

UNITED STATES DEPARTMENT OF AGRICULTURE

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NATIONAL ORGANIC STANDARDS BOARD MEETING

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Wednesday, May 6, 2009

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The National Organic Standards Board met in the Franklin and Adams Rooms in the Washington Plaza Hotel, 10 Thomas Circle, Washington, D.C., at 8:00 a.m., Jeff Moyer, Chairman, presiding.

PRESENT:

JEFF MOYER, Chairman  
DAN GIACOMINI, Vice Chairman  
JULIE WEISMAN, Secretary  
KATRINA HEINZE, Member  
GERRY DAVIS, Member  
TINA ELLOR, Member  
BARRY FLAMM, Member

TRACY MIEDEMA, Member  
JOE SMILLIE, Member  
JENNIFER HALL, Member  
STEVE DEMURI, Member  
BEA JAMES, Member  
KEVIN ENGELBERT, Member  
HUE KARREMAN, Member

STAFF PRESENT:

VALERIE FRANCES, Staff  
BARBARA ROBINSON, Staff  
RICHARD MATTHEWS, Staff  
DEMARIS WILSON, Staff

ROBERT POOLER, Staff

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1 P R O C E E D I N G S

2 (8:33 a.m.)

3 CHAIRMAN MOYER: Good morning.

4 The Board is seated and we have a quorum.

5 We're ready to conduct business. Good morning

6 everyone. That didn't sound very energetic.

7 Thank you. Okay. I trust everybody on the

8 Board has accomplished their work last evening

9 and is ready to go and get to work.

10 So we'll get started right away

11 with our voting schedule on our action items,

12 starting with the Policy and Development

13 Committee, Barry Flamm, chairman. Barry, if

14 you want to bring up your first item.

15 MEMBER FLAMM: Thank you, good

16 morning. First on the agenda is the Policy

17 Committee's recommendations to add to the new

18 member guide a glossary of acronyms and also

19 e-bulletin board procedures, and we would like

20 to combine that into just one vote. It's

21 mostly procedural material for members and the

22 glossary I'd like to point out will be kind of

1 a living document and we already have some  
2 excellent suggestions and corrections that  
3 will be made before it's posted.

4 So with that I'd like to move that  
5 the Policy Committee's recommendations to add  
6 glossary acronyms and e-bulletin board  
7 procedures to the new member guide be  
8 approved. Do I have a second?

9 MEMBER JAMES: Second.

10 MEMBER FLAMM: Is there any  
11 discussion? Apparently no discussion. I'd  
12 like to call for a vote. Is that your  
13 prerogative?

14 CHAIRMAN MOYER: I believe that  
15 is my prerogative but that's all right.

16 MEMBER FLAMM: Sorry.

17 CHAIRMAN MOYER: No, that's not a  
18 problem at all. I heard no discussion so we  
19 will call for a vote starting with Joe  
20 Smillie.

21 MEMBER SMILLIE: Yes.

22 MEMBER MIEDEMA: Yes.

1 MEMBER FLAMM: Yes.

2 MEMBER ELLOR: Yes.

3 MEMBER DAVIS: Yes.

4 MEMBER HEINZE: Yes.

5 VICE CHAIR GIACOMINI: Yes.

6 SECRETARY WEISMAN: Yes.

7 MEMBER DEMURI: Yes.

8 MEMBER HALL: Yes.

9 MEMBER JAMES: Yes.

10 MEMBER ENGELBERT: Yes.

11 MEMBER KARREMAN: Yes.

12 CHAIRMAN MOYER: And the Chair

13 votes yes. The motion passes. Mr. Vice

14 Chair, what is the vote?

15 VICE CHAIR GIACOMINI: The vote

16 is zero no and 14 yes and one absent.

17 CHAIRMAN MOYER: Thank you Mr.

18 Vice Chair.

19 VICE CHAIR GIACOMINI: That was

20 zero no, 14 yes and one absent.

21 CHAIRMAN MOYER: Okay. Mr. Flamm,

22 your next item?

1                   MEMBER FLAMM:     The next policy  
2     committee recommendation is changes to the  
3     policy and procedure manual, revamped petition  
4     and priority policy statements and changes to  
5     Section 3 and Section 4 of the manual.

6                   We do have a couple of changes  
7     that we and the committee have agreed to and  
8     would like to make that are based on comments  
9     that we heard yesterday.   And Steve, if you  
10    would just briefly explain what the changes  
11    are for the petition priority policy.

12                  MEMBER DEMURI:     Certainly I can  
13    do that.   As Barry mentioned, we made a few  
14    changes based on public comment and  
15    discussions within our committee.   If you  
16    look on the document up on the screen there,  
17    in Section 1(b) we added a statement to the  
18    effect that petition to remove material  
19    presently on the national list not based on  
20    serious health, environmental or regulatory  
21    concerns, but based on other new information  
22    such as commercial availability status will be

1 assigned a priority too and the reason we  
2 stuck that in there was because there was some  
3 concern that possibly there could be some re-  
4 petitioning of items for no apparent reason  
5 other than just re-petitioning them hoping to  
6 get them through maybe with a new Board or  
7 something. So we did clarify that a little  
8 bit.

9           And then the bottom of that same  
10 section in the last sentence it says, "if the  
11 resubmitted petition contains substantive new  
12 information to warrant reconsideration," so it  
13 just kind of bolsters the statement up above  
14 in Section (b).

15           And then moving down to Section 3  
16 of the document, petitions to reconsider  
17 material for addition to the national list,  
18 add a sentence at the bottom that says,  
19 petitions for listing a substance that have  
20 been previously rejected by the Board must  
21 contain substantive new information to warrant  
22 reconsideration.



1           So those are the changes to the  
2 document from the earlier version that was  
3 posted on the web site.

4           MEMBER FLAMM:    Thank you, Steve.  
5 Is there any questions, well I'll get to that  
6 later.  Next in Section 3 we did have a  
7 comment on the executive director position and  
8 we discussed it in committee but I think it  
9 was something that we want to give more  
10 consideration to.  We're not going to ignore  
11 that comment but at this time we're just  
12 proposing what was presented yesterday in  
13 Section 3.

14           In Section 4 we have a couple of  
15 changes.  And Bea if you would explain those  
16 please.

17           MEMBER JAMES:    The changes are  
18 the same as what we had proposed yesterday.  
19 We are actually going to remove technical  
20 reviews at this time and will evaluate whether  
21 or not we want to add that into all of the  
22 committee positions at another time.  But for

1 now the changes stand as they are, so Valerie  
2 if you could remove technical reviews.

3 MEMBER FLAMM: Thank you Bea. So  
4 with the changes in priority of petition  
5 statement and what Bea just explained, I'd  
6 like to move that the Board adopt the revamped  
7 priority policy statement and the changes in  
8 Sections 3 and 4. I so move.

9 MEMBER JAMES: Second.

10 CHAIRMAN MOYER: We have a motion  
11 on the floor and a second by Bea. Is there  
12 any discussion? Hearing no discussion, the  
13 Chair calls for a vote and after you vote if  
14 you can wait until I call your name to vote so  
15 that the recorder can capture who's voting I  
16 would appreciate that. The voting will start  
17 with Tracy Tracy Miedema. Tracy?

18 MEMBER MIEDEMA: No.

19 CHAIRMAN MOYER: Barry?

20 MEMBER FLAMM: Yes.

21 CHAIRMAN MOYER: Tina Ellor?

22 MEMBER ELLOR: Yes.

1 CHAIRMAN MOYER: Mr. Davis?

2 MEMBER DAVIS: Yes.

3 CHAIRMAN MOYER: Ms. Heinze?

4 MEMBER HEINZE: Yes.

5 CHAIRMAN MOYER: Mr. Giacomini?

6 VICE CHAIR GIACOMINI: Yes.

7 CHAIRMAN MOYER: Ms. Weisman?

8 SECRETARY WEISMAN: Yes.

9 CHAIRMAN MOYER: Mr. DeMuri?

10 MEMBER DEMURI: Yes.

11 CHAIRMAN MOYER: Ms. Hall?

12 MEMBER HALL: Yes.

13 CHAIRMAN MOYER: Ms. James?

14 MEMBER JAMES: Yes.

15 CHAIRMAN MOYER: Mr. Engelbert?

16 MEMBER ENGELBERT: You can call

17 me Kevin. Yes.

18 CHAIRMAN MOYER: Mr. Karreman?

19 MEMBER KARREMAN: Yes.

20 CHAIRMAN MOYER: Thank you for

21 that correction. And the Chair-- I

22 apologize. Mr. Smillie?

1 MEMBER SMILLIE: Yes.

2 CHAIRMAN MOYER: And the Chair

3 votes yes.

4 VICE CHAIR GIACOMINI: One no, 13

5 yes and one absent.

6 CHAIRMAN MOYER: Thank you Mr.

7 Vice Chair. I believe that concludes the

8 Policy and Development Committee's voting

9 agenda.

10 We'll move on to the Compliance,

11 Accreditation and Certification Committee,

12 Chairperson Mr. Joe Smillie.

13 MEMBER SMILLIE: We will be

14 holding on the peer review system's

15 recommendation. I really don't have much to

16 add after what I said yesterday. But I'd

17 like to motion that the Board accept the

18 document for guidance on a peer review system.

19 SECRETARY WEISMAN: Second.

20 CHAIRMAN MOYER: We have a motion

21 made by Joe and a second by Julie. Is there

22 any discussion? Hearing no discussion -- I

1 apologize. Tracy? Oh okay. Hearing no  
2 further discussion the Chair will the vote  
3 starting with Barry.

4 MEMBER FLAMM: Yes.

5 CHAIRMAN MOYER: Tina?

6 MEMBER ELLOR: Yes.

7 CHAIRMAN MOYER: Gerry?

8 MEMBER DAVIS: Yes.

9 CHAIRMAN MOYER: Katrina?

10 MEMBER HEINZE: Yes.

11 CHAIRMAN MOYER: Dan?

12 VICE CHAIR GIACOMINI: Yes.

13 CHAIRMAN MOYER: Julie?

14 SECRETARY WEISMAN: Yes.

15 CHAIRMAN MOYER: Steve?

16 MEMBER DEMURI: Yes.

17 CHAIRMAN MOYER: Jennifer?

18 MEMBER HALL: Yes.

19 CHAIRMAN MOYER: Bea?

20 MEMBER JAMES: Yes.

21 CHAIRMAN MOYER: Mr. Engelbert?

22 MEMBER ENGELBERT: Kevin replies

1 yes.

2 CHAIRMAN MOYER: Hue?

3 MEMBER KARREMAN: Yes.

4 CHAIRMAN MOYER: Joe?

5 MEMBER SMILLIE: Yes.

6 CHAIRMAN MOYER: And Tracy?

7 MEMBER MIDEMA: Yes.

8 CHAIRMAN MOYER: Thank you

9 everybody. I believe that concludes the  
10 compliance--

11 MEMBER SMILLIE: Does the chair  
12 vote?

13 CHAIRMAN MOYER: The Chair votes  
14 yes. Thank you very much.

15 VICE CHAIR GIACOMINI: Zero no,  
16 14 yes, one absent.

17 CHAIRMAN MOYER: I believe that  
18 concludes the compliance, accreditation and  
19 certification committees voting docket.

20 We will move on to the Joint Crops  
21 and Compliance Accreditation and Certification  
22 Committee vote on biodiversity and I'm not

1 sure if Tina or Joe is handling that  
2 discussion. Joe?

3 MEMBER SMILLIE: Does the Chair  
4 have to present it?

5 CHAIRMAN MOYER: No, not at all.  
6 It's just that in the Chair's docket and so  
7 one of the chairs can hand it off to--

8 MEMBER SMILLIE: We both agreed  
9 to let Barry present it.

10 CHAIRMAN MOYER: Barry?

11 MEMBER FLAMM: The biodiversity  
12 recommendation was I think well vetted by both  
13 the public and the members sitting here  
14 yesterday. I move that the biodiversity  
15 recommendation as approved by the Joint  
16 Committee be approved by the full Board.

17 MEMBER HALL: Second.

18 CHAIRMAN MOYER: We have a motion  
19 on the floor and a second. Is there any  
20 discussion on the biodiversity docket?  
21 Katrina?

22 MEMBER HEINZE: I just want to

1 make sure I know what I'm voting for. As I  
2 review your document it looks like there are  
3 two categories of recommendation so the first  
4 is to add the word "biodiversity" in two  
5 questions on our material review sheet. And  
6 then the second category is a list of actions  
7 that must occur. So that producers need to  
8 incorporate biodiversity and the OSP  
9 inspectors receiving training. Certifiers  
10 have to adopt an OSP that includes this. And  
11 then some action to the national program, so  
12 those are our requirements now if we vote yes.  
13 Is that correct?

14 MEMBER FLAMM: That is correct  
15 and that was an excellent summary. Thank you.

16 CHAIRMAN MOYER: Is there any  
17 other discussion? Hearing none, the Chair  
18 will call for a vote and it's been pointed out  
19 to me that before we have each vote I will ask  
20 if there is a conflict of interest on the  
21 item that we're voting on. I apologize for  
22 not doing that in the first few items.



1           So is there a conflict of interest  
2 on this voting item? Hearing none, we will  
3 begin with the vote with Tina.

4           MEMBER ELLOR:    Yes.

5           CHAIRMAN MOYER:   Gerry?

6           MEMBER DAVIS:     Yes.

7           CHAIRMAN MOYER:   Katrina?

8           MEMBER HEINZ:     Yes.

9           CHAIRMAN MOYER:   Dan?

10          VICE CHAIR GIACOMINI:   Yes.

11          CHAIRMAN MOYER:   Julie?

12          SECRETARY WEISMAN:   Yes.

13          CHAIRMAN MOYER:   Steve?

14          MEMBER DEMURI:     Yes.

15          CHAIRMAN MOYER:   Jennifer?

16          MEMBER HALL:      Yes.

17          CHAIRMAN MOYER:   Bea?

18          MEMBER JAMES:     Yes.

19          CHAIRMAN MOYER:   Kevin?

20          MEMBER ENGELBERT:   Yes.

21          CHAIRMAN MOYER:   Hue?

22          MEMBER KARREMAN:   Yes.

1 CHAIRMAN MOYER: Joe?

2 MEMBER SMILLIE: Yes.

3 CHAIRMAN MOYER: Tracy?

4 MEMBER MIEDEMA: Yes.

5 CHAIRMAN MOYER: Barry?

6 MEMBER FLAMM: Yes.

7 CHAIRMAN MOYER: And the Chair

8 votes yes.

9 VICE CHAIR GIACOMINI: Zero no,  
10 14 yes and one absent.

11 CHAIRMAN MOYER: Thank you Mr.  
12 Vice Chair, the motion passes.

13 MS. FRANCES: Just a quick  
14 question. Who seconded?

15 VICE CHAIR GIACOMINI: Jennifer.

16 CHAIRMAN MOYER: And co-chairs, I  
17 believe that concludes the voting docket for  
18 the Joint Crops and Compliance Accreditation  
19 and Certification Committee vote. We are  
20 moving well ahead of schedule, this is great.

21 We will start our work now with  
22 the Crops Committee, Tina Ellor.

1                   MEMBER ELLOR:    The first material  
2    on our docket is isoparrafinic hydrocarbon.  
3    The petition is for inclusion of isoparrafinic  
4    hydrocarbon under synthetic substances allowed  
5    for use in organic crop production in list  
6    205601.  The petitioner yesterday made the  
7    request for him to withdraw the petition  
8    which, you know, since we've given this  
9    considerable consideration, spent the money,  
10   spent the time, we as the crop committee  
11   decided to go on with the vote and I'm going  
12   to hand it over to Jeff for further  
13   explanation on that.

14                   We did consult with Barbara and  
15   Richard on this and they said it's fine for  
16   you to go ahead with it.

17                   CHAIRMAN MOYER:   Thank you, Tina.  
18   Yes, the crops committee in particular and the  
19   Board in general has spent a lot of time on  
20   this particular material.  The program has  
21   spent money on this material and the  
22   petitioner late yesterday requested that we

1 remove the petition from our voting docket  
2 this morning.

3           The committee in discussion among  
4 itself, and in consultation with the program,  
5 has decided because of the time, the energy  
6 and money already spent, that we will move  
7 forward with this material and the petitioner  
8 will have the right to take any action they  
9 want after the vote to re-petition or move  
10 forward in whatever direction they'd like to  
11 move forward with.

12           So we will be moving forward and  
13 voting on this particular item. Any questions  
14 from the Board on that action? Yes, Katrina?

15           MEMBER HEINZE: The petitioner  
16 presented in their public comment quite a bit  
17 of technical information that they felt was  
18 not reviewed in a technical review. Could the  
19 committee maybe articulate why we don't need  
20 to consider that?

21           CHAIRMAN MOYER: Certainly. I'll  
22 turn the microphone and the floor back over to

1 Tina.

2 MEMBER ELLOR: We did consider  
3 the comments and we were well aware of the  
4 deficiencies in the technical review. And we  
5 did our best and with a lot of research and a  
6 lot of time, to make up for those deficiencies  
7 in the technical review and we feel like we  
8 have the expertise on the crops committee to  
9 have filled in those deficiencies in that  
10 technical review. And we also sent it back to  
11 Science and Tech for additional information  
12 and to get some information back, and we'll be  
13 going over this.

14 But none of the additional  
15 information changed how we would have voted or  
16 how we voted on this material.

17 CHAIRMAN MOYER: Katrina?

18 MEMBER HEINZE: It would maybe  
19 help me if you could briefly go over what the  
20 petitioner submitted and kind of talk about  
21 why it doesn't affect your recommendation.

22 MEMBER ELLOR: Okay. Gerry's

1 going to take this.

2           What they actually submitted then,  
3 did you read that? What they did was they  
4 went through by point where they thought the  
5 tab was deficient. We had already done that  
6 in committee for ourselves, you know, before  
7 we ever voted on this item and we did spend  
8 many hours going over the technical  
9 information and doing a lot of work on the  
10 internet, doing a lot on the material lists.

11           And we as committee, you know, it  
12 did not change our mind on how this substance  
13 is used and the alternatives available.

14           MEMBER HEINZE: I'm certainly not  
15 putting that in doubt. I'm just not a crops  
16 expert so this is more a matter of educating  
17 me so I can properly balance your  
18 recommendation with what the petitioner says.  
19 This is in no way a disparagement of your work  
20 and your review, I just need a little bit more  
21 education.

22           CHAIRMAN MOYER: The Chair

1 recognizes Gerry Davis.

2 MEMBER DAVIS: As Ms. Ellor

3 said, we did go over individually the

4 petitioner's written comments that they

5 submitted and the main area of contention that

6 I saw that there's a potential that the

7 petitioner had a point was the unknown nature

8 of the other main supplier of pyrethrin in

9 this country who has a labeled and organically

10 approved formulation. What extractant they do

11 use is an unknown, we don't know.

12 And for your benefit I would say

13 if let's say the petitioner decides well this

14 isn't fair and calls into question the other

15 companies extractant and say this is really no

16 different than what we have, we'll be looking

17 at that again later on to see if that one

18 warrants coming off the list as well.

19 That doesn't change the fact that

20 putting a petroleum distillate on it of almost

21 two ounces per acre for every single

22 application in this material does not make

1 sense in the organic rules at all. And that's  
2 the main point that the crop committee took  
3 issue with.

4 MEMBER HEINZE: Is there any  
5 concern that voting not to list this material  
6 has the potential to have pyrethrin not be  
7 available? In the event that the other  
8 supplier is using this material and we don't  
9 know it.

10 MEMBER DAVIS: We did consult  
11 with OMRI who does list the other material and  
12 because of confidential information they could  
13 not tell us what the extractant is but they  
14 assured us that it is not the isoparrafenic  
15 hydrocarbon. And I asked for a qualitative  
16 statement from them on do you anticipate  
17 issues with the extractant that they use and  
18 they said no, to us it is in a different not  
19 quite like the isoparrrafenic hydrocarbon as  
20 far as having issues and what EPA lists of  
21 inerts it was on, and it does seem to have a  
22 better chance of staying on the list.



1                   And that's the best information we  
2 could get because of this mess of confidential  
3 business information that it's hard to break  
4 through and people don't want to say what  
5 their inerts are unless they have to.

6                   CHAIRMAN MOYER:    Tina?

7                   MEMBER ELLOR:    The other thing  
8 that we considered is that we have no other  
9 comments urging us to list this except for the  
10 petitioner.  So we didn't have farmers you  
11 know lining up to say they really needed this.  
12 So that weighs heavily on our decision as  
13 well.

14                  CHAIRMAN MOYER:    The Chair  
15 recognizes Valerie Frances, executive  
16 director.

17                  MS. FRANCES:    I just wanted to  
18 turn your attention to category 2 and number  
19 seven's answer which offered a little more  
20 information about pyrethrins.

21                  MEMBER DAVIS:    One more comment I  
22 had was there is a patent out there for liquid

1 carbon dioxide extraction of pyrethrin. We're  
2 not sure if that's what these other two  
3 suppliers that are mentioned up here use as  
4 their extractant but at least it is a  
5 potential method. And if the organic crop  
6 production and safer brand products are called  
7 into question at a later date and their inert  
8 is also problematic that they're using for  
9 extraction, there are other options out there  
10 for development within the industry if they so  
11 choose to stay on the market.

12 CHAIRMAN MOYER: Are there any  
13 other points of discussion that anyone wants  
14 to record. Katrina, are you satisfied?

15 MEMBER HEINZE: I would just beg  
16 your indulgence. I'm trying to pull up the  
17 public comment from the petitioner real quick.

18 CHAIRMAN MOYER: I'm sorry?

19 MEMBER HEINZE: I just need a  
20 couple of minutes to pull up the public  
21 comment.

22 CHAIRMAN MOYER: That's fine.

1 Take your time. The Chair recognizes Bob  
2 Pooler from the program. Mr. Pooler?

3 MR. POOLER: Yes. Gerry and Tina,  
4 I just wanted to know how you considered the  
5 EPA information on this substance, whether  
6 you've delved into it and looked at it because  
7 I believe at one time they wanted to classify  
8 this as a list four. So if you could comment  
9 on that please.

10 MEMBER DAVIS: We did consult  
11 that information but I don't remember the  
12 details Bob. I got conflicting stories on what  
13 list they were originally on. Brian Baker  
14 from OMRI said in his opinion he believed it  
15 was on list 2 or 3 at one point and managed to  
16 get on list 4 at a later date. But I don't  
17 know that I had official documented evidence  
18 to say what list it was on at any point.

19 I read all the EPA information  
20 supplied, I just don't recall what magic list  
21 it was on. I went through all the  
22 information as far as the toxicity and what

1 CFR it's under and on and on and on. And we  
2 did consult all that information and go  
3 through it. But it didn't change the  
4 committee's opinion that it's definitely a  
5 problematic material in organic. The EPA says  
6 one thing but we have a different standard as  
7 far as is what's acceptable to EPA in  
8 conventional agriculture acceptable to  
9 organic.

10 CHAIRMAN MOYER: The chair  
11 recognizes Tina.

12 MEMBER ELLOR: And if you look at  
13 question No. 8 on category 1, it goes into  
14 some of that information. U.S. EPA 2008 table  
15 3, 40 CFR part 63, that gives some information  
16 that we considered when we were looking at  
17 this.

18 CHAIRMAN MOYER: I will mention  
19 that the Chair, in consultation with the crop  
20 committee and the program, are reluctant to  
21 send a message to the community that when they  
22 see the direction that a vote is going at a

1 very late date choose to withdraw a petition  
2 at great expense in terms of time and real  
3 dollars to the program and the Board, only to  
4 bring this back when a new and different Board  
5 is seated here and go through the entire  
6 process again with quite possibly additional  
7 final expense to the program and certainly  
8 time and expense to the Board.

9           And I think the petitioners had  
10 ample opportunity to make their decisions at  
11 a much earlier date or work in consultation  
12 with the program to move information to us  
13 more readily if they thought they had  
14 something.

15           But we felt we did a very thorough  
16 job of filling in the gaps that were missing  
17 in the tap of the technical reviews that were  
18 supplied and the information from the  
19 petitioner.   Dan?

20           VICE CHAIR GIACOMINI:   Yes, I  
21 think if it really looked like there was some  
22 and different information that also came down

1 that those are reasonable requests. But if  
2 the committee and the Board are comfortable  
3 with the decision and the positioning and  
4 placement of that new information with what  
5 they've already had and it fits in and, you  
6 know it's nothing really new, that we can  
7 certainly move ahead.

8 CHAIRMAN MOYER: Katrina?

9 MEMBER HEINZE: One last  
10 question. Thank you for your indulgence. In  
11 the petitioners' public comments they say that  
12 even today with the other technology there's  
13 not enough pyrethrin on the market to fit the  
14 need. Did you have a chance to evaluate that?  
15 I know you did so thank you.

16 MEMBER ELLOR: Yes, we did. And  
17 this is a problem we've had with deficiencies  
18 in the technical reviews. You have to count  
19 on more than the petitioner's word, you know,  
20 to get at this information. And we have lots  
21 of resources to do that. We may not feel like  
22 we should have to do that but we do. So, yes,

1 we did.

2 MEMBER HEINZE: And what did you  
3 learn?

4 MEMBER ELLOR: We learned that  
5 there is pyrethrin available on the market and  
6 once again we had no farmers lining up to  
7 assure you that they really needed this.

8 MEMBER DAVIS: In 15 years of  
9 working with pyrethrin on a large organic  
10 vegetable farm, we have never ever been told  
11 that there was a short supply of pyrethrin.  
12 Not once. This particular company our farm  
13 has used the material, they push hard. They  
14 push very hard in their marketing strategy to  
15 say the least. Very high pressure. And it's  
16 not just our farm, it's happened to Ms. Ellor,  
17 it's happened to other people I've consulted  
18 with in California. They push very hard to  
19 make sure that they move their product. So it  
20 doesn't look like a short supply situation to  
21 me.

22 CHAIRMAN MOYER: Is the committee

1 chair ready to make a motion?

2 MEMBER ELLOR: Let me get back to  
3 my main document here so I can do this  
4 properly. I'd like to make a motion to vote  
5 on the petition material for inclusion of  
6 isoparaffinic hydrocarbon under synthetic  
7 substances allowed for use in organic crop  
8 production on the national list 205601. Do I  
9 have a second?

10 CHAIRMAN MOYER: The motion is to  
11 list the material. Is there a second?

12 MEMBER FLAMM: I second.

13 CHAIRMAN MOYER: Barry seconds  
14 that. Is there any other points of  
15 discussion? Is there a conflict of interest  
16 on this material? Hearing none, the Chair  
17 calls for the vote starting with Gerry Davis.

18 MEMBER DAVIS: No.

19 CHAIRMAN MOYER: Katrina?

20 MEMBER HEINZE: No.

21 CHAIRMAN MOYER: Dan?

22 VICE CHAIR GIACOMINI: No.



1 CHAIRMAN MOYER: Julie?  
2 SECRETARY WEISMAN: No.  
3 CHAIRMAN MOYER: Steve?  
4 MEMBER DEMURI: No.  
5 CHAIRMAN MOYER: Jennifer?  
6 MEMBER HALL: No.  
7 CHAIRMAN MOYER: Bea?  
8 MEMBER JAMES: No.  
9 CHAIRMAN MOYER: Kevin?  
10 MEMBER ENGELBERT: No.  
11 CHAIRMAN MOYER: Hue?  
12 MEMBER KARREMAN: No.  
13 CHAIRMAN MOYER: Joe?  
14 MEMBER SMILLIE: No.  
15 CHAIRMAN MOYER: Tracy?  
16 MEMBER MIEDEMA: No.  
17 CHAIRMAN MOYER: Barry:  
18 MEMBER FLAMM: No.  
19 CHAIRMAN MOYER: Tina?  
20 MEMBER ELLOR: No.  
21 CHAIRMAN MOYER: And the Chair  
22 votes no. Mr. Vice Chair?

