be that you figure out
8 where that tag came from, you know.

9 And my understanding is that the
10 ATD, the animal disease traceability rule,
11 would allow feeders to move interstate
12 without the recording of tags; whereas, this
13 rule, basically, the intent would be you need
14 to keep up with them at all times.

15 And that's why I said that's an --
16 that could be an unfunded mandate back to
17 the state.

18 In our case, it's not even our
19 cattle. It may just be passing through
20 Texas, but if their first point of
21 concentration is in Texas and then they're
22 going to Kansas, the burden -- by the way
23 I'm reading this, the burden would be on us
24 to call the state and tell them they're
25 coming, make sure the health certificate has

1
2 all the IDs on them, and it could be --
3 it's just a potential for some problems
4 there. That's what I was pointing out.

5 UNIDENTIFIED SPEAKER: I can see
6 that.

7 DR. HENCH: I've been given the
8 eight- minute warning. And they will --
9 that we will meet in the middle room.

10 UNIDENTIFIED SPEAKER: Does that mean
11 we have eight more minutes to discuss in
12 here before we leave?

13 DR. HENCH: If you would like to go
14 for the eight -- for the now seven minutes
15 until we meet in the middle room for
16 adjournment.

17 UNIDENTIFIED SPEAKER: Or you're
18 saying there's eight minutes before we meet
19 in there?

20 DR. ELLIS: So we have a
21 seven-minute break if we quit right now.
22 That's what it means.

23 DR. HENCH: It's up to y'all.

24 UNIDENTIFIED SPEAKER: Well, what
25 else -- what have we not gotten to that was

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supposed to be discussed on this?

DR. HENCH: Imports.

UNIDENTIFIED SPEAKER: Was this the
labs also in this room or was the lab --

DR. HENCH: I'm sorry?

DR. ELLIS: No, that was --

DR. HENCH: That was in with the
indemnity.

DR. ELLIS: With indemnity, yeah.

Well, the imports, in general, I
think if you haven't talked about it at all,
the concern there is that -- placing a
burden on a state for an animal that, the
day before, was allowed to cross legally
under USDA authority, and as soon as they
stopped foot, USDA says, okay, we let them
in, but now it's your problem, make sure
nothing bad happens.

That seems to be a little bit of a
mixed message as to the risk. And
certainly, we don't want to stop the trade
or stop the practice, but there has to be
some realistic compromise to whose
responsibility they are after they come in.

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UNIDENTIFIED SPEAKER: As much as I'd like to have better knowledge about what is coming into the state, I agree it's not your place to keep track of them.

DR. ELLIS: But here's an example of what happens. Cattle crossed from Santa Teresa, New Mexico on their way to North Dakota. They come over to Texas, and the guy realizes North Dakota requires two tests to get in, so they hold them up.

And then they test them and there's a problem, and they're Texas cattle because we just happened to be where the guy stopped. That's the problem.

That's where you get back into systems of movement. And I do agree that the first point of concentration, the clarity on where they're going originally, should be on the crossing papers.

We're looking for some cattle right now that -- last week that we're looking for those cattle that came in, and they didn't go where they said they were going to go. And I don't know if there's any repercussion

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right now for that to happen.

But the imported cattle, you need a whole meeting just on that process and let a number of the feeders be there to explain their business and their needs and then -- and realistically assess risks. They're not necessarily always as high risk as you think they would be. Depends on where they came from and how they were managed, and throw the roping steers in there.

By the way I read this rule right now, a roping steer and a bucking bull are not going to be allowed to ride on the same trailer to the rodeo because a bucking bull's a breeding animal and the roping steer absolutely is the highest risk.

There's no doubt in my mind. That's the class of cattle we need to be on top of. Texas already requires a test every 12 months and they have to have it with them, but there's a lot -- the importation section of this rule needs a lot of development.

And it's not anybody's fault; it's a complex situation. And not many of us on

1
2 the Working Group knew much about it, so it
3 was really hard to make traction on even
4 writing down what needed to be done.

5 So I would encourage -- you guys
6 need to comment on that and say, we want to
7 talk about this more, you guys being the
8 feeder industry.

9 UNIDENTIFIED SPEAKER: And I'm not
10 sure that there's a good understanding of
11 what a feeder animal actually is, one, and
12 what happens to it when it first enters.

13 I think there's some that believe
14 that as soon as the animal crosses into
15 Texas or into the states, it goes straight
16 to a feedyard.

17 And, you know, that's not what
18 happens. It stays with its group of cattle,
19 but it goes to pasture until it gets to a
20 certain weight and then goes to the feedyard.
21 So, I mean --

22 DR. ELLIS: An animal on feed at
23 the end of its life is not necessarily a
24 feeder animal, by definition, when it comes
25 in from Mexico or somewhere else, even

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another state. Not the same thing.

UNIDENTIFIED SPEAKER: But it really doesn't even stay with its group, Josh. And we get health certificates, and we require that a copy of that 17-30, that import document, come in.

