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)
Benefits

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