1                   VICE CHAIR GIACOMINI:    14 no,  
2 zero yes, one absent.

3                   CHAIRMAN MOYER:    The motion to  
4 list isoparraffinic hydrocarbon has been  
5 defeated. Next material Tina?

6                   MEMBER ELLOR:    The next material  
7 on our agenda is sulfurous acid and the  
8 petition is to include sulfurous acid on the  
9 national list 205.601.

10                  I did get some additional  
11 information from the petitioner this morning  
12 and if we need to bring that up in discussion  
13 I can do that.

14                  CHAIRMAN MOYER:    Do you think  
15 that information is relevant to the Board?  
16 And does it affect you and the committee's--

17                  MEMBER ELLOR:    It may be and I'll  
18 read it out in the record just because it  
19 answers some of the questions we had forwarded  
20 to the technical committee. Once again we  
21 need to consider the source to be even handed  
22 here, but we can make our own judgment on

1 that.

2 Our question was what are the  
3 relative advantages and disadvantages of using  
4 acetic acid or citric acid, vinegar or citric  
5 acid, weaker acids to do the same job. And  
6 I'll read into the record his answer to that,  
7 unless Valerie has it and can put it up.

8 The issue concerning sulfurous  
9 acid versus current organically approved acid  
10 such as acetic and citric go beyond a simple  
11 comparison as to their efficacy. It also  
12 invokes the fundamental question as to which  
13 method best represents the most natural way to  
14 accomplish and provide what is needed as well.

15 I have attempted to point out a  
16 few of these differences and they are as  
17 follows. Number one, and it's up on the board  
18 there is you want to read along. When  
19 elemental sulfur is oxidized into sulfur  
20 dioxide, each mole has the propensity to bond  
21 with the mole of water to form the unstable  
22 compound of weak acid known as sulfurous acid

1    which results in causing the two original  
2    hydrogen ions from the water to sequentially  
3    unlock as free active hydrogen and sulfate in  
4    the irrigation solution, and the equation is  
5    up there.

6                    Since the hydrogen is already  
7    present and readily available as water, the  
8    major advantage for onsite production of  
9    sulfurous acid is that it eliminates the need  
10   for growers to import acid-containing  
11   materials. This is because sulfurous acid  
12   users can unlock all of the hydrogen ions  
13   needed for acidification and pH adjustment  
14   directly from the grower's own water source  
15   located onsite. The only imported material  
16   needed will be the OMRI approved elemental  
17   sulfur and the equipment to oxidize it.

18                   And I don't know if I need to rred  
19   through this. Let's skip down to No. 4.

20                   CHAIRMAN MOYER:    The Chair  
21   recognizes Valerie Frances.

22                   MS. FRANCES:        I'm sorry.

1 Apparently I have the wrong version up. I  
2 didn't realize that so let me try to go back  
3 into my e-mail and find the corrected one and  
4 download that.

5 MEMBER ELLOR: Okay. In the  
6 meantime I'll continue on to Point 4, which is  
7 we need to ask ourselves the basic fundamental  
8 question as to which method represents the  
9 most natural and sustainable way to introduce  
10 this into a farming system, and he goes  
11 through the options that we went through  
12 yesterday, applying elemental sulfur on soil,  
13 and the crops committee did discuss this point  
14 and some of the problems with that and Rigo  
15 and Gerry had a lot to contribute to this  
16 point. That when you apply it to the soil it  
17 does require tillage and also there's a much  
18 greater chance of run off, you know, that it  
19 just runs off with the rain.

20 Using acetic and citric acid,  
21 which we also looked into, it just takes  
22 tremendous amounts and we had questions about

1 which is the better more sustainable method  
2 importing huge quantities of citric acid to  
3 apply or you know generating on the farm. And  
4 we as a committee kind of thought that  
5 generating it on the farm was the more  
6 sustainable practice. Or onsite  
7 manufacturing the use of sulfurous acid. I'm  
8 trying to think of the other things.

9           The other thing that appealed to  
10 me about this I suppose is that it's using a  
11 waste material, you know, a very pure form of  
12 sulfur that's recovered from smokestacks in  
13 pollution control which appealed to me, but  
14 that's more on a personal note.

15           Gerry, do you have anything to  
16 add?

17           MEMBER DAVIS: Just on that last  
18 point about it being a recovery material. The  
19 99 percent pure elemental sulfurs that are  
20 pulled out of natural gas and oil supplies,  
21 are essentially pure sulfur and they're  
22 indistinguishable from sulfur that would have

1 been mined, I haven't seen any, it hasn't been  
2 mined for so many years that I don't even  
3 remember or know what mined sulfur looked like  
4 or what its impurity level was. But I don't  
5 imagine it's any more pure than what they're  
6 able to extract from these sources.

7 CHAIRMAN MOYER: I'm sorry,  
8 Richard Matthews from the program.

9 MR. MATTHEWS: I really don't  
10 know anything about this material so I'll say  
11 that right up front.

12 But I do have a question for you.  
13 What I have to ask is could this material come  
14 onto the farm and be used other than through  
15 burning? I'm just trying to anticipate  
16 something down the road, okay, because the  
17 annotation doesn't mention that it's created  
18 through the burning. It just talks about on  
19 farm. And so what I want to know is could  
20 this come in through a means other than  
21 through the burning of sulfur on the farm  
22 because it sounds like what you've wanted to

1 do is allow on farm burning, not necessarily  
2 having it come in on a tanker truck or  
3 whatever or barrels or whatever.

4 So I'm just asking for that  
5 clarification because we're going to have to  
6 answer that question down the road probably.

7 CHAIRMAN MOYER: Yes, that was a  
8 point that the committee discussed and Gerry  
9 if you want to address that.

10 MEMBER DAVIS: Yes, I alluded to  
11 that yesterday but I know there wasn't enough  
12 time to really go into it. We went over that  
13 extensively and I studied it in the literature  
14 very extensively to make sure that sulfurous  
15 acid, according to the claim of the  
16 petitioner, it's not that it cannot be  
17 manufactured in a factory and shipped  
18 somewhere, it just is unstable.

19 It has a half life measured in  
20 hours so the degradation of it is so rapid  
21 once it is formed in a water solution that  
22 there is absolutely no way that there's time



1 to formulate it offsite and ship it to the  
2 farm. And we annotated saying on farm  
3 generation of the material because at this  
4 point with current technology that's the only  
5 way to produce it.

6           And you know I studied data bases  
7 and looked at all kinds of wild ways that they  
8 have considered and tested trying to stabilize  
9 the material and essentially the bottom line  
10 message was that we can't do it yet. Maybe  
11 some day. This is why we put it in the  
12 annotation so the "some day" doesn't come.

13           CHAIRMAN MOYER: The Chair  
14 recognizes Kevin then Katrina?

15           MEMBER ENGELBERT: On the Crop  
16 Committee's recommendation I was the member  
17 that abstained because being from the  
18 Northeast this problem of having too high a pH  
19 is completely foreign to me. And so I've  
20 tried to learn all I can about but I still  
21 have concerns and I'd like to voice them. I  
22 wouldn't be fulfilling my responsibilities if

1 I didn't.

2 I abstained because we were hoping  
3 to get a thorough TAP to learn about any  
4 possible environmental impacts with the use of  
5 this material and having it burned on the  
6 environment and on human health. That was  
7 not forthcoming.

8 We got something from SNT but it  
9 still didn't address my concerns.

10 Another concern I have is with the  
11 burning of the sulfur. That to me isn't  
12 really compatible with organic principles. And  
13 also technically because this sulfur is from  
14 petroleum or natural gas based products it's  
15 a synthetic and we're not allowed to use  
16 synthetic fertilizers.

17 Joe made the point yesterday that  
18 we have lime to deal with our acid problems in  
19 the Northeast, and that's true, but we can't  
20 burn it, we can't use it hydrated lime and we  
21 can't use lime that's a byproduct of  
22 manufacturing. Those uses are limited to

1 conventional farmers. And I mean I understand  
2 all the points about the benefits of doing  
3 that but I still have all those concerns and  
4 I wanted to voice them.

5 CHAIRMAN MOYER: Thank you Kevin.  
6 Katrina?

7 MEMBER HEINZE: I think I heard  
8 you say this but I just wanted to confirm.  
9 There is no other way to on-farm generate  
10 besides burning? Is that correct? And then  
11 I have a follow up question.

12 MEMBER DAVIS: At least according  
13 to the petition, the petitioner, this is the  
14 only way to produce it on farm. Again,  
15 there's some highly technical ways of farming  
16 it in a manufacturing facility but it is not  
17 stable and does not maintain itself long  
18 enough to ship it somewhere.

19 MEMBER HEINZE: And then my  
20 follow up, is there a reason that in your  
21 annotation you said that on farm generation  
22 instead of more specifically calling out the

1 burning process?

2 MEMBER DAVIS: No, no specific  
3 reason, just that's the verbiage that came out  
4 when we tried to figure out a way to annotate  
5 it. And it was only annotated that way based  
6 on what if some day they come up with some  
7 really strange, highly synthetic with  
8 stabilizers and all kinds of stuff, some way  
9 of formulating this stuff and we didn't want  
10 to allow for that in the "some day."

11 CHAIRMAN MOYER: Tina?

12 MEMBER ELLOR: And it's also  
13 historically the way it's been done and it's  
14 been allowed, you know, by certifiers in the  
15 west. And we had a lot of people come forward  
16 and actually say that they would really like  
17 to use this and they had used it in the past  
18 until there was a clarification about it. And  
19 now they couldn't. So I think that's really  
20 why.

21 CHAIRMAN MOYER: Joe?

22 MEMBER SMILLIE: Yes, sorry about

1 this. But what's this burning problem?  
2 Richard mentioned it and everybody's mentioned  
3 it. Well they burn it, I mean last I remember  
4 burning wasn't the worst thing in the world.  
5 I mean what's this burning issue? What's the  
6 burning issue there?

7 CHAIRMAN MOYER: Well I think  
8 part of it refers to what Kevin mentioned  
9 about why but let me turn the floor over to  
10 Katrina.

11 MEMBER SMILLIE: Well hydrated  
12 lime is allowed.

13 CHAIRMAN MOYER: Yes, for certain  
14 things. Katrina?

15 MEMBER HEINZE: I want to clarify  
16 my question. My concern is not the burning.  
17 I strongly support this material. My question  
18 is do we have the right annotation to make  
19 sure that this material is allowed and  
20 everyone understands that we've listed what we  
21 wanted to list. I don't have the burning  
22 question, I have the annotation question.

1                   CHAIRMAN MOYER:    The Chair  
2 recognizes Richard Matthews from the program.

3                   MR. MATTHEWS:       Yes.  I didn't  
4 have a problem.  I wasn't expressing an  
5 opinion on the burning.  What my concern was  
6 that we have to write the preamble and then we  
7 have to interpret this later on when questions  
8 come up and, quite frankly, I really  
9 appreciate the discussion that you've just had  
10 because that's going to help a whole lot when  
11 we go to the write the rule if you voted, I  
12 mean I don't know what your vote is, but if  
13 you vote to put it on, all of this  
14 conversation will help us greatly in creating  
15 the discussion in the preamble which will  
16 later then help in the interpretation as well.  
17 Thank you.

18                   CHAIRMAN MOYER:    That is the  
19 reason we have the discussion too.  We want to  
20 help you out Richard.  Gerry?

21                   MEMBER DAVIS:       Unfortunately, the  
22 petitioner's presentation yesterday premised

1 unfamiliarity with the time constraints and  
2 how quickly time can get away from you when  
3 you're trying to speak.

4           He wasn't able to really show what  
5 type of apparatus performs this and it's not  
6 just a simple burning thing where you burn it  
7 and throw it in the water. It's rather  
8 detailed and I don't know if the Board would  
9 like to see the specifics of what is done to  
10 give a little more information.

11           CHAIRMAN MOYER:    Would that help  
12 the Board in their decision making?

13           MEMBER SMILLIE:    That's what I  
14 was going to request. I think we have the  
15 petitioners here, at least a couple of them  
16 anyhow.

17           CHAIRMAN MOYER:    If the Board  
18 thinks that's helpful the Chair is willing to  
19 entertain that. Katrina?

20           MEMBER HEINZE:     I have no opinion  
21 on that question. I am interested in knowing  
22 if anyone else on the Board has a question

1 about the annotation because if everyone else  
2 thinks the annotation is the right one I'm  
3 satisfied with our discussion at this point.

4 CHAIRMAN MOYER: Anybody on the  
5 Board have an opinion to support or discuss  
6 the annotation? Joe?

7 MEMBER SMILLIE: Could you read  
8 it again please.

9 CHAIRMAN MOYER: Certainly.  
10 Tina?

11 MEMBER ELLOR: On-farm generation  
12 of substance utilizing 99 percent purity  
13 elemental sulfur per 205.601 J2 only.

14 CHAIRMAN MOYER: Just as it's  
15 stated up there on line C. Gerry?

16 MEMBER DAVIS: Again, if the  
17 petitioner, if he was interested in obtaining  
18 one, he could explain that this is, he would  
19 probably say I would expect, this is the only  
20 way to produce this material and this is how  
21 it's done.

22 CHAIRMAN MOYER: The chair



1 recognizes Hue?

2 MEMBER KARREMAN: I bought a bag  
3 of, if I'm reading this right, it says 99  
4 percent purity elemental sulfur you can use  
5 and the source is what you've been talking  
6 about, you burn that on the farm. Right?  
7 Okay.

8 So I bought a bag of elemental  
9 sulfur for topical use and livestock, totally  
10 different. You can buy elemental sulfur 99  
11 percent pure in a bag so you could do the same  
12 thing, right, that's a natural. So burning it  
13 would seem fine because you could do it with  
14 the natural or whatever material you're  
15 talking about originally.

16 MEMBER DAVIS: Well unfortunately  
17 there is no natural source of elemental  
18 sulfur. All the mines have been put out of  
19 business by the petroleum and natural gas  
20 recovery programs for clean air laws. And  
21 when that industry phases out some time in the  
22 future and there's no longer that need to

1 recover all that sulfur from the oil and gas,  
2 the industry for sulfur will have to revert to  
3 steam extraction of elemental sulfur from  
4 subsurface sulfur mines, which is the way it  
5 was done.

6 CHAIRMAN MOYER: The chair  
7 recognizes Jennifer?

8 MEMBER HALL: Thank you Mr.  
9 Chair. I just kind of wanted to give the Board  
10 feedback based on a comment that Tina made in  
11 the last material. And that is that I think  
12 we do certainly look at petitions a little bit  
13 differently when they have strong backing from  
14 the farmer community. And I don't typically  
15 get a lot of direct e-mail from my own area  
16 about particular items. And I did definitely  
17 get several e-mails supporting this material  
18 from our constituents up in the Northwest as  
19 a really helpful item. And so I just kind of  
20 wanted to add that into the conversation.

21 CHAIRMAN MOYER: The chair  
22 recognizes Katrina then Steve.

1                   MEMBER HEINZE:    Again, I want to  
2   reiterate I support the material; my question  
3   is do we have the right wording in the  
4   annotation to properly articulate our  
5   intention to allow it?  And I haven't heard  
6   anyone say anything so I'm assuming everyone's  
7   happy with it.  Also I haven't heard anyone  
8   say anything about the annotation.

9                   CHAIRMAN MOYER:   My conclusion  
10   Katrina is that everyone else is happy with  
11   that annotation.  I appreciate that question.  
12   Steve?

13                   MEMBER DEMURI:     I think I  
14   understood you Gerry but just to reiterate.  
15   You said there was no other way to make this  
16   other than burning, so somebody couldn't bring  
17   on a little chemical lab onto their farm and  
18   produce this substance, correct?

19                   MEMBER DAVIS:     What is needed to  
20   produce the sulfur dioxide so it can be  
21   injected into the irrigation stream which  
22   produces the sulfurous acid, I wouldn't claim

1 to say that that burning is the only way to  
2 produce sulfur dioxide on a farm, I can't  
3 picture any way to do it naturally with  
4 natural materials but I could be wrong.

5 CHAIRMAN MOYER: It sounds like  
6 maybe Katrina and other members of the Board  
7 would feel more comfortable if we adjust the  
8 annotation to include the word "burning." Can  
9 the committee suggest some language while Joe  
10 makes a comment.

11 MEMBER SMILLIE: I still have  
12 the burning issue. What's the deal? Why  
13 does burning -- is it like a chemical change  
14 you guys are concerned about?

15 CHAIRMAN MOYER: Julie?

16 SECRETARY WEISMAN: Joe, I just  
17 want to try, I think I can clarify for Joe.  
18 The issue is not having a problem with  
19 burning; the issue is making sure that it  
20 could not be done any other way. We want it  
21 to be limited to burning. I believe that's  
22 the concern of the other of our colleagues.

1                   CHAIRMAN MOYER:    I believe that  
2    is the current concern is to make sure that  
3    there would not be some other on farm method  
4    of generating that would be in violation of  
5    other phases of the rule that because of this  
6    lack of the word "burning" in the annotation  
7    could sneak in.  And I think that's a very  
8    good point.  Jennifer?

9                   MEMBER HALL:    Yes.  I would like  
10   to suggest a friendly amendment to the Crop  
11   Committee to change the annotation read  
12   "produced by on farm burning."

13                   Or Gerry just suggested maybe "on  
14   farm generation of substance burning 99  
15   percent purity elemental sulfur."  Would that  
16   work as well?

17                   CHAIRMAN MOYER:    I think putting  
18   the word "only" behind burning might help.

19                   MEMBER HALL:    Burning only?  On  
20   farm generation of substance by only burning  
21   99 percent?  "On farm generation of substance,  
22   by burning only 99 percent elemental sulfur."

1 So do we need a motion to accept that or can  
2 the Crops--

3 CHAIRMAN MOYER: Is there still  
4 some discussion Joe?

5 MEMBER SMILLIE: Just a process  
6 question. Do we or do we not need to consult  
7 the petitioner when we are in the act of  
8 changing the petition?

9 CHAIRMAN MOYER: I don't think we  
10 do Joe. I'll refer you to the--

11 MR. MATTHEWS: No.

12 MEMBER ELLOR: Because we're not  
13 changing the petition, we're changing the  
14 annotation.

15 CHAIRMAN MOYER: That's correct.  
16 We're making our annotation. I'm sorry, Hue?

17 MEMBER KARREMAN: So that's the  
18 motion right there, right?

19 CHAIRMAN MOYER: I believe we  
20 have a friendly amendment and I want to make  
21 sure that it's been accepted by the committee.

22 MEMBER ELLOR: Well, I can't

1 speak for the whole committee but it's fine  
2 with me. How is the rest of the committee  
3 feeling?

4 CHAIRMAN MOYER: Gerry?

5 MEMBER DAVIS: I think that's  
6 appropriate. It was not left out on purpose  
7 but it is more specific.

8 CHAIRMAN MOYER: A further word  
9 from Dan?

10 VICE CHAIR GIACOMINI: Mr.  
11 Chairman, at this point in time I don't  
12 believe we actually have the motion on the  
13 table, so this is just a discussion item for  
14 them to include in their motion.

15 CHAIRMAN MOYER: Thank you. You  
16 are correct.

17 MEMBER ELLOR: I can make a  
18 motion that we list -- the motion is to  
19 include sulfurous acid on the national list  
20 205.601(j) with the annotation "on farm  
21 generation of substance, by burning only 99  
22 percent elemental sulfur per 205.601(j)(ii)

1 only."

2 CHAIRMAN MOYER: Is there a  
3 second to that motion?

4 MEMBER KARREMAN: Second.

5 CHAIRMAN MOYER: Second by Hue.  
6 Any other discussion? Hearing none, is there  
7 a conflict of interest on this particular  
8 material? Hearing none we'll start the vote  
9 with Katrina.

10 MEMBER HEINZE: Thank you  
11 everyone for your indulgence. Yes.

12 CHAIRMAN MOYER: Dan?

13 VICE CHAIR GIACOMINI: Yes.

14 CHAIRMAN MOYER: Julie?

15 SECRETARY WEISMAN: Yes.

16 CHAIRMAN MOYER: Steve?

17 MEMBER DEMURI: Yes.

18 CHAIRMAN MOYER: Jennifer?

19 MEMBER HALL: Yes.

20 CHAIRMAN MOYER: Bea?

21 MEMBER JAMES: No.

22 CHAIRMAN MOYER: Kevin?



1 MEMBER ENGELBERT: No.

2 CHAIRMAN MOYER: Hue?

3 MEMBER KARREMAN: Yes.

4 CHAIRMAN MOYER: Joe?

5 MEMBER SMILLIE: Yes.

6 CHAIRMAN MOYER: Tracy?

7 MEMBER MIEDEMA: Yes.

8 CHAIRMAN MOYER: Barry?

9 MEMBER FLAMM: Yes.

10 CHAIRMAN MOYER: Tina?

11 MEMBER ELLOR: Yes.

12 CHAIRMAN MOYER: Gerry?

13 MEMBER DAVIS: Yes.

14 CHAIRMAN MOYER: And the Chair

15 votes yes. Mr. Vice Chair?

16 VICE CHAIR GIACOMINI: Two no, 12

17 yes, one absent.

18 CHAIRMAN MOYER: And the motion  
19 to include sulfurous acid with the annotation  
20 passes.

21 CHAIRMAN MOYER: I believe that  
22 concludes the voting docket for the Crops

1 Committee and we will move on to the Livestock  
2 Committee. Mr. Karreman if you're ready.

3 MEMBER KARREMAN: Okay.

4 Livestock Committee wants to recommend, well  
5 we'll make a motion at some point here to add  
6 Propionic Acid to the national list on  
7 205.603. And of course petitioned as an  
8 animal feed preservative as a mold inhibitor.  
9 So the list 603 is a synthetic allowed but it  
10 is a preservative and keep that in mind with  
11 the voting.

12 The committee unanimously voted to  
13 not recommend to list this. That's it, Mr.  
14 Chair. Any questions? Or that's up to you.

15 CHAIRMAN MOYER: Thank you. Are  
16 you bringing that in the form of a motion now?

17 MEMBER KARREMAN: I will now.  
18 Okay. So the motion is to list propionic  
19 acid on 205.603 as an animal feed  
20 preservative.

21 CHAIRMAN MOYER: Thank you. Is  
22 there a second to that motion?

1                   MEMBER ENGELBERT:    I will second  
2    that.

3                   CHAIRMAN MOYER:    Second by Kevin.  
4    Any discussion on this particular item?  
5    Hearing none the Chair will call for a vote  
6    but before that is there a conflict of  
7    interest for any Board member on this  
8    particular material?    Hearing none we'll  
9    start our vote and the vote will start with  
10   Dan.

11                  VICE CHAIR GIACOMINI:    I'm making  
12   sure, the motion is to list it?

13                  MEMBER KARREMAN:    The motion is  
14   to list.  If you want to list it, it would be  
15   a yes vote.

16                  CHAIRMAN MOYER:    That's correct.

17                  VICE CHAIR GIACOMINI:    No.

18                  CHAIRMAN MOYER:    Julie?

19                  SECRETARY WEISMAN:    No.

20                  CHAIRMAN MOYER:    Steve?

21                  MEMBER DEMURI:    No.

22                  CHAIRMAN MOYER:    Jennifer?

1 MEMBER HALL: No.

2 CHAIRMAN MOYER: Bea?

3 MEMBER JAMES: No.

4 CHAIRMAN MOYER: Kevin?

5 MEMBER ENGELBERT: No.

6 CHAIRMAN MOYER: Hue?

7 MEMBER KARREMAN: No.

8 CHAIRMAN MOYER: Joe? Joe is  
9 absent. Tracy?

10 MEMBER MIEDEMA: No.

11 CHAIRMAN MOYER: Barry?

12 MEMBER FLAMM: No.

13 CHAIRMAN MOYER: Tina?

14 MEMBER ELLOR: Yes.

15 CHAIRMAN MOYER: Gerry?

16 MEMBER DAVIS: No.

17 CHAIRMAN MOYER: Katrina?

18 MEMBER HEINZE: No.

19 CHAIRMAN MOYER: And the Chair  
20 votes no. Mr. Vice Chair?

21 VICE CHAIR GIACOMINI: 13 no,  
22 zero yes, 2 absent.

1                   CHAIRMAN MOYER:    And the motion  
2   to list Propionic Acid has been defeated.  
3   This Board will now take a brief recess for 15  
4   minutes and we'll be back.

5                   (Whereupon, the above-entitled  
6                   matter briefly went off the  
7                   record.)

8                   CHAIRMAN MOYER:    Okay.  Hue, if  
9   you want to resume your work on materials and  
10  I think we're at vitamins and minerals  
11  injected as supplements.

12                  MEMBER KARREMAN:   Thank you, Mr.  
13  Chair.  The Livestock Committee has proposed,  
14  and we discussed yesterday, about adding a  
15  section to the national list on 603 regarding  
16  injectable forms of already approved vitamins  
17  and minerals and electrolytes that are on the  
18  list and as you all heard from testimony most  
19  certifiers were very much in favor of this.  
20  It's already happening out there, it's kind of  
21  been grandfathered.

22                  What we talked about yesterday was

1 that due to consideration of FDA concerns and  
2 requests and interaction as this will be  
3 worked through the system with the NOP in  
4 consultation of course with FDA, that we make  
5 sure that this listing is termed in such a way  
6 that these are nutritive supplements and not  
7 medical treatments -- and they are.

8           They're vitamins and minerals,  
9 okay, and electrolytes, and since we're also  
10 looking at the excipients in this new section  
11 to be added we need to make sure, and I want  
12 to have it here on the record, that we will be  
13 as the Livestock Committee working on making  
14 a really simple change in the excipient clause  
15 that exists right now for the November meeting  
16 so that we're not only talking about drugs per  
17 se because drugs are treatments and as we all  
18 know you cannot treat any organic livestock  
19 in the absence of illness. Okay?

20           And these are nutritive  
21 supplements that we're looking at on this  
22 proposal therefore to include the excipient

1 clause within the new section we need to make  
2 sure that the excipient clause says let's say  
3 it for animal health products instead of just  
4 drugs. Okay? Just so that's out there and  
5 people know we're going to make it all blend  
6 together correctly but we can't work on that  
7 excipient clause at this meeting because it  
8 was not put on the agenda. Okay?

9 All right. So with that the  
10 Livestock Committee is presenting this  
11 recommendation and I move that we accept a new  
12 section, add a new section to the list at  
13 205.603(g) potentially formulated injectable  
14 supplements of trace minerals for  
15 205.603(d)(ii) vitamins per 205.603(d)(iii)  
16 and electrolytes per 205.603(a)(viii) with  
17 excipients per 205.603(f) in accordance with  
18 FDA and restricted to use by on the order of  
19 licensed veterinarian.

20 MEMBER JAMES: I'll second.

21 CHAIRMAN MOYER: We have a motion  
22 on the floor and a second. Is there a

1 discussion? Kevin?