And I'll get a health certificate that has 400 head of stocker calves listed, and there will be six or eight of those 17-30s that have a cumulative total of maybe 1500 steers on them.

And, you know, yeah, I'm sure all those animals are on there, but how are we going to ever really find -- you know, it's just really tough. And so, I'm not sure they stay together very well.

UNIDENTIFIED SPEAKER: The ones that are purchased by the feedyards are, let me put it that way, because they're grazed by themselves and then go to the feedlot.

If you're an individual importing them as stocker cattle that you're hoping to feed later, then yeah, you run into that situation.

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UNIDENTIFIED SPEAKER: I got you.

DR. HENCH: Well, we've got about a minute and a half. I guess I've thanked every group at the end. I'll point out to them regulations.gov. You don't need those 47 Ws, just regulations.gov. Do a search for tuber. It will take you to the announcement on this Working Group, and you will be able to submit comments that way.

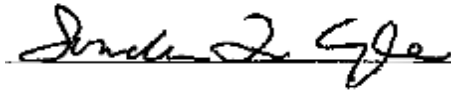
You will always also be able to read comments that have already been submitted. And the same information is contained in your packet as far as tracking it down and submitting comments. Please send us comments.

UNIDENTIFIED SPEAKER: The comments that were provided today and at the other working groups in these breakout sessions and at the other meetings that the -- that they're transcribing, are those going to be posted?

DR. HENCH: I don't know exactly how they will be made available. I haven't had that question before. Thank y'all.

CERTIFICATE

I, SONDRA L. CARGLE, CSR, RPR, do
hereby certify that the foregoing proceedings
were reported by me, and that the foregoing
transcript constitutes a full, true and
correct transcription of my stenographic
notes.



SONDRA L. CARGLE,

DATED: JUNE 23, 2011

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A		B
<p>ability 10:3 12:20 able 7:14 11:8 26:14 46:10,11 absolute 14:10 absolutely 43:17 accept 34:25 accomplish 26:14 accredited 11:9 accurate 22:2 achieve 11:8 14:19 achieved 25:12 act 17:22 actions 14:6 additional 12:21 address 19:11 30:8 30:25 37:24,24 38:7 addressing 22:20 ADICs 10:11 adjournment 40:16 adopted 34:5 adult 37:25 adversely 10:2 advisory 2:12 affect 10:2 21:16 35:9 afternoon 2:4 agenda 14:18 agendas 13:19,20 agree 42:4,17 Agreement 1:20 agreements 9:20 10:5 10:10 aiming 30:18 Alaska 25:18 alert 21:14 alerted 20:17 allow 5:25 36:7 37:15 39:11 allowed 18:5 29:6,17 37:16 41:15 43:14 allowing 9:9 alternate 20:3 Amarillo 1:4,21 American 7:12</p>	<p>animal 5:12 13:20 15:3 21:13 25:18 26:19 27:2 29:4 30:22 31:3 32:2 34:11 35:25 36:4 37:13 39:10 41:14 43:16 44:11,14,22 44:24 animals 4:6,11,15,15 4:17,18 5:15 6:2 6:11,13,17 8:7,9 8:10 9:15 15:19 22:3 34:7,8,9,14 34:19 35:2 36:8 37:2,7 45:14 Ann 12:17 20:9 announcement 46:9 answer 14:10,15 anticipated 10:5,15 anticipating 25:15 anybody 28:18 anybody's 43:24 anytime 32:4 anyway 4:11 appeared 16:20 17:19 applicable 3:24 appreciate 16:13 approach 18:19 27:11 appropriate 24:8 area 9:19,20 areas 3:2 22:12 argument 29:9 arises 19:18 arrangement 10:12 asked 35:21 assembly 22:19,22 assess 43:7 associated 19:19,23 assure 11:7 ATD 39:10 audience 21:19 authority 9:10 41:16 availability 20:13 available 20:8 22:22 46:24 average 27:21</p>	<p>Baby 23:13 back 3:7 5:12 6:5 7:25 8:17 10:13 11:13 16:2,17,21 17:18 22:3 32:25 37:25 39:16 42:16 background 30:19 backgrounded 34:9 backgrounding 5:10 backwards 9:8 bad 41:19 barnyard 2:9 based 14:6,16 basically 16:20 31:11 39:13 beef 5:11 began 36:9 believe 4:4 32:18,18 34:20 44:13 best 35:3 beta 24:23 better 21:22 22:15 23:9,22,25 26:9 28:10 38:21 42:3 big 6:25 25:17 Bill 2:6 16:9 biosecurity 34:4,13 bit 11:19 13:7 16:9 32:6 41:20 bite 10:23 blessing 29:13 bookends 20:24 border 8:16 bovine 8:8 Brad 15:5 breadboard 25:25 break 40:21 breakout 1:7 46:19 breed 4:25 breeding 6:9 13:25 37:2 43:16 brings 28:6 brought 32:9 brucellosis 1:2 15:13,14</p>

