

**National Organic Standards Board
Crops Subcommittee
Discussion Document on Strengthening the Organic Seed Guidance
September 6, 2016**

Introduction

For several years now the Materials/GMO subcommittee of the NOSB has been studying the issue of how to keep seeds used in organic systems from being contaminated with GMO content. One point that comes up repeatedly from the organic community is that the progress towards full adoption of organically grown seed in organic systems is too slow. While there is more and more organic seed available, there has been inconsistent progress in the proportion of organic seed in use by many growers.

It became clear that one key way to help keep GMOs out of organic systems is to strengthen the provisions in the rule and the NOP Guidance 5029 for the use of organic seed. The current state of the organic seed industry has changed since 2011 when the draft guidance was circulated, and even 2013 when the final guidance became official. The final guidance does not reflect the progress that has been made in the organic seed sector since the regulations and the 2005 and 2008 NOSB recommendations were written.

Therefore this Discussion Document will collect public input on the areas in which the seed guidance could be strengthened. Along with it may be recommendations about training for Accredited Certifying Agents (ACAs) and enforcement. The framework for the suggestions discussed here was already solicited at the Spring 2016 NOSB meeting in response to the discussion document on Next Steps for Seed Purity.

Seed is much more than just an input. It is the fundamental starting point for transforming the food system through nutritious ecologically grown food, especially when coupled with the principles behind organic production of building healthy soils, using non-toxic inputs, and stewarding the soil and environment. As the foundation for organic farming systems, it deserves continuous attention, from protecting its genetic resources, to preventing contamination, to building a strong organic seed sector to supply the needs of a diverse and resilient agriculture.

Background

The NOSB has worked on organic seed policies since its formation in 1992. This has enabled an organic seed industry to rise to fill the need for high quality organic seed since the USDA organic rule was implemented in 2002. After the NOSB made additional recommendations on the need for guidance on how the organic seed requirements should be explained and enforced, the NOP published the **Guidance on Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production** in 2013. The guidance adopted many of the NOSB recommendations but not all of them, and many stakeholders felt they were not strong or specific enough to make sure that organic seed was the primary form used in organic systems.

Since that time there has been continuing pressure from genetically engineered seeds on at-risk crops leading to contamination of the seed supply, and organic seed companies are struggling to stay viable when the adoption of organic seed is not growing at the same rate as the organic products market. Therefore it seems like a good time for the NOSB to re-visit the important topic of organic seed.

Relevant Areas of the Rule and Guidance

From the NOP Rule:

§205.204 Seeds and planting stock practice standard.

(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;

Excerpts from the **Guidance on Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production** published March 4, 2013 (NOP 5029).

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).

4.1 Sourcing of Seeds, Annual Seedlings, and Planting Stock

4.1.3 The following considerations could be acceptable to justify use of non-organic seeds and planting stock as not commercially available. These considerations must be described by the operation in their organic system plan (OSP), pursuant to § 205.201(a)(2), and approved by the certifying agent.

Form Considerations: Examples of forms may include, but are not limited to, treated or non-treated seeds or planting stock, use of pelleted seed.....

Quality Considerations: Examples may include, but are not limited to, germination rate of the seed; presence of weed seeds in the seed mix; shelf life and stability of the seeds; and disease and pest resistance.

Quantity Considerations: Producers may provide evidence that quantities are not available in sufficiently large or small amounts given the scale of the operation.

4.2 Recordkeeping for Organic Producers

4.2.1 The following records should be maintained by organic producers:

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 of organic seed and planting stock can be used to demonstrate lack of equivalent varieties for site specific conditions.

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 documentation of contact with three or more seed or planting stock sources to ascertain the availability of equivalent organic seed or planting stock. Sources should include companies that offer organic seeds and planting stock.....

4.4 Role of Certifying Agents

4.4.1 Certifying agents must verify the procedures that certified operations utilize to obtain and plant organic varieties suitable for their operations as part of their annual review of the OSP.

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- 4.4.3 Certifying agents shall verify the commercial availability requirements on an annual basis, in their review of the OSP, pursuant to § 205.402(a)(1).
- 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.

Discussion

One of the main criticisms of the final guidance 5029 was that there was a failure to provide a framework for what continuous improvement looks like and how to achieve it in the context of seed. Many stakeholders were concerned that the guidance was not strong enough and ignored some of the input that was given to the NOP in the comment period for the draft guidance. Over time we have seen some of the adoption of organic seed stay flat or decline.

