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National Organic Standards Board
USDA-AMS-NOP
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Docket ID # AMS-NOP-25-0914

Re. PDS: PPM changes including sunset efficiency

These comments to the National Organic Standards Board (NOSB) on its Spring 2026 agenda are submitted on behalf of Beyond Pesticides. Founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers, and farmworkers, Beyond Pesticides advances improved protections from pesticides and alternative pest management strategies that eliminate a reliance on pesticides. Our membership and network span the 50 states and the world.

Proposed changes to the Policy and Procedures Manual (PPM)

Failure to participate

The NOSB performs important functions in guiding the National Organic Program (NOP). Its 15 members represent the organic community—producers, processors and handlers, retailers, public and consumer interest organizations, environmentalists, scientists, and certifiers. The NOSB has a full agenda ranging from materials review to policy recommendations, and full participation is needed to ensure that the wide range of viewpoints is heard on all issues. Beyond Pesticides supports the suggested addition to the PPM at III.J.3 to address this issue.

Technical Reviews

Unbiased up-to-date technical information about petitioned materials and those under sunset review is critical for NOSB decision-making. In recent years, this information has been supplied by Technical Reviews (TRs) performed by independent contractors. When informed by TRs, NOSB debate is more substantive and transparent, and less antagonistic than when the NOSB relies on petitioners or internal reviews. Beyond Pesticides supports the additions to the PPM at IV.H, Step 3, to give guidance to subcommittees and support informed, transparent decisions by the board, with the following amendments on pages 27 and 28 of the Policy and Procedure Manual:

Step 3: Subcommittee determines whether a Third-Party Technical Review (TR) is required:

If the petition is for a new substance without a TR or an existing substance that has a TR that is over 10 years old, a new TR ~~should~~ **shall** be requested.

~~Is there sufficient information in the petition that makes a TR unnecessary?~~ **Can the Subcommittee provide written evidence that it can reasonably and without bias research any needed technical information?**

Sunset Review Efficiency

Beyond Pesticides supports the conclusion in the Policy Development Subcommittee (PDS) discussion document on “sunset review efficiency”—that “the potential time savings was not worth the potential confusion among Board members related to the voting procedure, and the potential for reduced transparency of the voting process among stakeholders.” For the record, we repeat our Spring 2025 comments below.

Beyond Pesticides strongly opposes the use of a consent agenda in NOSB meetings, especially for the use proposed in the discussion document—grouping sunset items. While it may appear that grouping sunset listings could save time, we believe that the contrary is likely—that grouping listings would take more time through debate over the appropriateness of the grouping. If, as the discussion document suggests, these agenda items are non-controversial (which is rarely the case, and would be another subject of debate), then the only time that would be saved would be in running through the roll call vote.

The NOSB was established to bring stakeholders together and ensure a full airing of views and consideration of science and methods in a transparent process. To ensure public confidence in the board process and the in-depth consideration of different viewpoints, the process should incentivize a deliberative review rather than a quick review, which will be seen as cursory. The integrity of the organic seal is critical to trust in and growth of the organic sector. The consent agenda could undermine public trust in the board process and the value of the label.

Consent agendas are frequently used in public meetings in which the entire assembly has had an opportunity to debate the issue at previous meetings. This is not the case for the NOSB, which meets twice a year. Although sunset materials are on the agenda for two consecutive meetings, the first is an information-gathering session, not a debate. A motion to delist is brought to the floor of the second meeting. There is no opportunity to assess controversy before the second meeting.

Here is what *Robert’s Rules of Order* says about a consent calendar:¹

¹ Henry M. Robert *et al.*, 2011. *Robert’s Rules of Order Newly Revised* 11th edition. Da Capo Press, Philadelphia, PA. P. 361.

Consent Calendar. Legislatures, city, town, or county councils, or other assemblies which have a heavy workload including a large number of routine or noncontroversial matters may find a consent calendar a useful tool for disposing of such items of business. Commonly, when such a matter has been introduced or reported by a committee for consideration in the assembly, its sponsor, or, sometimes, an administrator, may seek to have it placed on the consent calendar. This calendar is called over periodically at a point established in the agenda by special rule of order, at least preceding standing committee reports. The matters listed on it are taken up in order, unless objected to, in which case they are restored to the ordinary process by which they are placed in line for consideration on the regular agenda. The special rule of order establishing a consent calendar may provide that, when the matters on the calendar are called up, they may be considered in gross or without debate or amendment. Otherwise, they are considered under the rules just as any other business, in which case the "consent" relates only to permitting the matter to be on the calendar for consideration without conforming to the usual, more onerous, rules for reaching measures in the body.

