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Ms. Michelle Arsenault, Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Ave. SW.
Room 2642-S, Mail Stop 0268
Washington, DC 20250-0268

RE: Docket: AMS-NOP-16-0049

Crops Subcommittee – Discussion Document on Strengthening the Organic Seed Guidance

Dear Ms. Arsenault,

Oregon Tilth thanks the Crops Subcommittee for their thoughtful work on the “Strengthening the Organic Seed Guidance” discussion document, and for the opportunity to provide our input and perspective as an organic certification agency.

As this document states, seed is the foundation for organic farming systems, and it follows that the organic seed sector should be the foundation of the organic industry. Over the last few years, there has been a significant imbalance between the growth of the organic industry as a whole and the organic seed sector in particular, with the former rapidly outpacing the latter. We believe this is due, at least in part, to a couple of problems within the guidance and the industry as a whole. The guidance lacks enforcement tools for certifiers to ensure there is continuous improvement over time in the amount of organic seed used by their certified clients, and there is a lack of incentive for operations such as large handlers and seed cleaning companies to support the growth of the organic seed sector.

NOP Guidance 5029, as currently written, provides little instruction for verifying operations’ efforts to source organic seed, beyond documentation that an operation contacted at least three likely sources of organic seed. To ensure the growth and diversification of the organic seed sector, it is important that organic growers do more to support organic seed production, and certification agencies have the tools to hold growers accountable for continuous improvement in sourcing organic seed.

That being said, it is also critical that any policy or guidance in this area be sound and sensible to increase organic seed usage, and not create penalties to organic farmers who are already doing their due diligence. NOSB must take care to make recommendations that support growth of the organic industry while not creating overly burdensome documentation practices without a demonstrable added benefit for organic farmers.

Oregon Tilth appreciates the thought and effort put forth to provide a large list of options for strengthening NOP 5029 in this document. We offer the following comments on these key points.

Reinforcing the requirement for non-GMO seed when non-organic seed is used.

We agree with the suggestion to reiterate the need for any non-organic seed used in organic systems to be non-GMO – the prohibition on use of excluded methods is clearly stated in the regulation, but it could be made clearer within the NOP guidance document, as suggested in the discussion document.

Increasing the number of organic seed sources required for a sufficient commercial availability search.

We disagree with this point – if the goal is to increase the use of organic seed, we do not believe that this suggestion will help achieve that goal. The farmers who want to use organic seed are making the efforts to find it whenever possible, no matter how many sources it takes. On the other hand, the operations that may be unwilling to use organic seed will find and document as many sources as necessary in order to continue using non-organic seed. Increasing the number of sources required for a commercial availability search will only increase the paperwork burden on farmers who are already working hard to find organic varieties, and will not increase the use of organic seed by operations that are avoiding it.

Limiting the number of seasons the “3 sources” exception could be used on at-risk crops.

Oregon Tilth supports this method as a good alternative to increasing the number of sources required for a commercial availability search for all seed, not just at-risk crops, with some additional specifications. For example, if an operation can only use the 3 sources exception for two seasons in a row, what would be required for the third season? We suggest that this is an excellent scenario to require a variety trial of organic seed for each subsequent season, until an organic variety is found that can replace the non-organic seed being used. Giving clear guidance to use a practice that can be implemented by growers across the industry would provide a concrete method for increasing organic seed usage, and ensure consistency by organic operations and certifiers alike.

One important consideration for this point is for operations that purchase multiple year’s worth of non-organic seed at one time – would they only be required to do a seed search for the year that they purchased the seed? Or would the commercial availability search rules apply for future seasons regardless of how much seed they had remaining?

Establish organic seed use as an OSP goal, including plans for transition to organic varieties and increase in percentage of organic seed used or number of acres planted with organic seed.

Oregon Tilth agrees that the use of organic seed should be a goal in every organic operation’s Organic System Plan (OSP), and we can certainly see the benefit of having a way to measure increases in organic seed usage. However, we fear that this would end up being a “one size fits all” approach that could severely impact the ability of organic farmers to maintain their differentiation from conventional markets and would lead to less biodiversity in organic crop production overall. We see several challenges in implementing and enforcing plans dependent on metrics as outlined in this discussion document.

- OSP’s are living documents, subject to change by the operator as approved by the certification agency. An operator might plan to use 100% organic seed within 5 years, but fail to meet that goal due to issues outside of their control that affect market availability, such as a crop failure in the seed crop, or lack of development of well-adapted varieties for their region. Would an operation get a noncompliance for not meeting their goal? How can producers and certifiers account for these market forces when developing, reviewing and approving organic seed sourcing plans? In other words, how can we ensure that we are not penalizing farmers for factors outside of their control? We feel it is

important that operators be allowed to modify their organic seed sourcing plans in response to disruptions in the market that affect their ability to source organic seed.

