

# NOSB COMMITTEE RECOMMENDATION

Form NOPLIST1. Committee Transmittal to NOSB

For NOSB Meeting: **March 2007**

Substance: Whey Protein Concentrate 35%

Committee: Crops  Livestock  Handling  Petition is for inclusion of Whey Protein Concentrate 35% on the National List § 205.606

<b>A. Evaluation Criteria</b> (Applicability noted for each category; Documentation attached)	<b>Criteria Satisfied? (see B below)</b>
1. Impact on Humans and Environment	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
2. Essential & Availability Criteria	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
3. Compatibility & Consistency	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
4. Commercial Supply is Fragile or Potentially Unavailable as Organic (only for 606)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

**B. Substance Fails Criteria Category:** Comments: \_\_\_\_\_

**C. Proposed Annotation (if any):**

Basis for annotation: To meet criteria above: \_\_\_\_\_ Other regulatory criteria: \_\_\_\_\_ Citation: \_\_\_\_\_

**D. Recommended Committee Action & Vote (State Actual Motion):** Recommend inclusion of Whey Protein Concentrate 35% to § 205.606 of the National List

Motion by: Julie Weisman Seconded: Andrea Caroe Yes: 4 No: 0 Absent: 1 Abstain: 0

Crops		Agricultural	<input checked="" type="checkbox"/>	Allowed <sup>1</sup>	<input checked="" type="checkbox"/>
Livestock		Non-Synthetic		Prohibited <sup>2</sup>	
Handling	<input checked="" type="checkbox"/>	Synthetic		Rejected <sup>3</sup>	
No restriction		Commercially Un-Available as Organic <sup>1</sup>	<input checked="" type="checkbox"/>	Deferred <sup>4</sup>	

1) Substance voted to be added as "allowed" on National List to § 205. 606 with Annotation (if any) \_\_\_\_\_

2) Substance to be added as "prohibited" on National List to § 205. \_\_\_\_\_ with Annotation (if any) \_\_\_\_\_

Describe why a prohibited substance: \_\_\_\_\_

3) Substance was rejected by vote for amending National List to § 205. \_\_\_\_\_ Describe why material was rejected: \_\_\_\_\_

4) Substance was recommended to be deferred because \_\_\_\_\_

\_\_\_\_\_ If follow-up needed, who will follow up \_\_\_\_\_

**E. Approved by Committee Chair to transmit to NOSB:**

Julie Weisman  
Committee Chair

February 26, 2007  
Date

**NOSB EVALUATION CRITERIA FOR SUBSTANCES ADDED TO THE NATIONAL LIST**

**Category 1. Adverse impacts on humans or the environment? Substance – Whey Protein Concentrates 35%**

Question	Yes	No	N/A <sup>1</sup>	Documentation (TAP; petition; regulatory agency; other)
1. Are there adverse effects on environment from manufacture, use, or disposal? [§205.600 b.2]		X		Stonyfield Petition 1/25/2007 #9 (e) "...biodegradable..."
2. Is there environmental contamination during manufacture, use, misuse, or disposal? [§6518 m.3]				Insufficient information.
3. Is the substance harmful to the environment? [§6517c(1)(A)(i);6517(c)(2)(A)i]		X		Stonyfield Petition 1/25/2007 #9 (e) sights reference to GRAS status, however there was not documentation that FDA supports this status.
4. Does the substance contain List 1, 2, or 3 inerts? [§6517 c (1)(B)(ii); 205.601(m)2]			X	
5. Is there potential for detrimental chemical interaction with other materials used? [§6518 m.1]		X		Stonyfield Petition 1/25/2007 #9 (a) 'It is not intended fro use in organic crops or livestock production.'
6. Are there adverse biological and chemical interactions in agro-ecosystem? [§6518 m.5]		X		Stonyfield Petition 1/25/2007 #9 (b) "...easily assimilated by animals and soil bacteria."
7. Are there detrimental physiological effects on soil organisms, crops, or livestock? [§6518 m.5]		X		Stonyfield Petition 1/25/2007 #9 (b)
8. Is there a toxic or other adverse action of the material or its breakdown products? [§6518 m.2]		X		Stonyfield Petition 1/25/2007 # 9 (b), (c), (e)
9. Is there undesirable persistence or concentration of the material or breakdown products in environment?[§6518 m.2]		X		Stonyfield Petition 1/25/2007 #9 (b), (c), (e)
10. Is there any harmful effect on human health? [§6517 c (1)(A)(i) ; 6517 c(2)(A)i; §6518 m.4]		X		Stonyfield Petition 1/25/2007 #9(c), (d) "Whey protein powder Isolate is a value-added means of using whey ..." Ingredient is indented to add nutritional value.
11. Is there an adverse effect on human health as defined by applicable Federal regulations? [205.600 b.3]		X		Stonyfield Petition 1/25/2007 # 9 (d)
12. Is the substance GRAS when used according to FDA's good manufacturing practices? [§205.600 b.5]	X			Stonyfield Petition 1/25/2007 #7
13. Does the substance contain residues of heavy metals or other contaminants in excess of FDA tolerances? [§205.600 b.5]		X		See MSDS Sheet

<sup>1</sup>If the substance under review is for crops or livestock production, all of the questions from 205.600 (b) are N/A—not applicable.

