



# BEYOND PESTICIDES

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Ms. Michelle Arsenault  
National Organic Standards Board  
USDA-AMS-NOP  
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Room 2648-S, Mail Stop 0268  
Washington, DC 20250-0268

## **Re. CS: Strengthening Organic Seed (and Plant) Guidance**

These comments to the National Organic Standards Board (NOSB) on its Fall 2017 agenda are submitted on behalf of Beyond Pesticides. Founded in 1981 as a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to bridge the interests of consumers, farmers and farmworkers, Beyond Pesticides advances improved protections from pesticides and alternative pest management strategies that reduce or eliminate a reliance on pesticides. Our membership and network span the 50 states and the world.

Because of inconsistencies in the enforcement of NOP's broad exemption that allows the use of conventionally produced seed in certified organic production, the integrity of the organic label is jeopardized. Enforcement must be the first step to strengthen the organic seed requirement—certifiers must enforce consistent and uniform adherence to the present organic seed requirements. Therefore, we support the proposals made by the Crops Subcommittee. In particular, we support seeking a rule change to the seed practice standard §205.204, which will require a demonstrable improvement over time until 100% organic seed use is achieved, **and** strengthen the guidance NOP 5029 in ways that are consistent with the existing rule.

NOP auditors must provide training and better monitor how certifiers oversee seed exemptions. The allowance of blanket exemptions, even in cases where three cited seed sources failed to identify organic seed, are not acceptable. Farmers' Organic System Plans (OSP) must clearly document requested seed variety exemptions and their efforts to source and trial organic seed.

The goal should be a requirement for virtually 100% organic seed use on organic farms. However, we understand that exceptions will on occasion arise to allow for seed that is not available as organic, and we advocate for necessary allowances to ensure organic farmers have full access to diverse seed genetics.

Compliance with the organic seed requirement and increased usage of organic seed by organic farmers will not only help mitigate GE contamination, but will also benefit the overall economic success of farmers, and the ecological well-being and resilience of organic farms.

**There are additional areas of the Seed Guidance in NOP 5029 that could be strengthened.**

**The absolute prohibition on non-organic seeds that applies to sprouts should also apply to other crops not grown in soil.**

Like sprouting, the production of microgreens is essentially a way of processing seeds. Microgreens are produced quickly, and one cannot expect that systemic chemicals in the seeds will disappear in the process.

**Even when seeds and plants are not commercially available, organic growers must not use seeds and plants grown with prohibited substances.**

The regulations state (emphasis added):

**§ 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;

(2) Nonorganically produced seeds and planting stock ***that have been treated with a substance included on the National List of synthetic substances allowed for use in organic crop production*** may be used to produce an organic crop when an equivalent organically produced or untreated variety is not commercially available;

(3) Nonorganically produced annual seedlings may be used to produce an organic crop when a temporary variance has been granted in accordance with §205.290(a)(2);

(4) Nonorganically produced planting stock to be used to produce a perennial crop may be sold, labeled, or represented as organically produced only after the planting stock has been maintained under a system of organic management for a period of no less than 1 year; and

(5) Seeds, annual seedlings, and planting stock treated with prohibited substances may be used to produce an organic crop when the application of the materials is a requirement of Federal or State phytosanitary regulations.

**There is, therefore, no plausible justification for using plants that have been treated with prohibited substances.** This includes, for example, plants grown in fumigated soil or from seeds treated with neonicotinoid pesticides.

**Perennials grown as annuals should be treated as perennials in the first year of growth,** which would prohibit growers from selling the products of non-organically produced

plants as organic and would promote the use of organically grown plants. **Regardless of whether perennials grown as annuals are treated as annual planting stock, as proposed, or as perennial stock as we would prefer, they must be held subject to commercial availability standards, and produced without prohibited substances.** Therefore, for example, organic strawberry growers should never be allowed to sell as organic strawberries grown in soil fumigated with prohibited substances. Therefore, Section 4.1.2 of the guidance should state, “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 and prohibited materials.*” (Underlined language added to CS proposed language.)

### **The guidance should follow the 2005 NOSB recommendation on commercial availability of seeds and plants.**

We support the proposal for amending the current guidance, which says, “The following considerations could be acceptable justifications for sourcing nonorganic seeds and planting stock.” It then details form, quality, and quantity considerations. There is a significant difference between the CS approach and that of the guidance. The NOSB recommendation would *require* justification based on these attributes, offering a definition of equivalence as a basis of the justification, while the guidance makes these attributes *permissible* reasons for using non-organic sources. We support the CS suggestions for an improved national database that would simplify the search. Even without such a database, sources like OMRI, ATTRA, and the certification agency should also be consulted.

As recommended by the NOSB in 2005, “Buyers of organic agricultural products who contractually require organic growers to grow selected varieties should require or provide organic seed or planting stock. When a producer is contractually obligated by a buyer of organic agricultural products to use a variety or varieties that are not currently available as organically grown seed or planting stock, the producer must receive written documentation from the buyer describing:

- (a) the unique characteristics sought by the buyer; and
- (b) the non-availability or non-equivalency of organic varieties.”

**It is important that buyers become part of the process, as the NOSB recommends, so that they do not inadvertently promote the purchase of non-organically produced seeds and planting stock.** The CS proposal on this issue is somewhat weaker than the 2005 recommendation, but moves in the right direction.

The NOSB recommendation also says:

- “In granting an allowance that organically produced seed or planting stock is not commercially available, the accredited certifying agent shall:
  - “Evaluate the applicant’s claim that no organic seed or planting stock was commercially available in the equivalent variety, form, quality, or quantity needed;

- “Validate that the applicant has properly and completely documented that the organic seed or planting stock was not commercially available. This includes validation of the documentation producers receive from buyers who require the use of non-organic varieties.
- “Require certified operators to update commercial availability information in each organic system plan update; and
- “Maintain and annually submit to the National Organic Program an up-to-date list of specific non-organic crop varieties permitted by each agency.”

**The guidance falls short of providing necessary direction to certifiers.** We support the CS proposal in this area because it would require certifiers to act proactively to insist upon organically sourced material whenever possible.

**The guidance document must give positive guidance towards helping growers and certifiers locate organically grown seeds and planting stock. The NOP, certifiers, growers, and handlers should all adopt a goal of 100% organic seeds and planting stock.**

To this end,

- The NOP must support the development of a national seed and planting stock database, as recommended by the NOSB in the 2005 recommendation on commercial availability of seeds and planting stock. The absence of a publicly funded, comprehensive mechanism for sharing information about seed availability and seed needs is the largest obstacle to meeting the goal of 100% organic seeds and planting stock.
- The requirement to contact three sources is inadequate. We support the proposed requirement for increased effort for seeds of at-risk crops.
- The use of 100% organic seed and planting stock should be a goal built into every grower’s Organic System Plan. We support the requirement for continuous improvement in the proposal.
- The guidance needs to provide greater clarity on the consequences of lack of progress, as stated in the proposal.
- Certified handlers who contract with growers must be required to support the organic seed requirement so that growers who pursue the goal of 100% organic seeds are not penalized.
- We support a task force on organic seeds and planting stock that would look at impediments to the use of organic seeds and planting stock, as well as threats to organic seed integrity, such as unwanted genetically engineered material and the concentrated ownership of plant genetic resources.

Thank you for your consideration of these comments.

Sincerely,



Terry Shistar, Ph.D.  
Board of Directors