

Formal Recommendation
From: National Organic Standards Board (NOSB)
To: National Organic Program (NOP)

Date: October 26, 2018

Subject: Strengthening the Organic Seed Guidance

NOSB Chair: Tom Chapman

The NOSB hereby recommends to the NOP the following:

Rulemaking Action: x

Statement of the Recommendation: This proposal, which adds language to §205.204, strengthens the organic seed and planting stock practice standard by providing a clear goal of full compliance, which would result in only organic seed and planting stock being used on organic production. This recommendation does not remove the allowance for nonorganic seed/planting stock use when it is demonstrated that an equivalent organic seed variety is not available.

Rationale Supporting Recommendation The current regulatory language has been shown to be insufficient in providing clear direction to organic certification agencies to help them enforce the use of organic seed when commercially available. By adding language that states that the goal is full compliance for the use of organic seed/planting stock, organic operators, seed suppliers, inspectors, and certification agencies have clear direction about what is expected of organic growers when buying and using organic seed/planting stock. All sectors of the organic community, including certifying agents, growers, trade and advocacy groups, gave public comment that was strongly in favor of this change. This recommendation should result in more rapid adoption of organic seed/planting stock, which is consistent with the Organic Foods Production Act (OFPA) and organic regulations. This provides a more level playing field between operations that are currently using organic seed and others who were lagging behind in their use of organic seed. Additionally, this change should aid producers of organic seed and planting stock in finding markets for their organic products and encourage them to expand their organic offerings.

NOSB Vote:

Motion to accept the proposal on strengthening the organic seed guidance

Motion by: Harriet Behar

Seconded by: Dave Mortensen

Yes: 15 No: 0 Abstain: 0 Absent: 0 Recuse: 0

Outcome: Motion Passed

**National Organic Standards Board
Crops Subcommittee Proposal
Strengthening the Organic Seed Guidance October 2018
August 21, 2018**

Introduction and Background

The planting of organic seed/planting stock is required under the USDA organic regulations, unless these items are not commercially available. Organic seed/planting stock use provides organic producers numerous benefits including varietal characteristics specifically bred for organic production systems in their region and soil type as well as building a seed/planting stock industry that is focused upon the needs of organic farmers. Organic seed/planting stock breeders focus on developing varieties to provide high quality crops to meet yield requirements as well as the unique needs of the diverse organic marketplace. Seed/planting stock grown using organically approved inputs and within an organic management system, provide resiliency to organic growers by protecting and expanding genetic resources as well as economic opportunities when adding seed/planting stock production to their farm's cropping options. Increasing the use of organic seed/planting stock sets the stage for a future vibrant domestic and international organic agricultural sector by enhancing a foundational area of organic crop production, seeds/planting stock.

The organic community has repeatedly noted that progress towards full adoption of organically grown seed/planting stock in organic systems is not as rapid as hoped. The NOSB provided recommendations to the NOP in [2005](#) and [2008](#) focused upon increasing the use of organic seed. In 2011 and [2013](#), the NOP has addressed this issue with draft and final guidance. While organic seed availability continues to improve, there has been inconsistent progress in the proportion of organic seed in use by many growers. The NOSB circulated discussion documents and draft proposals in 2016 and 2017 to address the issue. The Board received significant public comment on these documents, which the Crops Subcommittee then incorporated into a final proposal. This current proposal strives to incorporate the points made in previous NOSB recommendations along with the public comment into a practical proposal that the National Organic Program can then use to update the 2013 organic seed guidance document.

The goal of the NOSB would be to achieve full compliance with §205.204(a) *"The producer must use organically grown seeds, seedlings and planting stock"*. It is understood that the organic seed industry is not currently robust enough to meet every organic grower's needs, however, there is also some concern that the allowance to not use organic seed if not "commercially available", leads some producers to seek out nonorganic seed due to lower price, unfamiliarity with organic seed varieties, social or cultural pressures and more. The availability of organic planting stock, is growing even slower than the availability of organic seed, and offers a great opportunity to perennial crop breeders, as the market becomes more robust. This proposal seeks to address the barriers to adoption of organic seed/planting stock use and to aid the NOP to set a path to increased organic use in the coming years, through improved guidance on this subject.

A fall 2018 companion proposal, addressing the genetic contamination by GMOs of seed planted on organic land, will address that issue separately. Farmers growing crops for the organic marketplace take on an extra risk if they are unaware of the GMO contamination of the seed they plant, and may grow their crop organically for the season, only to have it rejected by the buyer at harvest due to the percentage of contamination that had been present in the seed they used. The proposal addressing

GMO contamination of seed planted on organic land, proposes a pilot project using transparency based upon specific testing protocols, to provide growers the information necessary to make informed choices for seed they plant on organic land.