**Category 2. Is the Substance Essential for Organic Production? Substance – Whey Protein Concentrates 35%**

Question	Yes	No	N/A <sup>1</sup>	Documentation (TAP; petition; regulatory agency; other)
1. Is the substance formulated or manufactured by a chemical process? [6502 (21)]		X		Whey Protein Isolate is manufactured from fresh cheese whey by ion exchange and an ultra-filtration process to remove a large portion of the lactose and minerals. Low temperature processing ensures retention of both nutritional and functional properties. Whey Protein isolate is spray-dried and sold as a dry ingredient.
2. Is the substance formulated or manufactured by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral, sources? [6502 (21)]		X		
3. Is the substance created by naturally occurring biological processes? [6502 (21)]		X		It's a derivative of cheese manufacturing
4. Is there a natural source of the substance? [§205.600 b.1]		X		
5. Is there an organic substitute? [§205.600 b.1]		X		
6. Is the substance essential for handling of organically produced agricultural products? [§205.600 b.6]	X			
7. Is there a wholly natural substitute product? [§6517 c (1)(A)(ii)]	X			
8. Is the substance used in handling, not synthetic, but not organically produced? [§6517 c (1)(B)(iii)]	X			
9. Is there any alternative substances? [§6518 m.6]		X		
10. Is there another practice that would make the substance unnecessary? [§6518 m.6]		X		Specifically enhances texture in low fat products

<sup>1</sup>If the substance under review is for crops or livestock production, all of the questions from 205.600 (b) are N/A—not applicable.

**Category 3. Is the substance compatible with organic production practices Substance – Whey Protein Concentrates 35%**

Question	Yes	No	N/A <sup>1</sup>	Documentation (TAP; petition; regulatory agency; other)
1. Is the substance compatible with organic handling? [§205.600 b.2]	X			
2. Is the substance consistent with organic farming and handling? [§6517 c (1)(A)(iii); 6517 c (2)(A)(ii)]		X		Depends on source of dairy product (i.e rBST usage); depends if Ion Exchange is OK for organic
3. Is the substance compatible with a system of sustainable agriculture? [§6518 m.7]		X		
4. Is the nutritional quality of the food maintained with the substance? [§205.600 b.3]	X			Study of pediatric nutrition in Attachment shows positive benefits.
5. Is the primary use as a preservative? [§205.600 b.4]		X		
6. Is the primary use to recreate or improve flavors, colors, textures, or nutritive values lost in processing (except when required by law, e.g., vitamin D in milk)? [205.600 b.4]	X			
7. Is the substance used in production, and does it contain an active synthetic ingredient in the following categories:		X		
a. copper and sulfur compounds;		X		
b. toxins derived from bacteria;		X		
c. pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals?		X		
d. livestock parasiticides and medicines?		X		
e. production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleaners?		X		

<sup>1</sup>If the substance under review is for crops or livestock production, all of the questions from 205.600 (b) are N/A—not applicable.

**Category 4. Is the commercial supply of an agricultural substance as organic, fragile or potentially unavailable?** [§6610, 6518, 6519, 205.2, 205.105 (d), 205.600 (c) 205.2, 205.105 (d), 205.600 (c)]

**Substance: Whey Protein Concentrates 35%**

<b>Question</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Comments on Information Provided (sufficient, plausible, reasonable, thorough, complete, unknown)</b>
1. <u>Is the comparative description provided</u> as to why the non-organic form of the material /substance is necessary for use in organic handling?	X			Most whey protein is not made into WPI due to heavy demand for whey protein for other products
2. Does the current and historical industry information, research, or evidence provided explain how or why the material /substance cannot be obtained organically in the appropriate <b>form</b> to fulfill an essential function in a system of organic handling?		X		
3. Does the current and historical industry information, research, or evidence provided explain how or why the material /substance cannot be obtained organically in the appropriate <b>quality</b> to fulfill an essential function in a system of organic handling?		X		
4. Does the current and historical industry information, research, or evidence provided explain how or why the material /substance cannot be obtained organically in the appropriate <b>quantity</b> to fulfill an essential function in a system of organic handling?	X			See petition pg 4
5. Does the industry information provided on material / substance non-availability as organic, include ( but not limited to) the following: a. Regions of production (including factors such as climate and number of regions);	X			See petition pg 4 & 5
b. Number of suppliers and amount produced;	X			See petition pg 4 & 5
c. Current and historical supplies related to weather events such as hurricanes, floods, and droughts that may temporarily halt production or destroy crops or supplies;		X		
d. Trade-related issues such as evidence of hoarding, war, trade barriers, or civil unrest that may temporarily restrict supplies; or		X		
e. Are there other issues which may present a challenge to a consistent supply?		X		