

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

Date: March 18, 2005

Subject: National List Sunset Review Process

Chair: Jim Riddle
(sign)

Recommendation

The NOSB hereby recommends to the NOP the following:

Rulemaking Action: _____

Guidance Statement: _____

Other: X

Statement of the Recommendation (including Recount of Vote):

The NOSB adopted National List Sunset Review processes and procedures as and internal working document for addition to the NOSB Policies and Procedures Manual.

Adopted March 2, 2005 by NOSB vote: 14 yes, 0 no, 0 abstain

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

Document adopted to establish clear and consistent procedures for sunset reviews by the NOSB of substances on the National List.

Response by the NOP:

**National List Sunset Review Process
NOSB Internal Working Document
Adopted by NOSB on March 2, 2005**

Introduction

The following outline and flowchart details how the NOSB and each NOSB committee (crops, livestock and handling) will proceed with the National Sunset Review Process. The flowchart provided as an addendum to the document outlines the timeline for each of the activities described below.

NOP Responsibilities

Once the Federal Notice on the Sunset of the National List is posted, the NOP expects to receive public comment regarding substances in Sections 205.601-205.606 that must be reviewed and published as final rule no later than October 21, 2007. Each individual comment could be on one specific substance or could include a list of substances from different sections (i.e. handling, crops or livestock). One challenge at the NOP staff level will be to develop a web posting strategy that allows the reader to determine what section(s) the comment relates to. The committee recommends that each comment is reviewed by the NOP staff and a column is included on the database that would indicate whether the comment deals with a substance or substances for crop (c), livestock (l) and handling (h). Each comment should also receive a number that would indicate the date received (i.e. 01-month-day-year would stand for the first comment received and the date received). Comments that are received via e-mail can be posted more efficiently than those received by mail because mailed comments first would be scanned by staff and then posted. It is anticipated that posting will take staff time and the materials committee hopes that the NOSB Executive Director position is filled by the time comments are received so that there is a person on staff that can prioritize the tasks associated with the Sunset Review Process.

NOSB Responsibilities

The NOSB committees would receive notice from NOP staff once a new substance(s) is posted to the web. If posting to the website takes more time than anticipated (> 5 working days upon receiving comment), the NOP staff will forward the comments via e-mail to the NOSB committee members. Committee members will use the code column to identify comments that address substances on the specific materials list(s). Chairs of each committee will be responsible for arranging periodic conference calls as substances are submitted. The materials committee recommends that conference calls be arranged once a sufficient number of comments on substances are received by a committee. Committee chairs will need to arrange a series of conference calls in order to allow time for ample discussion. To respect other time commitments of Board members, committee calls should be kept to a maximum of 1 ½ hour per call. The following information needs to be provided by the appropriate committee for each substance sunset material that is under consideration:

Sunset Review Committee Forms

1. Name of Substance
2. National List Section, use and annotation if applicable
3. Comment (s) code number (s)
4. Status (record number of comments)
 - a. Renewal ()
 - b. Removal ()
5. Summary of comment (s)

Each committee should state the positions provided by the commenters and determine the relevancy to the OFPA or 205.600(b) criteria. Information that does not specifically address the OFPA or 205.600(b) criteria should be noted. The committees shall determine if the comments provide data, references or expertise that justify the positions expressed. The committee must determine if additional information or verification of the information provided is necessary.
6. Committee recommendation

Committees will recommend to the full Board a determination on each substance for renewal, removal or deferral to seek specific technical information from the TAP contractors. TAP contractors shall be used to verify information provided by the commenters, research or seek additional information requested by the committee. Requests to a TAP contractor for more information need to be detailed, specific and based on the OFPA criteria. If a committee determines that they need additional information from the TAP contractor, their written request, will be immediately forwarded to the contractor prior to a vote by the full board.. This procedure will promote a more efficient process. The materials committee determined that this will allow for technical information to be identified and addressed prior to a full board vote so that each substance has a chance to be voted on during the first sunset review meeting of the full board. Some substances may require more time to gather technical information and may not be on the agenda during the first sunset review meeting. The committee anticipates a minimum of two and a maximum of four Board meetings to review all of the materials that will be reviewed by 2007. We anticipate that these meetings will be scheduled every 10 to 12 weeks.
7. NOSB Final Vote

Each committee will provide their recommendation to the board on each substance 30 days prior to the full Board meeting. The recommendation will be posted on the website and open to public comment. The comments received at this point from the public should address the committee's recommendation. . The board will discuss each substance and recommendation from the committee and vote on renewal, removal or deferral of the substance. Deferral of substances would be based on insufficient information to make a decision by the board and would require a request for additional information from the TAP contractor. Requests would be written by the appropriate committee and address OFPA criteria. Substances that are deferred would be referred back to committee and placed on the agenda for the upcoming meeting.

8. NOP Rulemaking

After each NOSB meeting, the NOP would begin rulemaking on those substances that were voted for renewal. The materials committee anticipates at least two dockets of materials for renewal based on the assumption that deferred materials may take some additional time for review and a full board vote.

Board vote: 14 yes, 0 no, 0 abstain