



October 11, 2017

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National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave., SW.,
Room 2642-S., Mail Stop 0268
Washington, DC 20250-0268

Submitted via www.regulations.gov

RE: Document # AMS-NOP-17-0024

[NOSB Crops Subcommittee Proposal on Strengthening the Organic Seed Guidance](#)

Dear NOSB members:

Thank you for the opportunity to provide comments on the Proposal on Strengthening the Organic Seed Guidance. MOSA certifies approximately 2000 organic operations throughout the United States, 1723 of which are certified for crops.

MOSA offered comments on this issue on 3/30/2017, stating very specifically and in great detail which portions we support as well as requests for clarification on language. For this opportunity for comment, we have attempted to avoid repeating our previously submitted comments. Please reference those comments for more detail.

Proposals (*all proposed text is in underlined italic text*):

Proposal 1. To amend the National Organic Regulations §205.204 Organic seed and planting stock practice standard as follows:

(a) The producer must use organically grown seeds, annual seedlings, and planting stock:
Except, That,

(1) Nonorganically produced, untreated seeds and planting stock may be used to produce an organic crop when an equivalent organically produced variety is not commercially available: Except, That, organically produced seed must be used for the production of edible sprouts;

(i) Improvement in sourcing and use of organic seed must be demonstrated every year until full compliance with (a) is achieved.

MOSA does not support this proposed rule change, *as written*. In short, though we support continuous improvement in this area, we feel that this requirement as written may disable organic farmers who need specially adapted seeds. We want organic farmers to be able to source seeds that fit their systems. Enforcing continuous improvement with an end goal of no non-organic seed usage may hamstring the organic farmer from being able to respond to

changing markets or environmental conditions. Furthermore, the discussion regarding this proposal notes that if this was adopted then the NOP 5029 Guidance could indicate measures for sufficient improvement, such as percent increase in acreage per year or increased sourcing efforts. However, these are the only two indicators listed, and requiring an annual percentage increase in acreage seems highly problematic. It does not take into account changing cropping systems, crop rotations, or the dynamic nature of farming and the need to adapt to market or environmental forces, or family and business needs. And, this needed adaptability may require growing crops for which organic seed is not yet available. Additionally, acreage by crop and organic seed availability by crop may not stay steady from year to year.

We do support strengthening the need for continuous improvement within the Organic Seed Guidance (NOP 5029), and specifying the enforcement tools available to certifiers, such as requiring additional steps for sourcing organic seeds (like additional recordkeeping requirements, or trialing of organic varieties). However, prescriptive percentage increases, though enforceable, may not result in enforcement that benefits organic agriculture or farmers.

MOSA would additionally like to take this opportunity to comment on proposed changes to NOP Guidance 5029 regarding measures for sufficient improvement. The wording of this section could greatly impact certification review processes.

Proposal 2. Changes to NOP 5029 Guidance (Section 4)

The Guidance for Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production should be amended as follows:

4. Policy

Producers should develop and follow procedures for procuring organic seeds, annual seedlings, and planting stock and maintain adequate records as evidence of these practices in their organic system plan (OSP). Producers must also provide clear documentation regarding the inputs and materials used during crop production (as required at § 205.201(a)(2)). Producers must prevent and avoid contamination from excluded methods in seed of at-risk crops. (corn, soybeans, canola, alfalfa, beets, chard, cotton, rice and summer squash). Certifying agents must assess procedures and documentation of certified production and handling operations as they source seeds, annual seedlings, and planting stock on an annual basis. Each of these concepts is described in more detail below.

MOSA finds it challenging to support this addition without more guidance. We support the prevention of contamination from excluded methods when procuring seed, seedlings and planting stock, but it is not clear how this would be enforced. The proposed wording does not clearly outline the producers' responsibility. Are producers responsible for evaluating GMO contamination in seed they purchase? Are they required to test their seed or require testing from their seed supplier? Who pays for this testing? What is the acceptable limit of contamination, if there is one? Are organic farmers responsible for preventing all inadvertent GMO contamination during the growing season? Are the best practices for preventing and avoiding contamination clear and sufficient for each at-risk crop? And of course, who is responsible for GMO contamination? Does GMO contamination restrict development of our organic seed industry? For example, how many locations are currently suitable for growing organic seed corn or alfalfa

seed without the possibility of GMO drift? The use of GMOs is a prohibited *method*. Our review of organic operations' management plans ensures that products we certify are not *produced using excluded methods*, and that reasonable avoidance plans are in place. However, at this point in time, with no additional guidance about the enforcement of GMO contamination in seed crops or a realistic expectation for how *contamination* can be *avoided*, MOSA objects to placing the onus on producers that they “*must prevent and avoid contamination from excluded methods in seed of at-risk crops.*” Please reference our previous comments on seed purity, written from our grain-belt perspective.