This NOSB proposal lists improvements to the practices listed within the current NOP guidance 5029. These practices are requested of both certified entities and their certification agencies, and were developed to result in more uniform compliance to §205.204(a). The implementation of these practices is not anticipated to have negative economic impact on the operations, other than a few additional farm activities and increased documentation that would need to be maintained.

Relevant Areas of the Rule and Guidance

From the NOP Rule:

§205.2 Terms defined

Commercial availability. The ability to obtain a production input in an appropriate form, quality, or quantity to fulfill an essential function in a system of organic production or handling, as determined by the certifying agent in the course of reviewing the organic plan.

Excluded methods. A variety of methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods include cell fusion, microencapsulation and macroencapsulation, and recombinant DNA technology (including gene deletion, gene doubling, introducing a foreign gene, and changing the positions of genes when achieved by recombinant DNA technology). Such methods do not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

Planting stock. Any plant or plant tissue other than annual seedlings but including rhizomes, shoots, leaf or stem cuttings, roots, or tubers, used in plant production or propagation.

Practice standard. The guidelines and requirements through which a production or handling operation implements a required component of its production or handling organic system plan. A practice standard includes a series of allowed and prohibited actions, materials, and conditions to establish a minimum level performance for planning, conducting, and maintaining a function, such as livestock health care or facility pest management, essential to an organic operation.

§205.201 Organic production and handling system plan.

(a) The producer or handler of a production or handling operation, except as exempt or excluded under §205.101, intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic production or handling. An organic production or handling system plan must include:

.....

(5) A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances; and

(6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.

§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^[1] 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

4.1.1 Certified operations must use organic seed, annual seedlings, and planting stock in accordance with the requirements at § 205.204.

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.

a. Commercial availability is defined at § 205.2 and refers to the ability to obtain a production input, in this case seed or planting stock, in an appropriate form, quality, or quantity to fulfill an essential function in organic production. For the purposes of this exception, an “equivalent variety” is a variety of the same “type” (e.g. head lettuce types versus leaf lettuce types) or has similar agronomic or marketing characteristics needed to meet site-specific requirements for an operation. These characteristics may include, but are not limited to: number of days until harvest; color, flavor, moisture, chemical, or nutrient profiles of the variety of the harvested crop; vigor or yield of harvested crop; regional adaptation, disease and pest resistance, or the plant’s utility in a crop rotation.

b. Price cannot be a consideration for determination of commercial availability.

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.

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

b. 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.

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

4.1.4 For certified operations producing edible sprouts, there is no exception to the requirement to use organic seed, as stated at § 205.204(a)(1).

4.1.5 Certified operations may use non-organic annual seedlings to produce an organic crop only when a temporary variance has been granted by the AMS Administrator in accordance with § 205.290(a)(2) due to an extreme weather event or business disruption beyond the control of the producer (§ 205.204(a)(3)).

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 after 12 months of organic management (§ 205.204(a)(4)).

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. Records describing on-farm trials of organic seed and planting stock can be used to demonstrate lack of equivalent varieties for site specific conditions.

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 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.
2. Records may include, but are not limited to: letters, faxes, email correspondence, and phone logs from seed suppliers and companies; seed catalogs; searches of organic seed databases; receipts; receiving documents, invoices, and inventory control documents.

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.

4.4.2 Certifying agents must review substances and inputs used to treat seeds and planting stock for compliance with the USDA organic regulations.

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

This proposal will discuss the previous proposal's recommendations, the public comments we received, the crops subcommittee response to those comments, and current recommendations.

Proposals (all proposed text from the previous recommendation is in bold/italic), all new text in bold/underline.

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

Public Comment and Subcommittee Response:

There were both positive and negative comments to this proposed rule change. While all commenters agreed with the premise that producers should be increasing their use of organic seed where appropriate, from year to year, there was concern by some that this was too prescriptive to place in the regulations. Issues raised included the possible unintended consequence of narrowing the genetic diversity of seed grown on organic land, which brings its own share of negative consequences from lowered yields, susceptibility to disease, and lowered access to niche markets. Those in favor of this proposal believed this statement was the necessary strong incentive needed to bring organic producers into full compliance with the organic seed and planting stock usage requirement.