2 MEMBER ENGELBERT: Yes, I'd like  
3 to offer a friendly amendment. I would like to  
4 propose that we begin the wording with "as  
5 nutritional supplements" and then pick up with  
6 "formulated injectable."

7 CHAIRMAN MOYER: There's a  
8 friendly amendment on the floor. Hue, do you  
9 accept that amendment?

10 MEMBER KARREMAN: Absolutely.

11 CHAIRMAN MOYER: Valerie, can you  
12 type that in so the rest of the Board can see  
13 it as Kevin mentioned it. Hue?

14 MEMBER KARREMAN: Well maybe Dan  
15 will get on this here. Should it be  
16 nutritional or nutritive because on a lot of  
17 vitamin and mineral bottles it says as a  
18 nutritive source. So I think we need to  
19 have, if the friendly amendment would allow.  
20 Okay. Make that as nutritive supplements,  
21 that would be more in line with what's  
22 already-- I think just as nutritive



1 supplements actually because we're talking  
2 about vitamins and minerals?

3 CHAIRMAN MOYER: Dan?

4 VICE CHAIR GIACOMINI: Yes. I  
5 just want to make sure we have some clarity in  
6 the record.

7 MEMBER KARREMAN: Okay. Just a  
8 last little continuation of that rewrite  
9 there. As nutritive supplements, formulated  
10 injectables -- take off the injectables and  
11 take away supplements there since it was  
12 already mentioned.

13 CHAIRMAN MOYER: Thank you for  
14 that clarification Hue. Dan?

15 VICE CHAIR GIACOMINI: I just  
16 want to make sure that we have it in the  
17 record in case this can help the program in  
18 their preamble issues.

19 Again, the reason we did this was  
20 to make sure that everything was as clear and  
21 as straight with FDA as possible. That we  
22 needed to list it as a nutritive supplement so

1 that it did not require that it was only in  
2 the treatment of a disease, and so that it did  
3 not require that whatever was being used was  
4 specifically listed and approved for that use.  
5 No. 1.

6 No. 2 is that in going this route  
7 we are by no means prohibiting the use of this  
8 substance in the treatment of a disease  
9 because use of these in the treatment of a  
10 disease would be because of a nutrient  
11 imbalance. So it's not that by this wording  
12 someone can look at it and say well it's only  
13 for nutritional uses, it's only if they're a  
14 little deficient, not if they're sick. So  
15 it's for nutritional supplements as needed bt  
16 also if the vet says that cow's sick and this  
17 is what we want to treat her with, that's part  
18 of it.

19 CHAIRMAN MOYER: Thank you Dan.  
20 Hue?

21 MEMBER KARREMAN: Yes, just to  
22 add to that to bring clarity maybe for the

1 preamble. This is not for infectious disease.  
2 It's more for a metabolic imbalance that can  
3 be readily corrected and that's not  
4 necessarily a disease. It just might need a  
5 nutritional boost. It's not for an infectious  
6 type problem.

7 CHAIRMAN MOYER: Thank you Hue.  
8 Barry?

9 MEMBER FLAMM: Hue, there were  
10 comments from the public on the GMO question.  
11 How did the committee discuss that?

12 MEMBER KARREMAN: That Barry was  
13 actually in the vaccine topic that came up.  
14 This is not vaccines. We have to deal with  
15 that, that's going to be on the work plan for  
16 next--

17 MEMBER FLAMM: Thank you for the  
18 clarification.

19 CHAIRMAN MOYER: I have a  
20 question for you Hue. We had heard some  
21 comment yesterday about the fact that the  
22 words "licensed veterinarian" were in there in

1 the changes, did the committee discuss that at  
2 all?

3 MEMBER KARREMAN: Yes. I think  
4 it was VOF wanted to have it just as you know  
5 trained person that can administer it.

6 Basically, that wording restricted  
7 to be used by or on the order of a licensed  
8 veterinarian is kind of there to work with the  
9 FDA, okay, because that's a term they  
10 recognize. The other thing is it doesn't mean  
11 that oh gosh, I've got to call the  
12 veterinarian to give a shot of Vitamin B? No.  
13 Because it says to use by the vet but also on  
14 the order of a vet.

15 So if a vet says, hey John, you  
16 really need to give this cow some Vitamin A,  
17 D and E or selenium and E, they can do it  
18 themselves without the vet having to do it.  
19 It's more for the wording for the FDA.

20 CHAIRMAN MOYER: I appreciate  
21 that on the record, thank you Hue. We have a  
22 motion on the floor and a second, is there any

1 other discussion? Bea?

2 MEMBER JAMES: I have some  
3 questions and you know -- strike that. I just  
4 need some information about would the vitamins  
5 need to be listed individually or could they  
6 be listed as a group or would they need to be  
7 listed at all?

8 MEMBER KARREMAN: Okay. The  
9 reason they need to be listed at all, to  
10 answer that one first Bea, is because right  
11 now on the under (d)(ii) and (d)(iii) it says  
12 vitamins and minerals under those two listings  
13 as feed additives. And that's been told to me  
14 in no uncertain terms by a certifier that  
15 that's the only way that vitamins and minerals  
16 can be used at this point. Thus this  
17 recommendation.

18 As far as I think you had three  
19 questions there. The other one was listing  
20 each individual vitamin and mineral and  
21 electrolyte individually. Okay? Yesterday I  
22 mentioned how precedent has already been set

1 by d(ii) d(iii) and f and (a)(viii) and that  
2 whole categories have been allowed. This is  
3 just for the injectable forms of those  
4 categories. Okay? So you know that.

5           Regarding looking at each brand  
6 manufacturer of each vitamin formulation,  
7 which they do vary, okay, they do vary quite  
8 a bit and I think in my original homework on  
9 this I saw about 24 manufacturers of vitamins  
10 and minerals of injectables. Okay. And  
11 basically they have their own private  
12 formulation processes that would have to be  
13 looked at.

14           So in a nutshell it would be like  
15 hundreds of pages for us to go look at each  
16 individual vitamin, mineral as the injectable  
17 form of what's already on this list for feed  
18 additives. And notice also that the vitamin  
19 and mineral injectable formulation  
20 manufacturers have not petitioned this. Who  
21 is petitioning this are the end users, the  
22 veterinarians and the farmers who do not have

1 access to that information, that's  
2 confidential information and seeing that and  
3 only having the old patents available in the  
4 public domain and then realizing like, hey,  
5 precedent has been set by these other  
6 categorical listings and that's the reason  
7 that this is being presented.

8 MEMBER JAMES: Thank you for that  
9 clarification.

10 CHAIRMAN MOYER: Dan?

11 VICE CHAIR GIACOMINI: Yes.  
12 Thank you for asking that question. I think  
13 this a good time to throw out a very related  
14 topic to this and as material Chair and also  
15 on the Livestock Committee dealing with this,  
16 the process for putting items on the national  
17 list has become a process of single substance  
18 items with the requirement of what's supplied  
19 being extremely favorable to the manufacturer  
20 of that substance.

21 What we were dealing with here was  
22 a substance of not only a group of things, No.

1 1, but a process No. 2 and the need for it  
2 coming from someone who was not the  
3 manufacturer, No. 3.

4           We tried to address those issues  
5 with the program as how do we work around the  
6 process that has been set up? And it just  
7 became a matter of time that we didn't have  
8 the time to figure out a way to resolve all  
9 those issues in a universal global setting in  
10 order to get this done for this meeting.

11           That is still something that we  
12 are going to need to sit down and try and  
13 figure out because, as I look at the material  
14 process, you know, and the process that we  
15 have in place, there are certain unintended  
16 biases that have gone into it. And something  
17 coming and being called for by the people who  
18 need to be using the product are at a  
19 disadvantage from the people who are trying to  
20 sell and make a profit.

21           And it's really something that we  
22 need to address.



1                   MEMBER JAMES:    If I could just  
2    respond back to that.  I appreciate that  
3    comment and I think it's really great to get  
4    that out on the record because I support this  
5    recommendation but I see down the road if we  
6    weren't to address it that it could  
7    potentially be a problem.

8                   CHAIRMAN MOYER:   Thank you.  
9    Katrina, did you have your hand up?  No.  
10   Julie?

11                   SECRETARY WEISMAN:   Just as an  
12    aside.  I think this is a very good example of  
13    not letting the perfect defeat the good.

14                   CHAIRMAN MOYER:   Thank you.  Any  
15    more discussion?  We have a motion and a  
16    second and I'm going to call for the vote.  Is  
17    there a conflict of interest on this group of  
18    materials?  Dr. Karreman?

19                   MEMBER KARREMAN:    You can judge  
20    it as you want but you have a farmer who might  
21    be using these and a veterinarian who does use  
22    these sitting on the Board here; we're the end

1 users as Dan was just mentioning. I'm not the  
2 manufacturer. And the nutritionist that  
3 recommends it but I don't make anything off of  
4 it.

5 CHAIRMAN MOYER: Does the Board  
6 have a problem with them voting? The Chair  
7 does not. Hearing no comment vote or abstain  
8 as you see fit. Okay. The vote will start  
9 with Julie?

10 SECRETARY WEISMAN: I vote yes.

11 CHAIRMAN MOYER: Steve?

12 MEMBER DEMURI: Yes.

13 CHAIRMAN MOYER: Jennifer?

14 MEMBER HALL: Yes.

15 CHAIRMAN MOYER: Bea?

16 MEMBER JAMES: Yes.

17 CHAIRMAN MOYER: Kevin?

18 MEMBER ENGELBERT: Yes.

19 CHAIRMAN MOYER: Hue?

20 MEMBER KARREMAN: Yes.

21 CHAIRMAN MOYER: Joe?

22 MEMBER SMILLIE: Yes.

1 CHAIRMAN MOYER: Tracy?  
2 MEMBER MIEDEMA: Yes.  
3 CHAIRMAN MOYER: Barry?  
4 MEMBER FLAMM: Yes.  
5 CHAIRMAN MOYER: Tina?  
6 MEMBER ELLOR: Yes.  
7 CHAIRMAN MOYER: Gerry?  
8 MEMBER DAVIS: Yes.  
9 CHAIRMAN MOYER: Katrina?  
10 MEMBER HEINZE: Yes.  
11 CHAIRMAN MOYER: Dan?  
12 VICE CHAIR GIACOMINI: Yes.  
13 CHAIRMAN MOYER: And the Chair  
14 votes yes. Mr. Vice Chair?  
15 VICE CHAIR GIACOMINI: Zero no,  
16 14 yes.  
17 CHAIRMAN MOYER: One absent.  
18 VICE CHAIR GIACOMINI: One  
19 absent.  
20 CHAIRMAN MOYER: Thank you. The  
21 motion to include vitamins and minerals  
22 injectables as supplements as stated in the

1 motion passes. Thank you. And I believe  
2 that concludes the voting docket for the  
3 Livestock Committee.

4 Moving ahead on our agenda we'll  
5 move to the Handling Committee, Steve DeMuri,  
6 chairperson. Steve, the floor is yours.

7 MEMBER DEMURI: Thank you Mr.  
8 Chairman. Okay, here we go. We have nine  
9 items on the agenda this morning to be voted  
10 on. The committee members gave detailed  
11 descriptions of these items yesterday. As we  
12 go through them I'm going to direct most of  
13 the reiteration of what we talked about  
14 yesterday to the people that actually worked  
15 on these because they're the experts. They're  
16 expected to dive into these and learn as much  
17 as they can and help the rest of the committee  
18 make a recommendation. So I'll direct a lot  
19 of this to them as each individual item comes  
20 up.

21 The first one on our list  
22 propionic acid, CAS No. 79094. And this is

1 exactly the same substance that was voted down  
2 by the Livestock Committee just 45 minutes  
3 ago.

4 It was petitioned as a use as  
5 preservative, a mold inhibitor for feeds and  
6 grains for human consumption and it failed on  
7 a couple of accounts, primarily because it is  
8 a preservative and there are alternatives out  
9 there that can be used.

10 So having said that, is there any  
11 discussion, any questions?

12 CHAIRMAN MOYER: Would you like  
13 to make a motion?

14 MEMBER DEMURI: I would. I  
15 would like to move that propionic acid be  
16 added to the national list under Section  
17 205.605(b).

18 CHAIRMAN MOYER: Do I hear a  
19 second to that motion?

20 SECRETARY WEISMAN: Second.

21 CHAIRMAN MOYER: Seconded by  
22 Julie. There is a motion on the floor with a

1 second; is there any discussion on this  
2 particular material? Hearing none I will  
3 call for a vote. Is there a conflict of  
4 interest on this material before we vote?  
5 Again hearing none, we will start the vote  
6 with Steve?

7 MEMBER DEMURI: No.

8 CHAIRMAN MOYER: Jennifer?

9 MEMBER HALL: No.

10 CHAIRMAN MOYER: Bea?

11 MEMBER JAMES: No.

12 CHAIRMAN MOYER: Kevin?

13 MEMBER ENGELBERT: No.

14 CHAIRMAN MOYER: Hue?

15 MEMBER KARREMAN: No.

16 CHAIRMAN MOYER: Joe?

17 MEMBER SMILLIE: No.

18 CHAIRMAN MOYER: Tracy?

19 MEMBER MIEDEMA: No.

20 CHAIRMAN MOYER: Barry?

21 MEMBER FLAMM: No.

22 CHAIRMAN MOYER: Tina?

1 MEMBER ELLOR: No.

2 CHAIRMAN MOYER: Gerry?

3 MEMBER DAVIS: No.

4 CHAIRMAN MOYER: Katrina?

5 MEMBER HEINZE: No.

6 CHAIRMAN MOYER: Dan?

7 VICE CHAIR GIACOMINI: No.

8 CHAIRMAN MOYER: Julie?

9 SECRETARY WEISMAN: No.

10 CHAIRMAN MOYER: And the Chair

11 votes no. Mr. Vice Chair?

12 MS. FRANCES: I hate to bring

13 this up but Julie did recuse herself from this

14 material.

15 SECRETARY WEISMAN: Oh God, I'm

16 so sorry.

17 MS. FRANCES: And it just popped

18 in my head and I know you've already voted.

19 CHAIRMAN MOYER: Thank you

20 Valerie for bringing that to the attention of

21 the Board. Julie?

22 SECRETARY WEISMAN: I'm

1 multitasking in a way. I have never had to do  
2 it before but it actually true that at the  
3 committee level I did recuse myself from the  
4 vote because I am a manufacturer of national  
5 propionic acid which it would definitely  
6 affect -- the outcome of this would affect the  
7 sales of my product.

8 CHAIRMAN MOYER: You might want  
9 to consider changing your vote to an  
10 abstention?

11 SECRETARY WEISMAN: No, I think I  
12 need to be recused. This is pretty clear,  
13 this is pretty clear.

14 CHAIRMAN MOYER: Thank you  
15 Valerie and thank you Julie. If the vice  
16 chair would make a note of that and the  
17 secretary change that vote to a recusal. And  
18 now Mr. Vice Chair, the vote please?

19 VICE CHAIR GIACOMINI: 13 no,  
20 zero yes, one absent and one recuse.

21 CHAIRMAN MOYER: Thank you Mr.  
22 Vice Chair. With that vote propionic acid is



1 voted down and the motion is defeated. Your  
2 next material Steve?

3 MEMBER DEMURI: Thank you. The  
4 next one for 205.605(b) is sodium chlorite  
5 acidified and I'd like to ask Katrina to give  
6 a brief summary of the material, summarize  
7 what she said yesterday. And then we'll ask  
8 for a discussion.

9 MEMBER HEIZE: Thank you. So  
10 just a reminder that this material has been  
11 petitioned for listing on 605(b). It is in  
12 essence a mixture of two things so at the  
13 facility they'll have two tanks, one will be  
14 sodium chlorite, one will be citric acid. They  
15 mix them and dilute with water at point of  
16 use.

17 I'm not going to go through all  
18 the discussion but just highlight it. The  
19 committee did recommend by a vote of three  
20 yeses, one no, one absent and one abstain to  
21 list this material with an annotation. And  
22 our rationale for that was that this is a more

1 benign environmentally and human health  
2 material than some of the other chlorine  
3 materials that are on the list. It is a very  
4 important new tool in the food safety tool  
5 box. That's kind of the short version of that.

6           So there's two things that I  
7 wanted to highlight after our discussion  
8 yesterday. One was we had had a question from  
9 the Chair about our committee vote to better  
10 understand that discussion, and I went back  
11 and looked at the notes last night and in fact  
12 we had not gotten the response from the  
13 petitioner on our questions regarding how this  
14 tool was different than the tools that were  
15 already on the list. Just because of the time  
16 crunch we were under we had to take the vote  
17 ahead of that.

18           And so when the petitioner came  
19 back they were able to articulate that there  
20 are uses where this material is used instead  
21 of peracetic acid which was the material that  
22 the technical review said could be

1 substituted. So there are situations which the  
2 petitioner could articulate where users are  
3 using either both peracetic acid and this  
4 material or whether they can use this and not  
5 peracetic acid.

6           And the reasons for that, if I can  
7 find them, hold on a sec. I'm waiting for it  
8 to open on my computer. The reason is that  
9 this material is used in situations where a  
10 much shorter contact time is required than  
11 peracetic acid. So it has to do with kind of  
12 the processing conditions.

13           So are there any questions on that  
14 topic?

15           CHAIRMAN MOYER: Hearing none,  
16 the Chair would entertain a motion.

17           MEMBER HEINZE: So then we have  
18 the annotation which we did talk about as a  
19 committee. So I would draw your attention,  
20 there are three parts to the annotation. So  
21 the first part talks about use which our  
22 annotation says this is for a secondary direct

1 anti-microbial food treatment and indirect  
2 food contact surface sanitizing.

3           And we're so specific in that,  
4 that the current materials are listed for  
5 indirect food contact surface sanitizing but  
6 in 2003 the SOB processing committee met or  
7 made a recommendation that said that that  
8 really did not reflect the original intent for  
9 the current listings of chlorine materials and  
10 certainly that's a matter that needs to be  
11 addressed.

12           But we wanted to be clear in our  
13 recommendation that this could be used for  
14 direct anti-microbial food treatment.

15           The second part of the annotation  
16 has to do with the residual chlorine levels in  
17 the water and again going back to the 2003  
18 recommendation, this really stems from a  
19 concern that the Board had at the time about  
20 residual chlorine on food that consumers would  
21 consume and you know the belief that consumers  
22 maybe don't want to be eating bleach. That

1 really after further review is not relevant to  
2 this material. Once it comes in contact with  
3 the food it breaks down to citric acid and  
4 table salt. So we'll be having a discussion  
5 about removing that part of the annotation.

6           Then the third part of the  
7 annotation speaks to the citric acid that is  
8 used as part of the sodium chlorite solution,  
9 and we did feel that we wanted to make a note  
10 that the citric acid that they couldn't just  
11 use any citric acid, that they should use the  
12 citric acid that was allowed for use in  
13 organic, and that's the citric acid listed on  
14 605(a). Any questions?

15           CHAIRMAN MOYER: Bea?

16           MEMBER JAMES: Katrina, in your  
17 recommendation form it says that under Section  
18 Category 1 No. 13, the manufacturing process  
19 employed in the production of sodium chlorite  
20 does not include any specific purification  
21 stats, heavy metal, lead and the final  
22 production as a result of their occurrence in

1 the starting material that are obtained from  
2 the natural sources.

3 And I'm wondering what your  
4 committee stats were on that.

5 MEMBER HEINZE: We wanted to be  
6 transparent. That was reflected in the  
7 technical review that we received. Our  
8 evaluation of that was that that is no  
9 different than the materials currently on the  
10 list. This material is processed very similar  
11 to the materials already on the list so we  
12 felt that that was equivalent to materials  
13 that previous Boards had chosen to list.

14 And as a scientist, I'm searching  
15 for the words to say this the right way, I  
16 felt that this was a very technical evaluation  
17 of the situation. Firstly speaking as a  
18 scientist you're trained to say I'm 95 percent  
19 certain within statistical allowance that this  
20 is a true statement. I think that this is a  
21 caveat statement, that in fact there is no  
22 documented evidence that heavy metals are

1    there but because they couldn't find evidence  
2    that they weren't there, they felt that they  
3    had to make this statement. Does this make  
4    sense?

5                   CHAIRMAN MOYER:    The Chair  
6    recognizes Joe.

7                   MEMBER SMILLIE:    I agree.  Is  
8    the annotation going too far in specifying the  
9    use of the citric acid?

10                  CHAIRMAN MOYER:    The Chair had  
11   the same question.  It seems very, very  
12   complex as an annotation.

13                  MEMBER SMILLIE:    Yes, well you  
14   know I was tutelaged by Miss No Annotations  
15   Chair and man that's a lot of annotations.  
16   And I'm just wondering we're asking them to  
17   use a citric acid and I'm just wondering is  
18   that going too far?  Or is that what they  
19   petitioned for?

20                  MEMBER HEINZE:    That is not what  
21   they petitioned for.  I did want to say, and  
22   I need process help on this piece, in informal

1 conversations it is the intention of the  
2 Handling Committee to recommend that we not  
3 have the second part of the annotation. We  
4 feel that it is perhaps confusing and not  
5 necessary for this material. So in my motion  
6 can I just drop that or is that something that  
7 since it's a change from our recommendation  
8 that we need a motion to do.

9 CHAIRMAN MOYER: Comment from Dan  
10 and then Joe.

11 VICE CHAIR GIACOMINI: If that's  
12 agreed to by the committee you have not yet  
13 made your motion.

14 MEMBER HEINZE: We have not  
15 formally voted on that.

16 CHAIRMAN MOYER: Joe?

17 MEMBER SMILLIE: I would like to  
18 make a friendly amendment to remove that  
19 annotation.

20 CHAIRMAN MOYER: I think you need  
21 a response from Katrina before Dan can--

22 VICE CHAIR GIACOMINI: We haven't



1 had a motion. There's no motion currently on  
2 the Board.

3 CHAIRMAN MOYER: Right Dan. It  
4 does not need to be put in the form of a  
5 friendly amendment, just make your suggested  
6 language change.

7 MEMBER HEINZE: Does anyone on  
8 the Handling Committee disagree with removing  
9 that when I make my motion?

10 MEMBER DAVIS: I'm okay with it.

11 CHAIRMAN MOYER: Gerry?

12 MEMBER DAVIS: Just to make sure  
13 I understand. The reason for taking that out  
14 is because unlike the sodium hypochlorite  
15 materials that required that type of  
16 annotation, this material is different in that  
17 the chlorine is deactivated and converted to  
18 chloride as part of the usage of the material.  
19 Do I understand it correctly?

20 MEMBER HEINZE: Yes and no. Yes,  
21 I think there is some debate when we consider  
22 the sanitation for the other materials and

1 whether it's necessary for them as well. It  
2 was compromised language as I went back and  
3 re-read and re-read and re-read the 2003  
4 recommendation yesterday. It was compromised  
5 language to reflect that the Board was  
6 uncomfortable with having chlorine materials  
7 on the list but felt very strongly that having  
8 them on the list from a food safety  
9 perspective was very important. So they  
10 wanted an annotation to reflect that  
11 perspective, I don't think it serves any  
12 technical value. It was more of a message.  
13 Does that make sense?

14 CHAIRMAN MOYER: Dan?

15 VICE CHAIR GIACOMINI: It seems  
16 from what I'm hearing the committee say in  
17 their recommendation that this actually may be  
18 one of the more preferred chlorine compounds  
19 to be using. If that is the case, I'm  
20 confused with any annotation that is more  
21 severe and more strict than what is listed  
22 currently under chlorine materials in general.

1 And I would also like to ask the program in  
2 the listing of this item would this go in as  
3 a separate listing or would this just be a new  
4 item listed within the parentheses of chlorine  
5 materials as it's currently listed on the  
6 list?

7 CHAIRMAN MOYER: Comment from the  
8 program?

9 MEMBER DEMURI: I believe it would  
10 just go in as its own separate item.

11 CHAIRMAN MOYER: Thank you.

12 MEMBER HEINZE: To answer your  
13 first question Dan, to be honest when I  
14 reviewed this material and tried to be  
15 complete in my evaluation, I biased towards  
16 trying to be respectful of a previous Board's  
17 recommendation and as we discussed this  
18 morning got public comment on Monday. I think  
19 we've come to understand that recommendation  
20 better. And to make sure our recommendation  
21 today not to have that annotation.

22 MEMBER DEMURI: So how much of

1 the annotation are we looking to eliminate

2 MEMBER HEINZE: We haven't

3 discussed part 3, the citric acid. Joe had

4 raised the question that whether we were too

5 restrictive in that portion. Are there any

6 comments on that piece?

7 To your point it is a better

8 alternative than other things on the list so

9 I think Joe's point is well taken that perhaps

10 this is too restrictive. I would support that

11 change but I'm interested in other

12 perspectives.

13 CHAIRMAN MOYER: Tina?

14 MEMBER ELLOR: Can this be

15 acidified with others acids that are on the

16 list and if it can would there any downside to

17 using those other listed acids?

18 MEMBER HEINZE: That matter is

19 addressed in either the technical review of

20 the petition. Let me check real quickly.

21 CHAIRMAN MOYER: Kevin?

22 MEMBER ENGELBERT: Could you

1 repeat, I can't remember whether you said this  
2 or not but under chlorine materials there's  
3 calcium hypochlorite, chlorine dioxide, sodium  
4 hypochlorite and there's also peracetic acid,  
5 peroxyacetic acid and hydrogen peroxide. Did  
6 you receive comments from end users of these  
7 products saying that they needed another, as  
8 you said yesterday, tool in their tool box?

9 MEMBER HEINZE: We did receive  
10 comment from end users. I do believe we did  
11 receive some public comments supporting this.

12 CHAIRMAN MOYER: Any other  
13 questions or comments? Jennifer?

14 MEMBER HALL: Yes. Katrina, if  
15 you could please and I don't mean to belabor  
16 this but if you could just reiterate for me  
17 how it is better than current options.

18 MEMBER HEINZE: Certainly. It is  
19 used at a lower concentration, at a very low  
20 concentration because of the dilution factor.  
21 And then also its breakdown products are  
22 citric acid and table salt. I'm wondering

1 Geoff from the guidance whispered in my ear,  
2 I was wondering the petitioner could you  
3 answer the question about whether it can be  
4 acidified with other things?

5 CHAIRMAN MOYER: If the  
6 petitioner will come forward the Board will  
7 recognize them. Just please state your name.

8 MR. DAHLMAN: Yes. The current  
9 FDA listing for sodium chlorite allows for any  
10 grass acid to be used. We currently use  
11 sulfuric acid ad sodium acid sulfata as well  
12 as citric acid, so the preferred option here  
13 would obviously be the citric acid because  
14 it's already listed.

15 CHAIRMAN MOYER: A question from  
16 Bea and then Julie.

17 MEMBER JAMES: Well as long as  
18 you're up here. We received public comment  
19 where there was a concern that the toxicology  
20 reports in the recommendation and in the  
21 review were not adequate and I'm wondering if  
22 you could or if you have any information about

1 environmental or human health effects that  
2 might educate me a little bit more.

3 MR. DAHLMAN: As far as any  
4 studies that I've seen, the breakdown  
5 components create no chloromethanes or  
6 chlorohalogen. There's no environmental  
7 effects that we have seen. The breakdown  
8 components are benign.