bucking 43:13,15 bug 28:3,5 bull 19:20 43:13 bull's 43:15 burden 39:22,23 41:14 business 10:14 35:10 43:6	cervical 28:16 31:15 cervids 25:7,9 challenge 14:9 change 4:6,10 11:3 12:4,9 33:14 changes 10:16 13:4 28:9,11 clarity 42:18 class 6:11 43:19 classes 3:22 classified 31:16 clean 34:16 cohort 21:11 cohorts 28:19 32:12 32:15 come 9:4 17:6 22:3,7 22:18 24:5 30:21 37:25 41:25 42:9 45:7 comes 5:18 38:8,25 44:24 coming 4:15 7:19 9:6 9:15 12:10 17:12 38:20 39:25 42:4 comment 11:12,14 18:15 35:22 44:6 comments 15:24 19:14 46:10,12,15,16,17 commercial 13:25 25:17 commingled 6:4,8 commodity 3:23 35:5 commuter 9:19 10:4 compare 25:25 26:6 compared 25:8 comparison 24:25 comparisons 25:4 completed 19:16,25 completing 18:15 complex 43:25 component 15:17 38:2 compromise 41:24 concentration 39:21 42:18 concept 10:17 20:7 36:5	concepts 2:18 concern 4:4 13:18 14:6 38:15 41:13 concerned 17:5 concerted 23:9 conditions 6:4 confirmation 21:7 confirmed 21:19 30:2 conflict 36:15,19 consist 4:2 consistency 31:18,24 consistent 13:9 constitutes 47:7 contained 46:13 content 37:11 continue 10:16 contractor 7:11 contractors 7:19 contradict 35:25 contradictory 13:7 control 6:7 8:4 9:21 CONTROLS 1:12 conversation 16:12 copy 45:6 correct 11:24 12:3 14:10 47:8 correctly 25:11 couple 22:17 course 10:9 covering 2:25 cow 16:17 28:14,19 28:25 29:16 31:12 32:16 cows 16:25 17:6,11 17:16 cow-calf 19:19 criteria 26:18 critically 26:13 cross 41:15 crossed 42:7 crosses 44:14 crossing 42:20 CSR 47:4 culturing 28:3 cumulative 45:11 current 9:7 25:5
C		
call 3:23 17:11 29:23 39:24 calls 2:14 22:23 23:4 calves 7:12 9:5 45:9 Canadian 13:23 38:22 capsule 16:14 captive 25:7,8 careful 20:11 21:4 31:19 Cargle 1:21 47:4,14 carry 13:3 case 17:19 21:10,18 21:19 39:18 cases 22:23 Catch-22 33:7 cattle 2:8 3:22 6:9 6:13 12:10 13:24 13:24,25 18:12 33:21 37:16,20,21 37:24,25 38:2,19 38:19,20,22,23 39:19 42:7,13,21 42:23 43:3,19 44:18 45:23 caudal 24:22 cause 14:20 35:4 causing 29:7 certain 7:2 13:21 44:20 certainly 14:5 19:12 30:7,18,25 41:22 certificate 37:4,5 39:25 45:8 47:2 certificates 45:5 certify 47:5		

31:3,6 currently 10:25 25:6 38:24 curve 18:10	discuss 40:11 discussed 23:2,5 41:2 discussions 2:24 disease 7:21 15:3,20 19:7 21:7 27:22 30:2,4 35:25 36:5 37:13 39:10 disinfect 34:17 disseminated 21:8 divorce 27:8 document 45:7 doing 17:5 25:19 Dollar 26:10 dollars 24:4 domestic 7:10 34:8 38:23 dose 15:25 doubt 43:18 Dr 2:4,6,10 3:14 4:13,18,23 5:5,17 5:21 6:16 10:4,19 11:24 14:9,22 15:23 19:10 22:17 22:25 23:7,8,11,13 23:14,23 24:2,11 24:14,24 26:21,24 28:4,11 29:19,24 32:24 33:5,11,18 33:20 36:4 37:18 38:5,12,25 39:6 40:7,13,20,23 41:3 41:6,7,8,10 42:6 44:22 46:3,23 drifted 3:7	37:14 element 3:16 elements 2:16 elevated 18:2 27:24 38:17 elk 25:14 Ellis 12:17 14:22 22:25 23:8,13 32:24 33:5,11,20 36:4 37:18 38:5,12 38:25 39:6 40:20 41:7,10 42:6 44:22 eloquently 27:7 encourage 44:5 enlightening 16:13 ensure 36:13 entering 14:2 enters 44:12 entire 8:5 36:17 enzymes 27:20 epi 16:9 17:24 18:19 19:11,18,22 20:14 23:17 29:20 30:5 30:20 epidemiologic 18:16 epidemiological 1:10 2:20 19:15 30:9 Epidemiologist 2:11 especially 13:20 33:20 Establish 26:17 evaluate 25:21 evaluations 26:7 event 8:7 everybody 7:4 14:18 18:8 19:5 23:16 Everybody's 10:12 everyone's 19:5 everything's 14:15 evidence 14:20 evolved 12:12 exact 10:6 exactly 15:4 30:17 35:24 46:23 example 3:18 9:12 35:2 42:6
<hr/> D <hr/> dairies 16:18 dairy 3:19 4:4,6,14 4:15,16,18,25 9:5 9:6,15 16:18 17:2 18:3,13 19:2,3 35:11,12 38:19,19 dairy-type 5:15 Dakota 8:24 42:9,10 danger 33:12 DATED 47:15 day 41:15 days 19:16,16,16,25 decisions 35:8 Dee 12:17 22:21 35:20 deer 25:14 define 35:9 defining 26:18 definition 34:21 44:24 definitions 33:16,19 33:24 degree 9:25 delivering 21:20 depends 5:7 13:15 43:9 detail 23:5 details 30:17 determine 38:16 determining 26:18 develop 24:9 26:8 30:14,20 developed 2:15 24:12 development 24:25 43:23 different 3:2 7:19 15:8 16:5 19:22 21:20,24 29:3 differently 8:11 difficult 26:3	<hr/> E <hr/> earlier 23:21 easier 26:16 East 1:21 easy 35:17 economic 35:4 effort 23:9,9 25:9 eight 40:8,11,14,18 45:10 either 32:3 36:11	

