



October 7, 2014

Ms. Michelle Arsenault
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2648-So., Ag Stop 0268
Washington, DC 20250-0268

Docket: AMS-NOP-14-0063

RE: Materials/GMO Subcommittee & CACS Subcommittee: GMO Contact Prevention

Dear Ms. Arsenault:

Thank you for this opportunity to provide comment on the efforts the National Organic Standards Board (NOSB) is making to keep genetically modified organisms (GMOs) out of organic agriculture. The Organic Trade Association (OTA¹) shares the desire to keep GMOs out of organic livestock feed, crops, and food, and we remain committed to furthering these efforts.

Summary

In early 2014, the NOSB Materials Subcommittee submitted a work plan request to the National Organic Program (NOP) to develop a prevention strategy for excluded methods in crops and handling. On April 24, 2014, NOP sent a response memo to NOSB entitled, "Improved Guidance on Preventing GMOs Presence in Organic Products." NOP stated:

"The organic community, NOSB and USDA would like to provide additional guidance and best practices for prevention of unintended GMO presence in organic products. Therefore, the NOP requests that the NOSB provide recommendations regarding best management practices for prevention of unintended GMO presence."

Unfortunately, a recommendation did not make it onto the fall 2014 NOSB Agenda. OTA believes there are immediate steps and strategies that can be made to further keep GMOs out of organic agriculture. OTA urges the Materials/GMO Subcommittee to prioritize drafting a proposal to NOP to develop guidance on industry best practices for avoiding GMOs. We request that NOSB include two key practices that could be carried out under existing organic regulations:

¹ The Organic Trade Association (OTA) is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing organic businesses across 49 states. Its members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's Board of Directors is democratically elected by its members. OTA's mission is to promote and protect the growth of organic trade to benefit the environment, farmers, the public and the economy.

1. A method for keeping GMOs out of **non-organic** seed that is used when organic seed is unavailable. Specifically, Accredited Certifying Agencies (ACAs) would require a seed purity declaration made by the seed supplier to verify the non-GMO status of non-organic seed.
2. Guidance and training for ACAs on GMO sampling and testing under the residue-testing rule.

OTA lends our encouragement and support, and we offer the following more detailed comments.

NOP GUIDANCE ON GE AVOIDANCE AND TESTING

NOSB's continued work on the topic of GMOs is paramount. OTA continues to be very supportive of moving recommendations forward to NOP that will not only improve the practices used to keep GMOs out of organic seed, feed and crops, but will also clarify the standards and terminology used for making clear and consistent compliance determinations.

As submitted in separate comments, OTA reiterates our support for continued discussion and work on updating and clarifying "excluded methods" terminology. We are also encouraged that "Seed Purity from GMO Research Needs" and "Risk Reduction from Off-Target Exposure to Non-Permitted Materials" were identified as topics in the 2014 Research Priorities Proposal. However, we remain intensely focused on the more **immediate steps** NOSB can take that will help keep GMOs out of organic agriculture.

Seed Purity Standard for Non-Organic Seed

The organic regulations allow the use of non-organic untreated seed when an equivalent organically produced variety is not commercially available. Under the organic regulation's general prohibition of GMOs (§205.105), non-organic seed must be produced and handled without the use of excluded methods (GMOs).

While the organic regulations prohibit GMOs in organic production and handling, they do not delineate thresholds or contact prevention techniques specific to GMOs. Seventeen years after commercial introduction of GMOs in agriculture, it is time for the regulations to embrace this challenge and provide meaningful oversight and guidance on how to prevent the unintended contact with and presence of GMOs in organic products.

As discussed over the past few NOSB meetings, many agree, including OTA, that a seed purity standard is the appropriate critical control point to begin to use analytical methods and standards in organic production to limit GMO presence and meet consumer expectations. Many also believe it is not possible to put forward a workable standard at this time because of various obstacles identified through the NOSB public comment process, and a shared need to collect more data in order to shape an effective and fair standard.

However, the longer we wait to set limits for controlling GMO presence in organic seed, feed and crops, the further we fall behind market demand and the longer organic farmers are subject to the variability of the private market vs. the requirements of the organic regulations. Time is of the essence, and actions must be taken **NOW** that will help continue to keep GMOs out of organic agriculture.

One approach for taking immediate action on the future of organic is for NOSB to include steps for evaluating the **non-GMO status** of **non-organic** seeds in its recommendation to NOP on guidance.

How would this work?

