



October 08, 2025

National Organic Standards Board
Compliance, Accreditation, and Certification Subcommittee
USDA-AMS-NOP

Docket: # AMS-NOP-25-0034

RE: Residue Testing for a Global Supply Chain (§ 205.670 & UREC) – Discussion Document

Dear NOSB Certification, Accreditation, and Compliance Subcommittee,

Strengthening Organic Systems (SOS), LLC appreciates the opportunity to provide comments in response to the CACS Discussion Document on Regulatory Review of § 205.671 and unavoidable residual environmental contamination (UREC).

SOS supports NOSB’s exploration of improvements to residue testing, including risk-based approaches, cost structures that fairly allocate oversight resources, centralized reporting, and updates to NOP 2613 to ensure fair treatment of operators affected by unavoidable contamination. Our responses to the questions in the discussion document reflect our commitment to strengthening oversight while maintaining fairness and practicality for certified organic operations.

Response to Questions:

Mandatory testing of 5% of operations:

1. Is the role of testing the same now as when the 2012 Periodic Residue Testing final rule was implemented? If not, what is the goal of testing now?

SOS Response: Establishing a minimum testing criteria continues to ensure all certifiers meet a baseline minimum of testing. Testing continues to be a significant expense in certification, and requiring all certifiers to meet a common minimum requirement reduces pressure to avoid or reduce testing. While the regulation requires certifying agents to pay for testing, the reality is that testing is funded through certification fees. This is not a charity activity. Nevertheless, the instruction and historical approach to testing has not progressed adequately—either in scientific methods, best practices, or approach to selection, training, sampling, or evaluation. It’s important that instruction improves, and certifiers and NOP are incentivized to utilize the best current approach, method, and tools to validate the process-based certification requirements have been met.

2. Do you agree with the direction CACS is heading, proposing that the mandated 5% of operations tested be selected based on risk?

SOS Response: There is value in risk based *and* random testing. Provided that language allows for certifier discretion about conducting some or all of the samples on a randomized basis as a deterrent for fraud, or as part of a wholistic approach to signal to operations that organic operations may be tested at any time, we are not opposed to instruction outlining that sampling should include risk as criteria. Certifiers and NOP should be provided with latitude to justify the approach, and we don’t support a strictly risk-based approach to testing.



a. If not, what other options should CACS consider to make testing more meaningful and effective at identifying the presence of prohibited substances (i.e., meet the goal) while ensuring there is not a backslide towards little to no testing (pre-Periodic Residue Testing final rule)?

SOS Response: We recommend that the rule provide for risk and randomized testing- the structure and implementation designed to detect, deter, and prevent fraud. If a certifier's sampling plan is not strictly risk based, we advocate that certifiers have a system in place to describe sampling decisions- which may provide for some random testing.

Cost of Testing:

1. Do you agree with the direction CACS is heading, proposing that certifiers may directly pass along the cost of testing to certified operations in the case of a complaint or investigation, and that the test would be allowed to count toward the 5% of operations tested? a. If not, why, and what other options should CACS consider?

2. Would you support a tiered certification fee model (e.g., high-risk operations pay more toward certification fees as a more equitable approach)?

SOS Response: We've responded to all of these questions in this response. We recommend that certifiers carefully evaluate their certification structure and provide for compliance oversight within their fee structure. Our comments and position advocates for an overhead cost that creates space for allocated resources to perform sampling *as needed*. It makes sense to apply this on a risk-based approach. Areas where additional oversight is likely to be needed, the certifier should be charging more. For example, in livestock brokerage activities, the activity can be difficult to track. In this type of operation, the certifier should be charging the amount necessary to provide adequate oversight, which should be more than other, lower risk operation types. Similarly, products coming from high fraud risk regions with limited certifier personnel presence should be considered higher risk and charged accordingly. Operations that routinely source from international, high-risk operations should be similarly categorized in this example. Their oversight activity needs should be higher, and additional testing is merited. It is not our experience that creating a pass along structure works particularly well, but we're not opposed to there being provisions for passing along the cost in the case of investigation or credible complaint. Charging higher risk operations more overall creates a few advantages for certifiers: a risk fee would alert operations to their oversight category- and may influence them to make changes to reduce their risk profile, it creates a certifier accountability framework that creates oversight space for monitoring operations (which certifiers are obligated to perform anyway), and reduces cost for operations that are lower risk.

