



April 4, 2019

Ms. Michelle Arsenault, Advisory Committee Specialist
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-18-0071

[NOSB Crops Subcommittee Proposal on 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 2150 organic operations throughout the United States, including 1875 operations certified for crops. We have extensive experience with seed verification. We appreciate the work that has gone into strengthening guidance for organic seed usage.

MOSA's comments over the past couple of years 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. We feel that this proposal should be moved on as a final recommendation, though we would recommend a few changes be made prior to final vote, especially since all additions have not had the opportunity to be discussed or vetted among stakeholders in the industry, until now.

Our comments on each recommendation for strengthening guidance are as follows.

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, **and the conventional replacement variety can be documented as being produced without the use of excluded methods.***

This change is significant compared to the last proposed language. It arrives at a normal certifier policy. MOSA does currently verify that all nonorganic (conventional) seeds are produced

without excluded methods. (We also verify that any nonorganic seeds have not been treated with prohibited substances.) While we think it's unnecessary, we can support this addition.

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. If trials are not performed, the producer can use catalog or website seed descriptions, to document there are no organic seeds that have equivalent characteristics to the nonorganic seed in use.

We support this revised wording.

4.1.2 d. Documentation of on-farm trials or seed characteristic searches can be provided at the annual inspection. This documentation can 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 trial, 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.

We support this revised wording.

*4.1.6 Use of non-organic planting stock to produce organic crops is subject to commercial availability as per §205.204(a)(1). If planting stock is from a non-organic source and is used to produce perennial crops, then that planting stock may be sold, labeled or represented as organic planting stock **or an organic vegetative crop only** after 12 months of organic management §205.204(a)(4).*

This *new* addition - to prohibit the sale of *perennial* vegetative crops immediately after organic management of the perennial planting stock begins - needs adequate consideration, though we think we can get behind the intended direction. 4.1.6 in the guidance seeks to clarify NOS §205.204(a)(4), which allows for the sale of organic perennial planting stock after one year of organic management. The *crop*, however, is allowed to be sold as organic immediately after organic management begins. NOS §205.204(a)(1) is the standard which allows for the sale of the *crop*. (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. This standard does not differentiate between perennial and annual planting stock, and allows for the sale of an organic *crop* from nonorganic untreated planting stock when an equivalent organic variety is not commercially available. The definition of crop includes those that would be considered vegetative crops, and either perennial or annual. The effort to close the planting stock loophole is admirable, but we think not quite achieved, since it does not address the entire issue and also seems to create a discrepancy between two different rules. We think you will need to address the allowance for production of an organic crop from nonorganic planting stock in §205.204(a)(1).

We'd also like to see a requirement that planting stock either be bare-rooted or that media be reviewed and found to be acceptable for organic use in order to sell organic crops or planting stock. Currently, upon direction from the NOP, we do not review conventional management practices of

conventional planting stock, including the media which may come with the planting stock to the organic operation. We feel that untreated nonorganic planting stock should only be allowed when organic isn't commercially available, and that it should come with bare roots or with acceptable media. Or at the very least, if the media is found to be unacceptable, we'd require that the media be removed from the plant (repotted or planted in soil). It seems out of step with organic principles to require that annual transplants/seedlings be certified organic, but to allow for planting stock (annual or perennial) to be nonorganic. Both usually have media, but only the media for annual transplants needs to be acceptable. Please consider also addressing this issue in your recommendation.

The way we understand this addition is that only the perennial vegetative crop would be prohibited from organic sale (rosemary or oregano leaves) for 12 months. *Annual* planting stock could still yield a vegetative crop (hemp) or fruit/nuts/seeds (hemp seed) and *perennials* could still yield organic fruit/nuts (strawberries) *if* the fruit/nuts weren't present when the nonorganic plant came to the organic operation. The discussion says, "*However, vegetative growth that would be sold from the nonorganic planting stock would have been managed nonorganically. It does not make sense to sell this vegetative crop as organic.*" What about new growth on the plant after bringing it to the organic operation? Regular trimming of perennial herbs encourages growth and avoids legginess, keeping the plant in production much longer. New growth would be under organic management.

