

April 3, 2024

Ms. Michelle Arsenault
Advisory Committee Specialist
National Organic Standards Board
USDA-AMS-NOP
1400 Independence Avenue, SW
Room 2642-S, STOP 0268
Washington, DC 20250-0268

**RE: Certification, Accreditation, Compliance Subcommittee (CACs)
Docket # AMS-NOP-23-0075**

Dear NOSB Members,

We remain grateful for the generous offering of your time and attention from the National Organic Standards Board members who contribute to the betterment and advancement of the organic sector in so many ways. Thank you for tackling the many concerns and review of materials that fill your agenda. Our sector directly benefits from the efforts each of you offers to improve the community's standards and grow the organic sector with integrity. We would like to provide several comments regarding the work of the CAC Subcommittee.

Prior to delving into the items on the agenda, we would like to suggest that some of the issues fall beyond the intended domain of the CACS and even the NOSB. Residue testing is clearly relevant and appropriate for compliance and certification and, with respect to consistency, accreditation. Market capacity, risk-management and transition investments are critical issues for the whole organic community, but difficult for us to reconcile with NOSB's core responsibilities. We acknowledge that these issues have been brought to NOSB by stakeholders and the Board is doing what it can to respond. We also observe that there is a lack of other forums for the whole organic community to constructively process these topics. Therefore, the NOSB is filling a void that should be filled by other means or institutions. We would support the Board's acknowledgement of this situation and perhaps this would encourage the development of such evolution within the organic community.

With respect to all Discussion Documents, we look forward to digesting and commenting on each during the next few months and reading comments from other stakeholders. We also have included a few comments about specific elements of each Discussion Document that we have included below to further the collective conversation.

- [Discussion Document: Residue Testing for a Global Supply Chain](#)
- [Discussion Document: Climate Induced Farming Risk and Crop Insurance](#)
- [Discussion Document: Organic Food System Capacity and Constraints](#)
- [Proposal: Opportunities in Organic - Improving Support for Organic Transition](#)

Discussion Document: Residue Testing for a Global Supply Chain

We would like to provide some initial feedback about the Foundational Focus and Timing, and then some general comments.

- A "foundational" examination should commence with §205.670 itself. Paragraph (b) notably includes Excluded Methods and other classes of prohibited materials yet these lack guidance. Furthermore, questions arise concerning other types of contamination, such as PFOS.
- Demonstrably, residue testing plays a crucial role in fraud detection within the current global organic system; however, reliance on testing may diminish now that there is increased cross-agency collaboration between USDA, DHS, and Department of Commerce at various entry and lading points. Developments in risk assessment tools should also prove useful in coming years to better target scarce resources focused on such testing.
- Refinement and differentiation of program goals, such as verifying compliance, deterring fraud, and preventing contaminated/fraudulent products from entering organic supply chains, are essential. These goals require validation and clarity on priorities. For example, we consider it essential to recognize that the relevance of residue testing differs between produce and grains.
- From consumers' standpoint, the pesticide profile of products at retail might receive greater prioritization than field surveillance, as highlighted by Dr. Charles Benbrook's research on preventing acute instances versus average exposure.
- We believe it is imperative to emphasize the need for data. Assessments and potential improvements about residue testing policy are crippled without much more information about current practices and results. A thorough compilation, analysis, and audit of the entire residue testing portfolio system are necessary. Among other benefits, this would help with validation of the ACA Risk Matrix and help evolve that tool for formal adoption.
- NOSB should seek clarification on the implementation of §205.670(f) - public access to residue testing results. Transparency is a valid goal but how this is implemented remains murky. Does this require a Freedom of Information Act (FOIA) request? Again, a unified reporting format and compilation would greatly enhance transparency. Regarding barriers to implementing residue testing programs within the organic supply chain, challenges such as the stream-of-commerce timing issues in relation to field testing need addressing. Increased in-store sampling, especially for acute or seasonally dynamic concerns, is essential to meet consumer needs.
- Addressing a lack of uniformity in residue testing systems among certifiers necessitates a standardized approach. This would be facilitated by establishing bulk lab contracts to reduce costs and ensure consistency in testing methods and sample handling.
- "Prevention of contamination" entails different considerations for industry and consumer needs. Integration with AMS' Pesticide Data Program (PDP) testing at the consumer level should be explored for better consumer protection and confidence.

Regarding the Questions for Stakeholders:

NOP 2610: Instruction Sampling Procedures for Residue Testing

1. Does this document instruction provide adequate information for certifiers and inspectors to collect samples in the field?

No, it does not. NOP 2610 (et seq) are germane only to sampling for testing of pesticide residues. 205.607(b) clearly includes testing for Excluded Methods and other types of prohibited materials. Sampling instructions should be expanded to cover these instances.

