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Best Practices for Improving Consistency with Organic Seed Search Requirements April 2019

Background

The USDA organic regulations at 7 CFR § 205.204 require organic growers to use organic seed, annual seedlings, and planting stock:

§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.

(b) [Reserved]

A fall [2018 NOSB proposal](#) on the topic resulted in a recommendation for the National Organic Program to amend the National Organic Regulations 205.204 as follows (addition in bold):

- 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 searching, sourcing, and use of organic seed/planting stock must be demonstrated every year with the goal of achieving full compliance in the use of only organic seed/planting stock.

[NOP Guidance Document 5029: Seeds, Annual Seedlings, and Planting Stock in Organic Production](#) was published in March of 2013 to clarify question certifiers and growers had about demonstrating compliance with §205.204. In spring of 2019, the NOSB passed a [proposal to amend NOP 5029](#).¹

An ACA working group was formed in 2018 to highlight some of the main challenges certifiers face when evaluating compliance related to organic seed use and documentation of the organic seed search, and this work continued alongside related conversation at the NOSB. This document describes common challenges and presents best practices for certifiers. These best practices will be updated as needed and will be re-evaluated in the context of any future rule or guidance that is published.

These best practices describe steps that can be taken and tools that can be used to ensure certifiers apply a uniform level of scrutiny when assessing Organic Seed Search documentation related to quality, quantity, and equivalent varieties. It will also help certifiers make informed decisions about whether or not equivalent varieties are available. Issues are presented as Problems and Solutions below:

Problems and Solutions

1. Problem: Quality, quantity, and equivalent varieties

Description: Certifiers do not all have uniform expectations for what an organic seed search should consist of. NOP 5029 acts as a guide, but there's still a lot of variation.

Solution: The working group developed a search form (Appendix A), which can be used or

¹ At the spring 2019 NOSB meeting, the NOSB passed the Crops Subcommittee's proposal, Strengthening the Organic Seed Guidance, which recommended several revisions to NOP 5029. However the Board agreed that revised language at part 4.1.6 of the document was problematic since it was inconsistent with the rule at 205.204(a)(4) and agreed to include a cover letter to the NOP that explained the issue.

modified. It is acknowledged that a common form was developed by ATTRA in 2011, and that many certifiers have developed their own forms. However, members of the working group agreed the newly developed document contains many useful characteristics that have not been uniformly captured in other attempts. The working group encourages use of this document to move toward greater consistency in enforcement across certifiers.

Certifiers can also encourage growers that use large quantities of a seed variety that is not commercially available in organic form to contract organic seed production with seed producers. This will help to meet the long-term goal of increasing organic seed use and increase the amount of organic seed in the marketplace.

References: 205.204 (a)(1); 205.103

2. Problem: Documentation supplied by seed dealers

Description: Seed dealers sometimes supply growers with form letters that document the organic seed search process. However, these may only address a search for a specific variety without consideration for varieties that might have similar agronomic or marketing characteristics. They might not include information related to quality and quantity. In other words, they might not meet the requirements of certifiers.

Solution: Appendix A of this document can be used by certifiers to assess operator compliance related to seed search and commercial availability. While certifiers cannot require operators to use this form, documentation supplied by operators (including documents supplied by seed dealers) should contain the same information to be considered an adequate seed search record.

References: 205.204 (a)(1); 205.103

3. Problem: Seed type is mandated by buyers

Description: Seed searches are sometimes performed by processors who only want a certain variety grown. These searches often fail to demonstrate that consideration was given to equivalent varieties. Timing of contracts can further complicate the issue.

Solution: If seed or planting stock is sourced or mandated by a buyer, the grower should obtain sourcing documentation from them. Appendix A can be used by processors the same way it can be used by operators or seed dealers. Certifiers should pay close attention to information provided about equivalent varieties. If this form is not used, documentation must contain the same information to be considered an adequate seed search record.

References: 205.204 (a)(1); 205.103

4. Problem: Appropriate technical assistance

Description: Certifiers are interested in encouraging more thorough searches without steering the operator toward a particular seed or seed supplier. They are concerned about questions related to appropriate technical assistance and also legal liability as a result of suggesting a particular action, (e.g., suggesting that an operator try what appears to be an equivalent variety, but which results in a crop failure).

Solution: Certifiers can encourage variety trials but cannot suggest use of a specific seed. They can suggest directories or lists of suppliers but cannot suggest what specific seeds should be used. If a variety is trialed and does not work, this should be documented, including what characteristics were not suitable. See number 12 below.

