

**National Organic Standards Board
Handling Committee Sunset Recommendation for
Tartaric Acid for §205.605(a) and §205.605(b)**

March 27, 2008

I. List: (where in FR rule example 205.606)

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 AND

(b) Synthetics allowed

II. Committee Summary:

Tartaric acid is currently included on the National List §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)).” This material is listed both as a Nonsynthetic allowed (§205.605 (a)) and a Synthetic allowed (§205.605 (b)).

Tartaric acid was added in both locations through a Federal Register notice on October 31, 2003 (61988 Federal Register, Volume 68, No. 211, #61988). This Federal Register said in reference to tartaric acid:

“This final rule amends current paragraph (a) of § 205.605 by adding agar-agar, carageenan and tartaric acid as technical corrections. These substances were included on the National List proposed in the Federal Register on December 16, 1997, but were inadvertently omitted from the National List published in the Federal Register on March 13, 2000, and the final rule published on December 21, 2000, Final Rule (7 CFR part 205).

This final rule revises current paragraph (b)(10) of § 205.605 by amending its annotation to read as follows:

– Paragraph (b) is further amended by adding tartaric acid as a technical correction.”

“E. Comments Received

(b) Synthetics allowed—Tartaric acid. As noted in the proposed rule, tartaric acid was one of three materials that were inadvertently omitted from publication on the National List in the final regulations that were published on December 21, 2000, and the proposed rule would amend the National List to include tartaric acid in § 205.605(a). However, the NOSB pointed out in their comments that the NOSB had approved both synthetic and nonsynthetic forms of tartaric acid. Accordingly, § 205.605(a) and (b) are amended to include tartaric acid.”

The NOSB voted to recommend Tartaric Acid for listing to §205.605 (a) and §205.605 (b) at the October 31, 1995 NOSB meeting in Austin, TX. Transcripts from that meeting are included below:

“Tartaric Acid (Made from grape wine)

Determined to be non-synthetic; Vote – Unanimous (1 absent).

The NOSB’s decision is to allow this material for use in organic food processing;

Vote – Unanimous (1 absent).

“Tartaric Acid (Made from malic acid)

Determined to be synthetic; Vote – Unanimous (1 absent).

The NOSB’s decision is to allow this material for use in organic food processing;

Vote: 10 aye / 4 opposed.

It is unclear today why the annotations originally approved by the NOSB in 1995 were not included in the technical corrections that added tartaric acid to the National List in the Federal Register notice of October 31, 2003.

Tartaric acid was inadvertently included in the 2007 sunset process and recommended for renewal on §205.605(b) by the NOSB (November 17, 2005). The listing of tartaric acid on §205.605(a) was not considered at that time. Since this was a premature review of tartaric acid, the NOSB in collaboration with the NOP has decided to review both listings of tartaric acid at this time.

The NOSB published (September 16, 2004) guidance on the sunset process. This guidance states that:

“In recommending the discontinued use of an allowed nonsynthetic or synthetic substance in organic handling, the recommendation must provide scientific, environmental, and industry impact, manufacturing information, and other relevant evidence that show how the synthetic substance is (1) harmful to human health or the environment; (2) not necessary to the production of the agricultural product because of the availability of wholly nonsynthetic substitute products; and (3) not consistent with organic farming and handling. . . .

Alternatives to Allowed Substances Must Be Available

All recommendations to discontinue the use of allowed substances require the availability of viable alternatives. Evidence should be presented that adequately demonstrates that the recommended alternative’s function and effect are equal or superior to that of the substance under review.”

While the handling committee believes that the predominant form of tartaric acid on the market is made from grape(s) or grape wine, we received no public comments indicating that tartaric acid made from malic acid that is listed on §205.605(b) is no longer necessary. We would encourage the public to provide such evidence if it exists. Until sufficient evidence is available that tartaric acid made from malic acid is no longer needed because alternatives meet the need in form, quality and function, or that new information is available that indicates this material is harmful to human or environmental health, the sunset process requires the renewal of tartaric acid on the National List §205.605(b). A petition to remove tartaric acid made from malic acid from the National List §205.605(b) would allow for the fuller reconsideration of the listing of this material at a future date.

Similarly, no comments were received providing evidence that tartaric acid on the National List §205.605(a) should not be renewed.

Finally, the handling committee recommends two technical corrections to the National List: 1) adding of the annotations originally recommended by the NOSB on October 31, 1995 and 2) addition of the Chemical Abstracts Service number for tartaric acid. This number is 87-69-4. Both of these technical corrections would, we believe, minimize confusion for future boards as they evaluate this material.

III. Committee Recommendations

The Handling Committee recommends renewal of Tartaric Acid on the National List section §205.605(a) with the technical correction adding the annotation – Made from grape wine

Moved: Julie Wiseman Second: Gerald Davis
Committee Vote: Yes- 5 No- 0 Absent- 1 Abstain- 0 Recuse- 0

The Handling Committee recommends renewal of Tartaric acid on the National List section §205.605(b) with the technical correction adding the annotation -- Made from tartaric acid

Moved: Julie Wiseman Second: Katrina Heinze
Committee Vote: Yes- 5 No- 0 Absent- 1 Abstain- 0 Recuse- 0