

SUNSET REVIEW

The National Organic Standards Board (NOSB) advises USDA on which production inputs should be included on the National List of Allowed and Prohibited Substances.

Once a material has been added to the National List, NOSB must re-review the material every five years to confirm that the material continues to meet the National List criteria. This re-review process is known as the “Sunset Review” process. Through this process, NOSB can remove inputs from the National List based on any new information regarding adverse impact on human health or the environment, or the availability of a natural or organic alternative. After NOSB completes its Sunset Review and provides a recommendation, USDA either renews or removes the input to complete the Sunset Review process.

The Sunset Review process must be completed prior to the material’s Sunset Date, which is the five years from its initial listing or most recent renewal on the National List. Therefore, NOSB reviews these materials well in advance to ensure there is time to complete the entire Sunset Review process prior to the material’s Sunset Date.

SUNSET REORGANIZATION

NOSB has adopted a reorganization process that will result in a more evenly distributed Sunset Review workload over the five-year Sunset Review cycle. The process is the result of an NOSB recommendation unanimously passed at the fall 2016 NOSB meeting. As explained in the NOSB recommendation, National List inputs that are reviewed early under the reorganization plan should be allowed to sunset on their original timeline.

TWO-STAGE PUBLIC COMMENT PROCESS

There are two public comment opportunities that inform the Sunset Review process. The first opportunity occurs at the spring meeting when NOSB accepts public comments on material undergoing Sunset Review that year. NOSB uses the information collected through the first round of public comment periods to inform the subcommittee proposals that are presented for a second public comment at the fall meeting. The full Board takes the feedback from both comment periods into consideration along with its own research, and votes at the fall meeting on whether to renew their allowance on the National List for another five years.

ORGANIC TRADE ASSOCIATION’S ONLINE SURVEY SYSTEM

To help facilitate a thorough comment and review process, OTA creates electronic surveys for each sunset material under review. The surveys are available to every NOP certificate holder, and include 7-10 questions addressing the necessity (crop and livestock) or essentiality (handling) of each material. The names of the companies submitting the information are confidential (not disclosed to OTA). To ensure wide distribution of the surveys beyond OTA membership, OTA works with Accredited Certifying Agencies and the Organic Materials Review Institute (OMRI) to distribute the survey links to all of their clients as well as to targeted clients they know are using the inputs under review. OTA also works through its Farmers Advisory Council to help assist in distribution to NOP certified farmers. OTA hopes these efforts and the feedback gathered from certified farmers and handlers will help to inform NOSB in its review process as it relates to the necessity or essentiality of the National List inputs undergoing their five-year Sunset Review.

[Learn More at OTA.com/SunsetReview](https://www.ota.com/SunsetReview)

NOSB VOTING PROCEDURES

NOSB MOTIONS AND VOTES

As specified in the Organic Foods Production Act (OFPA), two-thirds of the votes cast at an NOSB meeting at which a quorum is present shall be decisive of any motion [§2119(i)].

Based on a 2013 NOP clarification of the NOSB sunset voting procedure, the full NOSB must vote on a motion to remove a substance from the National List (instead of voting on a motion to renew the substance). This procedure ensures that changes to the National List are based on a decisive vote of the Board. For sunset materials, this means that two-thirds of NOSB members must vote in favor of removing a material for USDA to have the authority to amend the National List. As there are 15 NOSB members, 10 votes in favor are needed to pass any recommendation to remove a material from the National List.

Materials can only be renewed or removed from the National List during the sunset process. Any other changes, clarifications, or restrictions to listed materials must be conducted through the petition process, and be recommended by the subcommittee through a proposal that is separate from the Sunset Review process.

WHY DO THE SUNSET SUBCOMMITTEE PROPOSALS INCLUDE A "MOTION TO REMOVE?"

Even if a subcommittee intends to renew a sunset material, the subcommittee will still put forward a "motion to remove." The purpose is to introduce the topic for consideration while the vote from the entire Board determines the final recommendation. Even if the Subcommittee "motion to remove" fails to receive a simple majority, the motion will still be put forward to the full Board for review. The "motion to remove" is then considered and voted on by the full Board, and needs a decisive vote (two-thirds majority) to recommend removal.

EXAMPLE VOTING PROCESS FOR A "MOTION TO REMOVE"

Subcommittee Vote (simple majority is needed to pass a motion)

- Yes = in favor to delist No = in favor to renew
- If majority vote yes, the recommendation to the full Board is to remove the material
- If majority vote no, the recommendation to the full Board is to renew the material
- Subcommittee proposal is forwarded to the full Board for a vote regardless of whether the motion failed/passed

Full Board Vote (2/3 majority (10 of 15)) is needed to remove a material)

- The full Board votes on the subcommittee's motion to remove
- Yes = in favor to remove No = in favor to renew
- 2/3 of the 15 member board would need to vote YES to remove the material
 - Example: 10 yes, 5 no would mean that the motion passes, and the final recommendation would be to remove the material
 - Example: 8 no, 7 yes would mean the motion fails, and the material would remain on the National List.