



CCOF

Advancing organic agriculture through certification, education, advocacy, and promotion.

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board, USDA-AMS-NOP
1400 Independence Ave. SW., Room 2642-S, Mail Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-19-0095

Re: Handling Subcommittee: Reclassification of L-Malic Acid Discussion Document; Review of the Ion Exchange Filtration Process Discussion Document; Fish Oil Annotation Change Discussion Document

April 3, 2020

Dear Ms. Arsenault and NOSB:

Thank you for the opportunity to comment on the discussion documents on the reclassification of L-Malic acid, ion exchange, and fish oil.

CCOF is a nonprofit organization governed by the people who grow and make our food. Founded in California more than 40 years ago, today our roots span the breadth of North America. We are supported by an organic family of farmers, ranchers, processors, retailers, consumers, and policymakers. Together, we work to advance organic agriculture for a healthy world.

CCOF certifies over 1,400 organic processors and handlers across North America. Generally, CCOF supports the relisting of substances on the National List of Allowed and Prohibited Substances and supports clear and concise regulations. Attached are our comments on the Handling Subcommittee's discussion documents.

Thank you for your review of our comments. Please do not hesitate to contact me for further information.

Sincerely,

A handwritten signature in black ink that reads "Peter Nell".

Peter Nell
Special Assistant to the CEO

cc: Kelly Damewood, CEO, CCOF, Inc.
April Crittenden, Chief Certification Officer, CCOF Certification Services, LLC

Rebekah Weber, Policy Director, CCOF, Inc.

CCOF's Comments on the Handling Subcommittee's Discussion Document Reclassification of L-Malic Acid

CCOF supports the classification of L-Malic acid as a synthetic substance by applying NOP Guidance 5033 and 5033-1 to the complete production method of L-Malic acid. CCOF has found that most, if not all, commercially available sources of L-Malic acid are produced from petroleum, as also noted in the Technical Report. L-Malic acid from the fermentation of a carbohydrate substrate may not be commercially available.

At the heart of this reclassification is the question of how far back a material review should stretch to determine the "starting substance," per the NOP Guidance 5033-1 decision tree. CCOF supports reasonable material review processes that do not require absolute knowledge of the original "starting substance" of every material. CCOF generally supports reviewing one step back or reviewing manufacturing of the level of the substance in question. Technical Reports outline production methods used to produce a material, which can be referenced by certifiers and Material Review Organizations to determine whether a production process was known when a material was last reviewed by the NOSB.

If the classification of substances as synthetic or nonsynthetic only goes back one step in the process, then L-Malic acid could technically be classified as nonsynthetic. However, because commercially available L-Malic acid is produced from fumaric acid derived from petroleum, classification as synthetic is also justified by reviewing the full material production process.

The Technical Review identifies other substances that would be affected by the classification of L-Malic acid as a synthetic substance. The classification could set a precedent for other substances. However, when a substance is derived from petroleum, it should be classified as synthetic.

CCOF's Comments on the Handling Subcommittee's Discussion Document Review of the Ion Exchange Filtration Process

CCOF views filtration systems as equipment. Ion exchange filtration poses unique questions as it involves the exchange of a material in the ion exchange filtration system with something in the organic product, thereby adding to the organic product. CCOF developed an approach to review resin filtration and ion exchange after thoughtful consideration of the process and discussion with other accredited certification agents.

The ion exchange process involves a combination of equipment (resin and membrane) and recharge materials. When reviewing an ion exchange process for compliance, CCOF requires that the recharge materials be on the National List of Allowed and Prohibited Substances (§ 205.605 or § 205.606) and the resin to be FDA approved as a food contact substance. CCOF does not require the resin or membrane to be on the National List as they are analogous to other types of equipment used to filter products.

CCOF has reviewed at least two ion exchange filtration systems. The first, which used National List listed sodium hydroxide as the recharge material, was reviewed, but has not been implemented by a sugar producer. The other system used a recharge material not listed on the National List and was not approved for use by a winery.

CCOF supports the Handling Subcommittee's request for a Technical Report of the ion exchange process. When reviewing the Technical Report, CCOF encourages the NOSB to consider any precedent that could be set for other filtration systems that use membranes and resins. Filtration systems are critical tools for many types of organic production.

CCOF's Comments on the Handling Subcommittee's Discussion Document Fish Oil Annotation Change

No CCOF member lists fish oil in their OSP. CCOF supports the goal of protecting marine species, including fish and marine materials, and supports nonduplicative and achievable standards for organic producers, organic material manufacturers, and others in the organic supply chain.

The discussion document notes that “significant U.S. regulation and international regulation exists to address the environmental concern of overfishing,” therefore, CCOF is unsure whether the proposed annotation is necessary for fish oil. The overfishing regulations noted in the proposed annotation from the US National Oceanic and Atmospheric Administration (NOAA) must be followed within its jurisdiction. A domestic fisherman must comply with NOAA regulations regarding overfishing before selling their catch or bycatch for the production of fish oil. Therefore, the annotation may be duplicative for domestic producers of fish oil.

The question remains on whether the organic standards are the appropriate conduit to counter overfishing globally or the overharvesting of marine materials/species. NOSB should request a technical report on fish oil used in organic products to examine the sources of fish used for fish oil and use the report and public comment to determine whether a lengthy annotation that includes federal law and global guidelines is necessary.