

**Formal Recommendation by the
National Organic Standards Board (NOSB)
to the National Organic Program (NOP)**

Date: **October 28, 2010**

Subject: **Colors derived from agricultural products – Annotation Change**

Chair: **Daniel G. Giacomini**

The NOSB hereby recommends to the NOP the following:

Rulemaking Action X
Guidance Statement
Other

Statement of the Recommendation (Including Recount of Vote):

Colors derived from agricultural products were listed on §205.606 in June 2007. Since then it has come to the attention of the Handling Committee that there may be confusion as to whether synthetic solvents may be used to extract some of these colors and whether use of synthetic solvents in the preparation of the colors listed on §205.606 was within the original intent of the listing. After review, the Handling Committee believes the use of synthetic solvents for extraction did not fall within the original review of the Handling Committee or NOSB.

Since there does seem to be some confusion as to the original intent of the listing, the Handling Committee recommended that the annotation for Colors derived from agricultural products on §205.606 be changed as shown in the attached recommendation. No comments were received during the meeting that disagreed with the committee's recommendation; two comments were received in support of the recommendation.

The NOSB voted to recommend changing the annotation for Colors derived from agricultural products on §205.606 with 14 voting yes and 0 no votes.

Rationale Supporting Recommendation (including consistency with OFPA and NOP):

NOSB Vote:

Moved: Katrina Heinze		Second: Steve DeMuri		
Yes: 14	No: 0	Abstain: 0	Absent: 0	Recusal: 0

**National Organic Standards Board
Handling Committee
Recommendation for Annotation Change on § 205.606
For Colors Derived From Agricultural Products**

August 17, 2010

List: National Organic Program Subpart G: The National List of Allowed and Prohibited Substances. §205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.

(d) Colors derived from agricultural products

Committee Summary

The following colors are on section §205.606 of the National List (Federal Register Vol. 72, #123, June 27, 2007):

1. Annatto extract color (pigment CAS # 1393-63-1)—water and oil soluble.
2. Beet juice extract color (pigment CAS # 7659-95-2).
3. Beta-Carotene extract color from carrots (CAS # 1393-63-1).
4. Black currant juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
5. Black/Purple carrot juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
6. Blueberry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
7. Carrot juice color (pigment CAS # 1393-63-1).
8. Cherry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
9. Chokeberry—Aronia juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
10. Elderberry juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
11. Grape juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
12. Grape skin extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
13. Paprika color—dried powder and vegetable oil extract (CAS # 68917-78-2).
14. Pumpkin juice color (pigment CAS # 127-40-2).

15. Purple potato juice color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
16. Red cabbage extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
17. Red radish extract color (pigment CAS #'s: 528-58-5, 528-53-0, 643-84-5, 134-01-0, 1429-30-7, and 134-04-3).
18. Saffron extract color (pigment CAS # 1393-63-1).
19. Turmeric extract color (CAS # 458-37-7).

These nineteen colors were added to section §205.606 of the National List after the §205.605(a) listing of Colors -- nonsynthetic only was allowed to sunset off the National List. The 'sunsetting' of colors from §205.605(a) resulted in a number of petitions for listing of various colors on §205.606. The Handling Committee of the NOSB reviewed each of these petitions and made recommendations to list each on the National List. Of those petitions, these nineteen colors were recommended for listing by the NOSB at the March 2007 NOSB meeting.

Annotations for several of the colors were discussed in detail at that meeting. For each of the nineteen colors recommended for listing, either oil or water extraction plus physical processing (e.g., cutting, grinding, drying) was listed as the manufacturing process. For ten of the colors the petitioner specifically identified that 1) the extraction process was a physical process, 2) water, invert sugar and citric acid may be added during manufacturing, 3) the color was not formulated or processed with any synthetic adjuvant or aid and 4) no chemical solvents were used in processing. Additionally, this petitioner provided evidence that their manufacturing process was certified organic to the National Organic Program regulations even though the raw material color input was not. The other nine petitions did not indicate that solvents beyond water or oil were used. This was strongly supported by public comment during the March 2007 NOSB meeting.

For two colors, annatto and paprika, the Handling Committee originally recommended that oil extraction be restricted to using organic oil. In both cases, this annotation was deemed too restrictive and was not included in the final recommendation. A quote from the March 2007 meeting transcripts best captures this perspective, "Annotations restrict the use of materials that come in a variety of ways to the ones which are acceptable to be used in organic production. It is not used to designate how things get produced. Oil, organic oil crossed that line. If you wanted to say oil production as opposed to water production, both of those are available, and if you were narrowing in on one that's acceptable, that's appropriate, but this is imposing organic regulations on a nonorganic world." It was this perspective that only annotations which limited which available nonorganic materials could be used but did not impose additional organic restrictions on nonorganic materials that kept the NOSB during the March 2007 meeting from adding additional annotations restricting how the colors were extracted.

Since the March 2007 meeting, it has come to the attention of the Handling Committee that there may be confusion as to whether synthetic solvents may be used to extract some of these colors and whether use of synthetic solvents in the preparation of the colors listed on §205.606

was within the original intent of the listing. After reviewing transcripts from the March 2007 meeting, petitions, committee recommendations, the Handling Committee believes the use of synthetic solvents for extraction did not fall within the original review of the Handling Committee or NOSB. Specifically, none of the colors that were reviewed included synthetic solvent extraction as a possible manufacturing process. The Handling Committee further believes that the use of synthetic solvents for extraction of these colors is not necessary since each of the colors was petitioned as available in the marketplace without synthetic solvent extraction.

Since there does seem to be some confusion as to the original intent of the listing, the Handling Committee is recommending that the annotation for Colors derived from agricultural products on §205.606 be changed to the following:

- (d) Colors derived from agricultural products – Must not be produced using synthetic solvents and carrier systems or any artificial preservative.
This annotation is identical to the annotation for flavors listed on §205.605(a).

Committee Recommendations

The Handling Committee recommends that the annotation for Colors derived from agricultural products be changed and that the new listing on §205.606 be:

- (d) Colors derived from agricultural products – Must not be produced using synthetic solvents and carrier systems or any artificial preservative.

Committee Vote

Motion: Katrina Heinze Second: Steve DeMuri
Yes: 5 No: 0 Abstain: 0 Absent: 2