

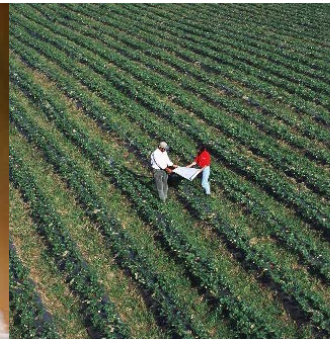


# Overview: Sunset Review Process

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# Sunset Process



- On September 16, 2013, the National Organic Program announced a transparent and streamlined sunset review and renewal process.
- The updated procedure
  - Clarifies process
  - Provides increased opportunity for public comment
  - Ensures a decisive, majority vote for all recommendations to change the National List

# Sunset needed a revamp!



Drawbacks to previous process:

- Each sunset year required 3 separate rulemaking documents (ANPR, PR, and FR)
- Substances were discussed in a single public meeting
- Removal could occur with a minority of votes cast (fewer than required of “decisive” actions)
- Annotation changes during sunset were problematic to implement under sunset deadlines

# Sunset Provision of OFPA



- No exemption or prohibition contained in the National List shall be valid unless the **NOSB has reviewed** such exemption or prohibition as provided in this section **within 5 years** of such exemption or prohibition being adopted or reviewed and the **Secretary has renewed** such exemption or prohibition

OFPA, Section 2118(e)



- **Thorough and transparent review process for all substances** - provides 2 public comment opportunities before the NOSB completes its review of each substance.
- Ensures that any change to the National List (petitioned or sunset) is supported by a 2/3 majority of the NOSB.
- Streamlines the administration of the National List by simplifying rulemaking

# Does this change weaken the standards?



- No. NOSB retains its ability to recommend removal of substances from the National List through the sunset process
- Previously, when there was new evidence or when alternatives became available, substances removed from the National List during Sunset had at least 2/3 votes supporting their removal
- Examples: sulfur dioxide for rodent control, forms of pectin, forms of lecithin, forms of silicon dioxide, hops

# What is the process?



The Sunset Process is comprised of two components:

(1) The NOSB review (Steps 1-6) and  
(2) USDA action (Steps 7-8) on substances within 5 years of their addition to or renewal on the National List.

- Key documents used for the review:

**(1) Sunset List**

**(2) Preliminary Review**

**(3) NOSB Sunset Review**

# Process Mechanics



- **Step 1** – Meeting announcement in Federal Register inviting comment on **Sunset List** (background may include requests for specific info from Subcommittees)
- **Step 2** – Written public comments submitted and analyzed by Subcommittees
- **Step 3 (Meeting #1)** – Subcommittees summarize background and public comment & receive oral comment



# Process Mechanics (cont.)



- **Step 4** – Subcommittees analyze written and oral comments from Meeting #1 and prepare **Preliminary Review**.
  - **Preliminary Review** includes any Subcommittee motions for removal, including those that did not receive majority of Subcommittee votes
  - Meeting announcement inviting comment on **Preliminary Review** published in Federal Register

# Process Mechanics (cont.)



- **Step 5** – Subcommittees analyze written public comments submitted on **Preliminary Review** before Meeting #2

# Process Mechanics (cont.)



- **Step 6 (Meeting #2)** – Subcommittees present **Preliminary Review**, receive oral comment, and discuss with the full Board.
  - Board votes on all motions for removal from **Preliminary Review**.
  - After Meeting #2, NOSB completes **Sunset Review**.

# Process Mechanics (cont.)



- **Step 7** – AMS reviews NOSB Sunset Review and considers rulemaking action for any recommended removals
- **Step 8** – AMS issues Federal Register Notice announcing renewal of applicable substances

# Benefits of Two Meeting Process



- Allows for earlier information gathering at first meeting
- Second meeting allows for NOSB to recommend removal of substances based on information received during first meeting
- New information submitted at later stages can be handled through petition process

# Benefits of Voting Procedure



- Recommendations to remove a substance during sunset review requires 2/3 majority (decisive vote under OFPA)
- Aligns with number of votes needed for petitions to remove
- Increases efficiency at NOSB meetings since votes are only needed for motions to remove substances from the National List need

# How does NOSB finish the sunset review?



- For recommended removals:
  - Sunset review is complete upon submission of recommendation to NOP
- For other reviews:
  - Sunset review is complete at the end of the second meeting
  - Chair will submit NOSB Sunset Review document to NOP
  - Recommendations are not required for sunset renewals
  - The two meeting review meets the OFPA sunset requirement for NOSB review

# Sunset Review Timelines



- On January 22, 2014, NOP published a memo on Sunset Review Timelines
- The memo identifies which two meetings the NOSB should use to address each substance
- Establishes deadlines for NOSB to request technical reports
- Provides a list of substances scheduled for sunset in 2014- 2017 (addresses sunset dates through 2019)



# Sunset Dates



- Sunset dates are published in Program Handbook, NOP 5611
- 5 years is calculated from effective date of final rule or renewal
- For efficiency, sunset reviews are grouped by calendar year

# Sunset Process - Summary



- Ensures a decisive, majority vote for all recommendations to change the National List
- Maintains NOSB's responsibility to review substances for National List
- Streamlines NOP's administration of the renewal process



Thank you!