Since the use of nonorganic seed is only allowed when the producer can prove the organic seed is not "commercially available", the crops subcommittee feels improvement to the interpretation and enforcement of what meets this allowance is a more appropriate area to address this issue. An important aspect of proving the lack of commercial availability includes a robust search. Operators are not mandated to use lower quality or seeds with unwanted characteristics, but they must search for organic seed that meets their farm's needs, and improvement in that search can be quantified. The guidance below does not require any specific benchmarks, and is sufficiently open ended to allow for farmers to use nonorganic seeds as long as they demonstrate their organic seed search is valid and improving. Therefore, this previous recommendation is being modified with this wording.

CURRENT RECOMMENDATION:

(i) Improvement in searching, sourcing and use of organic seed must be demonstrated every year with the goal of using only organic seed and planting stock.

2. Changes to NOP 5029 Guidance

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

2a.

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). 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.

Public Comment and Subcommittee Response:

Another fall 2018 proposal addresses GMO contamination of seed grown on organic land. There were many negative public comments on this previous recommendation, stating that producers cannot be responsible for the genetic contamination of the organic seed they purchase, and all nonorganic seed is required to have documentation that it is not a GMO seed. Therefore, this previous recommendation is being withdrawn from this proposal, with no addition of wording to this section.

4.1 Sourcing of Seeds

2b.

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.***

Public Comment and Subcommittee Response:

All certification agency commenters stated this is already being required of their organic operators, and it is unnecessary to add this statement to current guidance. The issue of contamination of organic seed with genetically engineered germplasm, is being addressed in a separate proposal, which will require transparency in the level of genetic contamination by excluded methods on corn, as a pilot project, with the longer term plan to require this transparency of all crops where there is a risk of GMO contamination. The statement “not produced through genetic engineering” is many times made by a seed supplier, but this does not provide information if the seed was inadvertently contaminated and still contains GMO traits in small or even large quantities. Therefore, this previous recommendation is being modified to include this option below.

CURRENT RECOMMENDATION:

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.

2c.

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

Public Comment and Subcommittee Response:

There was agreement among most commenters that performing trials on organic seed helps an operator determine if they are “equivalent” to the nonorganic seed that they are currently using. Many organic seeds, especially in the commodity crop sector, are different variety numbers, bred by organic seed breeders and sold by organic seed companies. These organic seeds may not be familiar to the organic grower, and operators are typically reticent to plant large acreages of seeds they do not know to be acceptable for their soil type, climate, and growing systems. In addition to the original proposal above, the sentence in bold/italic/underlined is added to the previous proposal, as an improvement. Both producers and certifiers need to understand what characteristics are desired for that farm operation, and if the field trials were performed with sufficient rigor to determine equivalency or not. Many commenters stated the following: the trials are not mandatory”, are only guidance not mandated regulatory language, and should be removed. The Subcommittee kept this statement, since it is recommended it be placed in a NOP guidance document and not in the regulation. While most comments pertained to the use of organic seed, the recommendation below covers planting stock as well, and producers planting perennial crops should also be encouraged to trial organic cultivars.

CURRENT RECOMMENDATION:

§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.

§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.

2d.

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.

Public Comment and Subcommittee Response:

Many commenters were mute on this discussion, although some did state there was not enough information on GMO contamination to enforce this guidance at the certification level. The fall 2018 proposal on genetic integrity of seed planted on organic land, will require testing of corn as a pilot crop, with the expectation that testing will be expanded to all crops with a commercial GMO presence in the marketplace, sometime in the future. The proposal also requires transparency on the seed tag, detailing the level of purity from genetic contamination. Since the definition of commercial availability does not include any mention of GMO contamination, the proposal recommends this be added to the NOP guidance 5029 in the section cited below, to reflect this allowance. Each operation, depending on their farm's goals and markets, will have different levels of acceptability when assessing GMO contamination. For some crops, it is very difficult to obtain seed with a zero detectable level of contamination.

CURRENT RECOMMENDATION:

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.

3. 4.2 Recordkeeping for Organic Producers

3a.

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.

Public Comment and Subcommittee Response:

Numerous certification agencies and producers provided negative comments about this proposal, stating that it would be a significant burden to track each nonorganic seed and justify its use, especially for diverse vegetable operations,. Many noted the subsequent improvement to section 4.2.1 b, noting that it provides more flexibility and quantifiable methods of tracking the reasons nonorganic seed is being used. Therefore, this statement is being removed from this proposal.

3b.

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.***

Public Comment and Subcommittee Response:

There were many comments on this section, with some requesting this be extended to all crops, and others concerned that there was not a clear definition of “at-risk” crops. Many supported the increased number of sources to be contacted for organic seeds. With many more organic seeds being offered by a wide range of suppliers locally and nationally, it does not appear to be a burden to require a larger number of suppliers be contacted. Commercial availability is not limited by geographic region, nor by price.

CURRENT RECOMMENDATION:

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.**

3c.

