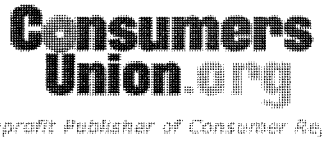

Arthur Neal
USDA-AMS-NOP
1400 Independence Ave. SW
Room 4008 – So. Ag Stop 0268
Washington, D.C. 20250
National.list@usda.gov

RE: TM-04-07
NOP Sunset Review

Arthur:

Thank you for the opportunity to comment on the ANPRM for Sunset review of materials on the National List. As required by OFPA, all allowed synthetics and non-synthetics, as well as prohibited natural materials on the National List will expire on October 21, 2007.

The Sunset Provision in the OFPA, 7 U.S.C. 6517(e), codified a fundamental principle of organic agricultural production that the use of allowed synthetic materials should be limited and diminished over time as natural substitutes become available. Therefore, we believe that the Sunset Provision generally requires that there be an affirmative burden upon users to justify any renewal of materials contained on the list of allowed materials (205.601, 205.603, 205.605) by 2007. Unless such a justification for each such listed material is presented, the material's exemption should expire.

Furthermore, the precautionary nature of the Sunset Provision in limiting ongoing expansion of exempted and allowed materials list speaks to the necessity of maintaining specifically prohibited natural materials on the existing list of Prohibited naturals (205.602, 205.604) unless new information is received regarding their safety that allows such prohibition to be lifted and the material's use allowed.

Due to the large number of items (136) on the list, we understand the need to prioritize the order of material renewal. We agree with the NOSB Materials Committee

recommendation for identification of items needing first review (web posting of July 11, 2005 memo from Chair Rose Koenig to Arthur Neal).

In addition, we have reviewed the NOSB minutes for a number of items which were recommended to be added to the National List with the understanding that they would be re-reviewed ahead of the sunset period schedule. These should be targeted for TAP review at this time.

These include:

Streptomycin and Tetracyline-: antibiotics used for disease control in crop production (November 1995, "to be reviewed in 2 years");

Chlorine - used for sanitation in crop, livestock and handling (November 1995, "to be reviewed in 2 years"); NOSB recommended revising this annotation in 2004, which has not happened, there is wide variation in how the current listing is interpreted - a TAP review is needed. Sprouts are being treated at 2000 ppm and still called organic. Other forms -acidified sodium chlorite (was petitioned and never reviewed) is being allowed on organic chicken at 1500 ppm without NOSB review.

Other issues that were controversial, and need to be addressed include:

Nutrient supplementation of organic food (NOSB addendum13, October 31, 1995,p. 161 Green Book- vote was 10-4), only authorized nutrients required by law, or recommended by professional organization. This is not reflected in final rule, and current annotation is not supported by NOSB comments in 2000. A TAP is needed to examine the exact identity of any nutrients required by law.

Natural flavors used in processing (NOSB addendum 14, October 31, 1995- p. 162 Green Book) – note this original recommendation suggested a progression, with the first step being the current annotation (natural carriers and preservatives) the second step - organic flavors and carriers, and the third being organic flavors, extracted with organic solvents, along with organic carriers and preservatives.

Natural colors was never reviewed or voted on by NOSB, appear to have been added in error in the NOP final rule, and should be removed, unless petitioned, or at least, TAP reviewed, many are agricultural and should be from organic sources when available. NOSB should be supported for recommending TAP review of this category.
Vitamins and minerals in livestock - never really had a TAP review. 1995 Addendum 18 did say "the TAP advisor" could keep us posted if there are any bad actors out there, and this policy should be reviewed in 2 years, but NOSB did review in 2003, (and voted to allow basically all forms other than animal sourced).

Natural Botanicals. The Board was aware that natural botanicals would not be subject to sunset review, and recommended in 1995 (Addendum 2, p. 174, Green Book) that a comprehensive review of Botanicals occur within 5 years of implementation of OFPA. Rotenone would be the highest priority of concern.

Sincerely,

Joseph Mendelson
Legal Director, Center for Food Safety
Washington DC

Urvashi Rangan, Ph.D.
Urvashi Rangan, Ph.D.
Senior Environmental Health Scientist
Yonkers, New York