There are several prerequisites that have been generally accepted for placing business items on a consent agenda (or consent calendar). As noted in the excerpt from *Robert's Rules* above, they are generally routine or noncontroversial issues. Some have offered the examples of minutes, committee reports, routine correspondence, and final approval of proposals or reports that have been fully discussed and vetted at past meetings.²

Sunset items are rarely noncontroversial—with the exception of prohibited nonsynthetic materials such as arsenic and strychnine—and should be fully debated. Transparency is important to the functioning of the NOSB in its role of guiding the National Organic Program. Procedures such as the consent agenda decrease transparency and should be rejected. The NOSB process was established to incentivize continuous improvement through rigorous deliberation on individual synthetics in light of new approaches, updated science, and more eco-sensitive materials. We must remember that the default assumption in OFPA is the prohibition of synthetics and the National List is a list of exceptions to that operating principle and value. Given this, the scrutiny of individual synthetics is essential to public trust in the label and the market.

Annotation Changes During Sunset Review

Attention of the NOSB is focused on specific substances during consideration of a petition and during sunset review. Over the years, Beyond Pesticides and other organizations have requested clarifying annotations to items on the National List. Since our attention is also drawn to these listings during sunset review, our requests for annotations are generally included in comments on sunsets. However, since the ability of the NOSB to introduce annotations during the sunset process was removed by NOP in 2013, the NOSB's attention moves on to the next set of materials, causing requests for annotations to be ignored.

² http://boardforward.com/201706/The_Dos_and_Donts_of_Consent_Agendas.

The PDS is now proposing a flexible approach to considering annotations and sunset review simultaneously. While the proposal does not require annotation proposals to follow the same timeline as sunset reviews, it does allow them to be considered at the same board meeting. It also facilitates considering an annotation while the subcommittee's attention is focused on the material, including the possibility of requesting a new TR, during sunset review.

Beyond Pesticides supports most of the proposed additions to the PPM at VII.B, but we cannot support relinquishing authority to NOP as proposed in the last sentence: "Should an annotation change proposal pass the full board, NOP may consider the proposal in its decision to renew substance listings and/or engage in rulemaking for changes to the National List."

When the NOSB changed its sunset procedure in 2010, it provided for a backup vote to give NOP time to make the regulatory change (and hence avoid inadvertently dropping the material from the National List completely). The first such vote added an expiration date to streptomycin, which was added to the regulations. Subsequently, NOP used the backup motion to avoid changing the annotations to List 3 "inerts," carrageenan, and cellulose, saying, "These second recommendations authorize the Secretary to renew these three listings 'as is' considering the expiration date of November 3, 2013."³ This NOP action ran contrary to the NOSB's recommendation.

In view of the history cited above, we believe that the final sentence quoted above must be revised to state, "Should an annotation change proposal pass the full board, **the NOSB must clarify that the change applies to the material that has been relisted.**" The NOSB must not relinquish its authority over the National List.

It should be noted that without the allowance of annotations at sunset or a process that ensures the codification of an NOSB-passed annotation immediately following a sunset vote, the process incentivizes the delisting of substances on the National List. The annotation, like any product label that establishes legal use, enables the restricted use of a material that would otherwise be unacceptable in an organic system.

Miscellaneous Edits

The proposed edits are fine. We wish to add the following edits:

- P. 26, 1.3. "If" should be "whether."
- P. 27, Step 2. "If" should be "whether."
- P. 31, Step 9.2, third bullet. "If" should be "whether."
- P. 34, B, Step 1. "If" should be "whether."
- P. 37.1. "If" should be "whether."
- P. 41, IX, first bullet. "If" should be "whether."
- P. 44, 2, second paragraph. "If" should be "whether."
- P. 4. "SUSNET" should be "SUNSET."

³ USDA, 2013. <https://www.regulations.gov/document/AMS-NOP-11-0003-0029>.

- P. 34, B. "SUSNET" should be "SUNSET."

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terry Shistar".

Terry Shistar, Ph.D.
Board of Directors