*i. 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.***

Public Comment and Subcommittee Discussion

Many certifiers and producers did not approve of this addition, stating it was a burden on producers, and difficult to assess if a specific seed broker is performing a valid seed or planting stock search. However, the wording is being strengthened to make it clear that the search must include companies that carry organic products, to be considered valid. Therefore, this change is recommended.

CURRENT RECOMMENDATION:

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

3d.

*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.***

Public Comment and Subcommittee Discussion

Most commenters were in agreement with this statement, as it requires continual improvement over time, and provides flexibility for the certifier to assess when there may be additional requirements based on each operations activities and situation. Therefore, it is included in this proposal as well.

CURRENT RECOMMENDATION:

iii. 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.

3e.

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.

Public Comment and Subcommittee Discussion

This statement addresses the issue in which a finished-crop buyer requires or supplies seed/planting stock that is not organic. Since use of organic seed is not part of a handler's organic system plan, it falls on the organic crop producer to verify and document there was a valid organic seed/planting stock search by the entity that supplied or mandated the use of a specific nonorganic variety. Most commenters agreed with this addition, and some noted this was an important issue that needed to be addressed. Therefore, this recommendation, with some modified wording, is present in this proposal.

CURRENT RECOMMENDATION:

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.

4.4 Role of Certifying Agents

4a.

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.

Public Comment and Subcommittee Discussion

Most commenters felt this was a reasonable request, with certifiers stating they work with their operators to develop solutions that will result in greater use of organic seed and planting stock. No changes to this recommendation.

CURRENT RECOMMENDATION:

a. If sufficient progress is not demonstrated a certifying agent may ask for a corrective action plan including the following; additional research for seed sources, variety trials, or additional steps to procure organic seed.

4b.

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

Public Comment and Subcommittee Discussion

Most commenters agreed with this sentiment and many certifiers noted they are currently issuing noncompliances if they believe the organic operation is not taking effective action in sourcing organic seed/planting stock. Certifiers obtain information from many operations and have knowledge of what organic seed/planting stock is available and practical in their regions for many types of crop production. This provides the certifiers a unique perspective to determine if a producer is doing a valid search. Many commenters requested more detail in assessing a noncompliance. The recommendation below takes into account these public comments.

CURRENT RECOMMENDATION:

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 commercially availability organic seed/planting stock and continued non-use 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.

4c.

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

Public Comment and Subcommittee Discussion

The vast majority of commenters felt this was an important addition to the policy guidance. Producers who save their own seed, as well as sell seed to others, should include practices that specifically address GMO contamination prevention. There was some comment that the term "at-risk crops" was unclear, and so the wording below provides clarification.

CURRENT RECOMMENDATION:

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

5. Other items

Public Comment and Subcommittee Discussion

Organic Seed/Planting Stock Database

Commenters supported the development of an organic seed and organic planting stock database, to be managed and maintained by the National Organic Program. Certifiers, suppliers, brokers and operators could all contribute information to this database, and having a link to this on the NOP website would be

a service to all sectors of the organic community. The Crops Subcommittee strongly supports the development of this database and encourages the NOP to consider how this might be added to the organic integrity database or be developed separately.

Accredited Organic Certifier and Organic Inspector Training

Many commenters agreed with the previous proposal's assessment that both certification office staff and organic inspectors could benefit from further training on how to assess a valid organic seed/planting stock search. The above organic seed/planting stock database would be a very useful tool for certifiers to track the availability of organic sources and their offerings, as well as providing objective information to their certified operators. In-person and webinar trainings with knowledgeable certification personnel as well as NOP staff, should be developed to provide useful tools and/or checklists to aid in consistent review of a valid organic seed or planting stock search. Certifiers are encouraged to share the practical activities and documentation they require with other certification agencies and inspectors. Training of certification personnel has been recognized as an important aspect of preventing fraud in the organic marketplace, and information on organic varietal sourcing and documentation could be added to the training opportunities being explored for fraud prevention.

Crops Subcommittee Proposal:

To amend the National Organic Regulations §205.204 Organic seed and planting stock practice standard as follows (in bold):

(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.

To Amend NOP Guidance 5029 – changes in bold

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.**

§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.

§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.

§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.

§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.**

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.

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 commercially 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.

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

Motion to accept all additions as described in the proposal section above, to both the National Organic Program Regulation and the National Organic Program Guidance 5029.

Motion by: Harriet Behar

Seconded by: Dave Mortensen

Yes: 7 No: 0 Absent: 1 Abstain: 0 Recuse: 0

Approved by Steve Ela, Subcommittee Chair to transmit to NOSB, August 21, 2018