Public access to results:

3. §205.670(f): Should §205.670(f) be updated to refer to §205.504(b)(5)(iii) to guide the availability of results? If not, why and what should be done instead?

SOS Response: Yes, we support updates to 205.670(f) to increase transparency about test results. We additionally advocate for certifiers being mandated to report all sampling activity and results to NOP, so that risk decisions can be better informed across the program.

Database of Results:

4a. Should residue test result data be collected in a centralized database?

b. What is the objective in collecting this data in a centralized database (i.e., how will this collected data be used)?

c. Who should have access to this result information? Certifiers? Public?

SOS Response: We advocate for increased transparency across the supply chain, including at the certifier and NOP level for results of laboratory tests. While testing becoming publicly available may create scenarios where a farm that was impacted by unintentional drift may be impacted adversely by a positive result, it's possible to structure reporting so that drift determinations can be noted in the system. We recommend this occurs.

SOS receives regular feedback from operations that there is a perception that compliance activities are not occurring in organic certification, in large part due to the lack of publicly available data- even if accessible through request. See our [article](#) on this for reasoning supporting our position on increased transparency in all enforcement activities. The reality is that the general public is not aware they can request results of sampling, and even when requested, the public receives varying levels of compliance or information from the certifying agencies. Centralizing this information and mandating reporting to NOP will provide rapid clarity around whether certifiers are testing thoughtfully, how sampling is working, and what results are being found. It would also inform opportunities for NOP to provide input into sampling results, trends, and efficacy.

Downstream Notification to Buyers:

5. Based on previous comments, CACS is leaning toward requiring the notification of downstream buyers when residue test results are above 5% of thresholds. Should other types of positives trigger this type of notification?

SOS Response: While we see value in downstream reporting, the reality is that managing this may be cumbersome and unnecessary to increasing compliance if other recommendations are implemented. While we can see value in this activity later- we advocate that the other activities provide more effective oversight tools. Alternately, if this were to be made a requirement, we advocate for businesses directly being required to notify their buyers of contamination events in excess of 5%, along with reasoning. We suspect that operations being required to notify their customers of positives would influence internal risk management approaches far more effectively than a top down approach to notification. However, we do not advocate for this approach while the 5% threshold is applied universally under the EPA/FDA threshold, unless it is applied only to products that have an established threshold.

6. What should the recipient of this information (the downstream buyer) be required to do in the following situations:

a. They still have a contaminated product in their possession

b. They have no contaminated product in their possession

SOS Response: We consider this to be a costly and burdensome activity for operations, with limited value compared to activities otherwise outlined as options in this and previous comments. We do not support destruction or downstream enforcement action of product that was not contaminated or impacted at the operation level, unless it is determined the operation in possession of the product knowingly received product that was contaminated above 5% of the EPA or FDA threshold. We have concerns that imposing this requirement could have impact beyond the product (such as impacting organic status of livestock), and the oversight burden would impact resources to focus on noncompliant operations. We do not support downstream product activity being mandated, except where evidence exists to indicate the operation knew there was a compliance issue with the received/ purchased product.

UREC

7. Are there other solutions that CACS should consider, beyond the Board's previous recommendations, to revise NOP 2613, to help organic operations and certifiers navigate the presence of low-level residues due to circumstances outside of the operations' control (e.g., atmospheric drift)?

SOS Response: SOS continues to recommend revisions provided in previous comments, and supports the NOSB board's recommendations for NOP 2613, including provisions recommending instruction be expanded to include testing beyond pesticides.

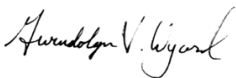
Conclusion

In conclusion, SOS strongly supports NOSB's effort to modernize residue testing regulations to reflect today's realities. Periodic residue testing must continue to provide a **baseline level of oversight**, but with refinements that:

- Prioritize risk while preserving the deterrent effect of random testing;
- Ensure costs are allocated equitably, particularly for high-risk activities and regions;
- Increase transparency by mandating reporting of test results to NOP and expanding public access;
- Carefully consider the role of downstream notification while focusing on the most effective compliance tools; and
- Update NOP 2613 to provide fair, science-based guidance for evaluating unavoidable contamination and drift.

Together, these improvements will strengthen organic integrity, reduce fraud risk, and improve consumer confidence in the USDA Organic seal—while ensuring that oversight remains equitable and rooted in scientific best practices.

We thank the Board for its thoughtful work and for considering our input on this important issue.



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