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. Records describing on-farm trials, **or other descriptions illustrating seed characteristics**, can be used to demonstrate lack of equivalent seed or planting stock varieties/cultivars for site specific conditions.*

We support this addition.

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 and planting stock varieties **should include but is not limited to:***

*i. **Documentation of contact with at least three or more seed or planting stock sources to ascertain the availability of equivalent organic seed or planting stock, including date, variety requested, quantity of seed, as well as if the seed is available organically, or was out-of-stock.***

We support this revision. It is in line with our current seed sourcing policy.

*ii. **Improved timeliness of seed/planting stock ordering by documenting the date(s) of orders. Earlier ordering can result in a greater chance of organic seed/planting stock availability. For larger orders, suppliers need to be given sufficient lead time to provide the quality, quantity and variety/cultivar within the timeframe needed by the organic producer.***

We can support this addition. We agree that earlier ordering is a tactic to improved organic seed sourcing.

iii. Work with seed/planting stock suppliers that provide a quick response of organic availability, to enable the producer to request seed, in a timely manner, of other suppliers if organic seed was not available from the first supplier.

This new addition is not all that clear and the discussion does not provide additional explanation. Is the goal to encourage growers to communicate to their suppliers that they intend to look elsewhere for organic seed if an organic option isn't secured immediately? This would impact typical practice of ordering organic seed and then having nonorganic delivered because supply ran out. Is there a better way to phrase this requirement?

iv. Demonstrate an increase in the percentage of organic seed/planting stock used over time by the operation.

In theory, we can support this. In reality, and on all organic operations, this tactic may not actually work out.

v. Search suppliers that are known to carry organic varieties or cultivars of the type they seek.

We support this addition. This is our current policy.

vi. Discuss and document their desire to purchase equivalent organic varieties or cultivars with their current nonorganic suppliers.

This new addition is not very clear. Does this mean that growers would talk to their nonorganic suppliers about how they want to be able to buy organic varieties, and from them, and then document that conversation? Is the goal to incentivize suppliers?

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

We support this addition.

4.2.1 (b) 3. If seed/planting stock is sourced or mandated by the buyer of a contracted organic 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 could include:

i. The handler's organic search documents there are no organic equivalents in quality, quantity or function, to the nonorganic seed/planting stock they require.

ii. The handler has discussed the development of an equivalent organic seed/planting stock source with their nonorganic seed supplier, as well as with organic seed breeders.

iii. The handler seeks out organic growers, either those that are contracted to grow organic crops from that nonorganic seed/planting stock source, or known organic growers who are experienced in seed/planting stock production, to trial production of an organic equivalent variety/cultivar.

iv. The handler clearly documents that mandating use of nonorganic seed/planting stock is not solely based upon the possibly higher monetary cost of an organic equivalent variety.

v. The handler can be required to illustrate they have performed the items required of producers in 4.2.1 (b), where the certifier feels this is appropriate, in order to achieve the goal of full compliance in the use of only organic seed/planting stock.

We support the expansion of this section.

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

While we agree with the intent here, we think the reference to *transplants* needs to be removed. Annual transplants are required to be certified organic.

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.

We agree with this section, however, we note the need to add planting stock. *"... and require additional ~~seed~~ sources be researched, encourage variety trials, or require additional steps to procure organic seed or planting stock"*

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:

1. The certifier's communication detailing commercial availability organic seed/planting stock and continued non-use by the farmer

2. Organic seed searches that do not include suppliers who carry organic seed/planting stock of that specific crop.

3. The producer's lack of on-farm seed trials, or reference to descriptions, for judging equivalency between nonorganic seed and organic seed.

4. When producer returns to nonorganic seed/planting stock use, if the organic equivalent seed/planting stock was not documented as having a significant yield, market or other loss.

We support these revisions.

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

Agreed. We verify measures are in place as part of our normal organic system plan review for all certified seed producing operations.

Thank you for your work on this challenging and perhaps precedent-setting issue. We are available for your questions.

Respectfully submitted,

The MOSA Certification Team