

**FORMAL RECOMMENDATION BY THE
NATIONAL ORGANIC STANDARDS BOARD (NOSB)
TO THE NATIONAL ORGANIC PROGRAM (NOP)**

Date: 11/5/2009

Subject: L-Malic Acid Sunset Review

Chair: Jeff Moyer

Recommendation

The NOSB hereby recommends to the NOP the following:

Rulemaking Action: X

Guidance Statement:

Other:

Summary Statement of the Recommendation (including Recount of Vote):

L-Malic acid was reviewed for sunset by the NOSB at the November 2009 meeting. A summary of the Handling committee's recommendation is attached. No comments were received during the meeting that disagreed with the committee's recommendation.

The NOSB voted to recommend relisting of L-Malic acid on §205.605(a) with 13 voting yes, 0 no votes and 2 absent.

NOSB Vote: **Motion:** DeMuri **Second:** Weisman

Board vote: Yes - 13 No- 0 Abstain- 0 Absent - 2

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

Response by the NOP:

National Organic Standards Board
Handling Committee Recommendation for §205.605(a)
Sunset of L-Malic Acid (CAS # 97-67-6)

July 9, 2009

I. List:

National Organic Program Subpart G: The National List of Allowed and Prohibited Substances. §205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”

a. *Nonsynthetics allowed*

II. Committee Summary:

L-Malic acid (CAS #97-67-6) was added to the National List (Federal Register Vol. 71, No. 175) §205.605(a) on September 11, 2006. This addition was based on a review of L-malic acid by the NOSB at their May 13-14, 2003 meeting. This is the first time that L-malic acid has been reviewed through the sunset process. L-Malic acid is used as a flavor enhancer, flavoring agent and adjuvant, and for pH control agent in a variety of foods.

The original April 2003 TAP review reviewed three forms of malic acid. The TAP review determined that DL-malic acid (CAS # 6915-15-7) was synthetic and recommended that it not be included on the National List. On the other hand, the TAP determined that L-Malic acid is the naturally occurring form of malic acid, occurring in fruits such as apples and cherries. L-malic acid was determined to be non-synthetic; it is produced by the fermentation of fumaric acid which can be produced by the fermentation of glucose. The TAP indicated that there were alternatives to malic acid, such as vinegar or citric acid, but that malic acid did provide some unique properties for use in handling. Finally, the original TAP did not identify any unacceptable risks to the environment, human or animal health resulting from the use or manufacture of L-malic acid.

The NOSB has received two public comments in support of, and no public comments opposed to, the relisting L-malic acid in response to the Federal register notice of the sunset of L-malic acid (AMS-TM-07-0136). No public comments have been received opposing the continued use of L-malic acid in organic handling.

III. Committee Recommendations

The Handling Committee recommends the continued listing of L-malic acid (CAS # 97-67-6) on §205.605(a).

Moved: Heinze Second: Miedema

Committee Vote: Yes- 4 No- 0 Absent- 2 Abstain- 0 Recuse- 0