

**National Organic Standards Board
Handling Subcommittee Proposal
Annotation Change for the Listing of Tocopherols to §205.605(b)**

January 17, 2017

Summary of Proposed Action:

The Handling Subcommittee proposes to eliminate the annotation of the listing of tocopherols at §205.605(b) of the National List: “Derived from vegetable oil when rosemary extracts are not a suitable alternative.”

Subcommittee Review

Tocopherols are listed at §205.605(b) of the National List with the following annotation: “Derived from vegetable oil when rosemary extracts are not a suitable alternative.”

The NOSB completed review of tocopherols as part of its 2017 Sunset review and voted at the Fall 2015 meeting in Stowe, Vermont to retain the listing on the National List at §205.605(b). However, during the initial public comment period, several commenters asserted that non-synthetic tocopherols are commercially available and should be used instead of synthetic. In the final Sunset proposal for tocopherols, the Handling Subcommittee indicated that it was considering a proposal to reclassify tocopherols to §205.605(a) and was seeking input regarding the impact of that on the industry. However, the second round of public comments brought forth several objections to any reclassification of tocopherols, citing their importance in food safety and voicing concerns regarding commercial availability of non-synthetic versions.

Because the Handling Subcommittee strongly encourages industry to move to non-synthetic, organic versions of tocopherols but does recognize that, at present, there is insufficient commercial availability of organic tocopherols, the subcommittee recently voted to send to the full NOSB a proposal to create an additional listing for tocopherols at §205.605(a) of the National List. That proposal duplicated the listing at §205.605(b) but eliminated the annotation “Derived from vegetable oil when rosemary extracts are not a suitable alternative.” Public comment in the earlier Sunset review of tocopherols indicated that rarely is rosemary extract used as an alternative. Further, because there is not a specific instruction that rosemary extract must be organic, the subcommittee felt the annotation should be eliminated. In order to have consistency between the listings at §205.605(a) and §205.605(b), and to eliminate confusion among producers and certifiers, the subcommittee is proposing to eliminate the annotation at §205.605(b). For the Fall 2016 NOSB meeting in St. Louis, the Handling subcommittee brought forth a proposal with the following motion and annotation:

Motion to eliminate the annotation for tocopherols listed at §205.605(b) of the National List : “Derived from vegetable oil when rosemary extracts are not a suitable alternative.”

During the Fall 2016 NOSB public comment period, comments in support of the additional listing and the concept of the revised annotations were predominant. However, several commenters expressed the opinion that the additional listing at §205.605(a) to allow for non-synthetic tocopherols was not sufficient incentive for processors to switch from synthetic versions to non-synthetic versions. Commenters urged the NOSB to more specifically require through annotation: 1) when listed at §205.605(b), the use of non-synthetic or organic versions when commercially available; and 2) when listed at §205.605(a), the use of organic versions when commercially available. One commenter

suggested an expiration date on the listing at §205.605(b) to further increase the sense of urgency to increase commercial availability of organic tocopherols.

Additional comments were received that suggested the need to consider allowance of tocopherols from other natural sources, such as nut and seed oils. As the original annotation to specify vegetable oils was intended to specifically prohibit tocopherols derived from non-natural sources, i.e., petroleum products, rather than specifically narrow the origin to vegetable oils, the Handling subcommittee elected to return this proposal to subcommittee for further refinement.

The Handling subcommittee agrees with the comments that suggested a more specific annotation and therefore has amended the annotation as was presented at the Fall 2017 NOSB meeting.

The proposal for the new listing at §205.605(a) will be deferred to the Fall 2017 meeting so that comments to this proposal can be assessed before finalizing. Ultimately, the decision tree, [NOP 5033-1](#), as published on December 2, 2016, will be used to determine the non-synthetic/synthetic status of tocopherols.

Vote in Subcommittee

Motion to change the annotation for tocopherols listed at §205.605(b) of the National List: “Derived from vegetable oil when rosemary extracts are not a suitable alternative” to the following annotation – “Derived from plant oils. Non-synthetic or organic tocopherols are to be used when commercially available.”

Motion by: Tracy Favre

Seconded by: Jean Richardson

Yes: 8 No: 0 Abstain: 1 Absent: 0 Recuse: 0

Approved by Lisa de Lima, Subcommittee Chair, to transmit to NOSB on January 17, 2017.