exception 4:21 5:25 7:22	feel 3:21 4:11 11:18 18:23	given 27:15 31:9 40:7
existing 34:16	feeling 23:11	go 6:5 7:25 9:8
expense 11:19	feelings 3:10	10:13 11:11 16:6
expert 35:17	felt 14:24	17:18 20:18 21:21
explain 14:21 35:22 43:5	field 26:4,8	28:23 29:17 40:13
explained 17:21	fieldable 25:24	42:24,24 45:21
F	figure 17:16 39:7	goal 26:7
faced 10:24	find 30:14 34:11 45:15	goes 5:18 44:15,19 44:20
facilitate 13:19 15:20	fine 23:15	going 4:21 5:8,9,12 5:12,16 8:17 12:12
facilities 34:18	finish 3:5	13:3,7,8 16:20,23
facility 17:8	finite 19:17	17:12 18:17 19:21
fact 14:23	first 17:22 18:25 39:20 42:18 44:12	20:5,10 25:19,20
factors 18:2	five 2:7 9:17	27:2,9,14,15 29:12
fairly 17:3	focused 3:3	32:4,22 36:18 37:5
fall 9:20	fold 24:22	38:8,9 39:7,22
false 27:10,10,14	folks 10:7 34:24	42:19,24 43:14
far 46:14	following 11:20 34:19	45:15 46:21
farther 18:10	foot 41:17	gold 28:2
faster 26:9	foregoing 47:5,6	good 2:4,24 7:9,15 7:15 9:12 11:19
fault 43:24	foresee 10:16	30:18 33:3 44:10
fecal 28:17	forth 8:17 10:13 11:4 12:6 17:4,7	gotten 40:25
fed 34:12	17:22 18:17 19:3	grazed 45:20
federal 9:4,6,11,14 12:22	found 9:16 20:15	grazing 10:7
feed 5:14 6:5,8 7:25 8:5 34:15 44:22 45:24	four 24:15 31:9	great 20:9
feedback 14:12	frames 18:17	greater 4:12
feeder 13:24,24 34:23 35:2 36:8 37:20,21,24 38:2 44:8,11,24	framework 1:3 36:12	group 2:12,13,15 3:2 12:18 34:2 44:2,18 45:4 46:5,9
feeders 36:25 39:11 43:5	frankly 11:4	grouped 7:17
feeding 33:22	free 9:13 11:9 29:17	groups 2:25 3:23 6:2 35:5,15 46:19
feedlot 4:22,24 5:7 5:10 33:25 34:4 45:21	front 14:7	guess 5:6 6:23 24:10 46:4
feedlots 5:14,18	full 47:7	guy 19:20 42:10,14
feedyard 7:24 44:16 44:20	funds 24:8	guys 8:23 33:21 34:22 35:8 44:5,7
feedyards 45:19	further 14:20 21:21	H
	G	half 46:4
	Gamacho 27:7	handle 31:20
	general 41:11	hands 19:6
	generate 14:13	happen 13:3 32:4,23
	genetics 19:24	
	getting 15:25 25:15 25:23 30:16	
	give 16:14	

