

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  
Docket: AMS-NOP-16-0100

Re: Crops Subcommittee – Strengthening and Clarifying the Requirements for Use of Organic Seed Proposal

Dear Ms. Michelle Arsenault and members of the National Organic Standards Board:

The American Seed Trade Association (ASTA) once again welcomes the opportunity to submit comments to the National Organic Standards Board on strengthening and clarifying the requirements for use of organic seed in certified organic agriculture. ASTA has over 700 members, representing every aspect of the U.S. seed industry. Different seed sectors within the seed industry have different business models, environmental challenges, and production restrictions. Through this diverse lens ASTA has reviewed this proposal put forth by the NOSB Crops Subcommittee. It is understood that this proposal seeks to both modify the organic seed regulatory clause 205.204 as well as evolve the seed guidance to support the transition of organic growers to use more organic seed and provide tools for certifiers to interpret the regulatory language (NOP 5029).

ASTA has always supported additional use of organic seed by organic producers. However, at this time we recommend the proposal be tabled until the Fall NOSB meeting. This will allow the subcommittee additional time to review the proposal and provide additional further clarification. Below are ASTA’s comments on specific places that require additional clarity before the proposal is implemented.

**Organic Seed Regulatory Language Modification Proposal:**

While ASTA supports the adoption of the regulatory language modification to 205.204 to include (i) ‘improvement in sourcing and use of organic seed and planting stock must be demonstrated every year until full compliance with (a) is achieved’, we would like to see further modifications to the seed guidance and details about metrics and enforcement. This information is necessary before any changes to the regulatory language can occur. If the NOSB is going to propose that a multi-year public comment period be initiated, their proposal should be clear, detailed, and explain how changes will strengthen organic seed usage in organic operations. At this time, these criteria have not been met and the current draft would face a lot criticism and it would have a challenging path to adoption.

## Organic Seed Guidance Modification Proposal:

### 5029 – 4. Policy

ASTA recommends not adopting the inclusion of ‘Producers must prevent and avoid contamination for excluded methods in seed of at-risk crops....’ as the statement implies that it is the responsibility of the grower to protect themselves against crops contaminated with excluded methods. The type of producer referred to in this section is not clear. Is prevention the responsibility of the seed producer or the vegetable/grain producer?

#### 4.1 Sourcing of Seeds

**4.1.2** – ASTA recommends not including the modification ‘and the conventional replacement variety can be documented as being produced without the use of Excluded Methods’. There are two issues with this addition first it is redundant since excluded methods are already not allowed within the organic program. Second it increases the paperwork burden for growers and seed companies to comply with. More specifically, it puts the burden on the grower to attain such an affidavit and there is no assurance that a seed supplier would be willing to do such.

**4.1.2(c)** – ASTA recommends that on-farm trials continue to be included in the guidance as one method for growers to demonstrate continuous improvement in the use of organic. We highly recommend removing the phrase ‘but they are not mandatory’ as it removes the value and integrity of the trialing process in quantifying equivalence and moreover a demonstrable effort to source organic seed by learning about new varieties that are available in organic form. Furthermore, such a clause is redundant given the uses of the words “may” and “encouraged” in the language of 4.1.2(c).

A consideration can be made that organic growers often have on-farm trials with or without this proposed regulatory guidance. On-farms trials are often implemented or facilitated by seed suppliers, extension and universities. Results of these trials are often recorded by the external seed company, extension and/or university associates and can be solicited from these entities by the grower to supply the certifier. Also, regional variety trials are conducted that growers can visit and see comparative varietal results. Regional off-site trials could be used to communicate to the inspector comparable varietal performance and to justify ultimate varietal selection choices.

**4.1.3** - ASTA recommends removing “d. Contamination from GMO consideration: non-organic seed can be used if organic seed cannot be sourced because of GMO contamination.” We feel the addition of this phrase is unnecessary, and casts further doubt on the integrity of the organic seed supply. The use of excluded methods is clearly prohibited in organic production. Without the establishment of a seed purity standard, this language opens up questions about organic seed that complicate compliance and potentially opens yet another loophole for the use of non-organic seed. If it is to be left in, then the regulations and guidance surrounding GM needs to be modified to include “... and the substituted non-organic seed has been tested for GMOs using methodology and testing methods equivalent to those applied to the organic seed.” Before this language can be adopted a GMO test and threshold must be

established by the committee. At this point, without more details it would create uncertainty and confusion in the market until these guidelines were developed.