- As stated earlier, the organic regulations require that non-organic seed is non-GMO. Organic

producers must provide ACAs with supporting evidence that non-organic seed is non-GMO. The common verification practice currently used is to collect a non-GMO affidavit that declares the seed is not genetically modified. Documentation may or may not speak to any inadvertent GMO presence. To address this requirement, NOP, in guidance, could request that ACAs collect a seed purity declaration made by the seed supplier to verify the non-GMO status of non-organic seed.

- Since organic seed must comply with the organic standards and is subject to residue sampling by ACAs, requiring a seed purity declaration for **organic seed** could undermine confidence in the process-based standards. For organic seed, an organic certificate is adequate. However, requiring a seed purity declaration on **non-organic seed** would obligate seed suppliers to test non-organic seed for GMOs and to withhold contaminated seed from entering the organic supply chain.

What would this strategy accomplish?

Requiring a seed purity declaration for non-organic seed would:

- Shift the financial burden of routine GMO testing from organic seed producers to suppliers of non-organic seed;
- Significantly reduce the inadvertent introduction of GMOs into organic production through seed supply;
- Show confidence in the process-based standards that have proved successful in preventing pesticide contamination on organic products; and
- Incentivize the expansion of the organic seed industry.

OTA strongly urges the CACS to work with the Materials/GMO Subcommittee and draft a recommendation on guidance to NOP that requires ACAs to collect a seed purity declaration made by the seed supplier to verify the non-GMO status of non-organic seed.

Guidance and training for ACAs on GMO testing

On November 9, 2012, NOP published a Final Rule on Periodic Residue Testing. The rule clarifies a provision of the Organic Foods Production Act (OFPA) of 1990 and the regulations issued that require periodic residue testing of organically produced agricultural products by ACAs. NOP received several comments regarding types of residues that would be considered acceptable targets for testing under the rule. Four commenters, including OTA, requested clarification on testing for GMOs.

NOP responded by saying that it does not intend for the testing conducted under section 205.670 to be limited to pesticides residues. Under the existing regulations, certifying agents have the flexibility to test for a range of prohibited materials and excluded methods, including, but not limited to, pesticides, hormones, antibiotics, and GMOs.

Given the regulatory requirements and NOP clarification, ACAs are required to test if there is reason to believe that an organic product has come into contact with GMOs. ACAs may also test for GMOs under the periodic residue testing requirements. To date, however, NOP has not issued any instruction or guidance on GMO testing.

OTA strongly urges the CACS to work with the Materials/GMO Subcommittee and draft a recommendation to NOP to create guidance and provide training to ACAs on conducting GMO sampling and testing under the residue-testing rule. Providing NOP with a recommendation that

includes further guidance on testing falls directly under the specific responsibilities outlined in the OFPA starting at section 2119(k):

5. **PRODUCT RESIDUE TESTING.**—The Board shall advise the Secretary concerning the testing of organically produced agricultural products for residues caused by unavoidable residual environmental contamination.

Although NOP guidance on pesticide residue testing is available and USDA resources for GMO testing in organic feed do exist, further guidance on GMO testing of other crops for human consumption is greatly needed. It is extremely important that guidance offer clear and consistent sampling and testing protocols so ACAs may accurately assess the efficacy of an organic operation's system for ensuring that GMOs do not come in contact with organic product. Testing is one of the most definite and effective tools ACAs can use to evaluate whether an organic operation has adequate measures in place to prevent commingling with non-organic GMO crops as well as intentional or unintentional contact with GMOs.

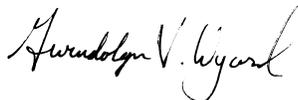
Conclusion

NOSB has concluded that genetic engineering is not compatible with organic food or farming, and the organic sector needs a diverse set of tools to prevent GMO presence in organic products. OTA strongly agrees. OTA believes it is in the best interest of the organic sector for NOP to include guidance in the NOP Handbook that would help farmers and handlers prevent GMO contact with in organic products and assist ACAs in assessing the efficacy of an organic operation's GMO contact prevention plan. Therefore, we urge the Materials/GMO Subcommittee to prioritize this work and release a recommendation for guidance prior to the spring 2015 meeting.

Recommendations for avoidance and methodology for testing from USDA's NOP would reflect USDA's commitment to enforcing the requirements of the regulation, and would provide organic producers and handlers with a useful USDA-recognized tool to further mitigate GMO presence in organic products.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Standards Board for the opportunity to comment, and for your commitment to furthering organic agriculture.

Respectfully submitted,



Gwendolyn Wyard
Regulatory Director of Organic Standards and Food Safety
Organic Trade Association (OTA)

CC: Laura Batcha, Executive Director and CEO, Organic Trade Association (OTA)