- Forcing producers to increase the use of organic seed each year, could lead to a reduction in the varieties of organic crops being grown – if specialty varieties are not available as organic, then producers would have to slowly reduce the number of such varieties that they grow in order to meet an organic seed usage quota. Such a loss of diversity is antithetical to the spirit of organic production and to consumer expectations.
- Tracking an individual producer's improvement in organic seed usage through percentage of organic seed used or number of acres planted could provide valuable insight into their progress towards their OSP goals. Again, however, it would be important to build in allowances for seasons where there is no improvement or possibly even a decrease in organic seed use due to market forces affecting availability.
- It could also be challenging for certifiers to develop and implement a system for tracking this data effectively, particularly if there are multiple ways of quantifying improvement and each operation has an organic seed use plan that is unique to them. If there was one consistent way of measuring improvement in organic seed use, it would allow certifiers to more effectively track this information at the operation level.

Create a framework for “closing the loophole” for specific crops as organic seed becomes more available.

Oregon Tilth agrees that this process would have some significant benefits in increasing organic seed usage. It could also level the playing field for all operators, big and small, who grow the crops which would require only organic seed. However, there are some significant questions that should be addressed before such a systematic approach is implemented, to ensure it does not unintentionally restrict the industry or harm organic farmers who are trying to do the right thing.

- Who would be responsible for making the decision and maintaining the list of which crops have sufficient organic seed production to “close the loophole?” The NOSB? The NOP? Or some other third-party task force or citizen advisory board?
- Would such determinations take into account the availability of organic seed that is regionally adapted to the diverse climates and geographies of US organic agriculture? What about operations outside the US that are certified to the NOP? OTCO has a large client base in Mexico and Latin America that is growing rapidly. Restrictions on importing organic seed into these countries could be a significant barrier to being able to meet such requirements.
- Would there be a “phase-in” period for each crop added to the list, that would provide sufficient time for organic farmers to source organic seed adapted to their region?
- Would there be any allowances for market disruption, which as previously mentioned could be a significant concern?

Encourage certifiers to require operations to do additional research on sourcing organic seed when they do not show continuous improvement.

As previously mentioned, Oregon Tilth would support use of organic seed variety trials to encourage producers to find crops that are adapted to their region and offer the attributes required by their markets.

NOP should provide guidance regarding non-organic seed usage and issuing noncompliances at certifier trainings to help ensure consistent enforcement between ACAs.

Oregon Tilth supports this. The majority of certification agencies work closely together within the Accredited Certifiers Association and we serve on working groups within the organization to promote consistency, but additional guidance from the NOP would be much appreciated.

Address handlers that source seed for contractual growing purposes.

We strongly support additional guidance on enforcement in this area. Certifiers who only certify the contract growers, not the handlers who provide the seed, have no leverage whatsoever with the handler beyond verifying that they conducted a seed search and provided sufficient documentation to the contract grower. We would encourage guidance that handlers providing seed to contract growers also have OSP goals to increase their sourcing of organic seed over time, including contracting with seed producers to produce organic seed to order.

Encourage universal use of Organic Seed Finder as a resource

Oregon Tilth applauds the excellent work of the Organic Seed Alliance in developing this database as a resource for the organic industry. While we support its promotion through NOP guidance, we encourage the NOP to consider that other types of resources are still critically important to certain sectors of the industry. Organic businesses are incredibly diverse, and include members of the Amish and other Plain communities, as well as non-English speakers. NOP should seriously consider ways to support other seed-sourcing resources that can be used in non-digital formats, as well as tools that can be provided or easily translated into other languages (at the very least Spanish). This will ensure that these important parts of the organic community are not disenfranchised in this area.

Additional areas of the Seed Guidance that could be strengthened?

We have several additional recommendations for improving the Seed Guidance:

- Provide more explicit definitions for quality, quantity and form, as they relate to justification for the use of non-organic seed. These are broad terms that are used by growers in a variety of ways to justify their non-organic seed use, and by more clearly defining what kind of exceptions these attributes can and cannot be used to allow, certifiers can provide more consistent enforcement.
- Strongly encourage growers to gather statements of organic seed non-availability from seed companies, rather than simply keeping self-generated records of which suppliers did not have organic seed. While this is not always possible, having seed companies attest to their availability elevates the integrity of this step in the organic production process.
- Outline the requirements for structuring and implementing variety trials, and provide resources for growers that can help connect them with organic seed breeders and university/extension research on varietal development for their region.
- Create a way to provide monetary incentives for universities, seed breeders and seed producers to develop more robust organic seed stock and for farmers who trial these varieties on farm.

Ways to encourage increased organic seed use among larger producers?

We feel that several of the suggestions that we have already made, including variety trial and contracting directly with organic seed producers, could be effectively implemented by large-scale organic producers to increase their organic seed use. We also suggest that the NOP consider a way to offer a subsidy, credit, or other monetary incentive for operations that save their own seed, as well as operations that provide supporting infrastructure for seed saving (such as seed cleaners who can process seed for organic farms). This could significantly increase the amount of organic seed available in the marketplace, as producers could plant non-organic seed if it was all that was commercially available, but then harvest organic crops and organic seed from that crop. This would have the added benefit of being a mechanism to quickly ramp up the organic seed supply for a newly introduced variety.

Overall, we are encouraged at the depth and breadth of the suggestions in this discussion document, and the opportunity to continue the conversation with the organic community. Effective revision of this guidance must be a collaborative effort that considers the effects on all stakeholders and incentivizes them to contribute to the continued improvement and support of the organic seed industry. We truly appreciate the NOSB prioritizing this topic and look forward to hearing other perspectives.

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.