9 CHAIRMAN MOYER: Does that  
10 satisfy your answer? Okay. Katrina?

11 MEMBER HEINZE: Both the technical  
12 review and the petition provided an abundance  
13 of research papers supporting that there  
14 aren't any environmental, negative  
15 environmental impacts.

16 There was one to Jennifer's  
17 question that I forgot to bring up that the  
18 technical report did mention that a downside  
19 of the other chlorine materials on the list is  
20 that they can form trihalomethanes which are  
21 you know not viewed positively from an  
22 environmental impact. This material does not

1 form those.

2 CHAIRMAN MOYER: Do we have any  
3 other questions for the petitioner? Jennifer?

4 MEMBER HALL: I guess my question  
5 for you then is, is this your company's  
6 attempt to provide industry with a better  
7 alternative than is presently there.

8 MR. DAHLMAN: I don't necessarily  
9 say it's better but, like Katrina said, it's  
10 another tool in the toolbox. It has its  
11 application along with peracetic, for example,  
12 in a poultry processing plant; acidified  
13 sodium chlorate has a much shorter contact  
14 time so when birds are being processed on the  
15 line you can spray it and make that quick  
16 kill, get your knockdown of the pathogens and  
17 move on. Whereas the peracetic is more used  
18 in the chiller bath when the birds are soaking  
19 and cooling down half of that processing step  
20 and the peracetic is used for longer contact  
21 times.

22 So they both have their



1 application.

2 MEMBER HALL: Thanks.

3 CHAIRMAN MOYER: Gerry?

4 MEMBER DAVIS: And I apologize  
5 ahead of time in case the answer to this  
6 question was in the material. But are there  
7 other suppliers of this material besides your  
8 company?

9 MR. DAHLMAN: I believe so, yes.

10 MEMBER DAVIS: As far as you know  
11 is there any hindrance in the marketplace to  
12 keep other companies from supplying this  
13 material to the industry?

14 MR. DAHLMAN: No.

15 CHAIRMAN MOYER: Steve?

16 MEMBER DEMURI: Yes. Gerry, I  
17 can confirm that there definitely are other  
18 suppliers as we've looked into it.

19 CHAIRMAN MOYER: Are there any  
20 other questions for the petitioner?

21 Thank you for your time.  
22 Appreciate your help in clarifying those

1 questions.

2 VICE CHAIR GIACOMINI: I have one  
3 more for the petitioner. This product also  
4 has uses in animal agriculture, I understand  
5 you plan to come forth and bring forth a  
6 livestock petition and it involves direct  
7 contact with the animals. Do you have any  
8 data that there is any problem at all with  
9 that direct contact that we would be  
10 interested in?

11 MR. DAHLMAN: No, not to my  
12 knowledge. That petition will be coming soon  
13 and we've looked at both options for peracetic  
14 and ASC specifically in poultry drinking water  
15 and are working on that right now.

16 CHAIRMAN MOYER: Katrina?

17 MEMBER HEINZE: I wanted to get  
18 back to the citric acid part of it. No one  
19 has any questions for the petitioner.

20 CHAIRMAN MOYER: Thank you,  
21 you're excused. Thank you Katrina.

22 MEMBER HEINZE: I thank the

1 petitioner for his comments. I think given  
2 that I do think it is appropriate to have a  
3 petition that limits the acidifier, I'm not  
4 sure that's a word, to citric acid.

5 CHAIRMAN MOYER: Tina?

6 MEMBER ELLOR: I think the  
7 annotation may not be necessary as what's on  
8 the list will limit what acidifier you can  
9 use. So it would seem more appropriate, if we  
10 need an annotation which I really don't think  
11 we do because if it's not on the list you  
12 can't use it as an acidifier, to say limit it  
13 to listed acidifiers. Oh Julie's got a  
14 problem with that, sorry.

15 CHAIRMAN MOYER: Julie?

16 SECRETARY WEISMAN: Yes. I don't  
17 believe that's true. The list that exists  
18 where citric acid is, is a list of things that  
19 can be used in an organic product in the 5  
20 percent of an organic product. If this  
21 material is listed this way, they are not  
22 limited particularly; in other words, they're

1 not limited to using other things on the list  
2 because this is not an organic product.

3 CHAIRMAN MOYER: Joe?

4 MEMBER SMILLIE: I think the  
5 process we should follow is that I will make  
6 a motion to accept this. Then I'll get a  
7 second, then we'll have a discussion and if  
8 there is friendly amendments we'll make them  
9 then and then we'll vote.

10 So hearing no disagreement, I'd  
11 like to make a motion to accept the petition  
12 with the annotations as is in front of us.

13 CHAIRMAN MOYER: Thank you, Joe.  
14 Is there a second to that motion? We have a  
15 motion on the floor.

16 MEMBER DEMURI: I'll second.

17 CHAIRMAN MOYER: Steve seconds  
18 that motion. Discussion please.

19 MEMBER HEINZE: I'd like to offer  
20 a friendly amendment to remove the sentence  
21 that starts with "Residual chlorine" and ends  
22 with "water act."

1                   MEMBER FLAMM:     Second.

2                   CHAIRMAN MOYER:     We had a  
3 friendly amendment and it was accepted.  
4 Valerie, if you can or Joe if you want to read  
5 or somebody read exactly what we're going to  
6 be voting on. Joe since it's your motion. Do  
7 you need new glasses? Steve, do you want to  
8 read it?

9                   MEMBER DEMURI:     I can read it.  
10 The motion is to accept a listing for sodium  
11 chlorite acidified on 205.605(b) with the  
12 annotation, secondary direct antimicrobial  
13 good treatment and indirect food contact  
14 surface sanitizing. Citric acid used must  
15 meet requirements as listed in 205.605(a).

16                   CHAIRMAN MOYER:     Is that the  
17 amendment, the friendly amendment that you  
18 have made Katrina?

19                   MEMBER HEINZE:     Yes.

20                   CHAIRMAN MOYER:     Thank you.  
21 Julie?

22                   SECRETARY WEISMAN:     Can I raise a

1 discussion item separate than this amendment  
2 having to do with the last part of the  
3 annotation? Is that appropriate or do I have  
4 to raise it as a friendly amendment and then  
5 we have discussion? Okay.

6 I propose a friendly amendment  
7 that we remove the last annotation as well.

8 MEMBER SMILLIE: Second.

9 CHAIRMAN MOYER: Okay. We have a  
10 motion with two friendly amendments on the  
11 floor. Valerie, if you can strike the last  
12 line. Gerry?

13 MEMBER DAVIS: What if I don't  
14 agree with that? Where do we address that?

15 CHAIRMAN MOYER: Discussion  
16 please. I just had her draw a line through it  
17 so we could see what we were looking at.  
18 Gerry, go ahead.

19 MEMBER DAVIS: I need to have it  
20 explained to me why we don't need that.

21 CHAIRMAN MOYER: Julie?

22 SECRETARY WEISMAN: Yes. 605(a)

1 is a list of ingredients that can be used up  
2 to 5 percent in a product that's labeled  
3 organic. Okay. It is not a list of  
4 ingredients that are ingredients in materials.  
5 And Katrina can state it more clearly.

6 CHAIRMAN MOYER: Katrina?

7 MEMBER HEINZE: I wasn't going to  
8 say it more clearly. I was going to offer a  
9 friendly amendment on top of yours, I'm sorry,  
10 to add an annotation that says "acidified with  
11 citric acid only" because I think that  
12 addresses the acidified question.

13 MEMBER SMILLIE: Second.

14 CHAIRMAN MOYER: I heard another  
15 friendly amendment and a second. Do you accept  
16 that? Yes. Okay. Could we Valerie please,  
17 I know you're having trouble keeping up with  
18 this it's not easy, if you could add the  
19 language that Katrina just mentioned so that  
20 the Board can view that. Acidified with  
21 acetic acid only. I'm sorry citric acid only.  
22 Thank you. Gerry, then Dan then Katrina.

1                   MEMBER DAVIS:    It's a follow up  
2   to what just happened.  I'm taking it that the  
3   issue you had with the original sentence,  
4   citric acid used must meet requirements as  
5   listed in 205.605(a) is the 205.605(a) part of  
6   that, not the idea of acidifying with citric  
7   acid?  Okay.

8                   CHAIRMAN MOYER:   Thank you,  
9   Gerry.  That is correct.  Dan?

10                  VICE CHAIR GIACOMINI:    Yes, we  
11   now have an annotation that I understand.  And  
12   the way it had been written I would be very  
13   concerned that we would have someone coming in  
14   and saying okay but you can only acidify at  
15   the 5 percent level.  And I don't think that's  
16   where we wanted to be going.

17                  And if we're just saying you know  
18   whatever the manufacturer says is that you  
19   need to acidify, this is what you're going to  
20   acidify with, we know that's already something  
21   they use.  Like I say it's something I  
22   understand and I think it's very reasonable.



1                   CHAIRMAN MOYER:    Program has a  
2   comment.   Barbara?

3                   MS. ROBINSON:    You know a simple  
4   way to fix this is that currently under 605(b)  
5   where we have chlorine materials and the  
6   annotation reads "disinfecting and sanitizing  
7   food contact surfaces" and then it has the  
8   business about residual chlorine levels.

9                   We were discussing this and we  
10   said what you could do is just amend that  
11   particular category to read as follows:

12   "Disinfecting and sanitizing food and food  
13   contact surfaces."   Then just add this  
14   material to the end.

15                  CHAIRMAN MOYER:    Thank you,  
16   Barbara.   Katrina then Joe.

17                  MEMBER HEINZE: We appreciate the  
18   suggestion.   I guess a process question we  
19   didn't feel that was within the scope of this  
20   petition, that that topic was addressed in the  
21   2003 recommendation and since for this  
22   specific petition our technical review only

1 addressed the sodium chlorite acidified, we  
2 felt that our recommendation needed to be more  
3 narrowly focused.

4 MR. MATTHEWS: The only thing  
5 that we're saying here is for example this  
6 category is already used for the antimicrobial  
7 properties for sprouts so you know direct with  
8 food is already covered in this. It's not  
9 very explicit so if you added the words  
10 "related to antimicrobial" and then added the  
11 substance at the end, that may be a solution.

12 I'm not saying that it definitely  
13 is but right now the three that are already  
14 there would be allowed for contact with the  
15 food. We've already been allowing that and  
16 sprouts is the example that I can think of  
17 readily.

18 So all we're saying is that if you  
19 just wanted to clarify it with the sanitation  
20 plus add the material you could do it that  
21 way. Otherwise, you would have to do it as  
22 a separate item which is again up to you as to

1 how you want to recommend it.

2 CHAIRMAN MOYER: Joe?

3 MEMBER SMILLIE: I agree with

4 Katrina. I think we should move forward with

5 the process we have and the program certainly

6 can you know add those to the regulation. But

7 I think we should stick with what we're doing

8 right now rather than starting all over again

9 because there may be some unforeseen

10 interpretation of that that we're not dealing

11 with. If we stick with this product and this

12 annotation and get it in, we can deal with the

13 other later.

14 CHAIRMAN MOYER: Dan, you had a

15 comment?

16 VICE CHAIR GIACOMINI: Thank you.

17 CHAIRMAN MOYER: I think you

18 addressed Dan's comment. Kevin?

19 MEMBER ENGELBERT: I have two

20 questions and I apologize for being late with

21 them. They're probably more appropriate for

22 the petitioner but maybe the committee can

1 handle them. I don't want to make an  
2 assumption but I'm assuming that this material  
3 is relatively new and that's why (1) it wasn't  
4 already on the list and (2) that it's not  
5 recognized as grass, generally recognized as  
6 safe.

7 CHAIRMAN MOYER: Yes. Katrina?

8 MEMBER HEINZE: Both those  
9 statements are correct, so it is relatively  
10 new and it goes to the new grass process where  
11 you self recognize and have the science behind  
12 it which the petitioner supported.

13 CHAIRMAN MOYER: Program.  
14 Barbara?

15 MS. ROBINSON: If you leave it in  
16 as a separate category you should leave your  
17 residual chlorine level statement back in  
18 there.

19 MR. MATTHEWS: Because this is  
20 going to be sprayed in but then there's going  
21 to be runoff so the runoff would have to meet  
22 the safe water drinking. That's what you've

1 got in here for the rest. I mean you can use  
2 higher concentrations but with the residual  
3 water it has to be brought down. So if you're  
4 going to have a separate section it's our  
5 belief you would have to have that statement  
6 in there.

7 CHAIRMAN MOYER: Okay. Yes, we  
8 have a motion on the floor. We have several  
9 friendly amendments that have already been  
10 made and accepted. I think we're going to  
11 need somebody on the Board to make another  
12 friendly. Dan?

13 VICE CHAIR GIACOMINI: I just  
14 have-- before I'm comfortable in how I want to  
15 go here, by adding food to the existing  
16 annotation, that would by no means change the  
17 current allowed usage of the three chlorine  
18 items?

19 MR. MATTHEWS: No, because we've  
20 already been allowing it to go directly onto  
21 food and then the example that comes to mind  
22 real quickly is sprouts. And when you have

1 sprouts you do use a much higher concentration  
2 and then you have the safe drinking water  
3 level as the residual water.

4 CHAIRMAN MOYER: Thank you,  
5 Richard. I believe the Board would like to  
6 recognize the petitioner for one more moment  
7 if you could maybe shed some light on this as  
8 we struggle with the language.

9 MR. DAHLMAN: Dan Dahlman EcoLab.  
10 The chlorine residual is very confusing,  
11 especially with this substance. The residuals  
12 are broken down from two components, UV light  
13 and organic load, so the second and literally  
14 within seconds of contacting organics, this  
15 stuff breaks down. It's gone. You won't find  
16 it.

17 So adding that chlorine residual  
18 level annotation really is just going to  
19 confuse certifiers I believe.

20 CHAIRMAN MOYER: Thank you for  
21 that comment. Tina, then Joe.

22 MEMBER ELLOR: So if I understand

1 you correctly there essentially is no chlorine  
2 residual with this substance?

3 MR. DAHLMAN: Not after breakdown  
4 no. Once it contacts this organic load and  
5 hits UV light, you'll be hard pressed to find  
6 it.

7 CHAIRMAN MOYER: Joe and then  
8 Valerie.

9 MEMBER SMILLIE: That was my  
10 understanding yesterday. That was my complete  
11 and total understanding. And that's we moved  
12 to friendly amendment. That's what I  
13 understood about this material. There isn't  
14 a chlorine residue.

15 CHAIRMAN MOYER: Thank you, Joe.  
16 The Chair recognizes Valerie Frances.

17 MS. FRANCES: I just would like  
18 him to restate the specific breakdown  
19 products.

20 MR. DAHLMAN: No problem. With  
21 citric acid obviously citric acid and table  
22 salt and water, you have the chloride from the

1 table salt and then there's a chlorate and a  
2 chlorite ion I believe but those are both  
3 under 0.1 pbm. So to use an HPLC method  
4 analysis you're not going to find it. And  
5 furthermore to run that kind of test you're in  
6 the \$50,000 dollar range just to run that  
7 test.

8 CHAIRMAN MOYER: Okay. Thank  
9 you. We have another question or a comment  
10 from Richard Matthews.

11 MR. MATTHEWS: The explanation  
12 seems to take away our concern.

13 CHAIRMAN MOYER: Thank you. Dan,  
14 you had question?

15 VICE CHAIR GIACOMINI: No.

16 CHAIRMAN MOYER: Katrina?

17 MEMBER HEINZE: I appreciate all  
18 the discussion. I think too there's a lot of  
19 puzzled looks around the table so I think  
20 where we are right now is that we have a  
21 motion to list sodium chlorite acidified for  
22 secondary direct antimicrobial food treatment



1 and indirect food contact surface sanitizing  
2 acidified with citric acid only, and I just  
3 want to reiterate, this is a lot of technical  
4 conversation so I just want to go back to  
5 where I started. This is a good addition to  
6 the food safety tool kit and is a better  
7 option than a lot of things currently on the  
8 list despite its complicated annotation.

9 CHAIRMAN MOYER: Thank you  
10 Katrina. We have a motion on the floor and a  
11 second and we have friendly amendments that  
12 have been approved and I would like to call for  
13 the vote unless there's further discussion.  
14 Gerry?

15 MEMBER DAVIS: Question for the  
16 petitioner. Does this material used as good  
17 contact substance could it replace the  
18 hypochlorite materials altogether in the  
19 industry?

20 MR. DAHLMAN: Yes. I would say  
21 yes, it could. They're all multiple  
22 interventions, they all have their

1 applications and obviously if you had  
2 discussions this is a much better alternative  
3 when you consider the carcinogenic effects of  
4 chlorine.

5 CHAIRMAN MOYER: Thank you to the  
6 petitioner. Okay. We have a motion on the  
7 floor, we have a second. We have friendly  
8 amendments that have been addressed and  
9 accepted. I would like to call a vote.

10 Before I do that, is there a  
11 conflict of interest at all in this material?  
12 Hearing none we will start the vote with  
13 Jennifer?

14 MEMBER HALL: Yes.

15 CHAIRMAN MOYER: Okay. Thank  
16 you for allowing the secretaries to catch up.  
17 Jennifer voted yes. Bea?

18 MEMBER JAMES: No.

19 CHAIRMAN MOYER: Kevin?

20 MEMBER ENGELBERT: No.

21 CHAIRMAN MOYER: Hue?

22 MEMBER KARREMAN: Yes.

1 CHAIRMAN MOYER: Joe?  
2 MEMBER SMILLIE: Yes.  
3 CHAIRMAN MOYER: Tracy?  
4 MEMBER MIEDEMA: Yes.  
5 CHAIRMAN MOYER: Barry?  
6 MEMBER FLAMM: Yes.  
7 CHAIRMAN MOYER: Tina?  
8 MEMBER ELLOR: Yes.  
9 CHAIRMAN MOYER: Gerry?  
10 MEMBER DAVIS: Yes.  
11 CHAIRMAN MOYER: Katrina?  
12 MEMBER HEINZE: Yes.  
13 CHAIRMAN MOYER: Dan?  
14 VICE CHAIR GIACOMINI: Yes.  
15 CHAIRMAN MOYER: Julie?  
16 SECRETARY WEISMAN: Yes.  
17 CHAIRMAN MOYER: Steve?  
18 MEMBER DEMURI: Yes.  
19 CHAIRMAN MOYER: And the Chair  
20 votes yes. Mr. Vice Chair, the vote?  
21 VICE CHAIR GIACOMINI: Two no, 12  
22 yes, one absent.

1                   CHAIRMAN MOYER:    Thank you Mr.  
2 Vice Chair.  With that vote sodium chloride  
3 acidified is recommended to be put on the list  
4 with the annotation as stated.  Thank you.

5                   Before we move on to the next item  
6 I would like to step back to the vote on  
7 proprionic acid under the livestock committee  
8 because Julie Weisman has recognized that she  
9 should have recused herself from that vote  
10 which will change the vote but not the outcome  
11 of that vote and I suggest we go back and  
12 acknowledge that.

13                   So if both the Secretary, the  
14 Executive Director and the Vice Chair could  
15 make that adjustment on their vote sheets I  
16 would appreciate it.  It does not change the  
17 outcome of the vote.

18                   MS. FRANCES:        Question.

19                   CHAIRMAN MOYER:    Question from  
20 Valerie and then Dan.

21                   MS. FRANCES:        Is there a need to  
22 redo the vote entirely?

1                   CHAIRMAN MOYER:    I don't believe  
2   so because we're all still seated here and I  
3   don't think that's an issue. If it had  
4   affected the outcome of the vote I would agree  
5   with you. Dan?

6                   VICE CHAIR GIACOMINI:    The  
7   attested vote is 12 no, zero yes, two absent,  
8   one recused.

9                   CHAIRMAN MOYER:    Julie?

10                  SECRETARY WEISMAN:    I just  
11   sincerely want to apologize for dragging  
12   everybody down.

13                  CHAIRMAN MOYER:    No need Julie,  
14   you're doing a lot of work here and it's hard  
15   to keep everything straight on what we're  
16   doing.

17                  MR. MATTEWS:    Didn't you already  
18   do that originally? There's 14 of you there  
19   and if you got one recusal--

20                  SECRETARY WEISMAN:    We voted  
21   twice. It got voted as a livestock material  
22   and we didn't catch it until we went on as a

1 handling material.

2 MR. MATTHEWS: Oh okay. Thanks  
3 for the clarification.

4 CHAIRMAN MOYER: Certainly,  
5 you're welcome Richard.

6 What I plan to do now is we are  
7 ahead of schedule, we're going to follow up  
8 with one more material this morning, propane,  
9 and then we will be taking an extended lunch  
10 break to make sure that all the petitioners  
11 for the afternoon items are in the room. We  
12 knew that the petitioner for sodium chlorite  
13 acidified was in the room so we moved forward  
14 with that. But I think we're going to move  
15 forward with this one more material on the  
16 recommendation of the Handling Committee and  
17 then we will be breaking and get back on  
18 schedule to allow all the petitioners or folks  
19 that were looking for that in the afternoon to  
20 get on board. Question by Joe?

21 MEMBER SMILLIE: Procedural  
22 question. Yesterday we moved lecithin on 606

1 to the top, I'm just wondering beforehand if  
2 we're going to follow that same format.

3 So that we would be dealing with  
4 the removal of lecithin from 605 then we would  
5 be dealing directly right after it with the  
6 addition of lecithin 606.

7 CHAIRMAN MOYER: It's the Chair's  
8 opinion that that does make sense. It worked  
9 yesterday and the items are closely enough  
10 linked that unless the Handling Committee has  
11 a problem with that I think that's an  
12 excellent--

13 MEMBER ENGELBERT: It's fine with  
14 me.

15 CHAIRMAN MOYER: Great.

16 MEMBER ENGELBERT: No, I think  
17 that is a very good suggestion. Since we are  
18 running ahead of schedule that would also--  
19 we hope the lecithin petitioners will be here  
20 for the first discussion and that will give  
21 the petitioners of the other items more time  
22 to catch up with the advancement of the

1 agenda.

2 CHAIRMAN MOYER: Joe? Oh I'm  
3 sorry, the chair recognizes Andrea Caroe.  
4 Andrea?

5 MS. CAROE: Thank you.

6 CHAIRMAN MOYER: Could you please  
7 make sure the mic is turned on and then state  
8 your name for the recorder.

9 MS. CAROE: I'm a past member of  
10 this Board and I just want to offer you a  
11 suggestion as you're discussing these items  
12 and getting ready to vote on them procedurally  
13 that I think will make things go a little bit  
14 faster for you.

15 As the committee brings their  
16 recommendation in, the committee voted  
17 recommendation should be a motion immediately.  
18 Then your discussion, then your amendments and  
19 then your vote. You're doing a lot of  
20 discussion before you actually have a motion  
21 on the table and it's affecting the motion that  
22 you want to put on the table but that is still



1 in committee; you haven't brought it to the  
2 table yet.

3           So just bring it to the table, as  
4 imperfect as it may be, you have the  
5 opportunity during the discussion to make  
6 those amendments. It just will go a lot  
7 easier. I see you guys spinning trying to  
8 perfect it before you put it on the table and  
9 you don't have your committees together here.  
10 So I just offer that for what it's worth.

11           CHAIRMAN MOYER: Thank you. The  
12 Chair appreciates that comment.

13           Moving forward, Handling  
14 Committee, Steve.

15           MEMBER DEMURI: Thank you Mr.  
16 Chairman. I move that we list propane CAS  
17 74.986 to the national list under 205.605 (b).

18           SECRETARY WEISMAN: Second.

19           CHAIRMAN MOYER: We have a motion  
20 and a second. Is there discussion on this  
21 material? Hearing none, I will call for a  
22 vote.

1                   VICE CHAIR GIACOMINI:    Question,  
2   Mr. Chairman, I have a question.  I would like  
3   the statement from the committee on what their  
4   recommendation is on this.

5                   MEMBER DEMURI:    Certainly.  Our  
6   committee recommendation was an unanimous vote  
7   to not list propane.

8                   CHAIRMAN MOYER:    Thank you,  
9   Steve.  Now we call for the vote.  Is there a  
10  conflict of interest on this material?  
11  Hearing none we'll move forward with the vote  
12  starting with Bea?

13                  MEMBER JAMES:    No.

14                  CHAIRMAN MOYER:    Kevin?

15                  MEMBER ENGELBERT:    No.

16                  CHAIRMAN MOYER:    Hue?

17                  MEMBER KARREMAN:    No.

18                  CHAIRMAN MOYER:    Joe?

19                  MEMBER SMILLIE:    No.

20                  CHAIRMAN MOYER:    Tracy?

21                  MEMBER MIEDEMA:    No.

22                  CHAIRMAN MOYER:    Barry?

1 MEMBER FLAMM: No.

2 CHAIRMAN MOYER: Tina?

3 MEMBER ELLOR: No.

4 CHAIRMAN MOYER: Gerry?

5 MEMBER DAVIS: No.

6 CHAIRMAN MOYER: Katrina?

7 MEMBER HEINZE: No.

8 CHAIRMAN MOYER: Dan?

9 VICE CHAIR GIACOMINI: No.

10 CHAIRMAN MOYER: Julie?

11 SECRETARY WEISMAN: No.

12 CHAIRMAN MOYER: Steve?

13 MEMBER DEMURI: No.

14 CHAIRMAN MOYER: Jennifer?

15 MEMBER HALL: No.

16 CHAIRMAN MOYER: And the Chair

17 votes no. Mr. Vice Chair?

18 VICE CHAIR GIACOMINI: 14 no,

19 zero yes, one absent.

20 CHAIRMAN MOYER: Thank you Mr.

21 Vice Chair. With that vote the motion to list

22 propane on the national list failed.

1           This Board will now will stand in  
2 recess until one o'clock so we have an  
3 extended lunch period. And we'll be back  
4 then to get back on schedule. Thank you.

5           (Whereupon, the above-entitled  
6 matter went off the record at  
7 11:09 a.m. and resumed at 1:06  
8 p.m.)

9           CHAIRMAN MOYER: Okay. If Board  
10 members could all take their seats and the  
11 members in the back of the room could quiet  
12 down.

13           Okay. Board Members we're back in  
14 session. We have a quorum, we're seated and  
15 we're ready. At this point we're going to  
16 turn the meeting over to Steve DeMuri as chair  
17 person of the Handling Committee to continue  
18 with the materials on your list. Steve, I  
19 believe we're on lecithin bleached.

20           MEMBER DEMURI: That is correct.  
21 Thank you Mr. Chairman. We're on the last  
22 205.605(b) item, lecithin bleached, and to

1 that I move that we remove lecithin bleached  
2 from the national list 205.605(b).

3 MEMBER KARREMAN: Second.

4 CHAIRMAN MOYER: I'm sorry, who  
5 seconded that?

6 MEMBER KARREMAN: Me.

7 CHAIRMAN MOYER: Hue gave us the  
8 second. Thank you. We have a motion on the  
9 floor and we have a second and the floor is  
10 now open for discussion. Are there questions  
11 or comments. Steve?

12 MEMBER DEMURI: Yes. Ms. Julie  
13 Weisman here is the expert on lecithin on this  
14 petition and she would be happy to answer any  
15 questions that your Board might have.

16 CHAIRMAN MOYER: We have a motion  
17 by Steve, a second by Hue Karreman and the  
18 floor is now open for discussion. Joe and  
19 then Tina?