Proposal 4.1 Sourcing of Seeds, Annual Seedlings, and Planting Stock

4.1.2 Certified operations may use non-organic seed and planting stock only if equivalent organically produced varieties of organic seeds and planting stock are not commercially available, *and the conventional replacement variety can be documented as being produced without the use of Excluded Methods.*

§4.1.2(c) On-farm variety trials of organic seed may be used by producers to evaluate equivalency and quality of varieties that are available as organic seed. Trials are encouraged and records should be kept of results to show inspectors, but they are not mandatory.

MOSA supports this addition if the wording is clarified. We encourage the use of trials as a site-specific tool for organic farmers to evaluate the availability of organic seeds that meet their needs. The wording of this is unclear from an enforcement perspective regarding what is “not mandatory.” Perhaps this would be more clear if it read:

§4.1.2(c) On-farm variety trials of organic seed may be used by producers to evaluate equivalency and quality of varieties that are available as organic seed. Trials are encouraged but not mandatory and, if performed, records should be kept of results to show inspectors.

Furthermore, it would be useful to clarify what types of possible records could be valuable to keep.

4.2 Recordkeeping for Organic Producers

4.2.1 The following records should be maintained by organic producers:

a. A list of all seed and planting stock, indicating any non-organic seeds or stock used, and the justification for their use including lack of equivalent variety, form, quality or quantity considerations. *Justification for use of varieties needs to be specific to each variety on the list and which issue (form, quality, quantity, or equivalence) is the reason.* Records describing on-farm trials of organic seed and planting stock can be used to demonstrate lack of equivalent varieties for site specific conditions.

MOSA is not in favor of this addition in this section. While we offer the use of an Organic Search form detailing the justification for each seed, we do not require that all producers use this form, particularly if they have many seed varieties (and some vegetable producers may have hundreds). For these operations, we require the inspector to verify the operation's standard procedure for sourcing organic seeds. Most order from a select number of seed companies and our inspectors may verify the organic search by referencing the seed catalogs. Requiring the

additional records proposed of *all* producers is not practical. Recordkeeping is often cited as a primary barrier to certification for producers who could qualify but choose not to certify. This requirement, in general, would place a significant additional recordkeeping burden on vegetable producers. MOSA would like to see this additional recordkeeping requirement noted as a compliance evaluation tool available to certifiers in section 4.4.4 (a) Role of Certifying Agents, which could be required by the certifier when improvement in organic seed sourcing is not being adequately demonstrated. This addition also seems to directly contradict the discussion in part B of the Proposal.

b. The search and procurement methods used to source organic seed and planting stock varieties, including:

1. Evidence of efforts made to source organic seed, including

i. documentation of contact with three or more seed or planting stock sources to ascertain the availability of equivalent organic seed or planting stock. *Five sources must be contacted for seed of at-risk crops.*

MOSA could support this addition provided that the list of at-risk crops is kept within this guidance document and updated on a regular basis and that the term “at-risk crop” is clearly defined.

ii. Sources should include companies that offer organic seeds and planting stock. *Such sources should provide evidence of their organic certification (if relevant), ability to source organic seed, and specific varieties sourced every year.*

MOSA does not support this addition, as it seems impractical and adds an additional layer of verification to the seed sourcing process requiring certifiers to verify the practices of seed companies as well as of their clients requesting organic certification.

iii. Failure to demonstrate improvement in sourcing organic seed over time may result in additional seed sources being required or additional steps taken to procure organic seed.

MOSA supports this addition and would appreciate, if possible, additional steps taken to be outlined in section 4.4.4 Role of Certifying Agents.

3. If seed sourcing is carried out or mandated by the buyer of a contracted crop, the producer must keep records of the buyer's documentation on attempting to source organic seed as part of the producer's own Organic System Plan. Such documentation must be comparable to that required of a producer who sources their own seed.

MOSA supports this addition.

4.4 Role of Certifying Agents

4.4.4 Certifying agents should review an operation's progress in obtaining organic seeds, planting stock and transplants by comparing current source information to previous years.

a. If sufficient progress is not demonstrated a certifying agent may ask for a corrective action plan and require additional seed sources be researched, encourage variety trials, or require additional steps to procure organic seed.

MOSA supports the spirit of this addition, but would like to see it expanded to incorporate other sections of this proposal and strengthened to more explicitly describe the additional steps for sourcing organic seed, such as the possibility of additional recordkeeping requirements. We feel additional records should not be imposed on all producers but can be an option to require for those where compliance is in question.

b. Non-compliances should be issued for repeated lack of progress in sourcing organic seed over time.

MOSA supports this addition and has issued noncompliance notices for repeated lack of progress sourcing organic seed.

We appreciate you considering our comments. Thank you for your work on this important issue.

Respectfully submitted,

The MOSA Certification Team