Certifiers might also refer growers to education and resources from the Organic Seed Alliance (OSA) or other appropriate organizations. Links to OSA resources can be found in the “Additional Resources” section of this document.

205.501(a)(8); 205.501(a)(11)(iv)

5. Problem: Timing of planting, purchase, and decision making

Description: Some types of organic seed may be available if purchased early enough but unavailable if purchases are delayed. This makes search documentation difficult to verify and also raises questions about whether certifiers can do anything to encourage operations to make decisions and purchases on an earlier time table (recognizing that some decisions will inevitably be made or changed at the last minute as a result of weather and site-specific conditions).

Solution: Seed searches should always be documented, even in cases where plans changed at the last minute due to weather conditions. Failure in this regard should be noted in the certification letter.

If organic seed use does not show a general pattern of improvement over time for any reason, a noncompliance should be issued. If timing of purchase appears to be contributing factor, certifiers can ask for a corrective plan that includes purchasing seed earlier in the season.

References: 205.204 (a)(1); 205.103; 205.201

6. Problem: Appropriateness of sources searched

Description: Some records reference companies that do not offer organic seed or do not offer organic seed of the type requested.

Solution: According to NOP Guidance 5029, “Sources should include companies that offer

organic seeds and planting stock.” The ACA Working Group further concurs that the list of sources should be limited to companies that offer organic seeds and planting stock for the specific crops being grown. Organic seed search forms might elicit confirmation that the sources searched carry organic seed of the type in question. Additionally, certifiers can use the ACA “Organic Seed Suppliers” spreadsheet to help verify organic seed availability. This spreadsheet provides names and contact information for known suppliers of organic seed and is maintained collectively by members of the ACA.

References: 205.204 (a)(1); 205.103; 205.201

7. Problem: Methods for measuring continuous improvement – encouraging continuous improvement

Description: It is unclear how certifiers should measure continuous improvement and what level of detail needs to be assessed in order to accomplish this meaningfully. This leads to questions about consistency between inspectors and across different certifiers. Also, what happens when there’s a “failure” beyond the operator’s control? Should an increase in the pounds of seed used or percent of varieties be required to show continuous improvement?

Solution: Continuous improvement should be evaluated annually, as proposed by the NOSB in fall of 2018, with multi-year patterns ultimately determining whether a noncompliance is warranted. This will ensure that an anomaly beyond the grower’s control does not reflect negatively on efforts toward consistent improvement. Best metrics for evaluating continuous improvement may vary from site to site. One might compare percentages of organic and non-organic seed varieties used or percentages of pounds of organic and non-organic seed used.

Numeric observations should be logged somewhere that enables year-to-year comparisons. Use of organic cover crops may contribute to overall organic seed use, and this may help operations in their continuous improvement efforts.

Comparing dollars spent on organic versus nonorganic seed might not be a reliable measurement since crop rotations can result in drastic variations from year to year and seed prices can vary over time.

References: 205.204 (a)(1); 205.103; 205.201

8. Problem: The challenge of full compliance, especially on-farms growing diverse and numerous crops and assessing compliance on those farms.

Description: 1. Some are concerned it may be unrealistic for growers to achieve 100% organic seed use, especially on farms growing a diverse variety of crops and varieties.

2. Additional scrutiny of records on these operations could be time intensive. Certifiers are not consistent in regard to use of seed catalogs as a method of verification. (Some have the inspector view the catalogs but do not require search attempts to be separately listed; others require listed search attempts.)

Solution: 1. Although 100% organic seed use may not be achievable for all growers in the near term, continued efforts to increase organic seed use will result in increasing numbers of varieties of organic seed. Until organic varieties are readily available for all seed types, sound and sensible documentation of organic seed search efforts will be key.

2. When growers use a vast number of seeds, in-depth verification of organic seed search may not be the most sensible approach. A risk-based sample audit may be used at the discretion of the reviewer or inspector. For example, on farms that use over 100 varieties, verification of 10% of seed search documentation may be suitable in areas of low risk (i.e., on operations where seed use is generally compliant and use of organic seed has not been identified as problematic).

Growers with a large number of seed varieties, who use organic seed catalogs as evidence of their search, might not be required to document a specific reason for every non-organic variety used. Instead, a standard operating procedure (SOP) that is documented in the OSP and auditable by the inspector or certifier may be sufficient. An SOP may include an established procedure for how a grower goes about purchasing seeds. Particularly, growers with a large number of varieties will often consult catalogs and purchase nonorganic seed only when organic are not available. Rather than requiring the grower to document the varietal preferences for each organic seed, certifiers may accept that the grower would buy organic seed when available, and only buy nonorganic when not available. The SOP should document the process for performing an adequate seed search and how growers decide to buy nonorganic seeds.