43:2	high 17:11 27:13	imports 2:21,22,23
happened 18:6 20:24	34:7,18 43:8	3:6,12 16:7 41:3
42:14	higher 7:12	41:11
happens 41:19 42:7	highest 18:23 43:17	included 34:21
44:12,18	hold 30:23 31:3	inconsistencies
happy 10:12	42:11	19:11
hard 26:21,24 44:3	Holiday 1:20	indemnity 41:9,10
harm 35:4	home 2:5	Indiana 28:15
harvests 25:20	hopefully 23:15	individual 26:19
hate 9:3,8 11:13	hoping 14:11 15:19	31:12 45:22
head 19:23 45:9	45:23	industries 36:13
health 13:20 21:13	house 5:19	industry 13:22 22:10
37:4,5 39:25 45:5	How'd 13:13	22:11 24:6,12
45:8	humoral 28:6	33:22 34:23 35:8
healthy 27:23	hundred 5:21 26:22	36:24 44:8
hear 18:15	27:4,12 28:2	infected 28:15 34:11
heartburn 11:17		information 21:5,8
16:19	I	21:15,23 22:5,8,14
heifers 3:19 4:4,21	ID 38:9,9,15,18,21	23:10 27:14 46:13
4:24 9:6	39:2	information's 23:5
held 1:19	idea 12:19	inherent 27:19
help 15:19	ideally 31:25	inherently 27:9
helpful 19:13	ideas 14:13,13,13	Inn 1:20
Hench 2:4,6 3:14	20:20	input 3:17,21 19:12
4:13,18,23 5:5,17	idea's 20:3	instances 6:23
5:21 6:16 10:4,19	identification 15:17	instituted 4:5
11:24 14:9 15:23	36:7,14	intact 9:5
19:10 22:17 23:7	identified 20:15,22	intended 37:6
23:11,14,23 24:11	identify 22:12	intent 36:20,21 38:4
24:14,24 26:21,24	IDs 40:2	39:13
28:4,11 29:19,24	ID'd 36:17 37:17	intentions 35:3
33:18 40:7,13,23	immune 28:6	interest 19:5
41:3,6,8 46:3,23	impact 32:7	international 2:23
herd 1:9 2:19 9:17	implementation 14:16	3:12 14:7 16:7
9:20 10:5 17:19,20	15:20	20:12
19:20,24 20:15	implemented 11:2,21	interpret 38:12
26:15,25 28:9,14	implicate 34:14	interstate 1:12 2:20
28:15,20,25 29:3,3	import 4:14 11:2	3:3,8,11,13,14,16
29:4,4,5,5,12,15	12:5 45:6	4:25 6:18 15:2
29:17,18,21,25	important 9:11 26:13	16:3 36:2 39:2,11
30:2,3,4,11,23	35:6,19	investigation 29:20
31:4,5,21,23	importation 1:14	investigations 1:10
herds 3:11 16:7,22	13:23 43:22	2:20 16:10 18:16
20:16 25:18	imported 4:9 38:19	19:15,19,23 23:18
heretofore 12:20	43:3	30:6,9,21
hiding 28:5	importing 45:22	involved 35:8

involves 10:9	legally 41:15	managing 29:15
isolated 29:2	length 36:8	mandate 39:16
issue 8:18 12:17 13:23 35:12	lesions 22:4	manipulate 14:19
	letting 20:10	Mark 2:10 16:12 17:9 27:6
J	let's 12:7	market 21:16
Joe 10:20	level 23:2	matter 7:6 25:23 34:10
Johne's 28:17	life 44:23	mature 25:3 26:2
Josh 33:20 45:4	light 11:12	mean 18:20 29:10 33:6,11 37:21 38:18,21 40:10 44:21
June 1:20 2:3 47:15	liked 18:9	means 29:25 40:22
	limit 19:17	meant 31:16
K	line 8:13 10:8 23:15	meet 40:9,15,18
Kansas 8:23 16:18,20 17:2,5,15 18:3,13 39:22	listed 45:9	meeting 1:3 12:19 15:8 43:4
keep 11:14 13:25 37:3 39:14 42:5	listened 2:14	meetings 14:12 46:20
kicked 12:17	little 2:7 13:7 16:9 21:24 32:6 41:20	members 2:15
kill 29:16	liver 27:20,22	mentioned 14:23
kind 5:7 11:15 12:15 14:22 17:18,20,21 18:20 22:11,25	livers 27:23	message 41:21
kinds 35:18	lives 36:17	Mexican 6:13,14,16 13:24 35:2 36:25 37:16 38:20,22
knew 44:2	local 7:24 13:22	Mexico 4:5 8:16 10:24 11:17 12:2 16:18,22 17:20 18:6,9,23 42:8 44:25
know 5:9 8:2 10:10 11:14,21 14:3,11 17:13 18:14 20:7 20:10,15,20,22 21:6,14 24:18 27:2 29:9,16,23,24 30:9 30:10,22,24 31:10 31:18,18,20,22 32:20 33:14 39:8 42:25 44:17 45:13 45:15 46:23	long 6:3 28:23	Mexico's 18:23
knowledge 42:3	look 2:17 3:25 7:3 9:13 15:9 18:18,21 18:24 33:23	Michigan 2:8
L	looking 3:17,20 16:24 17:23,25 19:5 20:21 25:13 42:21,22	middle 40:9,15
L 47:4,14	loose 29:6,13	Million 26:10
lab 41:5	lose 15:16	mind 26:13 28:12 29:25 43:18
labs 41:5	lot 5:10 7:18 11:10 16:25 17:4 27:14 28:24 43:22,23	minute 40:8 46:4
late 33:17	lower 34:19	minutes 40:11,14,18
lead 32:17	lunch 16:12	misconstrued 35:4
learning 16:14	M	missed 23:3
leave 40:12	MAA 12:8	mixed 7:13,14 8:6 34:10 37:2 41:21
Lee 12:17 20:9	maintaining 38:15	months 18:10 43:21
leeway 32:6	major 10:16 35:13	morning 15:8 23:21 35:23
	making 20:7 23:8	move 3:6 6:2 16:4
	Man 26:10	
	managed 43:10	
	management 1:9 2:19 26:15 28:9 29:21 29:25	
	manager 8:5	

