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National Organic Standards Board
USDA-AMS-NOP 1400 Independence Ave., SW
Room 2648-S, Mail Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-17-0024

October 11, 2017

RE: Crops Subcommittee Proposal: Strengthening the Organic Seed Guidance (NOP 5029)

Organic Seed Alliance (OSA) appreciates the opportunity to provide comments on the Crops Subcommittee's proposal: Strengthening the Organic Seed Guidance (August 15, 2017). OSA is a nonprofit working nationally to advance ethical seed solutions to meet food and farming needs in a changing world. Our research, education, and advocacy programs foster seed systems that are responsive to organic, resulting in more organic seed and more skilled organic seed producers.

Seed is too often overlooked as a fundamental piece of our food and agricultural systems. Yet this tiny resource has enormous impacts on how we farm and what we eat. When farmers plant their seed each spring, they rely on the genetics contained within to defend their plants from pests and diseases, and to withstand weeds and weather. Organic farmers are especially reliant on seed adapted to their production conditions and climates because they don't use synthetic pesticides and fertilizers. Seed also largely dictates the quality of our food – from appearance to flavor to nutritional content. In this way, seed holds endless potential for transforming our food system, especially when coupled with the principles that built the organic movement, such as diversity, health, and fairness.

For these reasons and others, we appreciate the Crops Subcommittee's efforts to strengthen the organic seed regulation and guidance. We believe these efforts will signal to the broader organic community that organic seed is important to the success of organic integrity and that faster progress in the area of organic seed usage and enforcement is needed. The subcommittee's proposal demonstrates a careful review of public comments and thoughtful consideration of various avenues for which to clarify and strengthen the organic seed requirement.

We believe the Crops Subcommittee proposal is generally very strong. We support the proposed regulatory change coupled with stronger guidance for certifiers. However, there are a few components of the proposal that we'd like to see changed before the NOSB votes on this proposal. We request that the NOSB not pass this proposal as written and that the subcommittee continue work based on these and others' comments with the hope that an updated proposal will be back on the agenda this spring for a vote.

Proposed amendment to the organic regulations at §205.204

OSA supports amending the organic regulations at §205.204 as written in the proposal (bold language):

- (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 and planting stock must be demonstrated every year until full compliance with (a) is achieved.

Proposed changes to the NOP's Organic Seed, Annual Seedlings and Planting Stock Guidance (NOP 5029)

We support most of the proposed changes to NOP's organic seed guidance document (NOP 5029). In particular, we're pleased to see language that encourages producers to consult more than three sources, to conduct on-farm variety trials of organic seed, and to demonstrate progress annually in the way of improved organic seed usage. While we are in agreement with most of the changes to the guidance, we hope the subcommittee will consider the comments that follow and incorporate our recommended changes into this proposal.

- **5029 – 4. Policy**

We urge the subcommittee to remove the proposed language below in bold. It's unreasonable to put this onus on farmers, especially producers purchasing from the commercial seed market and therefore don't participate in the production of that seed. It is up to seed producers and seed companies to ensure that contamination prevention measures were used for at-risk seed crops.

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.

- **4.1 Sourcing of Seeds**

OSA is very supportive of additional language in the guidance that speaks to the importance of on-farm variety trials for determining equivalency of available organic seed. This includes the language in 4.1.2(c). However, we encourage the subcommittee to strike the language in bold below since guidance documents aren't mandatory requirements regardless of whether stated or not; therefore,

this language is unnecessary and only serves to weaken this important piece of guidance.

§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.~~

We agree that contamination in seed could be a reason to not use organic seed, and believe the commercial availability clause allows for this, since genetic engineering (GE) is an excluded method. We also agree with the subcommittee's approach to emphasize through guidance the importance of prohibiting excluded methods. But we believe the language below in bold is unnecessary and potentially problematic. We know GE contamination happens and remains a threat to organic integrity, so we support pointing to contamination prevention practices outlined in previous NOSB documents (as the proposal does) in addition to moving seed purity discussion documents forward. Organic seed is important beyond being GE-free. Choosing organic seed helps operations meet a regulatory requirement and serves as an investment in organic seed systems. Organic seed also strengthens the integrity of the end product. The contamination issue is complex, to be sure, and we look forward to ongoing discussions and work with this subcommittee in the area of seed purity. For now, we urge the subcommittee to strike 4.1.3.

4.1.3 The following considerations could be acceptable to justify use of non-organic seeds
~~d. Contamination from GMO consideration: non-organic seed can be used if organic seed cannot be sourced because of GMO contamination~~

- **4.2.1(b) Recordkeeping for Organic Producers**

We appreciate the new language that says producers must contact at least five sources for seed of at-risk crops. However, we believe this recommendation falls short by not applying to all seed being sourced even if it's not at risk of contamination by GE traits. Applying this minimum to all crops would also be consistent with many public comments, including our own, delivered to the subcommittee in November 2016.

