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

**RE: Docket: AMS-NOP-15-0002
Materials Subcommittee – Prevention Strategy Guidance for Excluded Methods
Discussion Document**

Dear Ms. Arsenault:

Oregon Tilth appreciates the opportunity to comment on the Materials Subcommittee discussion document, “Prevention Strategy Guidance for Excluded Methods.” We thank the subcommittee for their continued focus on the issues surrounding genetically modified (GMO) crops and potential contamination of organic varieties, and their work to further define existing challenges and propose strategies and solutions which the organic industry can implement.

GMO contamination of seed and products is a top concern in the organic industry, presenting formidable challenges due to the way GMOs perpetuate and spread through the environment.

Sound and Sensible Requires Shared Strategies Against Contamination

Oregon Tilth understands that the discussion document focuses attention on prevention strategies to be undertaken by producers and handlers of organic products – in effect discussing efforts to “fence out” GMOs. We are committed to proactively monitoring the efficacy of prevention strategies via GMO testing as part of our residue-sampling plan in 2015. But really, all tests can give us are quantitative results that serve as indicators of contamination risks. Test results are not long-term solutions; they cannot protect hardworking people against losses and disadvantages when prevention strategies fail.

Oregon Tilth believes the current federal regulatory framework for genetically engineered (GE) crops falls short in protecting farmers, processors and consumers. In 2014, our executive director, Chris Schreiner, served on the Oregon Governor’s *Task Force on Genetically Engineered Seeds and Agricultural Products*, advocating for pathways that serve non-GMO practitioners and groups.

Although issues surrounding GMOs are polarizing and common ground is hard to find, we believe GMO contamination needs to be addressed by *all agricultural stakeholders* to protect a well-regulated and growing organic sector. There are several reasons we hold this position:

- *Organic farmers deserve the right of non-contamination:* While “fence out” prevention strategies provide best practices for protecting organic integrity, dependence on these

strategies alone places undue burden on the organic farmer. Organic farmers merit protection to grow in accordance with organic principles without risk to their organic management systems or markets.

- *Organic farmers deserve restitution for GMO contamination losses:* We must establish reasonably accessible and financially equitable recourse for farmers who implement appropriate prevention strategies, but experience GMO contamination despite efforts. This is not about placing blame or pointing fingers, but rather about supporting organic farmers who are proactive and still get contaminated. Those who take all the necessary steps should not incur losses for contamination that occurs outside of their control.
- *GMO contamination prevention is a two-way street:* In order for GMO contamination prevention to be truly effective, these strategies cannot be one-sided. We believe that any policy must include a mandate for shared accountability between the non-GMO and GMO sectors of agriculture

We recognize that advocating for shared accountability for GMO contamination avoidance is beyond the scope of the NOSB's discussion document. However, it is our hope that as a federal advisory board, the NOSB will recommend to the USDA that developers and users of GMO crops also be instructed to adopt proactive strategies designed to contain, or "fence in," crop genetics that pose a risk to their neighbors' crops and markets. Ideally, implementation of any new NOP policy regarding GMO contamination would occur in coordination with new 'coexistence' policies or programs developed by other federal agencies with regulatory oversight involving GMOs or managing risk in agriculture (e.g., USDA Animal & Plant Health Inspection Service, USDA Risk Management Agency, Environmental Protection Agency and the Food & Drug Administration).

We have developed comments to address the questions posed by the subcommittee, and have identified several areas where we feel more information and data is necessary before national policy is created.

Recommended Prevention Strategies

Oregon Tilth fully supports the list of recommended prevention strategies that may be employed by organic farms and handlers to prevent contamination. We would also suggest the following practices be added to the list.

- Education for organic farmers and farm employees on the specific opportunities for cross contamination in their operation and region, provided through extension services, webinars, self-assessment tools, etc. Avoidance practices for GMOs may differ significantly from those used for pesticide residue, requiring their own suite of information resources.
- Utilization of existing "Identify Preservation" systems employed by many handlers as part of typical quality systems.