20 MEMBER SMILLIE: We received a  
21 lot of comments on this and I went through all  
22 the comments and I can't read all of them but

1 there was a consistent strain in the comments  
2 that opposed removal. There was a lot of  
3 comments as everybody's heard from people who  
4 supported the motion to remove. A lot of  
5 comments. Some of them were very short and  
6 others were more lengthy. There was a lot of  
7 short ones.

8           And so that's good and we looked  
9 at all of those but we also looked very  
10 carefully at the ones who did opposed the  
11 removal. And they're pretty consistent. I  
12 won't say 100 percent but they're pretty  
13 consistent, up in the 90s, that basically  
14 these companies, and I'm not going to read  
15 their names, but basically we used the de-  
16 oiled lecithin and several made with products  
17 that lecithin is an important ingredient  
18 should not be replaced by standard lecithin  
19 for the reasons stated above. We request the  
20 oil lecithin continue to be listed as an  
21 allowable ingredient.

22           The comments are all in that vein,

1 to deny companies the right to use the oil,  
2 powered, bleached lecithin will result in the  
3 loss of many organic products. So I think that  
4 the arguments against removing lecithin from  
5 605 are based on the need for a de-oiled  
6 lecithin. So even though right now the motion  
7 on the table is to consider removal, we really  
8 have to in our responsibility look at this as  
9 a package and the package will be presented in  
10 two parts. But the package is removal of  
11 lecithin from 605(b) and the addition of de-  
12 oiled lecithin to 606.

13           So it really is a package so if we  
14 act to remove it from 605(b) I think everyone  
15 votes with their conscience but we also need  
16 to add it to 606. So I just wanted to put  
17 that over-arching comment out there for  
18 discussion also as well as the motion on the  
19 table to remove lecithin.

20           And one of the commenters I  
21 thought gave us a very useful chart that I  
22 really just love seeing. Basically. They

1 listed the categories of their products and  
2 the form of lecithin used, and then the third  
3 column talked about the organic form  
4 available. And so for some of their products  
5 the liquid, the organic forms available, they  
6 use it. For others they needed a de-oiled and  
7 organic wasn't available and they couldn't use  
8 it.

9           So the company has done their due  
10 diligence and sometimes it works and sometimes  
11 it doesn't. So I would ask the Board really  
12 as they go through this particular motion to  
13 remember that there is a motion going to  
14 follow to add de-oiled lecithin to 606 and we  
15 really have to look at the two in a certain  
16 sense together even though we vote on them  
17 separately.

18           CHAIRMAN MOYER: Thank you, Joe.  
19 Other questions or comments. Dan?

20           VICE CHAIR GIACOMINI: Thank you  
21 Mr. Chairman. Thank you, Joe, for recognizing  
22 and to bring right to the table that this is



1 a package because I think that's very critical  
2 and important for us to recognize. And it's  
3 in that structure of the package that I think  
4 there's a couple of things that we need to  
5 think about.

6           Right now all forms of lecithin  
7 are allowed from all sources. In taking 605  
8 (b) off and restricting 606 listing, No. 1, I  
9 heard there was a number of comments  
10 discussing wanting to take off the soy  
11 lecithin products. There is an organic soy  
12 lecithin available, please do not allow hexane  
13 processed lecithin in our products.

14           Between that and the fact that  
15 we've really had no information to evaluate on  
16 the alternative sources, I have a hard time  
17 blanket taking off, you know, totally  
18 excluding those other sources. I just don't  
19 think it was part of what we adequately  
20 reviewed.

21           The other thing is that and what  
22 we're seeming to do in this package is that we

1 are moving bleached lecithin from 605(b) to  
2 606. This Board removed bleached lecithin,  
3 even de-oiled bleached, and said that it was  
4 a 605 substance. We're now saying that it's  
5 606. If the Board wants to say that, that's  
6 fine but I think we need to be clear that we  
7 are not restricting the use of de-oiled  
8 bleached lecithin and we're not outlawing  
9 bleached lecithin in removing bleached  
10 lecithin totally from the list.

11 CHAIRMAN MOYER: Joe?

12 MEMBER SMILLIE: Yes. Well let's  
13 go through this carefully. We're removing  
14 bleached lecithin from 605, we're not putting  
15 bleached lecithin on 606, we're putting de-  
16 oiled lecithin on 606. Bleached, unbleached,  
17 dry, liquid.

18 VICE CHAIR GIACOMINI: Those who  
19 have not been part of all this discussion will  
20 just see bleached coming off the list, and I  
21 think we just need to be careful in how we  
22 describe what we're doing that we're not going

1 to create a problem down the road of even  
2 maybe some certifier saying bleached lecithin  
3 is synthetic, I can't certify that.

4 CHAIRMAN MOYER: Katrina then  
5 Bea.

6 MEMBER HEINZE: Sorry, I was  
7 doing the school thing where you keep your  
8 hand up until the teacher calls on you.

9 Valerie, do you have the green and  
10 red lecithin chart that you could put up. As  
11 with every other commenter I'm glad we're  
12 talking about this as a package. I'm  
13 wondering if we're, I'm not good at analogies,  
14 if we're starting at the front of the problem  
15 instead of the end of the problem.

16 It seems like all the information  
17 we have, and I am grateful for all the public  
18 comment because I feel like we've learned a  
19 lot. What we want to do is start with once  
20 we're done with this process and done with our  
21 motions and voting, what do we want to remain  
22 on the list? And then work backwards from

1 there to figure out what our annotation should  
2 say.

3           So I'll put a stab out here. My  
4 understanding is that what we would like to  
5 have stay on the list is that red box on the  
6 right in the middle, the bleached de-oiled  
7 lecithin as well as the unbleached de-oiled  
8 lecithin so the red box underneath it. And we  
9 haven't talked about this yet but I also  
10 believe that we've gotten some comments with  
11 regards to the source of the lecithin, some  
12 comments wanting the non-soy options  
13 available, in which case that would be for all  
14 forms is the question I'm not totally clear on  
15 that.

16           So if we identify what on this  
17 chart we want on, then it seems like we could  
18 in a more straightforward process say, okay,  
19 which annotations would do that, where on the  
20 list would be my suggestion.

21           CHAIRMAN MOYER: Bea, you had a  
22 question or a comment?

1                   MEMBER JAMES:    Just a point of  
2 clarification. The actual petition that we  
3 have is for the removal of lecithin correct  
4 from 605?

5                   CHAIRMAN MOYER:    Bleached.

6                   MEMBER JAMES:    Bleached. Is  
7 there a petition for the addition of de-oiled  
8 and if there is not a petition is it under our  
9 purview?

10                  SECRETARY WEISMAN:    I'll answer  
11 that. Can I?

12                  CHAIRMAN MOYER:       Let me get a  
13 comment from the program first Julie. Bob  
14 Pooler please.

15                  MR. POOLER:        Okay. You have two  
16 petitions for removal. You have a petition to  
17 remove the bleached lecithin from 605, you  
18 have a petition modified I believe yesterday  
19 to remove fluid unbleached lecithin. I  
20 understand the petitioner accepted as a  
21 friendly amendment to have the fluid to be  
22 changed to de-oiled. Not correct? All right

1 go ahead Julie you can continue.

2 SECRETARY WEISMAN: Okay.

3 Technically what was agreed to, and I guess  
4 the petitioner will tell me if I'm  
5 interpreting it wrong, was that the friendly  
6 amendment was instead of the petition being  
7 for the removal of fluid lecithin, because  
8 that's actually not the way the listing is  
9 annotated, they agreed to the friendly  
10 amendment that the current listing of lecithin  
11 be amended to read lecithin de-oiled forms  
12 only.

13 MR. POOLER: Okay, if I can  
14 continue. But the second petition was for the  
15 unbleached sources.

16 SECRETARY WEISMAN: I'm talking  
17 about the second petition. The first petition  
18 is still for removal from 605(b).

19 MR. POOLER: Right. And that  
20 refers to the bleached.

21 SECRETARY WEISMAN: And that  
22 refers to what is listed right now as lecithin

1 bleached. And that is still for removal.

2 CHAIRMAN MOYER: Katrina?

3 MEMBER HEINZE: I'm noticing some  
4 frowns across from me so maybe just to clarify  
5 it. We have two petitions, removal of  
6 lecithin bleached from 605(b) with all the  
7 changes yesterday, a petition to change the  
8 annotation on 606 from lecithin unbleached to  
9 lecithin de-oiled forms only. Does that help?  
10 Okay.

11 CHAIRMAN MOYER: Further  
12 discussion. Kevin?

13 MEMBER ENGELBERT: So that means  
14 under 606 the de-oiled can be either bleached  
15 or unbleached and even though in the diagram  
16 anything that is bleached is considered non-  
17 organic.

18 SECRETARY WEISMAN: No, look at  
19 the diagram, Kevin, that's not true.

20 MEMBER ENGELBERT: Okay.

21 SECRETARY WEISMAN: It's not the  
22 bleaching that makes it -- okay.

1                   MEMBER ENGELBERT:    It's the de-  
2   oiling, I wanted to be clear on that. That's  
3   all yes.

4                   CHAIRMAN MOYER:    Katrina?

5                   MEMBER HEINZE:    Hence my  
6   suggestion that maybe we need to go backwards  
7   instead of forwards. I think if we figure out  
8   what we want to leave on the list, then we  
9   figure out how it should be classified, I  
10  think that might make the process less  
11  headache-inducing.

12                  CHAIRMAN MOYER:    Another comment  
13  from the program. Bob?

14                  MR. POOLER:    Should the  
15  annotation read "de-oiled unbleached lecithin"  
16  or less than whatever.

17                  CHAIRMAN MOYER:    No, Bob, I don't  
18  think that's what we want. I think we have it  
19  the way we want it. That's my understanding  
20  and I see the petitioner nodding his head in  
21  the gallery so I think we have the petition  
22  right. Okay. Tracy then Joe?



1                   MEMBER MIEDEMA:    The effect of  
2    this is that we are breaking from a prior  
3    Board's precedent that bleached belongs on  
4    605.  And as long as we're very open with  
5    fully acknowledging that that's what we're  
6    doing, then we can move forward.

7                   CHAIRMAN MOYER:    Thank you,  
8    Tracy.  Joe?

9                   MEMBER SMILLIE:    Yes.  I agree.  
10   We're fully aware of that.  I also want to  
11   point out again that both the petitioner and  
12   those that, at least those present that  
13   objected, those that were here at this meeting  
14   that objected to the removal, are both  
15   comfortable with our approach.

16                  CHAIRMAN MOYER:    Julie and then  
17   Kevin?

18                  SECRETARY WEISMAN:  I wanted to  
19   follow up what Tracy's trying to make sure we  
20   all are clear about, that what we understand,  
21   would this Board understand any depth of  
22   information that we have now today about all

1 the forms of lecithin and how they're made and  
2 the different streams is way beyond anything  
3 that was understood at the time that these  
4 listing decisions were originally made and at  
5 least by the methods that are used now it's  
6 clear to me that it isn't whether bleached or  
7 unbleached that makes something synthetic or  
8 not synthetic.

9 CHAIRMAN MOYER: Kevin?

10 MEMBER ENGELBERT: I'd like  
11 another clarification if you would please.  
12 The de-oiled where the oil's been removed with  
13 either acetone or hexane, doesn't prevent this  
14 from being listed under 606? It's still an  
15 agricultural material?

16 CHAIRMAN MOYER: Julie?

17 SECRETARY WEISMAN: It prevents  
18 it from even being organic. You could not  
19 have an organic de-oiled lecithin in which  
20 acetone had been used. But the non-organic  
21 forms that are currently available, in other  
22 words those are not organic products.

1                   MEMBER ENGELBERT:     But it's  
2 still considered agricultural.

3                   SECRETARY WEISMAN:    Well, we're  
4 going to continue working on that. That was  
5 part of some of the open questions that the  
6 materials working group raised yesterday, that  
7 we should be reexamining.

8                   CHAIRMAN MOYER:     Okay. I have  
9 Dan and then Katrina and then Tracy.

10                  VICE CHAIR GIACOMINI:   As far as  
11 what you're looking at, Kevin, that's  
12 something that's beyond this discussion.  
13 That's part of the whole materials and all  
14 that other thing. I disagree a little bit  
15 with what Joe said about all what we've heard  
16 and everything. We still have a commenter in  
17 this room that yesterday was requesting  
18 alternative sources of non-organic lecithin  
19 besides soy.     And we're eliminating those  
20 with this listing.

21                  CHAIRMAN MOYER:     Let me get  
22 Katrina's comment. Katrina?

1                   MEMBER HEINZE:    This is directed  
2    at Kevin's question.  If the lecithin de-oiled  
3    is on 605(b), commercial availability does not  
4    apply.  So if at a later date someone does  
5    develop a de-oiled lecithin that can be  
6    certified organic, they are not required to  
7    use it because the listing is on 605(b).

8                   MEMBER ENGELBERT:   Right.  I  
9    wanted just to make sure that everything is  
10   out, that we're all clear on everything and  
11   everything is examined.  That's all.

12                   CHAIRMAN MOYER:    Tracy?  Joe, you  
13    were next.

14                   MEMBER SMILLIE:    Could you repeat  
15    your objection again Dan.  I just want to be  
16    real clear on this.

17                   VICE CHAIR GIACOMINI:    We have  
18    commenters requesting a form of lecithin from  
19    non-soy sources that do not seem to be  
20    available in the marketplace in an organic  
21    form.  We are not allowing them to be used in  
22    organic with this listing except for the de-

1 oiled version.

2 MEMBER SMILLIE: Well, partially  
3 true. My understanding and again this is just  
4 my understanding and we may want to start  
5 calling some of the petitioners and people who  
6 have also made comments to the mic to get it  
7 absolutely clear, and that's an option we have  
8 because they're in the room.

9 So the motion to remove removes  
10 from 605 any non-soy product. Agreed? Putting  
11 de-oiled on 606 allows for non-soy de-oiled  
12 product and, of course, if organic bleached or  
13 unbleached is produced, that of course is  
14 allowed. So we're not closing the doors,  
15 we're definitely making smaller doors, but  
16 they're not closed.

17 And from what I understand from  
18 the testimony, depending on the type of non-  
19 soy, that there is available fluid, non-soy  
20 lecithin currently.

21 CHAIRMAN MOYER: Dan and then  
22 Julie.

1                   SECRETARY WEISMAN:    I hate to  
2 bring this up to point this out, but the  
3 listing that we are contemplating would not  
4 allow any fluid non-organic lecithin.

5                   MEMBER SMILLIE:     So it would have  
6 to be organic?

7                   SECRETARY WEISMAN:    Right. Yes.  
8 Correct.

9                   VICE CHAIR GIACOMINI:    The  
10 comments that I understood hearing was that  
11 there is a wealth, there may be a wealth of  
12 organic source material canola sunflower, but  
13 I heard absolutely nothing that I remember  
14 saying that there is any lecithin from those.

15                  MEMBER SMILLIE:     Can I ask the  
16 petitioner to have the mic?

17                  CHAIRMAN MOYER:     That's what I  
18 was going to do right now is going to ask if  
19 Mr. Clarkson and if Dr. Szuhaj wants to come  
20 with him to the podium to address those  
21 concerns it might help the Board.

22                                 Please state your name or names

1 when you get to the podium.

2 MR. CLARKSON: Yes. My name is  
3 Lynn Clarkson, Clarkson Soy Products and I'd  
4 be happy to address your question in a broad  
5 statement for which I would ask calibration  
6 any errors I make from Dr. Szuhaj. If you're  
7 taking lecithin from a vegetable oil source,  
8 then no matter whether you're pulling it out  
9 of a sunflower, a canola, or a soy bean, the  
10 lecithins are interchangeable. There may be  
11 some very subtle distinctions but for all  
12 practical purposes they are identical.

13 If they're identical, then the  
14 functionality is the same. So if you're going  
15 to tell me you want a sunflower lecithin,  
16 that's the a serious argument? It can't be a  
17 functionality argument, it has to be an  
18 allergen argument.

19 We have several responses to that.  
20 One is we offer canola lecithin in fluid form,  
21 non-allergenic. Now why would you not  
22 typically to go a sun or a canola? Because

1 the lecithin yield coming out of the oil is  
2 roughly half of what it is coming out of soy.  
3 Okay.

4 No. 2, the functionality of a de-  
5 oiled lecithin is identical to the  
6 functionality of a fluid lecithin. The  
7 distinction is in the convenience for the  
8 handler.

9 So anybody that wants to use a  
10 conventional path here, for any purposes,  
11 could use a de-oiled lecithin and put it in  
12 solution whatever they wanted to do.

13 And the third argument I would  
14 have is the organic label is preeminently an  
15 organic label. It is not an non-allergen  
16 label, it's not an anything else label.

17 So No. 1 we're offering the  
18 alternatives, the amendment to the rule--

19 VICE CHAIR GIACOMINI: You're  
20 offering organic alternatives to soy?

21 MR. CLARKSON: Yes. The  
22 amendment leaves the commercial world open to



1 conventional sources from whatever plant  
2 material. I don't see that you've restricted  
3 much of anything here but you have helped the  
4 development of organic ingredients. Any  
5 science question you want I'll be happy to ask  
6 Dr. Szuhaj to address because he's the guy I  
7 go to when we get beyond the mundane liberal  
8 arts sort of things that I deal with.

9 CHAIRMAN MOYER: Dan?

10 VICE CHAIR GIACOMINI: I don't  
11 want to touch the allergen issue, the debate  
12 of whether there's allergen particles in  
13 there, what the concentration is, what the  
14 detectability level is. I'm not touching it.  
15 What I will touch, and we are a marketing  
16 program, is consumer preference. And there  
17 seems to be a consumer preference for some of  
18 the alternative forms in some products. And  
19 I'm concerned of just cutting all of those off  
20 with this action.

21 MR. CLARKSON: Reasonable  
22 concern, we have fluid canola in addition to

1 fluid soy. We don't have on a regular basis  
2 fluid sun. There's millions of dollars that  
3 need to be spent in some development that we  
4 don't know how it will turn out. But by  
5 leaving the de-oiled lecithin option in, in  
6 the amendment to change 606, everything is  
7 available.

8 CHAIRMAN MOYER: Katrina?

9 MEMBER HEINZE: I do not have a  
10 question for the petitioner.

11 CHAIRMAN MOYER: Are there any  
12 other questions for the petitioner or Dr.  
13 Szuhaj? Kevin?

14 MEMBER ENGELBERT: Again, I want  
15 to be clear on one thing. So you're saying  
16 that the de-oiled could be put back into  
17 solution to provide a fluid option?

18 MR. CLARKSON: Yes, I am clearly  
19 saying that.

20 CHAIRMAN MOYER: Gerry has a  
21 question.

22 MEMBER DAVIS: Mr. Clarkson, then

1 if costs might be a determining factor for  
2 producers and handlers wanting to use non-  
3 organic de-oiled lecithin, is cost of handling  
4 that material and changing it back to a fluid,  
5 is there a cost advantage for them to do that  
6 rather than just buy the organic fluid from a  
7 company like yours?

8 MR. CLARKSON: If you can source  
9 conventionally you've got a cost advantage.  
10 When you de-oil, the acetone treatment is  
11 expensive. It can probably double the cost of  
12 a convention fluid lecithin but it would still  
13 be less expensive than your basic organic  
14 fluid lecithin.

15 CHAIRMAN MOYER: Are there any  
16 other questions from the Board to the  
17 petitioner? Hearing none, you gentlemen are  
18 excused. Thank you very much. Any other  
19 points of discussion? Katrina?

20 MEMBER HEINZE: I want to make  
21 sure, I agree with Dan that we do have public  
22 comment that expressed concern with us

1 removing non-soy sources of fluid lecithin  
2 from the list and, despite the petitioner's  
3 comments that there is perhaps this re-  
4 fluidizing of the de-oiled, he obviously  
5 benefits from that perspective. And I'm  
6 wondering if either of the public commenters  
7 who commented on the need for non-soy sources  
8 who could give us an alternate perspective to  
9 make sure that we've heard both positions.

10 CHAIRMAN MOYER: Are any of the  
11 commenters who commented on non-soy sources  
12 available for comment? Okay. If you approach  
13 the podium and give your name.

14 MR. HERMAN: I'm Zareb Herman  
15 from the Haynes Celestial Group and just to  
16 clarify a point that has come up. Can you  
17 hear me all right? Okay. I believe Mr.  
18 Clarkson said that someone could take a de-  
19 oiled lecithin and put it back into solution  
20 and use it as a liquid although I'm not  
21 personally aware of de-oiled sunflower or de-  
22 oiled canola being available but I haven't

1 looked into it because if it's an allergen  
2 concern then you're going to want to use a  
3 non-soy source. And so I personally don't  
4 know how that would work because I'm not aware  
5 that it's available, those non-soy forms are  
6 available as de-oiled.

7           So I just thought I'd clarify that  
8 point. I know you're kind of in a hard place  
9 here.

10           In terms of my own company I mean  
11 we did some R&D with a facility that was  
12 insisting on using liquid sunflower lecithin  
13 but we are currently manufacturing at another  
14 location and for our own personal interests we  
15 can continue manufacturing there but not move  
16 it as we were looking into. So I don't want  
17 that you know I'm okay with it representing my  
18 company.

19           CHAIRMAN MOYER: Katrina?

20           MEMBER HEINZE: So if the result  
21 of our actions today was that there would  
22 be no lecithin listed on 605(b) and lecithin

1 de-oiled was listed on 606, that would be  
2 acceptable to you?

3 MR. HERMAN: Yes. To the  
4 interests of my company and the others that I  
5 am representing here today.

6 MEMBER HEINZE: I appreciate your  
7 comments. Thank you.

8 CHAIRMAN MOYER: We have  
9 additional commenters that would like to --  
10 Zea?

11 MS. SONNABEND: Zea Sonnabend.  
12 I'm wearing my consumer hat here and in no way  
13 represent CCOF in this comment. I'm speaking  
14 as a person who is allergic to soy beans and  
15 I am allergic to soy lecithin. And I hate  
16 the fact that I can't eat most chocolate bars  
17 because there's lecithin in them. But I  
18 appreciate the fact that at least now they  
19 label that it's from soy rather than it being  
20 from some other source.

21 The main thing that I wanted to  
22 say, you know, I definitely want to push

1 organic forward and I understand how this  
2 pushes organic forward, and I absolutely think  
3 that it's necessary to label the source of the  
4 lecithin. But even if Mr. Clarkson is able  
5 to produce lecithin from non-soy sources, his  
6 clients are not us consumers. I can't go  
7 there and find a non-soy chocolate bar. If he  
8 is selling to other handlers and it's up to  
9 them to want to make a non-soy chocolate bar,  
10 and there aren't any that I know of that use  
11 non-soy lecithin.

12 Now it was mentioned to me in  
13 dairy products they do use a lecithin that is  
14 non-soy and so this might become relevant for  
15 dairy products but I can't even tell you how  
16 many products I can't eat because lecithin is  
17 in most bread, most baked goods in general,  
18 lots of lecithin. I don't have a problem if  
19 you take this off the list because I think the  
20 market will drive it; those who care about  
21 allergies will formulate for us allergy  
22 sufferers and those who won't won't.

1                   CHAIRMAN MOYER:    Any questions  
2    from the Board for Zea before she leaves?  
3    Joe, you had a comment or a question?

4                   MEMBER SMILLIE:    Yes.  The point  
5    which we haven't really discussed yet, well we  
6    did, but the point is I'm glad Zea you  
7    included that the industry will rise to the  
8    occasion because, remember, we don't know  
9    exactly how much time before this gets  
10   enacted.  But maybe we should review that  
11   process to make sure we're not speaking out of  
12   turn.  But there will be from what I've heard,  
13   rumor wise, at least 18 months to two years  
14   before this gets enacted.  And that to me  
15   seems like enough time if we already have one  
16   manufacturer that's making onsite fluid, it  
17   sounds like there could be more in a hurry to  
18   me.

19                   It sounds like it's not  
20   unexplored, it's not like a whole new thing  
21   that people are going to start, it's already  
22   been started so I would like to ask the



1 program if that expectation is reasonable as  
2 far as the time between if and when we pass  
3 this recommendation and when it is enacted in  
4 law.

5 CHAIRMAN MOYER: Richard, do you  
6 have a comment from the program?

7 MR. MATTHEWS: Yes. Last year we  
8 got all caught up with all the material stuff,  
9 now we're falling behind again and we're going  
10 to be pushing through the summer to get caught  
11 up again.

12 So I would hope that whatever you  
13 do today would take no more than 12 months  
14 because we've got one docket that is working  
15 through final signatures, we've got another  
16 docket with some materials that we had some  
17 issues with that is being drafted and then  
18 we'll be taking up this one as well. So 12  
19 months, hopefully, max. No guarantees but  
20 that's the goal.

21 CHAIRMAN MOYER: Thank you from  
22 the program. Julie?

1                   SECRETARY WEISMAN:     Just in terms  
2 of the timing issue, not that I don't  
3 understand what Herculean efforts and rings  
4 you jump through sometimes to keep these  
5 things moving along but 12 months would be  
6 great. Also, historically, that sounds quite  
7 optimistic. It would be great, and I support  
8 you in it, but it also would be a big  
9 improvement over much of what we've seen in  
10 the past. So I encourage you.

11                   MR. MATTHEWS:     I totally agree  
12 with what you just said. We're trying to  
13 close that part of the black hole.

14                   The thing that takes so long is  
15 that it would have to go out as a proposed  
16 rule and it would have to go out as a final  
17 rule, you'd have 60 days for comment. It has  
18 to go to the attorneys twice. It has to go  
19 through departmental clearance twice. It has  
20 to have at least a week at the Federal  
21 Register twice. Plus we've got to write it  
22 twice.

1           So with all of that and factoring  
2    in conversations up front with FDA, EPA on  
3    materials, that's kind of the process and it  
4    takes a lot of time. But Shannon's pretty  
5    good now. We've got Shannon on and she's  
6    learning to be our reg writer and she's our  
7    material girl.

8           CHAIRMAN MOYER:    Thank you,  
9    Richard. I understand Grace that you have a  
10   comment, I'm sorry Hue Karreman, you have a  
11   question first?

12           MEMBER KARREMAN:    I was just  
13   wondering if Zea was wanting to make sure,  
14   since she's allergic to the soy, that you know  
15   is the soy really removed and not the  
16   sunflower or safflower or canola. Are you  
17   allergic to them too?

18           MS. SONNABEND:    No, just soy.

19           MEMBER KARREMAN:    That's worse.  
20   So does that -- so what would she like to see?

21           SECRETARY WEISMAN:    She would  
22   like to see us take the actions because she

1 feels that it will maybe move the organic  
2 industry forward to come back with more non-  
3 soy forms of what she would like to eat.

4 MEMBER KARREMAN: And not just  
5 have it listed as soy only to be removed?

6 MS. SONNABEND: No, that isn't a  
7 question. It seems that others aren't really  
8 even available.

9 CHAIRMAN MOYER: Thank you, Hue.  
10 Grace?

11 MS. MARROQUIN: Grace Marroquin.  
12 A quick comment. I was one of the petitioners  
13 that supported Lynn Clarkson but also made a  
14 nod to the fact that not all lecithins were  
15 the same and that sunflower should not be  
16 removed with all the lecithins because of the  
17 allergen issue. And even though some could  
18 say there's no known allergen left, being not  
19 a consumer I don't have a problem with it but  
20 I do work with manufacturers day in and day  
21 out and we do work with manufacturers that  
22 just will not allow soy at all into their

1 plants or run them on their lines.

2 So by leaving the de-oiled

3 lecithin on 606 as you're saying is correct.

