

October 8, 2014

MEMORANDUM TO THE NATIONAL ORGANIC STANDARDS BOARD (NOSB)

FROM: Miles V. McEvoy
Deputy Administrator
National Organic Program (NOP)



SUBJECT: Process Clarification for Sunset Review of the National List of Allowed and Prohibited Substances (National List)

The Organic Foods Production Act of 1990 (OFPA) requires that the National Organic Standards Board (NOSB), a 15-member federal advisory committee, review all substances and that the Secretary of Agriculture (Secretary) renew these substances, within 5 years of their addition to or renewal on the National List. This action of NOSB review and USDA renewal is commonly referred to as the “Sunset Process.”

Since the publication of the Sunset Process notice in the Federal Register on September 16, 2013 (78 FR 56811), The Agricultural Marketing Service (AMS) has received feedback from the public and the NOSB concerning the role of the subcommittees in the sunset review process. AMS has received requests to clarify that the NOSB completes the sunset review, not the subcommittees.

AMS is reiterating that the NOSB is responsible for reviewing all substances under the Sunset Process.

The NOSB will complete its 2015 sunset review process for seven substances at the October 2014 public meeting. The NOSB Crops Subcommittee has conducted a preliminary review of 3 substances and included a motion to remove for each substance. The NOSB Handling Subcommittee has conducted a preliminary review of 4 handling substances and included a motion to remove for each substance.

During the October 2014 meeting, the NOSB will conduct a vote to remove for each substance that is under 2015 sunset review. Whether the motions to remove pass or fail, the completion of the vote by the NOSB concludes the review process for each substance. A failed motion on a substance indicates that the NOSB determined a substance continues to meet required OFPA criteria and AMS may publish a Federal Register notice announcing that the listing will be renewed for five years. A passed motion on a substance indicates that the NOSB determined a substance no longer meets the OFPA criteria and the NOSB will make a recommendation to AMS for removal of the substance. AMS will review the recommendation and determine whether to proceed with rulemaking to remove the substance from the National List.

The NOSB plays a critical role in reviewing substances to ensure that all substances on the National List meet the criteria specified in the Organic Foods Production Act and AMS thanks the NOSB for its critical work on the National List.