



October 4, 2018

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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-18-0029.

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

Dear NOSB Members:

Thank you for the opportunity to provide comments on the Proposal for Strengthening the Organic Seed Guidance. MOSA certifies approximately 2125 organic operations throughout the United States, including 1875 certified for crops. We have extensive experience with seed verification and we appreciate the work that has went into strengthening guidance for organic seed usage.

MOSA's comments on this issue for both the spring and fall NOSB meetings in 2017 very specifically and in great detail stated which portions of the proposals we support. Our comments also outlined our requests for clarification on language. The current proposal addresses many of our past comments. Thank you for your continued work on this topic. *This* proposal is much closer to a final product, and we feel that with a few additional revisions, the proposal will be solid. Our comments follow, in a similar format as used by the NOSB.

Crop Subcommittee proposals: All proposed text is in ***bold italics***.

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 searching, sourcing, and use of organic seed/planting stock must be demonstrated every year with the goal of achieving full compliance in the use of only organic seed/planting stock.

We continue to support and appreciate the *intent* of this proposed addition to mandate continuous improvement in use of organic seeds, however we are *still* not in support of this rule addition. We agree that the goal should be to use organic seeds and planting stock, but, the reality is that it will not always be possible, as we've explained in past comments. We appreciate the intent to develop language that is sufficiently open-ended to allow for the use of nonorganic seeds as long as continued improvement in organic seed use is apparent, but we do not think this language achieves that intent. The language chosen now for this revised proposed rule change would have farmers needing to show improvement in all *three* areas - "*searching, sourcing, and use*" and to do so "*every year*". While this may be the ideal, this interpretation is not always practical, and it does not meet the NOSB's desire to "*not require any specific benchmarks.*" Continuous improvement is an organic tenet, and that is often most sensibly measured over a long period of time, to allow for reasonable fluctuations on an annual basis. We encourage revision of this part of the proposal.

The Accredited Certifiers Association (ACA) is recommending the following language which we can support. This recommended language seems to cover all of the NOSB's intents.

(i) Continuous improvement in use of organic seed must be demonstrated over time with the goal of using only organic seed and planting stock. When non-organic seed is used, growers must demonstrate that their organic search is valid and improving.

Removed from Proposal: We support the NOSB's removal of previously recommended policies:

4.1.2a "***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).***"

4.2.1a "***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.***"

Proposal 2: To amend NOP 5029 - Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production as follows:

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. ***When there is a risk of excluded-method contamination in seed production, the certified operation may ask the seed supplier for a non-GMO level of purity assurance, and communicate this information to their organic certification agency.***

We also support the ACA's recommendation to remove this new language. Nonorganic seed suppliers would have no incentive to supply this information to organic growers. Certifiers would have no basis on which to require the information be collected nor, after collection, any basis on which to act upon the information.

§4.1.2(c) On-farm variety trials of organic seed/planting stock may be used by producers to evaluate and document organic variety/cultivar equivalency to the nonorganic item in use. Horticultural crops, which may have specific flavor profiles, size, color or other characteristics, can also be shown to not have an equivalent organic variety through descriptions provided in seed/planting stock catalogs or websites.

We can get behind the revised wording in the first sentence. We would still like to see the following previously-recommended sentence incorporated.

Trials are encouraged but not mandatory and, if performed, records should be kept of results to show inspectors.

The second sentence, regarding horticultural crops, is confusing. Is this saying that descriptions in catalogues can supplant the variety trials? Should this be another point under 4.1.2? We do not have understand the intent with this new language proposed. Clarification is needed.

§4.1.2(d) Documentation of these trials must be available at the annual inspection. This documentation should include which seed characteristics are desired, and be based upon the varietal benefits of the current nonorganic seed/planting stock in use. The varietal characteristics discovered during the on-farm trail, of both the nonorganic seed/planting stock and the organic seed/planting stock trialed, can be tracked in a simple table or spreadsheet detailing the specific characteristics sought, and whether or not the various varieties grown contained those characteristics.

This addition should be organized as (c)(1) rather than a new (d) since it pertains to the documentation for the trials as described in (c). We appreciate the NOSB's inclusion of examples of what types if possible records could be valuable. However, we would remove the first sentence since that intent is covered in the proposed addition above, *and* as currently worded in the new requirement (d), makes it seem that trial documentation must be available at inspection. We interpret that documentation of trials should be available *if* trials are used.

§4.1.3 d. Contamination from GMO Consideration: non-organic seed can be used if there is no organic seed available of equivalent variety with the desired level of purity from GMO contamination.

The idea here is sensible, but the missing element is ensuring the nonorganic seed used is less contaminated than the organic seed. If no assurance is in place we could just be perpetuating the problem of contamination. To simply allow a nonorganic seed because the organic seed is contaminated above a “*desired level of purity*” does not achieve the goal of reducing contamination. We'll restate our previous comment again. The nonorganic seed must have a lower incidence of GMO contamination than the organic seed.