4 I don't know anything about the

5 reconstitution, how that works, a manufacturer

6 would be able to comment on that. I do work

7 with one of the suppliers on sunflower

8 lecithin and we have asked for almost three

9 years to produce an organic sunflower lecithin

10 and they haven't been able to. They want to

11 but they clearly say even though, yes, there

12 are sunflowers all over the place and lots of

13 it, as Lynn mentioned, the ratios that they

14 gave me was if you have 100 gallons of soy you

15 get approximately 5 kilos of soy, at least in

16 their production. With sun you have 100

17 gallons of oil and you end up with 0.5 kilos

18 of sunflower lecithin.

19 So you're talking about a greater

20 amount of raw material plus the manufacturing

21 process so I just wanted to support that.

22 CHAIRMAN MOYER: Joe, you have

1 one question?

2 MEMBER SMILLIE: How do I phrase  
3 this? If canola was available would that meet  
4 the manufacturer's needs, why is it  
5 specifically sunflower?

6 MS. MARROQUIN: No, it's not a  
7 matter of-- there isn't any de-oiled canola  
8 that I know of available. I know there's four  
9 companies that have de-oiled sun. In fact,  
10 the company that we work with won't even have  
11 it for a while, probably in the fall. What  
12 they have now is the one that was talked about  
13 in this meeting where the carrier of rice  
14 flower or a multidextrine in it at about  
15 anywhere from 45 to 55 percent, but that's not  
16 what we're talking about.

17 The de-oiled is virtually 100  
18 percent lecithin so I don't know, and maybe  
19 Lynn knows if there's a de-oiled canola. I  
20 don't know. But I know that there are de-  
21 oiled sun.

22 So, again, the way you're

1 proceeding with 606 leaving de-oiled in there  
2 is good and you should because then that  
3 allows options for manufacturers and  
4 consumers. And regarding the fluid, again, I  
5 can't speak to the reconstitution on it. But  
6 I just wanted to give some support.

7 CHAIRMAN MOYER: Thank you.

8 MS. MARROQUIN: And 606, again I  
9 said this for four or five or six years, 606  
10 is what drives companies like mine to go and  
11 make organic ingredients become available. It  
12 has to be on it.

13 CHAIRMAN MOYER: Thank you,  
14 Grace. Katrina?

15 MEMBER HEINZE: I just wanted to  
16 clarify in my head where we are in the  
17 process. So we have a motion to remove  
18 lecithin bleach from 605(b)?

19 CHAIRMAN MOYER: Yes.

20 MEMBER HEINZE: And that's been  
21 seconded? And then we proceed to vote on that  
22 and then we'll follow with a motion to change

1 the annotation on 606?

2 CHAIRMAN MOYER: That is correct.

3 That is the process.

4 MEMBER HEINZE: Thank you.

5 CHAIRMAN MOYER: Valerie?

6 MS. FRANCES: I am just going to  
7 ask this one more time. Why aren't you  
8 considering adding a commercial availability  
9 annotation to a 605(b) material since this is  
10 extracted in the de-oiled form with hexane and  
11 acetone?

12 CHAIRMAN MOYER: Julie?

13 SECRETARY WEISMAN: The non-  
14 organic lecithin that's currently allowed on  
15 606, that's also using, in other words that  
16 uses the same, that's also the hexane  
17 extracted. The only lecithin that's not hexane  
18 extracted is the organic, the organic's being  
19 expelled or pressed.

20 If you leave lecithin on 605(b)  
21 it's not subject to any commercial  
22 availability requirement so there will be no



1 impetus for-- in other words, we've come up  
2 with a solution that's going to cover what's  
3 required in the industry. We're still I guess  
4 maybe not totally finished with the non-soy  
5 discussion but I think we're getting there.

6 MS. FRANCES: I guess I'm asking  
7 why not annotate it to do commercial--

8 SECRETARY WEISMAN: Well you know  
9 what, I would love to still have that in our  
10 bag of tricks somewhere along the line. I do  
11 think that's a possibility but I don't think  
12 we need to do in this case because there are  
13 so many other alternatives.

14 MS. FRANCES: Even if you  
15 annotate it?

16 SECRETARY WEISMAN: I think what  
17 we're planning to do is a better impetus than  
18 that.

19 CHAIRMAN MOYER: Okay. We have a  
20 motion of the floor and we have a second. I  
21 am prepared to call for a vote on that. Is  
22 there any conflict of interest before we vote

1 on this material? Hearing none, we will start  
2 the vote with Kevin? I'm sorry?

3 MEMBER HEINZE: Usually I do my  
4 standard little, we make a boatload of organic  
5 products and at any time may or may not use  
6 some of these materials. So typically you  
7 guys say vote since you're a handler, but I  
8 just wanted to make everyone aware we do use  
9 lecithin, we use organic.

10 CHAIRMAN MOYER: Thank you for  
11 that honesty. The Board appreciate that. Bea?

12 MEMBER JAMES: Jeff, could you  
13 please restate the motion?

14 CHAIRMAN MOYER: Certainly.  
15 Would the person who made the motion, Katrina,  
16 would you--

17 MEMBER DEMURI: That was me.

18 CHAIRMAN MOYER: I'm sorry.  
19 Steve. Would you please restate the motion?

20 MEMBER DEMURI: Sure. The motion  
21 is to remove lecithin bleached from the  
22 national list 205.605(b).

1 CHAIRMAN MOYER: Thank you Steve.

2 We're prepared to vote and we'll start the  
3 vote with Kevin.

4 MEMBER ENGELBERT: Yes.

5 CHAIRMAN MOYER: Hue?

6 MEMBER KARREMAN: Yes.

7 CHAIRMAN MOYER: Joe?

8 MEMBER SMILLIE: Yes.

9 CHAIRMAN MOYER: Tracy?

10 MEMBER MIEDEMA: Yes.

11 CHAIRMAN MOYER: Barry?

12 MEMBER FLAMM: Yes.

13 CHAIRMAN MOYER: Tina?

14 MEMBER ELLOR: Yes.

15 CHAIRMAN MOYER: Gerry?

16 MEMBER DAVIS: Yes.

17 CHAIRMAN MOYER: Katrina?

18 MEMBER HEINZE: Yes.

19 CHAIRMAN MOYER: Dan?

20 VICE CHAIR GIACOMINI: No.

21 CHAIRMAN MOYER: Julie?

22 SECRETARY WEISMAN: Yes.

1 CHAIRMAN MOYER: Steve?

2 MEMBER DEMURI: Yes.

3 CHAIRMAN MOYER: Jennifer?

4 MEMBER HALL: Yes.

5 CHAIRMAN MOYER: And Bea?

6 MEMBER JAMES: Yes.

7 CHAIRMAN MOYER: And the Chair

8 votes yes. Mr. Vice Chair?

9 VICE CHAIR GIACOMINI: One no, 13  
10 yes, one absent.

11 CHAIRMAN MOYER: And with that  
12 vote the motion to remove bleached lecithin  
13 from 605(b) has passed.

14 And now Mr. Chairman of the  
15 Handling Committee, we are moving your  
16 petition on 606 lecithin de-oiled ahead of  
17 schedule so please take care of that.

18 MEMBER DEMURI: That's correct.  
19 We're going to move up the unbleached lecithin  
20 petition on 606 up now.

21 CHAIRMAN MOYER: Will you make a  
22 motion to that effect please?

1                   MEMBER DEMURI:    Yes. I move that  
2 we move the vote for lecithin unbleached  
3 fluid, let me restate that. I move that we  
4 remove lecithin unbleached fluid from the  
5 national list 205.606.

6                   CHAIRMAN MOYER:    Are you sure  
7 that's the motion you want to make? I don't  
8 think it is.

9                   MEMBER DEMURI:    What's the motion  
10 I want to make? Are we moving to move it up?

11                   CHAIRMAN MOYER:    No, would you  
12 allow Julie to make that motion for you?

13                   MEMBER DEMURI:    I certainly  
14 would.

15                   CHAIRMAN MOYER:    Thank you.

16                   SECRETARY WEISMAN:    Okay. I still  
17 may need help in terms of point of order but  
18 I believe that the business we took care of  
19 yesterday was determining that the petitioner  
20 was agreeing to our friendly amendment and  
21 perhaps we're going to need to change what's  
22 on the criteria evaluation. But this is no

1 longer a petition to remove fluid lecithin.

2           What we are considering now, based  
3 on the petitioner's acceptance of our friendly  
4 amendment, is a petition to change the listing  
5 of lecithin on 606 so that it will no longer  
6 be lecithin unbleached, it will now be  
7 lecithin de-oiled.

8           CHAIRMAN MOYER:    Would you please  
9 put that in the form of a motion?

10           SECRETARY WEISMAN:    I move that  
11 we change the annotation of lecithin on 606 to  
12 read "lecithin de-oiled."

13           CHAIRMAN MOYER:    Do I hear a  
14 second on that motion?

15           MEMBER SMILLIE:    Second.

16           CHAIRMAN MOYER:    Joe seconds  
17 that. Discussion? Does everybody understand?  
18 Gerry?

19           MEMBER DAVIS:    So now on Section  
20 C of the page up there you'll need to change  
21 the dry forms only comment to de-oil.

22           SECRETARY WEISMAN:    Actually, you

1 know what, let's do this now. Let's get it  
2 out of the way. Go all the way to top. The  
3 petition is no longer for removal. It's not  
4 for removal. To amend the listing, can we  
5 say amend or do we have to say change?  
6 Lecithin de-oiled and just take the word fluid  
7 off. That's it.

8 Point of order, does that have to  
9 say the way the current listing is?

10 CHAIRMAN MOYER: Yes.

11 SECRETARY WEISMAN: Anybody from  
12 the program have a comment?

13 CHAIRMAN MOYER: The Chair  
14 recognizes Dan.

15 VICE CHAIR GIACOMINI: I think  
16 the substance of this is an amendment since  
17 this is an amendment to the annotation. The  
18 substance listing should be the current  
19 listing. So just go back to where you were,  
20 undo what you did I think.

21 CHAIRMAN MOYER: The current  
22 listing is lethicin unbleached in the

1 regulation, it that what were you referring  
2 to?

3 SECRETARY WEISMAN: Yes. The  
4 world "fluid" doesn't belong on the top.  
5 Okay. Now we have to go to C I think.

6 CHAIRMAN MOYER: The chair  
7 recognizes Gerry then Tracy.

8 MEMBER DAVIS: Would it not be  
9 most proper in the Section where it says  
10 petition is for, you would want to amend the  
11 current listing of, or I think change sounds  
12 better, to change the listing of lecithin  
13 unbleached and then go on to say what the  
14 change is.

15 SECRETARY WEISMAN: Or we could  
16 say to amend the listing of lecithin to de-  
17 oiled only. Okay, that's good.

18 CHAIRMAN MOYER: Tracy?  
19 Great. Thank you. Hue?

20 MEMBER KARREMAN: But wouldn't  
21 they still be allowed to use-- I thought we  
22 were talking earlier that they'd be allowed to



1 use the bleached or unbleached so why is this  
2 only unbleached here?

3 SECRETARY WEISMAN: No, that's  
4 going to go away. That's just restating what  
5 the current listing is and then what it's  
6 going to be changed to.

7 MEMBER KARREMAN: All right.  
8 You're still just at what it currently is.  
9 Okay. But I think we're want to lose the  
10 "only" don't we?

11 SECRETARY WEISMAN: Yes. We want  
12 to lose that second "only." Right. That  
13 looks right.

14 CHAIRMAN MOYER: The Chair  
15 recognizes Richard Matthews from the program.

16 MR. MATTHEWS: The wording starts  
17 out "the amend the," I think you want to say  
18 "to amend the."

19 CHAIRMAN MOYER: Okay. Bea?

20 MEMBER JAMES: You would remove  
21 the "to" because it says this petition is for  
22 amending. And then pick up right to amending

1 and take the "the" out.

2 SECRETARY WEISMAN: Yes. We're  
3 in English class here.

4 CHAIRMAN MOYER: Okay. Do we  
5 have the wording correct to satisfy Board  
6 member? If so we have a motion on the floor,  
7 we have a second. Is there discussion? Bea?

8 MEMBER JAMES: I'm wondering if  
9 Section B needs to be-- Would Section B stay  
10 the same then?

11 CHAIRMAN MOYER: Well that's got  
12 to change now.

13 MEMBER JAMES: Yes, I think it  
14 needs to be done now.

15 CHAIRMAN MOYER: Yes, well let's  
16 clean that up before we vote so everyone knows  
17 what they're voting on. Tracy, you have  
18 suggested language?

19 MEMBER MIEDEMA: Actually we're  
20 voting on a motion, we're not voting on all of  
21 the criteria included so I would suggest that  
22 the committee goes back through and

1 incorporates the feedback that appropriately  
2 justifies what we're talking about moving.

3 CHAIRMAN MOYER: Thank you,  
4 Tracy. That's an excellent suggestion. Let's  
5 vote on the motion that we have on the floor  
6 and the second and we'll adjust that language  
7 in the evaluation forum later. If we're ready  
8 for a vote is there anybody who has a conflict  
9 of interest on this material? Other than that  
10 one that Katrina already mentioned because of  
11 her usage of the material?

12 In that case I'm ready to call the  
13 vote and we'll start with Hue?

14 MEMBER KARREMAN: So the  
15 affirmative is to change?

16 CHAIRMAN MOYER: The affirmative  
17 is to make the change.

18 MEMBER KARREMAN: Yes.

19 CHAIRMAN MOYER: Thank you. Joe?

20 MEMBER SMILLIE: Yes.

21 CHAIRMAN MOYER: Tracy?

22 MEMBER MIEDEMA: Yes.

1 CHAIRMAN MOYER: Barry?

2 MEMBER FLAMM: Yes.

3 CHAIRMAN MOYER: Tina?

4 MEMBER ELLOR: Yes.

5 CHAIRMAN MOYER: Gerry?

6 MEMBER DAVIS: Yes.

7 CHAIRMAN MOYER: Katrina?

8 MEMBER HEINZE: Yes.

9 CHAIRMAN MOYER: Dan?

10 VICE CHAIR GIACOMINI: No.

11 CHAIRMAN MOYER: Julie?

12 SECRETARY WEISMAN: Yes.

13 CHAIRMAN MOYER: Steve?

14 MEMBER DEMURI: Yes.

15 CHAIRMAN MOYER: Jennifer?

16 MEMBER HALL: Yes.

17 CHAIRMAN MOYER: Bea?

18 MEMBER JAMES: Yes.

19 CHAIRMAN MOYER: Kevin?

20 MEMBER ENGELBERT: Yes.

21 CHAIRMAN MOYER: And the Chair

22 votes yes. Mr. Vice Chair if we can have the

1 tally.

2 VICE CHAIR GIACOMINI: One no, 13  
3 yes, one absent.

4 CHAIRMAN MOYER: Thank you Mr.  
5 Vice Chair and with that motion and vote, the  
6 motion to change the annotation on lecithin in  
7 206.606 to read lecithin de-oiled passes.  
8 Thank you. Mr. Chairman, the rest of your 606  
9 items?

10 MEMBER DEMURI: Thank you, Mr.  
11 Chairman. We'll go on to the next 606 item  
12 and I'll see if I can get this one right. It  
13 is for the listing of red corn color to  
14 205.606 -- oh chicory. Getting ahead of  
15 myself here. Chicory root, excuse me.

16 So I move for no further action on  
17 chicory root to the addition of the national  
18 list 205.606.

19 CHAIRMAN MOYER: Is there a  
20 second for that motion? Tracy seconds that  
21 motion. We have a motion on the floor to take  
22 no action on this material and a second. Is

1 there any need for discussion? There being  
2 none, is there any conflict of interest on  
3 this material? Again, being none we will call  
4 for a vote on that motion starting with Joe  
5 Smillie. Joe?

6 MEMBER SMILLIE: Yes.

7 CHAIRMAN MOYER: Tracy?

8 MEMBER MIEDEMA: Yes.

9 CHAIRMAN MOYER: Barry?

10 MEMBER FLAMM: Yes.

11 CHAIRMAN MOYER: Tina?

12 MEMBER ELLOR: Yes.

13 CHAIRMAN MOYER: Gerry?

14 MEMBER DAVIS: Yes.

15 CHAIRMAN MOYER: Katrina?

16 MEMBER HEINZE: Yes.

17 CHAIRMAN MOYER: Dan?

18 VICE CHAIR GIACOMINI: Yes.

19 CHAIRMAN MOYER: Julie?

20 SECRETARY WEISMAN: Yes.

21 CHAIRMAN MOYER: Steve?

22 MEMBER DEMURI: Yes.

1 CHAIRMAN MOYER: Jennifer?

2 MEMBER HALL: Yes.

3 CHAIRMAN MOYER: Bea?

4 MEMBER JAMES: Yes.

5 CHAIRMAN MOYER: Kevin?

6 MEMBER ENGELBERT: Yes.

7 CHAIRMAN MOYER: Hue?

8 MEMBER KARREMAN: Yes.

9 CHAIRMAN MOYER: And the Chair  
10 votes yes.

11 VICE CHAIR GIACOMINI: Zero no,  
12 14 yes, one absent.

13 CHAIRMAN MOYER: Motion passes  
14 and no action will be taken on chicory root.  
15 Next material Mr. Chairman?

16 MEMBER DEMURI: Thank you Mr.  
17 Chairman. The next material for 205.606 is  
18 color red corn and I move for the addition of  
19 red corn color to the nation list 205.606.

20 CHAIRMAN MOYER: Is there a  
21 second on that motion?

22 MEMBER HEINZE: Second.

1                   CHAIRMAN MOYER:    Katrina seconds  
2   that motion.   Discussion on color red corn?  
3   Hue?

4                   MEMBER KARREMAN:    What was the  
5   committee's recommendation again?  I think it  
6   was to not?

7                   MEMBER DEMURI:     The committee  
8   recommendation was a unanimous to not list it.

9                   CHAIRMAN MOYER:    Any further  
10   discussion on this item with this material?  
11   Is there a conflict of interest between any  
12   Board members and voting on this material?  
13   Hearing none, we will move directly to the  
14   vote and I will call the vote starting with  
15   Tracy.

16                   MEMBER MIEDEMA:    No.

17                   CHAIRMAN MOYER:    Barry?

18                   MEMBER FLAMM:     No.

19                   CHAIRMAN MOYER:    Tina?

20                   MEMBER ELLOR:     No.

21                   CHAIRMAN MOYER:    Gerry?

22                   MEMBER DAVIS:     No.



1 CHAIRMAN MOYER: Katrina?  
2 MEMBER HEINZE: No.  
3 CHAIRMAN MOYER: Dan?  
4 VICE CHAIR GIACOMINI: No.  
5 CHAIRMAN MOYER: Julie?  
6 SECRETARY WEISMAN: No.  
7 CHAIRMAN MOYER: Steve?  
8 MEMBER DEMURI: No.  
9 CHAIRMAN MOYER: Jennifer?  
10 MEMBER HOWARD: No.  
11 CHAIRMAN MOYER: Bea?  
12 MEMBER JAMES: No.  
13 CHAIRMAN MOYER: Kevin?  
14 MEMBER ENGELBERT: No.  
15 CHAIRMAN MOYER: Hue?  
16 MEMBER KARREMAN: No.  
17 CHAIRMAN MOYER: Joe?  
18 MEMBER SMILLIE: No.  
19 CHAIRMAN MOYER: And the Chair  
20 votes no. Mr. Vice Chair?  
21 VICE CHAIR GIACOMINI: 14 no,  
22 zero yes, one absent.

1                   CHAIRMAN MOYER:    And with that  
2    vote the color of red corner fails and will  
3    not be added to the list.     Mr. Chairman,  
4    your next material.

5                   MEMBER DEMURI:    The next material  
6    is also a listing for a sentence on 205.606,  
7    it's myrrh essential oil.  I move for the  
8    addition of myrrh essential oil to the  
9    national list on 205.606.

10                  CHAIRMAN MOYER:    Do I have a  
11    second?

12                  SECRETARY WEISMAN:    Second.

13                  CHAIRMAN MOYER:    Julie seconds  
14    that.  We have a motion on the floor to list  
15    myrrh essential oil and a second.  Discussion?  
16    Tina and then Katrina and then Dan.

17                  MEMBER ELLOR:     And I know we  
18    talked about this yesterday and I just wanted  
19    to be clear.  This is just for perfume?  
20    Okay.  So should we take the perfume part off  
21    then?

22                  MEMBER DEMURI:    Yes, we need a

1 friendly amendment from somebody.

2 VICE CHAIR GIACOMINI: Well he  
3 didn't list that so officially right now it's  
4 off.

5 CHAIRMAN MOYER: Even though it's  
6 written there.

7 VICE CHAIR GIACOMINI: Well his  
8 statement was propane. Rocket fuel essential.  
9 Everybody wants a little propane in their  
10 perfume.

11 CHAIRMAN MOYER: Okay. If we  
12 could stay focused here. We have a motion  
13 that was accurately read but not accurately  
14 worded on the form. That was seconded by  
15 Julie.

16 SECRETARY WEISMAN: So the vote  
17 we're taking is just to put it on the list not  
18 to restrict it to perfume?

19 CHAIRMAN MOYER: That's the way  
20 the motion is read.

21 SECRETARY WEISMAN: Okay.

22 CHAIRMAN MOYER: Katrina?

1                   MEMBER HEINZE:     Point of order.

2     Since the Handling Committee recommendation  
3     was for the longer annotation, do we need to  
4     go back and fix all that or we're good?

5                   CHAIRMAN MOYER:    I believe we're  
6     good. Dan you had a question?

7                   VICE CHAIR GIACOMINI:   No, I was  
8     just clarifying on that.

9                   CHAIRMAN MOYER:    Barry?

10                  MEMBER FLAMM:     I'd just like to  
11     clarify the availability of supply and the  
12     lack therefore, that this species only grows  
13     in the area that's described in the petition?  
14     I'm sorry, I should know myself but I didn't  
15     have time to really look into it. So could  
16     that be confirmed that there is no other area  
17     where this grows?

18                  CHAIRMAN MOYER:    Steve?

19                  MEMBER DEMURI:     I'll defer that  
20     to Gerry, he's the one that did all the  
21     research on this one.

22                  MEMBER DAVIS:     The information

1 that can be found in the petition as well as  
2 looking through internet available information  
3 showed that the plants are native to the  
4 region of Ethiopia, Somalia, Yemen, portions  
5 of Saudi Arabia possibly but it was not  
6 mentioned as a main area. And I believe there  
7 may be a related plant in India that you can  
8 find references to myrrh being made from it  
9 but it's not the same species I believe from  
10 memory. That's the extent of the information  
11 we have as far as the regions of where the  
12 plant is native to.

13                   And it's presented as a wild  
14 harvested, it's not plantations of this  
15 planted out as far as we can tell.

16                   MEMBER FLAMM: I trust your  
17 looking at this but was the source some  
18 authoritative plant distribution source, or  
19 was it just a Google source?

20                   MEMBER DAVIS: No, it was just a  
21 Google search of available supplies and where  
22 they come from. Various information being

1 put up by suppliers of myrrh essential oil.

2 And the petition what they say.

3 CHAIRMAN MOYER: Bea?

4 MEMBER JAMES: I think you may  
5 have answered this yesterday. But why did the  
6 committee decide not to call for a tap on  
7 this?

8 MEMBER DAVIS: Well, what I saw  
9 yesterday was that it is not a complex  
10 material. The supply problem with it is not  
11 based on the material itself, but it is more  
12 in the realm of where it's grown. The wild  
13 nature of the distribution of the trees and it  
14 didn't seem like a TAP, at least the TAPs  
15 we've been getting, would give us any  
16 information. I don't want to sound negative  
17 but I don't think it was going to be effective  
18 to ask for a TAP.

19 MEMBER JAMES: Okay. I guess I  
20 was just trying to reference maybe more  
21 objectionable data to support the decision so  
22 that we know for sure that there is no organic

1 form of this. We know about the availability.

2 CHAIRMAN MOYER: Julie and then  
3 Dan.

4 SECRETARY WEISMAN: Yes. I think  
5 that you're right, this is an issue that's  
6 come up before. But this is not about the  
7 fact that there's organic material being  
8 grown. It's got a complex processing that  
9 requires expensive equipment. It's about  
10 where the plant that this comes from is grown,  
11 it's grown in areas that are very difficult to  
12 have organic certification infrastructure in  
13 place.

14 They're very politically unstable  
15 and you'll see if you look on 4 that trade  
16 basically and political events are really  
17 probably the most serious barrier to having a  
18 certified organic supply available. Does that  
19 sound right?

20 CHAIRMAN MOYER: Dan and then  
21 Gerry.

22 VICE CHAIR GIACOMINI: I just

1 want to sort of reword Barry's question maybe.  
2 Not that it was a Google search but it's  
3 better than a Wikipedia reference right?

4 MEMBER DAVIS: Yes. I'm sorry I  
5 don't remember the details of what I'm  
6 thinking of as far as where the information  
7 came from. I know where the information came  
8 from but I don't remember where those sources  
9 that are based on the marketing of myrrh, they  
10 may have referenced technical plant  
11 distribution information but I don't recall.  
12 I know I didn't go straight to a source of  
13 botanical information to find out this  
14 information.

15 MEMBER DAVIS: One other thing to  
16 point out, if you do a quick Google search and  
17 Ms. Ellor did it yesterday and just asked for  
18 organic myrrh essential oil, entries do come  
19 up. But when you look into it there's no  
20 documentation that it's actually organic. No  
21 mention of certifiers. Nothing. It's part of  
22 that realm of cosmetics and personal care



1 things that people have referenced. There's  
2 a lot of organic claims being put out there  
3 but when you look for any documentation and  
4 all the suppliers that I could identify of  
5 myrrh oil as well as other essential oils had  
6 very good documentation on who certifies this  
7 oil and where it's from and on and on and on.  
8 But when it came to their listing of myrrh,  
9 there's nothing there. No organic.

10 CHAIRMAN MOYER: Any further  
11 discussion on this material? Julie?

12 SECRETARY WEISMAN: Can we scroll  
13 back to the top because even though I seconded  
14 the motion I mean I would actually prefer that  
15 it reflect what was the motion that was made  
16 and seconded. Oh you struck it. Thank you.  
17 Okay. I'm good.

18 CHAIRMAN MOYER: Steve?

19 MEMBER DEMURI: Yes, I just want  
20 to comment for the rest of the Board. The  
21 committee vote was four yes, zero no, two  
22 absent.

1                   CHAIRMAN MOYER:    Thank you Steve.  
2    If you could restate the motion one time and  
3    then we're going to vote on it.  I'm sorry,  
4    Katrina, I didn't see your hand.  Steve?

5                   MEMBER DEMURI:    Okay.  The  
6    motion is to list myrrh essential oil to the  
7    national list 205.606.

8                   CHAIRMAN MOYER:    Katrina?

9                   MEMBER HEINZE:    I'd like to offer  
10   a friendly amendment.  Could you go back to  
11   that sheet?  I can't offer my friendly  
12   amendment from my head.  I believe we need to  
13   use the Latin name so my friendly amendment  
14   would be to list myrrh essential oil, we just  
15   didn't read it out loud right, so then it's  
16   not part of the motion.