39:11 moved 17:2 movement 1:12 2:21 3:3,8,24 5:2 6:18 9:21 10:20 11:3 12:22 15:2 16:4 36:2 39:3 42:17 movements 3:12,14,16 12:2 multiple 18:21	number 1:7 22:2 27:20,21 43:5 numbers 25:13,15	pen 5:11 penetrate 7:21 pens 34:17,18 people 7:23 24:7,9 27:22,23 35:12,16 perceive 18:2 percent 5:21 26:22 27:4,12 28:3 period 17:3 periodic 20:4,5 periphery 25:12 philosophy 14:8 phon 27:7 pick 27:15 picked 31:11 pilot 24:19 pipeline 24:16 place 11:15 37:7 42:5 places 17:4 18:21 placing 41:13 plan 34:4 plant 34:12 play 11:22 35:12 played 18:7 playing 12:14 Please 46:15 point 7:15 15:4 19:10 30:3,11 32:10 39:20 42:18 46:5 pointed 17:9 20:9 pointing 40:4 points 27:7 political 13:19 24:7 pondering 13:2 population 38:16 populations 36:14 positive 28:16,17,21 positives 27:10 posted 46:22 potential 20:23 40:3 practice 41:23 preemption 12:16 13:6,18 premature 17:15 25:2
<hr/> N <hr/>	<hr/> O <hr/>	
name 22:7 national 11:16 22:19 22:22 necessarily 8:3 43:8 44:23 need 4:25 7:3 8:3,10 18:18 19:15 21:22 23:21,23,24,25 31:17 33:22 34:22 35:12 39:13 43:3 43:19 44:6 46:6 needed 44:4 needs 23:16 43:6,23 negative 26:19 27:3 27:3 30:12 31:13 32:12,16 negatively 32:7 negatives 27:10 never 37:2 new 4:5 10:24 11:17 12:2 16:18,22 17:20 18:6,9,22,23 24:20,21 26:8 30:8 30:14 42:8 nice 6:23 8:21 9:2 24:2 31:25 32:5 nine 18:10 norm 11:23 normal 10:13 27:23 North 8:24 42:8,10 Notary 1:22 notes 47:9 Notice 1:19 notify 21:3,12	obtain 25:20 obviously 36:11 odd 28:21 officials 21:13 Ohio 16:17 19:3 okay 3:15 4:19,23 5:5,21 10:22 13:2 41:17 Oklahoma 4:8,13 8:20 9:16 28:14 once 11:8 22:14 30:12,24 ones 45:18 opening 14:23 operate 31:10 38:24 operation 5:22 opportunity 7:21 22:6 opposed 29:20 option 31:8 origin 6:13 7:6 17:19 originally 42:19 overpower 36:21 owner 8:4 ownership 4:6,10 11:3 12:5,9	
	<hr/> P <hr/>	
	packet 46:14 papers 42:20 part 10:13 26:7 27:25 31:4 particular 2:17 3:22 15:24 25:7 particularly 3:3 partners 20:12 passed 30:11 passing 39:19 pasture 6:3 44:19 PCR 28:17	