Role of ACAs and Oversight

Oregon Tilth strongly supports better guidance and training from the NOP on GMO testing procedures and appropriate responses to positive test results. Such guidance and training will improve consistency of GMO sampling and testing among certifiers, giving organic growers a clearer understanding of the actions they and their certifier can take if their crops test positive due to unintentional GMO contamination.

At the moment, certified operations are offered no assurances or explanation of what would happen in the result of a positive test result for GMO contamination due to unpremeditated circumstances.

Such uncertainty creates a wedge between ACAs and clients to maintain open, candid communication to identify issues of concern with regard to GMO contamination.

Answering the following questions could improve the role of ACAs in GMO prevention as well as safeguarding farmers, processors and consumers in instances of unintended contamination of GMOs:

- *Should ACAs focus testing on the final products being sold to consumers, on the seed being used in organic production or a combination of both?*

In addition, clear instruction is also needed on the type of testing certifiers should be conducting (qualitative vs. quantitative, PCR vs. ELISA), and NOP 2611, Instruction on Laboratory Selection Criteria, should be updated to include requirements for choosing a GMO testing lab.

- *What is the process for handling contamination events when responding to sample results that indicate GMO contamination?*

The discussion document emphasizes that “since organic certification is process-based, the presence of detectable GMO residues alone does not necessarily constitute a violation of the regulation,” and notes that unavoidable residual environmental contamination is accounted for in the standards. We think it is important to reiterate that there are currently no thresholds established in U.S. federal regulations for GMO contamination (unlike the clear thresholds set for pesticide residue). Certifiers need to have ample guidance so as not to penalize organic operators for contamination that clearly occurs in spite of appropriately applied preventative controls and measures they have established as part of their Organic System Plan.

Concerns about Thresholds for GMO Contamination

Organic farmer access to high quality seed that meets their needs and the organic standards is critical to the integrity and future success of the organic industry.

Seed must meet a variety of criteria in order to be suitable for use in an organic operation. To comply with the organic standards, seed must be either organic or non-GMO/untreated if equivalent organic seed is unavailable. Optimal seed should also be a variety that is adapted to the area in which it will be grown, disease resistant and vigorous so it will thrive. Finally, seed needs to produce a final product with characteristics that meet buyer and market expectations across the organic value supply chain.

We appreciate the NOSB’s consideration of this topic, and feel that appropriate guidance and instruction from the NOP to the various segments of the organic industry will be necessary to protect against contamination from excluded methods while ensuring organic farmers have access to high quality seed. While clarity in standards and expectations for enforcement action is paramount to a successful and consistent organic program, we urge caution when considering quantitative thresholds for GMO contamination of seed used in organic production or organic products. Oregon Tilth has the following reservations:

- *There is a lack of public data for establishing well-grounded baseline levels of unintentional GMO contamination in non-organic or organic agriculture, whether at the seed stage, pollination stage, harvest or post-harvest handling. In 2012, the [Organic Seed Alliance \(OSA\) conducted a survey](#) of both field crop and vegetable seed companies, and found that all of the companies surveyed were already conducting some testing on non-GMO and organic seed supply for at-risk crops. Eighty percent of participants stated that they have found contamination that exceeds their internal thresholds (which ranged from 0.1 – 2%). Eighty percent also stated that their seed is “frequently” contaminated. Testing is being done of both organic and non-GMO*

seed and products throughout the industry, but individual companies have not made this data publicly available. Some private standards and single-attribute verification programs, such as The Non-GMO Project, have incorporated GMO testing and tolerance levels into their programs.

If private companies and private verification programs were presented with a mechanism to voluntarily provide their existing data to a credible third-party, able to guarantee confidentiality and anonymity, then the organic sector could have a more informed picture of the scale and scope of GMO contamination to better guide our policy approaches.

- *There is no safety net to aid seed producers, farmers or handlers who experience losses due to GMO contamination of seed or product.* In many cases, the courts would be their only recourse, and there is no legal precedent for providing such compensation through that avenue. Litigation is costly and time intensive, so it is unlikely that a grower could go through the trouble and expense for such an uncertain outcome. A threshold that proves difficult to consistently meet, in spite of best practices at contamination prevention, would impart undue burden on organic farmers and potentially have a huge financial impact, possibly forcing them out of organic production altogether.