17                  VICE CHAIR GIACOMINI:  She is  
18   right.

19                  MEMBER DEMURI:    So I will restate  
20   the motion.  The motion is to list--

21                  MEMBER HEINZE:    I think you just  
22   need to accept my friendly amendment, correct?

1 And then the seconder needs to accept it.

2 MEMBER DEMURI: I do accept  
3 your friendly amendment. Thank you.

4 SECRETARY WEISMAN: I do as well.

5 CHAIRMAN MOYER: Thank you. We  
6 have a motion on the table that's been  
7 seconded. There's a friendly amendment that  
8 has also been seconded and accepted. Is there  
9 a conflict of interest between this material  
10 and any of the members on this board? No  
11 myrrh growers here. Okay. Being none I call  
12 for the vote and will start with Tracy. I  
13 apologize, Barry.

14 MEMBER FLAMM: No.

15 CHAIRMAN MOYER: Tina?

16 MEMBER ELLOR: Yes.

17 CHAIRMAN MOYER: Gerry?

18 MEMBER DAVIS: Yes.

19 CHAIRMAN MOYER: Katrina?

20 MEMBER HEINZE: Yes.

21 CHAIRMAN MOYER: Dan?

22 VICE CHAIR GIACOMINI: Yes.

1 CHAIRMAN MOYER: Julie?

2 SECRETARY WEISMAN: Yes.

3 CHAIRMAN MOYER: Steve?

4 MEMBER DEMURI: Yes.

5 CHAIRMAN MOYER: Jennifer?

6 MEMBER HALL: Yes.

7 CHAIRMAN MOYER: Bea?

8 MEMBER JAMES: Abstain.

9 CHAIRMAN MOYER: Kevin?

10 MEMBER ENGELBERT: No.

11 CHAIRMAN MOYER: Hue?

12 MEMBER KARREMAN: Yes.

13 CHAIRMAN MOYER: Joe?

14 MEMBER SMILLIE: Yes.

15 CHAIRMAN MOYER: Tracy?

16 MEMBER MIEDEMA: Yes.

17 CHAIRMAN MOYER: And the Chair

18 votes yes. Mr. Vice Chair the tally?

19 VICE CHAIR GIACOMINI: Two no, 11

20 yes, one abstain, one absent.

21 CHAIRMAN MOYER: Thank you. And

22 with that vote the motion to list myrrh

1 essential oil on 205.606 passes. Next  
2 material Mr. Chairman.

3 MEMBER DEMURI: Thank you. The  
4 last material for today is also a 606 item.  
5 It's wheat germ and I move that we list wheat  
6 germ on the national list 205.606.

7 CHAIRMAN MOYER: Do I have a  
8 second on that?

9 MEMBER HEINZE: Second.

10 CHAIRMAN MOYER: Katrina seconds  
11 that. We have a motion and a second so we're  
12 open for discussion on this material. Bea?

13 MEMBER JAMES: Point of  
14 clarification. I know I asked this yesterday  
15 but I'm just going to ask it again. In your  
16 recommendation category 4, No. 3, you checked  
17 not applicable for obtained organically in the  
18 appropriate form. And yet the comments say  
19 organic wheat germ in the appropriate quality  
20 can be obtained. So I'm confused.

21 CHAIRMAN MOYER: Katrina please.

22 MEMBER HEINZE: Not really sure

1 why the X is there. We may have said that  
2 that was not applicable to our decision  
3 because we're really evaluating the question  
4 on quality. It could technically also say that  
5 yes it is available in the appropriate form  
6 and quality.

7 MEMBER JAMES: In organic form?

8 MEMBER HEINZE: Yes, the  
9 petitioner acknowledges that they were able to  
10 find 4,000 pounds. That just did not meet  
11 their need for the full production that they  
12 need. So the petitioner is not saying that  
13 they could not find any, they just could not  
14 find enough. And we did have some information  
15 that came to light yesterday that we've done  
16 a little bit more research on. Joe did you  
17 want to talk to that or did you want me to?

18 MEMBER SMILLIE: No, I'll be  
19 glad to, I did the phone calls. I followed  
20 up on the information that we received  
21 yesterday and contacted the people who  
22 supposedly had it available and these are

1 brokers and I'm not going to disparage  
2 brokers, but brokers tend to be very positive  
3 about availability, let's leave it at that.

4           And when I questioned them they  
5 said well no actually they didn't have it  
6 available. And I said could they have it  
7 available? And they said well no their source  
8 had dried up but they were working on a new  
9 source and hope to have it available in the  
10 near future. That was just one call. That's  
11 just the one that was given to me and it was  
12 announced publicly yesterday that I followed  
13 up on.

14           We've made other calls, I'm sure  
15 we haven't phoned every mill in the United  
16 States and Canada and Argentina and Australia.

17           SECRETARY WEISMAN: Could I ask  
18 if the source that you contacted was Grain  
19 Millers?

20           MEMBER SMILLIE: No. It was the  
21 one that was brought up publicly yesterday.

22           CHAIRMAN MOYER: Katrina?

1                   MEMBER HEINZE:    The petitioner  
2 did contact Grain Millers? I do have a list.  
3 I could open that if you're interested of who  
4 they did contact. We went back. In addition  
5 to the independent research that we did to  
6 kind of understand what they'd said, we had  
7 asked them to give us the name of the millers  
8 that they contacted for sourcing the organic  
9 wheat germ. They were Grain Millers, Grain  
10 Place Foods, Heartland Mills, Rocky Mountain  
11 Milling, ConAg and as I told you they  
12 contacted General Mills.

13                   We also asked them to better  
14 explain why it couldn't be available or what  
15 their challenges were in the supply chain.  
16 And then we asked them on their perspective on  
17 other issues that would present a challenge to  
18 a consistent supply. And they really talked  
19 about this choice that millers make to divert  
20 the wheat germ into their white flour that is  
21 you know that reduces their white strain so  
22 most millers do that.



1                   CHAIRMAN MOYER:     Steve?

2                   MEMBER DEMURI: I was going to  
3 reiterate what Katrina said. I also sent an  
4 e-mail to one of our purchasing bulldogs last  
5 night, just got an answer back about half an  
6 hour ago and they claim that they've searched  
7 high and low with millers and could not find  
8 any.

9                   CHAIRMAN MOYER:     Joe?

10                  MEMBER SMILLIE:    You know, we've  
11 had a few others like it. Again, it just goes  
12 down to your personal philosophy as to whether  
13 placing a 606 item on 606 spurs organic  
14 production or allows loopholes.

15                         And, you know, in some cases it  
16 can do it truthfully but I believe by and  
17 large what we're seeing is it does spur  
18 production. And now that we've created the  
19 historical precedent of removing something  
20 from the list, I think that we can now say  
21 that's fully operational and that if we do  
22 decide to put it on the list, if that becomes

1 available, that we could see a petition to  
2 remove wheat germ from the list with a  
3 demonstration of availability. And I think  
4 that's the way it should work.

5           So coming into this meeting you  
6 know we had to decide what to do. I wasn't  
7 comfortable last night voting either yes or  
8 no, and I have to admit I was thinking about  
9 the cowardly way out of abstaining, you know,  
10 because I just didn't want to take the  
11 political heat of putting wheat germ on the  
12 list and having every blogosphere, the  
13 blogospheres say oh my God, look what they've  
14 done. They've put wheat germ on the list.  
15 Those bozos at the NOSB, don't they know that  
16 organic wheat is all over the place?

17           But that's not the correct path to  
18 choose, and so I believe that if we put it on  
19 606, my personal belief is if we put something  
20 on 606 we serve notice to the industry, hey  
21 guys, here's an opportunity. Deliver and we  
22 will gladly accept a petition for removal.

1                   CHAIRMAN MOYER:    Bea?

2                   MEMBER JAMES:    Just a point of  
3 clarification that abstaining is not cowardly.  
4 It's oftentimes when somebody can't make a  
5 good decision one way or another.

6                   MEMBER SMILLIE:    I wasn't tutored  
7 that way.

8                   CHAIRMAN MOYER:    Thank you Bea.  
9 Katrina?

10                  MEMBER HEINZE:    I just to bring  
11 up that the petitioner has been selling  
12 products, these products certified organic,  
13 with wheat germ in them for 25 years and it is  
14 meeting a consumer need presumably for the  
15 product.  And then concur with Joe.  This is  
16 about philosophy and we heard Grace Marroquin  
17 say to her this is the list.  So Grace there's  
18 a high need for organic wheat germ, please  
19 help us.

20                  CHAIRMAN MOYER:    Okay.  We have a  
21 motion on the floor and a second.  Is there  
22 any further discussion?  If not, I'd ask if

1 there's a conflict of interest between this  
2 material and any of the members of the Board?  
3 Katrina?

4 MEMBER HEINZE: I work for a  
5 large flour miller in the United States. We  
6 do not produce organic wheat germ but a  
7 suggestion from the Board on whether I should  
8 recuse myself or not.

9 MEMBER KARREMAN: I thought  
10 yesterday you said you did make wheat germ oil  
11 and there's no outlet for it so it goes  
12 somewhere else.

13 MEMBER HEINZE: You make wheat  
14 germ just because you're a flour miller. We  
15 don't sell would be the proper, we do not sell  
16 wheat germ because you mill flour you have to  
17 be in the wheat germ business. It kind of  
18 together.

19 MEMBER KARREMAN: But that's  
20 organic wheat you're using.

21 MEMBER HEINZE: We do not sell.  
22 We throw it away. The organic wheat germ.

1                   CHAIRMAN MOYER:    Katrina thanks  
2 for being honest.   Joe?

3                   MEMBER SMILLIE:    I think you  
4 should recuse yourself. I think it would be an  
5 egregious mistake not to recuse yourself.

6                   CHAIRMAN MOYER:    I think that's  
7 fair.

8                   MEMBER HEINZE:     I will recuse  
9 myself.

10                  CHAIRMAN MOYER:    Thank you  
11 Katrina for your honesty.   Okay, I will now  
12 call for the vote and we'll start the vote  
13 with Tina?

14                  MEMBER ELLOR:     No.

15                  CHAIRMAN MOYER:    Gerry?

16                  MEMBER DAVIS:     Yes.

17                  CHAIRMAN MOYER:    Katrina?

18                  MEMBER HEINZE:     Recuse.

19                  CHAIRMAN MOYER:    Dan?

20                  VICE CHAIR GIACOMINI:   No.

21                  CHAIRMAN MOYER:    Julie?

22                  SECRETARY WEISMAN:   Yes.

1 CHAIRMAN MOYER: Steve?

2 MEMBER DEMURI: Yes.

3 CHAIRMAN MOYER: Jennifer?

4 MEMBER HALL: Yes.

5 CHAIRMAN MOYER: Bea?

6 MEMBER JAMES: Well I was going

7 to abstain but I'm going to vote no.

8 CHAIRMAN MOYER: Thank you Bea.

9 Kevin?

10 MEMBER ENGELBERT: No.

11 CHAIRMAN MOYER: Hue?

12 MEMBER KARREMAN: No.

13 CHAIRMAN MOYER: Joe?

14 MEMBER SMILLIE: Yes.

15 CHAIRMAN MOYER: Tracy?

16 MEMBER MIEDEMA: Yes.

17 CHAIRMAN MOYER: Barry?

18 MEMBER FLAMM: No.

19 CHAIRMAN MOYER: And the Chair

20 votes no. Mr. Vice Chair the tally please.

21 VICE CHAIR GIACOMINI: Six no,

22 six yes, no absent, one recuse.

1                   CHAIRMAN MOYER:    Thank you Mr.  
2 Vice Chair and if my math is correct with that  
3 vote wheat germ has been defeated as a motion  
4 and will not be listed on 206.606.

5                   SECRETARY WEISMAN:   Actually, I  
6 think that count is seven yes, six no.  It  
7 doesn't change the outcome but does it add up  
8 to 15 votes.

9                   MEMBER SMILLIE:    Mr. Chair, I  
10 demand a recount.

11                  CHAIRMAN MOYER:    You may.

12                  SECRETARY WEISMAN:   Seven no, six  
13 yes.

14                  VICE CHAIR GIACOMINI:   You know  
15 when you have to go that second hand it's just  
16 a pain in the neck.

17                  SECRETARY WEISMAN:   Just  
18 clarifying. I have one other little comment  
19 more general.

20                  CHAIRMAN MOYER:    Wait till we're  
21 finished with this. Do you agree with that  
22 count, Mr. Vice Chair?

1 MS. FRANCES: Can we go round  
2 again?

3 CHAIRMAN MOYER: No, we're not  
4 going to revote.

5 MS. FRANCES: No, no I don't mean  
6 re-vote. Can people re-say what they voted  
7 because I have an official record to keep  
8 here.

9 CHAIRMAN MOYER: Well afterwards  
10 you can check. We have two other records,  
11 we're not going to go round the room and do  
12 that.

13 VICE CHAIR GIACOMINI: Yes, I  
14 confirm.

15 CHAIRMAN MOYER: Thank you Mr.  
16 Vice Chair, and that does not change the  
17 outcome of the election. We have a question  
18 or a comment from the executive.

19 MS. FRANCES: Just noticing on  
20 this form the question that Bea had asked  
21 regarding the response to category 4 No. 2,  
22 the non-applicable answer regarding this



1 material should have raised the question for  
2 me that perhaps this question needs to be a  
3 two part question, which does the current and  
4 historical industry information and research  
5 or evidence explain.

6 CHAIRMAN MOYER: I'm not sure I  
7 understand. Are you talking about changing  
8 the form?

9 MS. FRANCES: Yes, I'm just  
10 offering just for some clarity because of the  
11 way that this was answered, not applicable and  
12 then organic wheat germ is appropriate form  
13 can be obtained. I think the problem is the  
14 question is so loaded that it's hard to answer  
15 yes or no.

16 CHAIRMAN MOYER: Yes, moving  
17 forward that's probably something we may want  
18 to address.

19 MS. FRANCES: Just addressing  
20 that. To break it into a two part question.

21 CHAIRMAN MOYER: Okay. Thank  
22 you. But with that vote the voting portion of

1 this meeting is completed and I think the  
2 committee will now take a much needed brief  
3 break and we will reconvene here at 2:45 ready  
4 to start with our committee work plans for the  
5 fall of 2009. Thank you Board Members.

6 (Whereupon, the above-entitled  
7 matter briefly went off the  
8 record.)

9 CHAIRMAN MOYER: Okay. If Board  
10 Members could please take their seats. Okay.  
11 Board Members are almost seated. We have a  
12 quorum. The Board is back in session. Thank  
13 you everybody. We're seated and we have a  
14 quorum and we'll get back to the business at  
15 hand. Even though the voting is done we are  
16 not complete yet.

17 I do appreciate everybody's  
18 attention to detail as we went through the  
19 voting items and the thoughtful discussion.  
20 A comment from Joe?

21 MEMBER SMILLIE: Point of order  
22 Mr. Chair?

1                   CHAIRMAN MOYER:    Yes.

2                   MEMBER SMILLIE:    I would like to  
3 personally apologize to Bea and anyone else  
4 who voted abstaining for their conscience. It  
5 is not a cowardly act. It would have been a  
6 cowardly act had I done so today. I did not  
7 mean to demean anyone who abstains from  
8 voting.

9                   CHAIRMAN MOYER:    All through  
10 history? You're suggesting history.

11                  MEMBER JAMES:    Thank you Joe.  
12 And, yes, now you can have your sushi.

13                  CHAIRMAN MOYER:    That took  
14 courage Joe yes. Okay. Thank you for  
15 starting us off with that levity. All right.  
16 The next order of business in front of this  
17 Board is our committee work plans for the  
18 session leading up to our fall meeting. And  
19 what I'd like to do now is go committee by  
20 committee and I'm choosing to go in the order  
21 that we voted because that's how my agenda  
22 reads here.

1                   And so we'll start with the Policy  
2 Development Committee. Barry as committee  
3 chair, unless you delegate, could you please  
4 go over your work plans for the rest of 2009.

5                   MEMBER FLAMM:     With pleasure.

6 These items have been submitted to you in  
7 advance so it hasn't changed from what I  
8 presented at the Executive Committee.

9                   Okay. Our proposed draft work  
10 plan for the Policy and Development Committee  
11 is as follows:

12                   Action item 1. Continue the  
13 systematic review of the Policy and Procedure  
14 manual, reviewing Section 5, Duties of  
15 Committee and Chairs in Section 6  
16 miscellaneous policies.

17                   Action item 2. In Section 3,  
18 which we had on the schedule this time and  
19 voted some revisions but we feel in retrospect  
20 there is a need to clarify the secretary's  
21 duties or discuss making a change regarding  
22 taking the Minutes at Board meetings. So the

1 committee will look at that and make a  
2 recommendation to the Board.

3 Action item 3 is to add to the  
4 Policy and Procedure manual clarification of  
5 appropriate contact by NOSB members with  
6 legislatures, legislators excuse me, such as  
7 making invitations to Board meetings.

8 Action item 4 will be to  
9 incorporate the decisions made at this meeting  
10 regarding biodiversity conservation criterion  
11 to be added to the evaluation of petition  
12 materials.

13 Action item 5 is to try again deal  
14 with the petition disposition process. This  
15 was tabled as our past work plan as not being  
16 timely, and the intent is to include in the  
17 Policy and Procedure manual procedures for  
18 tracking petitions. And these are the ones  
19 being developed by the materials committee and  
20 already approved by the Board. This would be  
21 making sure they got properly in the Policy  
22 and Procedure manual.

1                   Action item 6 is exam again the  
2 public comment proxy and the process that's  
3 going on.

4                   And we have a couple of other  
5 items that have come up at this meeting that  
6 we'll discuss in our committee and may come  
7 back to the Executive Committee for possible  
8 addition to our work plan.

9                   That's where the Policy  
10 Committee's work plan stands at this point in  
11 time.

12                   CHAIRMAN MOYER:    Thank you, Mr.  
13 Chairman.   Question by Bea?

14                   MEMBER JAMES:    Although I am on  
15 the Policy Committee I'm unfamiliar with the  
16 third point and I was wondering if you could  
17 describe a little bit more about what that's  
18 about, probably to the whole Board.

19                   MEMBER FLAMM:    The clarification  
20 with contacting legislators?

21                   MEMBER JAMES:    Yes.

22                   MEMBER FLAMM:    This was brought

1 up I believe in Executive Committee, a  
2 question about how or the appropriateness of  
3 individual board member extending invitations  
4 and I think it was sort of asked that the  
5 policy committee look at this and put a  
6 procedure in. Do you want to comment on that  
7 further Jeff?

8 CHAIRMAN MOYER: I might be able  
9 to clarify that for you Bea. I'm not sure.  
10 During one of the Executive Committee calls it  
11 came to the attention from more than one board  
12 member that was on the call that certain  
13 individuals had contacts with congressional  
14 folks, representatives of their state. And  
15 they want to know what the procedure or policy  
16 would be if they wanted to invite that person,  
17 just as we had Kathleen Merrigan come, come to  
18 this meeting, take the podium and address the  
19 Board.

20 I think we can see that there  
21 could be benefit to that but there can also be  
22 distraction. So we wanted to make sure that

1 we had talked about it as a group and that we  
2 came up with a policy, a set of procedures  
3 that you would go through to make sure that  
4 the program knew, that somebody just didn't  
5 call up their Congressman and have them show  
6 up and catch people off guard. It was a point  
7 of discussion.

8 I don't think it's a big item but  
9 it is something that the program and the  
10 executive committee at that meeting suggested  
11 maybe we should do. I see Hue's hand up and  
12 I think I saw Katrina's.

13 MEMBER KARREMAN: Just for  
14 clarity's sake then, to clarify this,  
15 regarding contact by NOSB members to invite  
16 elected officials to an NOSB meeting or  
17 something if that's what you're saying.

18 CHAIRMAN MOYER: Yes. That is  
19 what I'm saying and maybe we have the wording  
20 of that wrong, I'm not sure. But yes, whether  
21 it a Congressman or Senator or President  
22 Obama, you know, what's our policy? I mean he



1 could be somebody's personal friend here and  
2 maybe we can get him here but we need to know  
3 how to work that in. Just so 15 people don't  
4 go off doing their own thing. That was the  
5 concern.

6 MEMBER KARREMAN: Well to add to  
7 that if I may Jeff, and I know in the past I  
8 think there's been some question about after  
9 an NOSB meeting a member going up to the Hill  
10 and contacting Congress as an NOSB member.  
11 Should that be addressed or is that allowed or  
12 is that like you're going as yourself? Or  
13 like hey I'm Chair of--

14 CHAIRMAN MOYER: Can I go along?

15 MEMBER KARREMAN: I don't know.  
16 I mean should that be addressed as well? I  
17 know there was a problem in the past in 2004  
18 I believe.

19 CHAIRMAN MOYER: Okay. I don't  
20 think that that's the purview of this  
21 particular board or committee to tell people  
22 how to act as private individuals and if they

1 say they're on this board then they say that.  
2 That's just my personal feeling but we can  
3 certainly discuss that. Katrina?

4 MEMBER HEINZE: My comment was on  
5 a different topic. Is that okay? It related  
6 to this work plan.

7 CHAIRMAN MOYER: Are we done with  
8 that topic?

9 MEMBER FLAMM: Let me just make  
10 one point. These are more notes from our  
11 committee meeting. I'm not sure whether you  
12 were on that particular one but I apologize if  
13 my wording wasn't too precise here. But I  
14 think we get the point and thank you for the  
15 clarification because that's where it came  
16 from and that's how it got on our work plans.

17 CHAIRMAN MOYER: Katrina?

18 MEMBER HEINZE: I was going to  
19 make a request. In your discussion on  
20 biodiversity you referenced, and I don't have  
21 it in front of me, a past recommendation that  
22 talked about compatibility with production and

1 handling I think that was made that had a list  
2 of questions to aid us in our evaluation of  
3 that compatibility question. And I'm  
4 embarrassed to say I have not seen that  
5 material before and maybe it's in the policy  
6 manual and maybe it's not.

7 But I think those were very good  
8 questions that could aid us as we evaluate  
9 materials and I was wondering if perhaps the  
10 Policy Committee could look at which of our  
11 manuals it would be appropriate to put that  
12 list of questions in so that future members  
13 would not discover them in an untimely like I  
14 did.

15 MEMBER FLAMM: The criterion  
16 sheet are in the manual now and this  
17 recommendation's intent was to take what was  
18 done and proved today and make sure it got in  
19 the manual; it wasn't so much to do a new  
20 manual but I'd like to talk separately to  
21 understand that--

22 MEMBER HEINZE: This is a request

1 for action. Another work plan item for you.  
2 It's the list of questions that you reference  
3 in your discussion document that talks about  
4 compatibility and figuring out where to put  
5 those questions, I will show you what I mean,  
6 and I think make them more accessible to  
7 everyone on the Board.

8 MEMBER FLAMM: Okay.

9 MEMBER HEINZE: Because they were  
10 very useful.

11 MEMBER FLAMM: Okay. I'll talk  
12 to you later and make sure I understand the  
13 point.

14 CHAIRMAN MOYER: Okay. Tracy?

15 MEMBER MIEDEMA: I had a  
16 suggested work plan item for you all to  
17 consider and I think this would be in  
18 conjunction with the handling committee. And  
19 that would be for Board protocols for  
20 investigating potential fragility of supply  
21 when we're considering 606 items. We do it in  
22 a diligent but uneven manner currently and it

1 would be nice to have some protocols.

2 CHAIRMAN MOYER: I might suggest  
3 that that's something the Handling Committee  
4 wants to take up and bring to the Policy  
5 Committee once they have something. Does that  
6 seem reasonable? The Handling Committee can  
7 at least make mental note of that at this  
8 point.

9 MEMBER DAVIS: Yes, I'll put it  
10 on the work plan. It's probably going to be  
11 down on the priority list a little bit but  
12 it's something we can look into.

13 CHAIRMAN MOYER: Anything else on  
14 Policy and Development? Thank you Mr.  
15 Chairman.

16 Moving on to the Compliance,  
17 Accreditation and Certification Committee.  
18 Chairman Joe Smillie.

19 MEMBER SMILLIE: Well, we are  
20 lined up to deliver three recommendations at  
21 the November meeting. These were discussion  
22 papers and we got very good input, spectacular

1 input in some cases from the public. So we  
2 are planning to have recommendations on  
3 retail. I'm not going to title it, the scope  
4 of that is still to be determined. But there  
5 will be a retail recommendation.

6 There also will be a personal care  
7 recommendation in our new style of  
8 recommendation that Tracy outlined the other  
9 day.

10 There also will be 100 percent  
11 recommendation, finally, and we're on target  
12 with all of those so your little percentage  
13 sheet we'll keep making sure, Jeff, that  
14 you're informed as to where we're at with each  
15 of those as we go along.

16 We're also going to investigate,  
17 look at and probably have a discussion paper  
18 on a "made with organic" label possibility  
19 that has been a recent topic that surfaced  
20 which we think is our purview but if any other  
21 committee wants to take it we certainly can  
22 have a discussion with them. But kind of feel

1 that's our territory so we're going to look at  
2 that.

3           Other things may occur.    And  
4 under the topic of other things may occur, it  
5 wasn't really noticed I don't think by the  
6 Board that much but the association of  
7 accredited certifiers has developed a new  
8 program and format in creating working groups  
9 of certifiers to deal with topics that they  
10 feel need to be addressed.

11           And I think it's an ideal system  
12 and, hopefully, rather than just having  
13 comments from certifiers on our issues, we can  
14 start to work more closely with the certifier  
15 community as these working groups are working  
16 on topics that we are also possibly working  
17 on such as you know the poultry animal  
18 welfare, they have a group on that.  So it's  
19 not just our committee but since we do  
20 represent the certification committee I'd like  
21 to bring it to the attention of all committees  
22 to please check in with the association of

1 accredited certifiers as you work on your work  
2 plan so that you can see if there's possible  
3 working groups there that are doing some of  
4 the same work.

5           For example, in the past we've  
6 checked in with OTA working groups on personal  
7 care, multi-site and other topics in the past  
8 and I think that also the ACA has a lot to  
9 offer since these are the people who are  
10 actually dealing with sort of the regulations  
11 that we helped formulate.

12           So I just bring that to  
13 everybody's attention, leave it up to the  
14 chairs to check in with the ACA, Pat Kane is  
15 the Executive Director so check in with Pat or  
16 via certifier that you're aware of or  
17 whatever, and let's use their knowledge to  
18 help us create good recommendations and  
19 discussion papers.

20           And so I'll start that off by  
21 working with the ACA and finding out what's on  
22 the list and trying to make it available to



1 the rest of the Board.

2 CHAIRMAN MOYER: Thank you Mr.

3 Chairman, any questions for the CACC

4 committee? Hue?

5 MEMBER KARREMAN: On that topic I'm

6 just wondering, you know, when there's

7 official convened task forces like the

8 Agricultural Working Group, it's a working

9 group, or the methionine task force. Now I

10 don't know if that's officially convened by us

11 or not. Does it affect-- We listen to the

12 public, that's one of our mains especially for

13 materials, but does it affect in any way if

14 they're officially convened or if they're like

15 ad hoc groups? I'm just asking. As far as

16 official input type stuff like AWG the

17 Agricultural Working Group they were selected

18 I think by the Secretary and I'm just

19 wondering about that kind of stuff.

20 CHAIRMAN MOYER: Yes, my

21 understanding would be that certain working

22 groups that are officially convened by the

1 Secretary would have different standing in  
2 front of the program or the Board than would  
3 an external group that was convened around a  
4 certain or particular topic. But that does  
5 not mean that this Board should not take  
6 advantage of those expertise that are out  
7 there in the world that we can garner  
8 information from.