prepared 31:22		report 22:14
presented 31:8		reported 47:6
pressure 24:7		reports 20:4 22:22
pretty 35:6		representing 35:16
previous 2:25 29:17		reps 20:4
prior 34:5,12		require 5:13,15 8:23 45:5
private 24:12		required 9:14 12:13 18:17,18 37:17
probably 6:11 19:24 36:20		requirements 1:14 2:21 3:4,8,24,25 4:8,14 6:12 10:20 11:2,3,4,10,15,25 12:5,22,23 13:3 15:2 16:4
problem 14:4,5 19:18 20:23 22:13 41:18 42:13,15		requirement's 39:7
problems 14:25 29:7 40:3		requires 42:10 43:20
procedures 34:13		requiring 4:8
proceedings 47:5		resolutions 22:18
process 43:4		responded 31:15
processes 35:19		responsibility 11:19 41:25
producer 31:11 32:8		rest 30:23
producers 11:8,18		restrictions 7:2 8:20
program 15:13,14,14 15:17,21 30:8,14 31:3,6 35:24 36:2 36:9 37:8		restrictive 12:21
progress 20:14		ride 43:14
projects 24:19		right 6:5 7:8 12:20 15:22 23:13 24:13 24:15,18,18 28:14 29:8 37:19 40:21 42:21 43:2,12
promoted 11:5		risk 4:12 6:25 7:13 17:12 18:3,24 32:24,25 34:7,8,18 34:19 36:14 38:17 38:17 41:21 43:8 43:17
proper 32:7		risks 43:7
proposed 1:2 2:18 33:24 37:23		road 31:14
protectionist 13:22		Rod 32:18
protocol 34:16		rodeo 6:13,16 7:7,10 43:15
provide 22:8 23:10		role 35:13,14
provided 22:5 23:6 46:18		room 13:10 30:7 40:9 40:15 41:5
providing 21:5		
provisions 31:2,5		
Public 1:3,22		
pull 30:22		
purchased 45:19		
purposes 6:19		
pursuant 1:19 16:11		
put 7:2 19:17 24:4,6 26:4,8 32:22 35:14 37:7 45:20		
	Q	
	quarantine 30:13	
	question 7:9,15 8:22 12:25 30:5 33:4 35:21 46:25	
	quick 13:6	
	quit 40:21	
	quite 27:5 35:23	
	R	
	reactor 31:16	
	read 43:12 46:11	
	reading 39:23	
	real 13:6 27:13	
	realistic 41:24	
	realistically 43:7	
	reality 26:20	
	realizes 42:10	
	realizing 18:4	
	really 7:5,12 9:2 12:25 17:11 22:13 26:4 27:2,3,16 28:3 31:9 33:22 34:22 44:3 45:3,15 45:16	
	reason 10:6 14:12	
	reasons 18:5	
	recall 25:11	
	recert 24:4	
	recommendation 35:7	
	recommendations 22:18	
	recording 39:2,12	
	referring 15:12	
	Regional 2:11	
	regular 6:17 20:13	
	regulations.gov 46:6 46:7	
	REGULATORY 1:3	
	reindeer 25:16	
	released 30:13 36:6	
	remain 10:5	
	remarks 14:23	
	remember 15:24 37:14	
	repercussion 42:25	
	repercussions 33:6	

<p>roping 6:14,14 7:24 8:8 43:11,13,16 RPR 47:4 rule 8:21 9:4,7,8,11 9:14 14:25 15:3,18 36:10,16,18,21,23 37:23 38:8 39:10 39:13 43:12,23 rules 11:20 12:11 17:10,14,24 36:6 rule's 36:11 rule-making 34:6 37:11 rumor 21:15 run 26:3 45:24 running 37:10</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>sample 25:13 samples 25:16,20 Santa 42:7 saying 18:22 33:11 33:12 38:8 40:18 says 26:17 32:18 36:16,18,23 41:17 scenario 16:25 28:24 31:11 scenarios 31:9 SCHOENBAUM 24:2 Schoenbaum's 2:10 science 14:16 scientific 32:6 search 46:7 searching 25:16 season 25:10 seconds 12:18 section 43:22 see 6:17 11:17 12:14 15:9,9 16:21 18:6 38:15 40:5 segments 22:10 sells 19:21 send 46:15 sensitivity 21:17 27:4,8,13 sentence 26:17</p>	<p>separate 30:23 37:9 separated 29:2 serological 25:21 session 1:7,19 2:2 2:17 sessions 46:19 seven 40:14 seven-minute 40:21 share 34:17 short 17:3 shouldering 11:18 sick 34:17 side 26:5,5,6,6 sides 10:7 significant 25:19 32:11,17 silent 38:5,6 single 28:16 31:15 sit 16:21 20:4 sitting 33:21 situation 20:4 26:16 43:25 45:25 six 20:16 24:15 26:10 45:10 skin 25:8 slaughter 5:19 21:23 22:4,23 34:12 slight 13:18 slowly 18:8 smarter 18:21 solution 12:25 somebody 12:7 somewhat 25:23 Sondra 1:21 47:4,14 soon 32:4 41:16 44:14 sorry 15:23 33:17 41:6 sort 3:7 25:11 sound 14:16 source 18:24 spayed 4:21,23 speak 2:22 35:18 SPEAKER 3:13 4:7,16 4:20 5:3,6,20,23 5:24 6:10,20 7:5,8</p>	<p>7:16 8:12,15,19 9:3,12,18,22,24 10:18,22 12:4 13:5 13:11,13,15,17 14:14,21 15:7,11 16:8 21:2 23:19,24 24:3,13,17 26:12 26:23 27:6 28:8,13 29:22 31:7 32:9,13 32:15 33:3,9 35:20 37:12,22 38:10,14 39:4 40:5,10,17,24 41:4 42:2 44:9 45:3,18 46:2,17 specializes 28:5 specificity 27:8,12 specifics 30:15 speed 37:10 spend 7:18 split 10:25 11:6 spread 19:7 staff 2:7,7 stage 24:24 standard 11:16 28:2 standards 30:20 standpoint 17:24,25 start 3:11 17:6 Started 2:8 state 1:22 4:9,10 5:14 8:13 10:8,11 10:25 11:6,9 13:4 14:2,2 20:17,17 21:11,13 22:9 29:10 36:23 39:17 39:24 41:14 42:4 45:2 states 6:21,24 7:2 9:9,13 10:10 12:19 13:21 20:10 34:25 35:16 36:13 44:15 statewide 11:9 statistically 32:11 32:17 status 10:25 11:6,9 13:4 16:22 30:4 34:10</p>
---	--	---