§4.2.1 b 1. Evidence of efforts made to source organic seed/planting stock, including:

i. At least five documented sources must be contacted for seed/planting stock of all crops when this number of sources is available for an equivalent variety or cultivar.

ii. Sources must include companies that offer organic seeds and planting stock.

iii. Failure to demonstrate improvement in sourcing organic seed/planting stock over time may result in additional seed sources being required or additional steps taken to procure organic seed/planting stock, by the organic certifier.

While it's admirable to think of increasing the number of sources to five it will be difficult to know how many sources are available for specific varieties or cultivars without a comprehensive organic seed database. Increasing the number of sources will not necessarily increase the quality of the search. All factors in an organic seed search need to be assessed to determine adequacy. MOSA agrees that sources should *always* include companies that offer similar organic seeds and planting stock, and that failure to demonstrate improvement over time may result in additional requirements.

§4.2.1 b 3. If seed/planting stock is sourced or mandated by the buyer of a contracted crop, the producer must obtain sourcing information and documentation from the contracted buyer. The buyer's attempts to source organic seed/planting stock then becomes part of the producer's Organic System Plan. Such documentation must be comparable to that required of the producer who sources their own seed/planting stock.

We support this addition.

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.

b. Non-compliances should be issued for repeated lack of progress in sourcing and using commercially available organic seed/planting stock over time. Judgement of a noncompliance can include, but is not limited to, the certifier's communication detailing commercial availability organic seed/planting stock and continued nonuse by the farmer, the producer's lack of on-farm seed trials for judging equivalency between nonorganic seed and organic seed, and organic seed searches that do not include suppliers who carry organic seed.

We support the addition of **a** and **b**. We appreciate the examples certifiers may use to increase progress toward obtaining organic seeds and planting stock. The inclusion of factors to look at when judging a noncompliance will also aid certifier decision-making. The goal to improve *over time* is consistent with our expectations.

Since this guidance document is proposed for revision, we additionally suggest that “and transplants” be removed from 4.4.4. We find this language unnecessary since “planting stock” is the terminology referred to in the NOS. Alternatively, inserting the word “perennial” before transplants would make it a clear statement, since annual transplants must be certified organic.

4.4.5 Certifying agents should review the prevention measures taken to avoid contamination for seed of crops at-risk of GMO contamination.

MOSA continues to be opposed to this addition. While we do appreciate the spirit of the addition, the language is vague and there are limited regulatory enforcement actions certifiers can take if contamination is found. Reviewing prevention measures taken to avoid contamination is already a standard operating procedure at MOSA for all crops we certify on all operations certified for crops (~1875!), not just operations growing crops at-risk of GMO contamination. On this point however, we are unclear on the intended audience. The discussion notes that growers “*who save their own seed, as well as sell seed to others, should include practices that specifically address GMO contamination prevention*”. It seems as if this guidance is intended to be geared to just seed producers, but that is not clear from the proposed language in 4.4.5. Regardless, MOSA’s organic system plan for all growers covers contamination prevention strategies and measures in detail, through a series of questions about adjoining land use. Specific to each field we require field identification, a description of how contamination is prevented in all areas adjoining nonorganic production, buffer width, adjoining land uses and the manager’s name. We also ask if crops are harvested from buffer areas and how contamination is prevented and how the crop is used if buffers are harvested. We also encourage growers to notify interested parties of their organic status. We provide an “Organic Land Notification” letter to assist our clients in notifying others. We also gather information about roadside spraying and encourage posting of “no spray” signs. Clients are required to monitor and prevent for crop contamination from neighboring nonorganic operations. We require producers to also monitor the effectiveness of their crop contamination management and to make changes as needed. In summary, we would not see any changes necessary in our program if this guidance language is added. If more is expected, the crops subcommittee could be more specific.

Other Items

Organic Seed/Planting Stock Database: We support the development of a comprehensive seed database. Improvement in searching for organic seeds will improve with better organization of resources available. The ACA working group has been working on a document that could be a basis for such a resource. We agree that the Organic Integrity Database may be a resource that could be utilized and we also encourage the NOP to take action to meet the needs of the industry. Perhaps the NOP and ACA could work together?

We have a final general concern regarding the very limited comment period for this meeting. There were only 16 business days to read and analyze all documents and to write our feedback. This shortchanges our best collaborative thinking. It’s a disservice to all organic stakeholders, including the NOSB, and is disrespectful of this public, democratic process. We hope that USDA

will hear this ongoing concern, and will get meeting materials published for comment earlier. We'd note that the NOSB Policy Manual sets pre-meeting timeframes for posting, and requires at least 30 days for public comment. For best engagement and useful input, a reasonable comment period is closer to 60 days. Thank you for addressing this concern.

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

Respectfully submitted,

The MOSA Certification Team