GMO Contamination Should not be Equated with Pesticide Residues

Without having a clear picture of the impact that it would have on organic operations, we are concerned about supporting a quantitative threshold for GMO contamination in organic seed or organic products at this time. It seems that this proposal attempts to mimic the system the NOP has established for handling pesticide residues in organic products, yet there are two very important distinctions that need to be made regarding GMO contamination:

- *Pesticide residue thresholds were created from decades of research data.* The NOP developed guidance and instructions from an extensive data set, which provided much-needed context for the impact thresholds would have on organic production systems. No such publicly available data set exists to account for the extent of GMO contamination in the U.S.
- *Pesticide residues are finite and do not proliferate from season to season.* In contrast, GMO contamination perpetuates from generation to generation of a crop, continuing to spread long after the initial genetic drift event, and can even leap to a different species in the same family (e.g. GMO sugar beets may contaminate chard). Once a line of seed is contaminated, it is not as simple as putting in a larger buffer the following year to prevent recurring contamination.

A Non-Organic Seed Purity Requirement sets a Double Standard

This discussion document acknowledges that the use of non-organic seed is a significant risk factor for GMO contamination in organic production, and specifically exempts organic seed producers from the proposed purity requirement to demonstrate confidence in the process-based standards. We appreciate the support of the organic seed industry shown by this proposal. Oregon Tilth wants to do everything possible to encourage and support this vital sector of organic agriculture. Yet, only requiring testing for non-organic seed and excluding organic seed from the testing requirements suggests that GMO contamination of organic seed is not of concern to organic integrity.

As we have noted, while there is little data available to determine the baseline GMO contamination levels of organic seed, the Organic Seed Growers And Trade Association's publication, [Protecting Organic Seed Integrity](#), provides an expansive overview of the challenges to organic seed growers trying to produce uncontaminated seed in today's agricultural landscape.

A few cautions in exempting organic seed from any proposed purity requirement for non-organic seed:

- *Publicly available, high quality data on GMO contamination in non-GMO and organic seed is needed to establish any seed purity threshold.* Anecdotal evidence is not enough to provide a foundation for national organic policy. In their April 2014 comments to the NOSB, the Organic Seed Alliance (OSA) posed a number of questions that they believe need to be addressed to fully understand the current state of GMO contamination in the seed supply. Oregon Tilth strongly agrees that having answers to these questions would provide much-needed context for determining if a threshold is appropriate, and, if deemed appropriate, what that threshold should be.
- *It is unrealistic to completely disregard the potential for GMO contamination in the organic seed supply for at-risk crops while concurrently proposing implementation of a purity requirement for non-organic seed.* The way this seed purity proposal is written seems to preclude any future testing recommendations or requirements for organic seed. To be clear, we feel it is premature to set any thresholds at this time, for non-organic or organic seed. However, if thresholds for non-organic seed were to be set, we believe it would be imprudent to close the door on the possibility of a threshold for organic seed at some point.
- *Seed purity requirements could reduce diversity of varieties and quality of seed available to organic producers.* The restriction of choices available to organic farmers would be detrimental to the industry; organic farmers already have challenges finding varieties that meet all their needs for high-quality seeds (as previously discussed).

Our primary message to the NOSB about this recommendation is “proceed with caution.” Given the lack of data about baseline contamination levels, the lack of shared accountability for preventing the spread of GMO genetics, and the lack of protection for organic operations against losses due to GMO contamination, we believe it is not yet time to set a quantitative threshold for GMO contamination, whether for non-GMO or organic seed, or organic final products. To proceed too quickly in absence of a more complete understanding of the current extent of GMO contamination presents significant potential risk to the organic industry.

Respectfully submitted,
Oregon Tilth

Oregon Tilth is a leading certifier, educator and advocate for organic agriculture and products since 1974. Our mission to make our food system and agriculture biologically sound and socially equitable requires us to find practical ways to tackle big challenges. We advance this mission to balance the needs of people and planet through focus on core areas of certification, conservation, public health, policy and the marketplace.