The recently published State of Organic Seed Report¹ provides some concrete statistics about the trends in organic seed usage over the past five years. One of the main findings is that organic farmers produce food in many different ways and in many different locations, soil types, and marketing strategies. Therefore organic seed needs to be particularly adapted to organic systems in very diverse ways. While organic farmers are using more organic seed than five years ago, the biggest producers are still using relatively little and this has an impact on overall acreage planted to organic seed. The report also points to inconsistency among certifiers in enforcing organic seed requirements.

When it comes to at-risk crops from GMO contamination, the situation is more fragile and yet important to address. Stakeholders gave compelling input that they needed a greater use of organic seed, and enforcement of the organic seed provisions, if they are to stay ahead of the risks posed by GMO encroachment. Some of these reasons to encourage more organic seed use include:

- Increased sales of certified organic seeds increases field sizes and reduces edge effects at the field-scale of organic seed production, thus minimizing GMO pollen drift.
- Increased revenues to companies producing certified organic seeds reduces the impact of additional fixed costs like seed testing and potential loss of seed yields due to unexpected pollen flooding or higher than anticipated test results.
- Increased demand for organic seed spurs breeding and development of biological blocking mechanisms to GM influx in organic varieties (e.g. Gametophytic incompatibility in corn).
- Any consideration of a testing protocol or threshold will not work well if it only focusses on conventional seed used in organic systems. It appears that minimal contamination from seed can accumulate to significant levels in the finished crop, and therefore organic seed will need to reach the same standard as non-organic seed.

Key Points to strengthen the guidance:

- Additional guidance specific to the use of "at-risk" non-organic seed. NOP's Guidance should reiterate that certified operators may only use non-GMO, non-organic seed or planting stock. It's suggested that language is added to 4.1 of the guidance about sourcing seeds that are organic and produced without excluded methods.
- Increase the number of sources required to make an exception for a non-organic untreated variety (especially in at-risk crops).
- Limit the number of seasons the "3 sources" exception could be used on at-risk crops.

¹ Organic Seed Alliance, 2016. State of Organic Seed 2016. <http://stateoforganicseed.org/>

- Establish organic seed usage as a specific Organic System Plan goal, including plans for transitioning to organic varieties and reviewing increases by percentage used or acreage planted. A complete seed list of requests for exempted varieties and documented efforts to source and trial organic seed should be required at inspection.
- NOP should add the following language under section 4.2.1(b) of its final guidance: Records showing whether, from year to year, the operation has, through continuous improvement, increased the overall use of organic seed and planting stock. For example:
 - For row crops/field crops and specialty crops grown on substantial amounts of acres, the percentage of total crop acreage planted with organic seed and/or planting stock year after year would be an appropriate measure of improvement.
 - For specialty crops grown in diverse varieties on smaller acreages, an appropriate measure of improvement would be the number of organic varieties of seed and/or planting stock used year after year, rather than the acreage.
- Track efforts and demonstrate reasonable, measurable increases in the use of organic seed over time. Create a framework for methodically “closing the loophole”, using the percentage of total varieties available in organic form as the metric & threshold. (Made-up example: 51% of available broccoli varieties are available in organic form, therefore all broccoli seed must be organic).
- Encourage certifiers to require producers who do not demonstrate continuous improvement in the context of seed to do additional research in the form of consulting more than three sources and conducting on-farm organic variety trials, including providing the results to certifiers.
- NOP should provide examples of noncompliances through certifier trainings so that consistent and uniform adherence to reinforcing the present organic seed requirements must be enacted by ACAs.
- Address handlers that source seed for contractual growing purposes.
- The NOP should proactively work to encourage organic seed companies to participate in Organic Seed Finder and should include in the guidance an explicit reference for certifiers, inspectors, and producers to use this database as a seed-sourcing tool.

Discussion Questions

1. Please provide input on the key points above.
2. Are there additional areas of the Seed Guidance in NOP 5029 that could be strengthened?
3. Are there ways to encourage increased organic seed use among larger producers?

Subcommittee Vote

Motion to adopt the Discussion Document on Strengthening the Organic Seed Guidance

Motion by: Zea Sonnabend

Second: Harriet Behar

Yes: 7 No: 0 Absent: 0 Abstain: 0 Recuse: 0