



Accredited Certifiers Association, Inc.

*Accredited certifying agents working together to ensure
the integrity of organic certification in the United States*

October 11, 2017

Ms. Michelle Arsenault, Special Assistant
National Organic Standard Board
USDA-AMS-NOP
1400 Independence Ave. SW.,
Room 2648-So., Mail Stop 0268
Washington, DC 20250-0268

Re: Docket Number: AMS-NOP-17-0024
Crops Subcommittee Proposal on
Strengthening Organic Seed Guidance (NOP 5029)

Dear Ms. Arsenault:

Thank you for the opportunity to provide comments to the National Organic Standards Board (NOSB) Crops Subcommittee Proposal on Strengthening Organic Seed Guidance. The Accredited Certifiers Association (ACA) is a non-profit educational organization, and our membership includes 53 USDA Accredited Certification Agents.

We appreciate the time the Crops Subcommittee has put into this topic and support the goal of increased organic seed use within certified organic production systems. In spring of this year, we offered brief comments regarding the proposed language at *§205.204(a)(1)(i) Improvement in sourcing and use of organic seed and planting stock must be demonstrated every year until full compliance with (a) is achieved*. In these fall comments, we outline this concern in greater detail and provide additional observations regarding proposed amendments to NOP 5029.

Proposed Amendment to §205.204 Seeds and planting stock practice standard

§205.204(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 must be demonstrated every year until full compliance with (a) is achieved.

ACA Observations:

While the ACA would like to see increased organic seed use, we recognize that “full compliance,” may be extremely difficult for some to achieve, especially on vegetable operations. Even after continued effort, growers may reach a place short of 100% organic seed use without workable options to improve. Circumstances outside of the grower’s control (crop failure, shortages, lack of organic varieties adapted to their region/climate, etc.) may severely impact the ability to source organic seed exclusively. Additionally, improvement could only be verified by certifiers if complete seed lists, with quantities purchased and planted, were submitted each year. Currently, seed use compliance is often verified via selective sample audits, and so a thorough accounting of all seed used would represent a significant increase in time spent by the inspector and/or certifier, and generally create a larger burden on all parties involved in certification. We are concerned that the increased time, expense, and paperwork required to implement such verification would not be to the benefit of the organic industry, or necessarily result in increased organic seed use. It may be more effective to amend §205.201 with a requirement for OSPs to include a description of methods the operator will use to increase organic seed use over time.

Proposed Changes to NOP 5029 Guidance (Section 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.

ACA Observations:

While seed contamination is a significant challenge, there is a feeling among the ACA membership that for organic seed, the onus should be on the seed producers and handlers if those are different entities than the operation planting the seed. Instead, we suggest the following wording: *Producers must do their due diligence to verify that any seed used in their organic system is not a product of excluded methods; this means collecting organic certificates for organic seed, and non-GMO statements from the seed producer for non-organic seed.*

Proposed Changes to NOP 5029 Guidance (Section 4.1 Sourcing of Seeds, Annual Seedlings, and Planting Stock):

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.

§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.

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.

ACA Observations:

The ACA supports the proposed language additions at 4.1.2 and 4.1.2.c. These additions increase the clarity of what is required for verification of non-organic seed, and encourage the use of alternative methods such as variety trials to explore what existing varieties of organic seed have to offer. We feel this is an important step in supporting the organic seed industry and continuing to drive the development of regionally adapted organic varieties.

Regarding the proposed change to 4.1.3: If GMO contamination of organic seed is a reason to source non-organic seeds, then a specific contamination threshold should be provided. Lack of a numeric GMO threshold within the regulations has been an ongoing challenge for certifiers that some level of seed contamination seems virtually unavoidable for certain crops. NOP 2613 Responding to Results from Pesticide Residue Testing provides a path toward a high level of consistency in certifier responses to contamination from pesticide residues, and similar guidance regarding GMO contamination would be similarly useful. However, in the absence of such guidance, the ACA does not support adding the proposed 4.1.3.d language to NOP 5029.

An ACA Working Group produced Best Practices for Developing Consistency in GMO Sampling earlier this year, and while group members expressed a strong desire to establish threshold numbers for best practices in evaluating test results, efforts were stymied as the group eventually concluded such numbers would not be defensible coming from the ACA; rather, guidance needs to come directly from the National Organic Program. We recognize that this is a separate issue from what is being directly addressed in this proposal, but we request that the NOSB continue to look at the issue of GMO contamination in organic seed and what can be done within the organic community to provide protections to our growers.

Changes to NOP 5029 Guidance (Section 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. 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.

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.

ii. 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.

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.

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.

ACA Observations:

We support increasing the seed search requirement to five sources for at-risk crops. For seed search verification, we would also see value in a comprehensive organic seed database funded or established by NOP. A national organic seed database would be helpful for producers needing to source seeds and to certifiers who could verify compliance with organic seed requirements.

Nonorganic seed use mandated by the buyer of a contracted crop must be addressed. Until certified organic crop buyers come under scrutiny for their role in organic seed use, there will be a significant gap in growers' ability to comply with organic seed requirements. The same applies to transplants grown on contract. The last part of this section provides one solution, as it does force buyers to supply seed search documentation to the grower. While it is important for growers to retain this documentation as described, it is equally, if not more important that buyers are held accountable for their initial mandates. Thus, Handler OSPs should request a description of seed sourcing practices and requirements for growers with regard to non-organic seed use, and these practices and related documentation should be verified during the annual inspection of the handler operation.

Proposed Changes to NOP 5029 Guidance

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 organic seed over time.

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

ACA Observations:

The main challenge with this proposed language is the amount of time required to verify incremental increases over time. As previously noted, this requirement would result in a requirement for comprehensive monitoring of all seed use by certifiers; on operations with dozens or hundreds of seeds, this would be a challenge. For these types of operations, typically vegetable producers, it is standard practice for seed verification activities to include a sample audit that is appropriately representative and risk-based. Requiring the inspector and/or certifier to have eyes on each seed variety planted would increase inspection and/or review time, and calculating overall seed use or overall acres planted to organic versus nonorganic seed would add to that.

In Conclusion

We appreciate the thought the subcommittee has given to this challenging topic. Our main concern is to ensure that the burden of the paperwork requirements (on diverse operators as well as inspectors and certifiers) does not outweigh the benefits that can be gained through implementation of new policies as outlined.

As noted in our spring comments on this issue, the ACA appreciates the offer related to CACS collaboration with ACA and other stakeholders on the development and dissemination of training materials once amendments are made. We look forward to continued conversation on this topic.

Thank you to the Crops Subcommittee for the work you have done and for considering our comments.

Respectfully Submitted,



Jennifer Cruse
Coordinator