References: 205.204 (a)(1); 205.103; 205.201

9. Problem: Lack of a comprehensive organic seed database

Description: Some seed sources sell organic varieties to home gardeners in small packets or quantities, and this may be suitable to some but not all growers. Other seed growers and wholesale seed distributors sell larger quantities but aren't advertising or known to operations. How can certifiers provide information about a variety of other sources without appearing to endorse or promote a company?

Solution: While the AOSCA and Pick a Carrot databases are not complete, certifiers should still let people know these are out there. Also, an Excel version of the supplier list generated by this working group (Appendix B) could be distributed; this will not provide growers with all seed options, but it will at least provide information about suppliers and supplier contact information. It may be useful for certifiers to document which crops and varieties are most

difficult to source organically so that this can be communicated to trade in some way, perhaps through future Organic Seed Alliance Surveys on the State of Organic Seed. In the meanwhile, the ACA encourages certifiers to report certification details, including organic seed production, to the NOP's Organic Integrity database thoroughly and frequently as this can be another source of information for growers and certifiers. As long as certifiers are only letting growers know what general resources are available for finding seed sources, they do not risk endorsing any particular company.

205.501(a)(8); 205.501(a)(11)(iv)

10. Problem: GMO contamination and at-risk crops

Description: Should search requirements for at-risk crops be made more strenuous?

Solution: Not necessarily, but certifiers should make sure sources searched provide organic seed of the type needed. See #2 in Problem 11 below.

References: 205.204 (a)(1); 205.103; 205.201; 205.202; 205.105 (e)

11. Problem: Seed saving

Description: If an operation is saving seed for an at-risk crop, should certifiers require GMO testing to show contamination level prior to replanting?

Solution: The certifier could require GMO testing based on risk. The risk for contamination could be higher if there are GMO crops being grown on adjacent or nearby nonorganic farms. The risk would be lower if the farm and/or crop is isolated. Risk can be assessed by looking at farm maps and buffer zones, as well as during the on-site inspection.

205.204 (a)(1); 205.103; 205.201; 205.202; 205.105 (e)

12. Problem: On-farm variety trials

Description: How can certifiers encourage on-farm variety trials, and to what extent? What is an adequate trial?

Solution: Trial efforts should be documented by the grower and followed up on by the certifier. The Organic Seed Alliance's guide, "The Grower's Guide to Conducting On-farm Variety Trials" can inform trialing efforts.

The ACA supports the spring 2019 NOSB recommendation for updates to NOP 5029:

§4.1.2(c) On-farm variety trials of organic seed/planting stock may be used by producers to

evaluate and document organic variety/cultivar equivalency to the nonorganic item in use. If trials are not performed, the producer can use catalog or website seed descriptions, to document there are no organic seeds that have equivalent characteristics to the nonorganic seed in use.

§4.1.2(d) Documentation of on-farm trials or seed characteristic searches can be provided at the annual inspection. This documentation can include which seed characteristics are desired, and be based upon the varietal benefits of the current nonorganic seed/planting stock in use. The varietal characteristics discovered during the on-farm trail, of both the nonorganic seed/planting stock and the organic seed/planting stock trialed, can be tracked in a simple table or spreadsheet detailing the specific characteristics sought, and whether or not the various varieties grown contained those characteristics.

References: 205.204 (a)(1); 205.103; 205.201

13. Problem: Suitability of organic varieties

Description: What if organic varieties are not adapted to local growing conditions?

Solution: This is an aspect of seed quality. Seeds will grow differently depending on the geographic region and growing conditions. If seeds do not have the quality characteristics needed, they can be considered non-commercially available.

References: 205.204 (a)(1); 205.103; 205.201

14. Problem: Consistent enforcement

Description: What is cause for a non-compliance?

Solution: Noncompliances should be issued for repeated lack of progress in sourcing and using commercially available seed and planting stock over time or continued lack of documentation regarding search or use of organic seed. This echoes the language from the Fall 2018 NOSB Proposal on the matter.

References: 205.204 (a)(1); 205.103; 205.201

15: Problem: Contract growers

Description: How can certifiers work with operations that produce on contract to encourage organic seed use especially since contract growers may have very specific requirements for the qualities of the contracted crop produced?

Solution: While many ACA members feel the responsibility should be on the crop buyer in these situations, not all buyers are certified organic and therefore cannot be held accountable

through the inspection and review process. Regarding handling operations that are certified organic: Certifiers could consider adding questions to the OSP that ask: “Do you source organic seed directly for growers you contract, or do you require contracted growers to source a specific variety? If so, what steps do you take as a handler to support your contracted growers in meeting the NOP requirements to source organic seed?”