9           And I think we've done that and we  
10 will continue to do that. But they would not  
11 have the same recognition in front of the  
12 program or the Secretary as would a board that  
13 he convened, an official working group. Thank  
14 you Hue and thank you Mr. Chairman.

15           Okay. Next group would be the  
16 Crops Committee. Chairperson Tina.

17           MEMBER ELLOR: We have an  
18 extensive work plan so I don't think we're  
19 going to get out of the fall meeting but we  
20 have a lot of materials in front of us. We  
21 have ethylene glycol which is waiting for TR.  
22 Tetramethyl, well we'll just call it

1 tetramethyl if you don't mind. Review TR  
2 first efficiency which we did and we're  
3 waiting to hear back on that one.

4 Polycaprolactone waiting for  
5 technical review.

6 Glycine betaine waiting for a  
7 technical review.

8 Peracetic acid, we've heard a lot  
9 of great comment on that and I hope we're  
10 going to bring that back for a recommendation  
11 in the fall.

12 We talked about bringing terpenes  
13 back out of the big black hole maybe for  
14 consideration again, but we'll decide that as  
15 a committee as we do.

16 We've just had three more  
17 materials forwarded to us from the Materials  
18 Committee. Ethylene DDA, difluerothane,  
19 manganese sulfate monohydrate. We haven't  
20 taken any action on that, we'll be looking at  
21 the petitions for sufficiency and deciding  
22 whether to forward them on for a TAP. That's

1 where we are for that.

2           Oh I'm sorry, I forgot to mention,  
3 we are looking at tall oil which is on Kevin's  
4 work plan for the Crops Committee. We've  
5 reviewed that for sufficiency and sent it out  
6 for a technical review.

7           Sunset materials. This is going  
8 to be a big hairy one. For 2011 we have  
9 ferrous phosphate which Kevin's also looking  
10 at and hydrogen chloride which Rigo has said  
11 he will take point on.

12           2012 Sunset materials, I hope I  
13 don't have to read all those but if anybody  
14 wants to know what's on the 2012 Sunset I  
15 would be happy to do that. There's an  
16 extensive list which we will get started on,  
17 we don't plan to leave it for the last minute  
18 so in the Crops Committee meetings coming up  
19 we'll divide that and try and start to conquer  
20 that extensive 2012 Sunset list.

21           On our other recommendations we  
22 have soilless systems, greenhouse which

1 Gerry's been working on and we hope to bring  
2 that forward for recommendation in the fall.

3 Our first priority is the list for  
4 inerts and pesticides issue which we will hope  
5 to have something ready for the fall. We've  
6 had a lot of great comments on that as well.

7 Mushroom standards. That would be  
8 me. And last but not least we talked as a  
9 committee about bringing food safety issues up  
10 and I don't know if Jeff wants to talk more  
11 about what he had in mind for that because  
12 that's got his name on it. He's totally not  
13 paying attention to me.

14 CHAIRMAN MOYER: No, I'm paying  
15 attention. I'm trying to look like I'm not  
16 paying attention. We're hoping to have a  
17 discussion document at best for that.

18 MEMBER ELLOR: Okay. Does anybody  
19 have anything to add?

20 CHAIRMAN MOYER: I think one of  
21 the things that the program will notice and  
22 members of the organic community is that give

1 the time frame that we're operating under,  
2 there seems to be a new sort of shift in the  
3 way work plans are being organized in that we  
4 will have probably a lot more discussion items  
5 at the spring meeting and a lot more voting  
6 items, just as we saw with the CAC Committee  
7 where we brought things forward at this  
8 meeting for the committee to discuss, take  
9 that back and come back with a full  
10 recommendation.

11           Just given the time frame that we  
12 have to work on things between the fall  
13 meeting and when we have to post things for  
14 this meeting, there's a very small window of  
15 time that we have to work on things. And we  
16 really want to have everybody's input, public  
17 comment and input into these materials and  
18 items. So fall will be a difficult meeting for  
19 all of us in terms of voting. Bob?

20           MR. POOLER: I just want to let  
21 the Crops Committee know that there will be  
22 changes in the petitions that you're going to

1 be reviewing. For instance, glycine bentene  
2 has been withdrawn and so there's no technical  
3 report on that. But there are other petitions  
4 that are in the pipeline that are going to be  
5 coming to you.

6 MEMBER ELLOR: So what you're  
7 saying is you took one away and you're going  
8 to give us many more? Thank you.

9 MR. POOLER: What can I say?

10 CHAIRMAN MOYER: Thank you Bob.  
11 Are there any other comments for Tina? Thank  
12 you Tina. Appreciate that and we will move on  
13 to the Livestock Committee. Hue?

14 MEMBER KARREMAN: Okay. Livestock  
15 committee on the work plan, what's been on the  
16 work plan and there's a couple of extra things  
17 now due to this meeting.

18 Anyway, the discussion documents  
19 we had on animal welfare, we're going to be  
20 working on and taking in, hopefully, a lot of  
21 input from various sections of the industry.  
22 And bi-valves, hopefully we'll come to some

1 conclusion on that by November.

2           The vaccine issue we're going to  
3 be working on, that has to be resolved. And  
4 then we also have to look at making that minor  
5 word change in the excipient section of  
6 606(iii)(f) to change the word "drugs" to I  
7 think "animal health products" or something  
8 like that because of the vitamin and mineral  
9 injectables that we just voted on today.

10           Of course any materials that might  
11 pop up that we need to review that are  
12 petitioned. And also it's always on the work  
13 plan but apiculture or bees. Always seems to  
14 be on there but doesn't rise to the top yet  
15 unfortunately.

16           I don't think we have any sunset  
17 items for next year. Do we have to look up to  
18 2012 yet? Okay. Well for 2012, that will be  
19 five years after all those wonderful medicines  
20 got on the list so I guess their time will  
21 have to be reviewed at that point, but I don't  
22 know if we need to start looking at them at



1 the November meeting or just state them.

2 MR. MATTHEWS: I think the  
3 Committee needs to begin to address those  
4 otherwise there's too many to wait.

5 MEMBER KARREMAN: It's not that  
6 many Richard is it? Okay. Anyway I guess  
7 we'll have to address the sunset 2012.

8 CHAIRMAN MOYER: Question by Dan.

9 VICE CHAIR GIACOMINI: Is that  
10 Federal Register Notice is out also? It's  
11 not. Do you know when that's--

12 MR. MATTHEWS: That will be  
13 coming out this year.

14 VICE CHAIR GIACOMINI: For  
15 posting for the November meeting?

16 MR. MATTHEWS: Well if you're going  
17 to start discussing them in November we'll  
18 have it out before November.

19 VICE CHAIR GIACOMINI: That would  
20 be good. If we can pre-load any of those into  
21 November would be--

22 CHAIRMAN MOYER: Thank you

1 Richard. Julie?

2                   SECRETARY WEISMAN: Not that it's  
3 specific to livestock but because Hue brought  
4 it up, I think that this issue of sunset and  
5 there's some 2011 items and 2012 items and  
6 maybe we should have a general discussion  
7 about that when we finish the work plans for  
8 other business, so that everybody can sort of  
9 be in the right mind frame as they go into the  
10 next period of time before the next meeting.

11                   CHAIRMAN MOYER: Duly noted and  
12 we'll bring that up later on. Thank you.  
13 Anything else? Bob Pooler also has another--

14                   MEMBER KARREMAN: Just one quick  
15 thing. On the excipients we also want to make  
16 that change that was not done on the 2007  
17 edition to include aphis or animal plant  
18 health inspection service biologics license  
19 biologic excipients. You know what I mean  
20 Valerie, right.

21                   CHAIRMAN MOYER: Mr. Pooler?

22                   MR. POOLER: This is Bob Pooler.

1 What I'd like to have, this is for all  
2 committees for any sunset item, I would like  
3 to receive requests for new technical reports  
4 on any items that are going to be reviewed for  
5 2011 and 2012, especially for 2012 we need to  
6 begin developing these reports this year.

7 Thank you.

8 CHAIRMAN MOYER: Thank you Mr.  
9 Pooler. Any other discussion for the  
10 Livestock Committee? Okay. Moving on we have  
11 the Joint Materials and Handling Committees,  
12 Dan Giacomini and Steve DeMuri. Dan, did you  
13 want to--

14 VICE CHAIR GIACOMINI: Definition  
15 and classification materials, we will work on  
16 that. We've been dealing with this for  
17 probably a decade, over a decade in various  
18 forms. I think people are to the point where  
19 they just want something and they're probably  
20 even willing to take it if it's wrong. They  
21 won't agree with us if it's wrong and we'll  
22 certainly hear about it but I think we've

1 reached that point of frustration and work.

2           But it's by no means going to be  
3 easy. And I'm going to ask, and maybe this is  
4 more appropriate in the session at the end of  
5 all the work plans, but we have a tremendous  
6 number of sunsets coming up and we have this  
7 project for the next meeting. And we may need  
8 to pull some of the time that some of your  
9 members of the other committees put into other  
10 committees working to get this done. And we'd  
11 just ask for the consideration of all the  
12 other chairs that to get this accomplished it  
13 may impact some of what you're looking to be  
14 able to complete.

15           CHAIRMAN MOYER: So that summer  
16 vacation, it's off. Thank you Mr. Chairman.  
17 Do you also now want to comment on the  
18 Materials Committee, I believe you have  
19 nanotechnology.

20           VICE CHAIR GIACOMINI: Yes. For  
21 the Materials Committee, first and foremost  
22 always is the petition and the sunset process.

1 Sunset is going to be moving much quicker. We  
2 have a short list of 2011 and a big list of  
3 2012. We will have already listed the  
4 definition of materials in the joint committee  
5 even though that's always part of our  
6 discussions.

7           We will do what we can with  
8 nanotechnology. I've been discussing it with  
9 a couple of people that made comments and with  
10 some people that know the rule and if it looks  
11 like we may be able to get a satisfactory  
12 recommendation with the least amount of pain  
13 involved, we will certainly work to get that  
14 done and I think that's a real possibility.

15           And then No. 4 or 3, however  
16 you're adding it up, we have always had in  
17 conjunction with what Barry said on our work  
18 plan, working to continue to improve  
19 communication with the program and tracking  
20 petitions and things like that. We will  
21 continue to work on that as we have time but  
22 it's also going to become more important again

1 as we start looking back on and dealing with  
2 all the sunsets of new TAPs, questions for new  
3 TAPs and all the things involved with that,  
4 making sure that we have a good trail of  
5 information that gets where it needs to be  
6 going and that it's seen once it's there.

7           CHAIRMAN MOYER: Thank you, Mr.  
8 Chairman. Any discussion for the Joint  
9 Committee or the Materials Committee on their  
10 work plan? Okay. Handling Committee, Steve  
11 DeMuiri chairperson.

12           MEMBER DEMURI: Thanks Jeff. As  
13 Dan mentioned, we're closely with the  
14 Materials Committee jointly on classification  
15 of materials. I think enough has been said  
16 about that but that is one of our top  
17 priorities over the next six months.

18           We still have two petition  
19 materials that we're waiting for technical  
20 reviews on, one for glucosamine that Tracy's  
21 going to handle as soon as we get that, and  
22 pectin that Mr. Smillie's going to work on

1 when we get that technical review.

2 We have ten 2011 sunset items.

3 For 605(a) we have egg white lysozyme, L-malic  
4 acid and microorganisms.

5 For 205.605(b) activated charcoal,  
6 cyclohexylamine, diethylamino ethanol and  
7 octadecylamine, those three are boiler  
8 additives. Peracetic acid, sodium acid  
9 phosphate and tetrasodium pyrophosphate. So  
10 those are the ten items we have for 2011.

11 We have a good list for 2012 as  
12 well that we're not going to start working on  
13 right away so we've got a full few months  
14 ahead of us. Those will be my top three  
15 priorities but we also have some other things  
16 on our work plan that we will hopefully try to  
17 get to as soon as we can.

18 Flavor guidance, which hopefully  
19 we can get Julie to get us with while she's on  
20 the committee and even after she leaves the  
21 board. Food contact substances, and then  
22 knowing that nanotechnology is probably used

1 more in handling than it is in most of the  
2 other committees on this board. We would work  
3 with materials on the nanotechnology work as  
4 well.

5           And then last we have the one that  
6 Tracy asked for us for today and that's  
7 looking into protocol for commercial  
8 availability research for 606 petition items.  
9 And since Tracy's on the Handling Committee I  
10 know just who's going to work on that one.

11           CHAIRMAN MOYER:    Okay.  Thank  
12 you, Mr. Chairman, any discussion on this?  
13 Julie and then Hue.

14           SECRETARY WEISMAN:   In the area  
15 of 606 in addition to the commercial  
16 availability matter that got raised, did we  
17 also not have something about protocol for  
18 looking at other, I guess different methods of  
19 manufacturing?  In other words the other  
20 materials that may be used along with what's  
21 being petitioned.  Right?

22           MEMBER DEMURI:    Yes.  My



1 apologies. What I did was I had circled that  
2 and moved it down and I forgot to go back up  
3 and pick it up. I do have refine 606  
4 procedures. Thank you. And that's to clarify  
5 use of accessory ingredients in formulated egg  
6 products. That would be like volatile  
7 solvents, synthetic carriers, that type of  
8 thing that are not on the national list.  
9 Thank you for your good memory.

10 CHAIRMAN MOYER: Hue?

11 MEMBER KARREMAN: This is not  
12 specific to handling, it can wait, it's more  
13 about sunset.

14 CHAIRMAN MOYER: Okay. We'll  
15 wait and bring it up under other business  
16 because I have it down there. Katrina?

17 MEMBER HEINZE: Julie handled my  
18 comment. Thank you Julie.

19 CHAIRMAN MOYER: Thank you. Any  
20 other points for the Handling Committee?  
21 Valerie?

22 MS. FRANCES: It may not really

1 just be for the handling committee but the  
2 evaluation criteria checklist petitions for  
3 removal, dealing with the forms to better  
4 address those.

5 MEMBER DEMURI: I was going to  
6 ask that under potential new business because  
7 that is something we need to do for removal.  
8 List for removal and then maybe revamping the  
9 one for adding things to the list. I don't  
10 know whose committee that would fall under.

11 CHAIRMAN MOYER: Well let's bring  
12 it up now. Let's jump into other business and  
13 we'll start out with forms and a checklist for  
14 items to be removed from the national list.  
15 It is a topic that came up during our meeting,  
16 it came up in the evaluation sessions that I  
17 sat in on saying that the checklist just  
18 doesn't necessarily work for removal as well  
19 as it maybe could. Is that something Policy  
20 and Handling want to work on together? How do  
21 we want to go about doing that? Materials?  
22 Dan?

1                   VICE CHAIR GIACOMINI:    Mr.  
2   Chairman, I would like us to maybe just set  
3   that aside for now.  I understand that you're  
4   looking for where is it going to be put but I  
5   can't imagine anybody's going to get to it in  
6   the next six months anyway.

7                   CHAIRMAN MOYER:    No, the other  
8   place we could put it is we could put it on  
9   the program and ask them to take a stab at it  
10  and see if the program could come up with a  
11  better form that would handle that for us.  
12  I'm sorry, Valerie?

13                  MS. FRANCES:    There are also some  
14  questions that came up when I believe it was  
15  Livestock Committee was trying to answer some  
16  of the questions and feeling like things did  
17  apply to them.  There were some questions  
18  being asked on the forms that currently says  
19  you know this is not applicable.  And when  
20  people were really--

21                  CHAIRMAN MOYER:    You're right.  
22  There were some items that the Livestock

1 Committee reviewed and in the evaluation forms  
2 there were things that we felt did apply but  
3 the form basically put them under Handling and  
4 said they didn't apply to Livestock.

5 I would suggest that maybe those  
6 are items that we could review with Richard  
7 Matthews and see if the program could maybe  
8 come up with some remedies. Dan?

9 VICE CHAIR GIACOMINI: Maybe if  
10 the chairman for each of the committees maybe  
11 in a quick meeting with the rest of their  
12 committee could sort of review the things that  
13 they've come across over the last year, funnel  
14 those to me as Chairman of the Materials and  
15 we'll send those to the material boy. We'll  
16 send those to Bob.

17 CHAIRMAN MOYER: Yes, I think  
18 let's put some work back on to the program if  
19 we can. Those are things that should be  
20 addressed soon but we don't have the time to  
21 do them.

22 MR. MATTHEWS: You're shifting

1 that in the wrong direction.

2 CHAIRMAN MOYER: Pardon me?

3 MR. MATTHEWS: You're shifting

4 that in the wrong direction.

5 CHAIRMAN MOYER: Why is that?

6 MR. MATTHEWS: We don't need any

7 more work.

8 CHAIRMAN MOYER: Neither do we.

9 Okay. What we'll do is if we agree to follow  
10 up on that recommendation if committee chairs  
11 when they have their next committee meetings  
12 can just funnel some information to Dan, he  
13 can be our clearinghouse to the program with  
14 those things. Julie? A suggestion?

15 SECRETARY WEISMAN: Yes. I mean  
16 this is a general materials issue and the vice  
17 chairs to represent each committee on the  
18 materials committee so would it not, I mean it  
19 seems to me like this is pretty appropriate  
20 for them to be the conduit and for it to be  
21 addressed in regular material committee  
22 meetings.

1           VICE CHAIR GIACOMINI:    Okay.  The  
2 chairs can deal with it at their next meeting  
3 and give the information to their vice chairs  
4 for the next materials committee meeting.

5           SECRETARY WEISMAN:    Okay.

6           CHAIRMAN MOYER:    So let it be  
7 written, so let it be done.  Okay.  Hue?

8           MEMBER KARREMAN:  One thing on the  
9 sunset, on the Livestock, we have sunset and  
10 we're going to start looking at, if I get it  
11 right, for things that are coming off in 2012.  
12 So let's see, right now they've been on the  
13 list for a year and a half and we have to  
14 start looking at taking them off already?  I  
15 know it's five years.  So the things that came  
16 on in December 2007 we're not even in December  
17 2009 right we have to start looking at.

18          CHAIRMAN MOYER:    A comment from  
19 Julie.  We do have a lot of other stuff to do.

20          MEMBER KARREMAN:    Yes, that's the  
21 whole thing.  I mean there's a lot to do.  And  
22 they just came on a year and a half ago

1 technically and it's like, hey, we've got  
2 front burner stuff. I mean it's going to get  
3 done but by the November meeting in 2009 or  
4 what?

5 MR. POOLER: Nobody said you had  
6 to have it done--

7 CHAIRMAN MOYER: It's a two year  
8 process.

9 MEMBER KARREMAN: Right. So we  
10 need to state what they are and that's that?  
11 That's easy.

12 MR. MATTHEWS: Well, we will come  
13 out with an announcement with a Federal  
14 Register Notice, saying that you're going to  
15 be looking at them. Then you'll have about  
16 three years to get 170 some materials done so  
17 that you have it published on time in 2012.

18 MEMBER KARREMAN: That's fine.  
19 I'm just thinking of the Livestock Committee.  
20 I mean that's like not 170, that's like--  
21 That's fine. I just thought it was kind of  
22 early to be looking at things that were

1 essentially just placed on a year and a half  
2 ago at the time of this meeting right now.

3 CHAIRMAN MOYER: The Chair  
4 recognizes Julie and then Dan.

5 SECRETARY WEISMAN: Hue, I'd like  
6 for you to like remember way back to our first  
7 NOSB meeting. That was February 2005. Yes.  
8 But it wasn't only the pasture meeting.  
9 That's right. But other things did happen at  
10 that meeting. And one of those things was  
11 that we were under the gun and feeling like  
12 already the train wreck was coming unless  
13 quick action was taken to begin dealing with  
14 the materials that were on the original file  
15 rule that became final in 2002 which were due  
16 to sunset in 2007.

17 But we only arrived in 2005, they  
18 had already been talking about it before we  
19 got there.

20 MEMBER KARREMAN: Yes, it's  
21 really closer to a three year process working  
22 through all of them.



1                   CHAIRMAN MOYER:    Okay.  That's  
2  fine.

3                   MEMBER KARREMAN:    I just wanted  
4  to bring it up, that's all.

5                   CHAIRMAN MOYER:    You've been  
6  outvoted.  Dan?

7                   VICE CHAIR GIACOMINI:    Well I  
8  think it's important to remember No. 1 the  
9  Livestock Committee doesn't have nearly as  
10 many to go over as Handling does.  We wouldn't  
11 want Handling to try and conquer all these  
12 just between one set of meetings.

13                   No. 2, as Bob said, we're looking  
14 at the possibility of needing some new TAP  
15 reports.  We want to know what substances on  
16 the list do we want a new TAP report with.  
17 What are the questions we want answered in  
18 those new TAP reports and we need to get those  
19 requests in to get that TAP report back in  
20 time to make the adequate decision in the time  
21 frame that you think is more comfortable in  
22 your mind.

1           So there's a lot of things, we  
2   can't wait until mid 2010 to start requesting  
3   those TAPs or even to start looking at them  
4   because when we have a petition and we don't  
5   get the TAP report in time, we can just set it  
6   aside and it could stand at the next meeting.

7           We won't be able to put things  
8   off. You can't put things off on sunset once  
9   we're down to that last meeting when things  
10   are going to have to get re-posted.

11           MEMBER KARREMAN: You have all  
12   made your point. I stand corrected.

13           CHAIRMAN MOYER: The Chair  
14   recognizes Julie.

15           SECRETARY WEISMAN: Actually I'm  
16   not sure if I want to rub it in any more. But  
17   you know just that it bears to be said because  
18   it's following up where Dan just left off,  
19   which is that we actually are aiming to make  
20   sunset decisions not in time for October of  
21   2012 in the case of those materials. We're  
22   looking to have those decisions made you know

1 even more than, maybe three meetings ahead of  
2 that because our experience last time was that  
3 there were some problem children that took a  
4 while and I believe that we made the final  
5 decision for the 2007 materials, there were  
6 one or two stragglers left that we had to  
7 clean up at that full meeting. So we'd have  
8 to leave room for stuff like that.

9 MS. FRANCES: And you added more  
10 handling materials in 2007 to 606 and you  
11 added the livestock materials, so any rate  
12 there's even more materials.

13 SECRETARY WEISMAN: But are they  
14 final-- When does the clock start?

15 MS. FRANCES: Well that's a good  
16 question.

17 MR. MATTHEWS: And let's not  
18 forget the rule making process.

19 CHAIRMAN MOYER: Okay. Dan, you  
20 have another comment?

21 VICE CHAIR GIACOMINI: No, that  
22 is just the question. When does the clock

1 start on the 606 when we're still on an  
2 interim final rule?

3 MR. MATTHEWS: It's a good  
4 question but I think it would start when 606  
5 was first put out, so the clock is already  
6 ticking.

7 SECRETARY WEISMAN: So June.

8 CHAIRMAN MOYER: Okay. I think  
9 all the committees are well aware of their  
10 work plans and their work load. We discussed  
11 sunset, the forms, is there any other business  
12 that needs to come before this Board? Bea?

13 MEMBER JAMES: I was wondering,  
14 Barbara had mentioned on Monday that there's  
15 the possibility of having an additional day  
16 added to the November meeting so that we could  
17 discuss, as a group, how we prioritize and how  
18 we want to go forward deciding on exactly what  
19 needs to be worked on by committee and when  
20 will the program know whether or not that's  
21 going to happen?

22 MR. MATTHEWS: Well, I don't have

1 an answer for that. But it is something that  
2 I would expect Barbara to be working pretty  
3 closely with Jeff on so I'm sure that  
4 discussions will start there and then work  
5 through the Executive Committee and then a  
6 decision will be made whether or not that will  
7 be part of the November or even maybe a  
8 separate meeting.

9 CHAIRMAN MOYER: Yes.

10 SECRETARY WEISMAN: Yes, she had  
11 mentioned the summer as an option as well.

12 MR. MATTHEWS: Yes. You know, we  
13 haven't fleshed that out yet but I'm sure that  
14 she'll be talking very closely with Jeff as to  
15 ideas on that.

16 CHAIRMAN MOYER: Any other  
17 business that needs to come before this Board?  
18 If not, before we adjourn I certainly wanted  
19 to thank everybody, I'm sorry, Andrea?

20 MS. CAROE: No, you didn't do  
21 anything wrong. I'm listening to you go  
22 through the work plans and you all seem

1 overwhelmed by the work that's on them. I  
2 just wanted to bring up a couple of things and  
3 you know this but materials are your work  
4 plan. All the rest of this stuff, although I  
5 know you want to get to it, is secondary. And  
6 I would really suggest, since you all  
7 represent constituents within the organic  
8 industry, that you reach out, use OTA, use the  
9 ACAs, use anything you can for subgroups that  
10 can do some of the work for you and bring you  
11 the tools to make your life easier.

12 I'm looking at things like  
13 flavors, and food contact substances and  
14 issues like that, that you can spin your  
15 wheels and burn a lot of time or you can give  
16 to the industry to bring you summary  
17 information so that you can make your  
18 recommendations as efficiently as possible and  
19 still have all the time that you need to do  
20 your first thing, which is materials,  
21 materials, materials. So I just wanted to  
22 make that point for whatever it's worth. And

1 by the way I'm Andrea Caroe, former member of  
2 the Board.

3                   CHAIRMAN MOYER: Thank you,  
4 Andrea. Okay. Before we disperse here today,  
5 I did want to take the time to thank the  
6 program and the program staff in attendance.  
7 We couldn't do this work without you. We also  
8 couldn't do this work without the members of  
9 the general public who take the time out of  
10 their busy schedules to attend this meeting or  
11 send in written comment. We depend on that,  
12 we need it, and we certainly appreciate it.

13                   And, as Andrea just mentioned, we  
14 certainly look forward to working closely with  
15 all of you on our work plans as we move  
16 forward in the future.

17                   I also mentioned when we started  
18 this meeting that some folks would be happy  
19 with the outcomes of the votes and some people  
20 wouldn't, but I also mentioned that this Board  
21 would work diligently and hard in the best  
22 interest of the organic community and the word

1 organic, and I hope you've seen that we've  
2 done that.

3 So at this moment I would  
4 entertain a motion to adjourn this meeting but  
5 I have something from Kevin and Dan. Kevin?

6 MEMBER ENGELBERT: You won't  
7 regret it. I just want to thank you for  
8 running a great meeting. It's been very  
9 enjoyable and we appreciate all your efforts,  
10 all your efforts also.

11 (Applause.)

12 CHAIRMAN MOYER: Thank you,  
13 Kevin. Dan, the last word before the gavel  
14 falls.

15 VICE CHAIR GIACOMINI: On the  
16 introductions Kevin always makes a statement  
17 thanking his family. And I think the entire  
18 industry would be good to thank all of our  
19 families because the work load on this is  
20 tremendous and their sacrifice is sometimes  
21 bigger than ours.

22 CHAIRMAN MOYER: Kevin?



1                   MEMBER ENGELBERT:   Speaking of  
2 family, two centimeters, things apparently  
3 starting to progress.

4                   (Applause.)

5                   CHAIRMAN MOYER:    Could I have a  
6 motion to adjourn?

7                   SECRETARY WEISMAN:   I move that  
8 we adjourn.

9                   CHAIRMAN MOYER:    I will second.  
10 This meeting is adjourned.

11                   (Whereupon, the above-entitled  
12 matter went off the record at 3:35 p.m.)

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