stay 13:5 45:4,17	16:21 20:2 25:4	thanked 46:4
stays 44:18	26:4 33:22 46:8	thing 8:3,25 14:17
steer 43:13,16	takes 28:23	20:24 31:21 45:2
steers 4:21,23 6:14	talk 16:9 33:13,15	things 3:17,20 18:7
6:15 7:23 43:11	44:7	27:16 31:20
45:12	talked 15:5 16:15	think 5:25 6:10,21
stenographic 47:8	23:20 41:12	7:3,17 8:9 9:11,22
step 11:13 16:21	talking 2:22 9:5	11:16 14:14 15:15
21:21	16:16	15:21,25 18:8,14
steps 23:13	TB 2:6,11 15:13,18	19:4 21:2,4,7,12
sticky 12:16	18:3,24 22:4 27:16	21:12,17,22,25
stock 7:7,11 13:25	27:18 28:19 32:19	22:5,12 23:20
stocker 45:9,23	33:8	26:14 28:18 36:3
stop 14:3 41:22,23	team 8:8	36:20 37:18 38:23
stopped 41:17 42:15	technical 2:12	41:12 43:8 44:13
straight 44:15	technology 24:21	thinks 28:18
stretch 2:5	25:5	third 19:20
strictly 17:23	tell 7:14 17:15	thought 37:14,15,16
stringent 9:7	39:24	thoughts 10:20 16:3
strong 25:9	telling 12:7	20:20
stronger 26:11	temporary 11:5	three 1:7 3:2
stuff 20:7	Teresa 42:8	three-tiered 34:6
subject 6:12 8:14	terminal 5:17,22	throw 3:18 4:3 43:10
33:14	terms 35:9	thrown 20:3
submit 46:10	test 5:2,4,16 6:18	ties 20:6
submitted 34:5 46:12	9:14 12:9,10 23:22	time 6:9 7:18 8:5,22
submitting 46:15	23:25 24:9,23 25:3	10:4 17:3 18:16
summer 25:17	25:5,7,23 27:3,19	19:17 24:19 25:21
supposed 41:2	28:10 29:18 30:23	28:23 33:15 36:8
sure 10:2 14:15 15:4	31:4,4,12 32:2,2	times 39:14
23:3,4 31:25 35:7	42:12 43:20	today 33:19 46:18
36:24 39:25 41:18	tested 4:9 8:10	told 16:19
44:10 45:13,16	28:20 29:6 30:12	top 43:19
surrounding 2:19	30:12 31:13 32:21	topic 3:10 16:5
surveillance 21:23	testing 2:8 4:6	21:25
suspected 21:10,18	11:10,15,20,25	total 45:11
system 18:4,5 22:8	12:12 25:8,10	touched 33:18
28:6 34:6,25	26:25 27:18,25	tough 45:16
systems 42:17	tests 24:11,21 25:21	toughie 26:20
	26:2,8 42:10	trace 16:16,24 18:11
T	Texas 1:4,21,22 4:5	traceability 15:3,21
table 35:18	6:13,21 9:7,15	35:25 36:5 37:13
tackling 18:11	39:20,21 42:9,13	39:6,10
tag 36:25 39:8	43:20 44:15	traceout 20:16
tags 39:12	Texas-New 8:16	tracing 16:17 19:12
take 7:23 11:13	Thank 10:18 46:25	track 42:5

<p>writing 44:4 written 17:10,14 37:4 wrong 11:25 33:2,6 Ws 46:7</p>	<hr/> <p style="text-align: center;">7</p> <hr/> <p>71:19 2:2 79102 1:21</p> <hr/> <p style="text-align: center;">9</p> <hr/>	
<hr/> <p style="text-align: center;">Y</p> <hr/> <p>yard 6:6,8 7:25 8:5 yeah 9:22 20:23 23:14 36:4 38:14 39:5 41:10 45:13 45:24 year 19:21 20:2 22:14 28:20 years 2:8 9:17 young 4:11,14 y'all 15:5 24:17,21 33:13,15 40:23 46:25</p>	<p>90 19:16</p>	
<hr/> <p style="text-align: center;">Z</p> <hr/>		
<p>zone 12:8,10,13</p>		
<hr/> <p style="text-align: center;">1</p> <hr/>		
<p>1-40 1:20 12 43:20 120 19:16 15,000 19:23 1500 45:12 17-30 45:6 17-30s 45:11 180 19:16 1911 1:20</p>		
<hr/> <p style="text-align: center;">2</p> <hr/>		
<p>20 28:21 32:11,21 2011 1:20 2:3 47:15 23 47:15</p>		
<hr/> <p style="text-align: center;">4</p> <hr/>		
<p>40 19:19 400 45:9 47 46:7</p>		
<hr/> <p style="text-align: center;">6</p> <hr/>		
<p>6 1:20 2:3 60 19:25</p>		