### **The Organic Seed Finder**

We would like to recommend that the NOP support The Organic Seed Finder as a clearinghouse for organic seed sources as well as financial support and inclusion of the use of The Organic Seed Finder in the guidance document. This is a resource to growers, certifiers and seed companies alike to make decisions that allow for increased use in organic seed.

### **4.2. Recordkeeping for Organic Producers**

**4.2.1(a)** – ASTA commends the addition of “Justification for use of varieties needs to be specific to each variety on the list, and include the reason for use (form, quality, quantity or equivalence)” as it is fundamental that the analysis for increased organic seed usage address the parameters involved in critiquing a crop variety on a case-by-case basis. Inclusive in these parameters, we would recommend adding ‘the appropriateness of a variety to regional adaptation’ because varietal performance differs per production region.

**4.2.1(b)** - ASTA recommends that for the section on the evidence requirements of efforts made to source organic seed, more rigorous guidelines with further consideration on how growers’ procure seed, make varietal determinations and the breadth of breeding material available in organic form on a crop-by-crop basis be considered. Some considerations include:

**4.2.1(b) 1. ii** - For some crops grown by organic growers, there are limited suppliers and varieties available organically. An exemplar is broccoli, a significant crop by organic acreage in the US (over 10,000 production acres), one company supplies approximately 85% of the varieties available in the market. None of the varieties available from this company are available in organic form, and yet, the majority of organic broccoli grown in the US is grown using these cultivars. If for example, a grower seeks organic availability verification of these varieties from five sources, it becomes a time consuming redundant exercise because it is known that each and every supplier will report these varieties as not available in organic form. Many seed suppliers use standard letters that state that they did not have organic seed available of the variety at the time of inquiry, even when it is known that there is no projection that the variety will ever be available in organic form in the near or distant future.

Large-scale growers secure their seed supply needs via contracts which either secure them an allocation of seed to the grower for the following production cycle and/or through contract seed productions. Contract seed productions are done by large-scale growers, often those growing high density seed crops (seeding rates of 3-9MLN/acre) such as baby lettuce, spinach, arugula, kale to secure their seed 12 to 18 months in advance through supplier allocation contracts and/or production contracts (POAs where seed is specifically produced for them on contract). These are often legally bound agreements ensuring that they will have large quantities of quality seed available to them the following year of the varieties they need to meet their market contracts. There are several professional organic seed breeding and production companies now in the US available to secure these contracts in a timely manner. Some

growers also grow their own seed for their personal use and could produce their seed needs in organically.

Knowing that there are certain crop groups with few varieties available in organic form and that large-scale growers need to contract and/or reserve their seed 12-18 months in advance when they require large quantities in organic form demonstrates that checking five viable organic sources is only relevant if the grower does so in a timely manner to ensure organic seed availability. Verification of five sources is most relevant to small-to-medium size growers who purchase from catalogue and web based companies which differs greatly from how large-scale growers produce seed.

**4.2.1(b) 1. ii.** - ASTA recommends changing the language ‘Sources should include companies that offer organic seeds and planting stock’ to Sources **must include** companies that offer organic seeds and planting stock **of the specific crop of inquiry**. This modification makes clear that it is fundamental that an organic grower has to identify seed companies that actually supply organic seed in the crop type needed.

**4.2.1(b) 1. iii.**- ASTA recommends the following modification from the original proposal: ‘Failure to demonstrate improvement in sourcing organic seed and planting stock over time may result in additional seed sources being required, **verification of dates by which sourcing attempts were made to comply to growers’ production cycle needs** and additional steps taken to procure organic seed and planting stock.’

**4.2.1(b) 3.** - ASTA supports the requirement of a grower of a crop mandated by a buyer should attain the buyer’s documentation on attempting to source organic seed as part of their own Organic Systems Plan. However, we would recommend that if the buyer is certified organic and is mandating the seed variety used that the buyer be held accountable to increase their organic seed usage of this variety and document it through their Organic Systems Plan.

#### **4.4 Role of Certifying Agents**

**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. They should take into consideration the crop and the breadth of organic seed suppliers by crop. A percentage increase per annum must be achieved or an adverse action given.

Sincerely,



Andrew W. LaVigne

President & CEO