We recommend the addition of language that requests the timely sourcing of organic seed. Searching for organic seed options far enough in advance of planting is especially important, at times necessary, for larger scale operations to ensure the quantities of the varieties they need are available in an organic form.

We also recommend exploring if and how on-farm variety trials may serve as one of the five sources required of producers for locating organic seed and, at times, equivalent organic varieties. This will only encourage this beneficial practice and empower producers to learn how to identify equivalent varieties that are not only available in an organic form, but that perform well on *their* specific farm.

Our suggested changes and additions are in italics below:

1. Evidence of efforts made to source organic seed, including
 - i. documentation of contact with three or more seed or planting stock sources in an *appropriately timely manner* to ascertain the availability of equivalent organic seed or planting

stock. *At least* five sources must be contacted for seed *of all crops of at-risk crops* when this number of sources is available for a specific variety or cultivar.

Lastly, we appreciate the addition to this section that acknowledges the role buyers play in encouraging more organic seed sourcing. Many handlers/buyers contract with producers to grow certain varieties and too often these varieties are unavailable in a certified organic form or in the quantities they need. Providing guidance that encourages handlers/buyers to play a role in verifying their seed searches if they directly source seed for their growers, or dictate a certain variety be grown, is essential to improving organic seed usage on larger scale operations.

Other recommendations

- **Certifier and inspector trainings**

We couldn't agree more with the following statement in this proposal: "The entire organic community would benefit from a more consistent and comprehensive approach [to verifying compliance with the organic seed rule] so all understand what is expected and how best to meet the requirements." It's understandably difficult for certifiers and inspectors to keep up on organic seed availability by crop type and region. More than half of certifiers who responded to OSA's 2015 survey on organic seed agreed that trainings and resources are needed to better understand organic seed availability and how to verify compliance with the rule. We encourage the NOP to regularly include organic seed topics in certifier trainings. In addition to national trainings, regional trainings would also be helpful. Trainings should provide certifiers:

- Clarity on the rule and guidance on measuring progress annually in the context of continuous improvement.
- Data that help certifiers understand ongoing needs and improvements in organic seed availability, including resources that help growers source organic seed and conduct trials.
- Examples of non-compliances so there's more clarity on when they're appropriate. This includes educating certifiers that certify organic seed producers.

As an organization that leads regular trainings on how to conduct on-farm variety trials, we believe there's an opportunity for more collaboration and education on how to conduct trials in the context of the organic seed requirement (evaluating for equivalent varieties) and how to use this information in the certification process. We are in the preliminary stages of developing a manual on organic seed for organic certifiers and inspectors. The purpose is to have a go-to resource that explains: the organic seed requirement and most recent guidance; why organic seed is important beyond a regulatory requirement; ways to measure continuous improvement, including example questions that certifiers ask as part of the OSP process and examples of good tracking systems for measuring annual improvements; and how to work with, and interpret, on-farm variety trial results. This resource would also address confusion in enforcement. We are also in the process of updating our manual that trains farmers on how to conduct on-farm variety trials. Both manuals will be turned into curriculum for in-person trainings and webinars. The goal of these resources is to support faster progress toward more uniform enforcement and compliance with the organic seed requirement. We are already collaborating on these resources with the certification community, and welcome the opportunity to collaborate with the NOP and NOSB as well.

- **Organic Seed Finder**

We appreciate that the subcommittee is considering ways to support the Organic Seed Finder website. A central clearinghouse of organic seed availability information is essential to more consistency in locating organic seed and verifying compliance with the organic regulation. We are interested in exploring other ways to develop a comprehensive list of organic seed that's available in a reliable and timely way, including OSA's previous recommendation to ask that certifiers provide organic seed lists of their certified clients.

We'd like to see the NOSB and NOP work together on a process for reviewing organic seed availability each year to determine if and when there is adequate diversity and volume to require the use of organic seed for particular crop types by region. This effort would be driven by a system for collecting and analyzing organic seed availability data, as mentioned above, coupled with regional trials on variety performance. Ideally this data would also support a more robust national database used by growers to source organic seed and by certifiers for reviewing commercial availability.

Currently we lack adequate data to understand if and when the NOP could require exclusive organic seed usage for a crop in a particular region. The organic seed availability issue is complex, and depends on an operation's scale and specific production, market, and climate needs. A system for collecting and analyzing organic seed availability data that includes specific traits and volume is the first step to creating a framework for closing seed exemptions in a methodical way to avoid undue hardships on organic growers.

Conclusion

We appreciate the opportunity to provide comments on how best to strengthen the NOP's organic seed regulation and guidance. We thank the NOSB for its commitment to organic seed to ensure that organic integrity begins with this critical first link in the production chain.

Sincerely,



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Director of Advocacy
Organic Seed Alliance