The producer must maintain the documentation after holding the buyer accountable in providing it to them. We therefore support the Fall 2018 NOSB recommended language on the topic: If seed/planting stock is sourced or mandated by the buyer of a contracted crop, the producer must obtain sourcing information and documentation from the contracted buyer. The buyer’s attempts to source organic seed/planting stock then becomes part of the producer's Organic System Plan. Such documentation must be comparable to that required of the producer who sources their own seed/planting stock. See # 3 on page 3.

References: 205.204 (a)(1); 205.103; 205.201

Conclusion:

The ACA recommends all accredited certifiers adopt ACA Best Practices for consistent implementation of the USDA Organic Regulations. ACA Best Practices are reviewed periodically to ensure they are accurate and up to date. Concerns with this or any ACA Best Practice or guidance document should be submitted to the ACA Executive Director.

Additional Resources

[NOP 5029 Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production](#)

[ACA Organic Seed Suppliers List](#)

[Fall 2018 NOSB Proposal - Strengthening the Organic Seed Guidance](#)

[October 4 ACA Comments on NOSB Strengthening the Organic Seed Guidance Proposal](#)

[Fall 2017 NOSB Proposal - Strengthening the Organic Seed Guidance](#)

[Spring 2017 NOSB Proposal - Strengthening the Organic Seed Guidance](#)

[Spring 2017 ACA Comments on NOSB Strengthening the Organic Seed Guidance Proposal](#)

[Organic Seed Alliance Organic Seed Producers Directory](#)

[Organic Seed Alliance A Seed Saving Guide for Gardeners and Farmers](#)

[Organic Seed Alliance Variety Trial Guide](#)

[Organic Seed Alliance Variety Trial Tool](#)

[Organic Seed Alliance Seed Quality Manual](#)

[Organic Seed Alliance Webinar Link](#)

[Organic Seed Alliance Seed Economics Toolkit](#)

[Organic Seed Alliance Publications Page](#)

Seed and Planting Stock Availability and Search Record

Name/Business Name: _____

Crop Year _____

Organically grown seeds, annual seedlings, and planting stock must be used except that nonorganic seed and/or planting stock, (including cover crops and understory plantings) may be used if an equivalent organically produced variety is not commercially available (See NOP Rule 205.204).

- At least 3 sources **that sell organic seed/or planting stock** must be contacted and documented before using nonorganic seed/stock.
- Genetically engineered seeds, planting stock, and inoculants are prohibited.
- Save tags, packets, invoices, packing lists, receipts and other documents for seed and planting stock purchases.

Crop Type & Variety		Source/Supplier Additional Sources Contacted (if nonorganic seed/planting stock purchased)	Contact Method & Date	Sells Organic Seed/Planting Stock	Indicate why nonorganic seed/planting stock was purchased.	Additional Information or Explanation
	Organic <input type="checkbox"/> Yes <input type="checkbox"/> No	Source:		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate form.	
	Non GMO <input type="checkbox"/> Yes <input type="checkbox"/> No	1		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quality.	
	Untreated <input type="checkbox"/> Yes <input type="checkbox"/> No	2		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quantity.	
	Treatment: _____	3		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other:	
	Organic <input type="checkbox"/> Yes <input type="checkbox"/> No	Source:		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate form.	
	Non GMO <input type="checkbox"/> Yes <input type="checkbox"/> No	1		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quality.	
	Untreated <input type="checkbox"/> Yes <input type="checkbox"/> No	2		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quantity.	
	Treatment: _____	3		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other:	
	Organic <input type="checkbox"/> Yes <input type="checkbox"/> No	Source:		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate form.	
	Non GMO <input type="checkbox"/> Yes <input type="checkbox"/> No	1		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quality.	
	Untreated <input type="checkbox"/> Yes <input type="checkbox"/> No	2		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quantity.	
	Treatment: _____	3		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other:	
	Organic <input type="checkbox"/> Yes <input type="checkbox"/> No	Source:		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate form.	
	Non GMO <input type="checkbox"/> Yes <input type="checkbox"/> No	1		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quality.	
	Untreated <input type="checkbox"/> Yes <input type="checkbox"/> No	2		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Unavailable in appropriate quantity.	
	Treatment: _____	3		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other:	

** For more information see NOP Guidance 5029—Seeds, Annual Seedlings, and Planting Stock in Organic Crop Production.

*Form--right kind of seed or stock * Quality--right attributes for your farm/business * Quantity--amount needed for planting your crop*