2. Are there areas pertaining to sample collection (sample size, when to collect samples, sample selection, etc.) that need to be developed or improved? Please provide suggestions.

We suggest following the guidance found in best practices adopted by accredited laboratories. Specific sampling, documentation, and testing methodologies could be recognized by the NOP/AMS/USDA if they so choose.

3. How can additional instruction or guidance on sample collection support the voracity [sic] of testing results so that adverse actions are more defensible?

We assume the intended word was 'veracity' instead of 'voracity'. See item 2 above.

NOP 2611: Instruction Laboratory Selection Criteria for Pesticide Residue Testing

1. Section 4.1 describes one type of residue screen that can be used for testing. What additional tests should be included in this section (e.g., heavy metals, synthetic solvents, fumigants, herbicides, etc.)? What should be the threshold for validating additional testing methodologies in this section to ensure results are actionable?

We will need additional time to consider comments on this point.

2. Sections 4.2 and 4.3 describe laboratory selection criteria and suggested laboratory practices. Do either of these sections need to be updated to align with current best practices?

Emphatically, yes.

3. How can additional instruction or guidance on laboratory selection criteria and testing methodology support the voracity of testing results so that adverse actions are more defensible?

We will need additional time to consider comments on this point.

NOP 2611-1: Prohibited Pesticides for NOP Residue Testing

1. Does this list of prohibited substances provide value to certifiers in evaluating organic compliance?

2. How can this document be improved?

3. Would certifiers find value in developing a decision tree to determine which tests should be conducted depending on the commodity, geographical location, and position within the supply

chain? Please describe how a decision tree could assist certifiers with testing and compliance verification.

The ACA Risk Matrix (2019) seems from previous comments to be in use by some, but its validation status is unknown to us.

NOP 2613: Instruction Responding to Results from Pesticide Residue Testing

1. Section 5.3.3 describes how to respond to positive results when there is no EPA tolerance or FDA action level. Please describe experiences attempting to respond to results in this type of situation. How can this section be improved to facilitate and support sampling and testing for prohibited substances that do not have EPA tolerances or FDA action levels (e.g., synthetic solvents)?

This is causing significant problems for an increasing number of operators, compounded when ACAs take samples of non-saleable material during the season when the value of any analysis has uncertain or questionable utility. As analytical testing capabilities become increasingly sensitive, such findings will become prohibitively costly. UREC was designed to address unavoidable contaminants such as pesticide residues. The presence or absence of a specific crop on a pesticide label should have no bearing on a determination of UREC status.

2. Are additional sections within this instruction needing updating or improvement? Please provide suggestions.

Emphatically, yes. It needs amending relative to UREC, for excluded methods, and other prohibited materials classes.

Discussion Document: Climate Induced Farming Risk and Crop Insurance

Regarding the Questions for Stakeholders:

1. T-yields (Assigned yields when a producer doesn't have production history):

a. Would organic producers be open to using transitional yield history to accelerate t-yield replacement to build organic yield history faster?

We find this question confusing. If you intend to ask if a post-transition, certified grower will use their APH from the transition period instead of the county T-Yield, we think that a preference would still depend on the price/coverage offered. We would also think that the balance of the different baselines would vary +/- widely by region and crop.

b. Would "buy up" coverage above 85%, which is the current limit, to 120% be of interest to obtain more coverage?

Generally, yes, we believe most growers would prefer to be offered such, but their decision would still be a price vs. value calculation.

c. Suppose you have a currently approved production history (APH) for organic production. Would you be interested in having a percentage of that APH carried over to your transition or organic yields?

We find this question imprecise enough to be clear. Do you intend to mean a *conventional* APH? If so, the question makes more sense, but at what percentage reduction from your conventional APH? The actuarial data is going to encourage the providers to impose a heavy yield discount.

2. What other concerns remain?

- a. The Discussion Document does not include recognition or analysis of a much more central concern: the very high Loss Ratio for the RMA organic portfolio overall. The Fall 2023 presentation by RMA Director of Product Administration & Standards is based on the “Summary of Business for Organic Production.” See <https://www.rma.usda.gov/-/media/RMA/SOB-Reports/SOB-Organics/2022organic.ashx?la=en>

This ten-year compilation of federal crop insurance experience shows an average overall Loss Ratio (claims paid out/premiums paid in) of 1.71. The Summary includes comparison to “Conventional Experience Where Organic Insured”. The overall conventional loss ratio shown is 0.96. The industry goal is always to keep the Loss Ratio under 1.0.

The trend is not improving over time. The national Loss Ratio for organic in 2022 was 2.05, the highest year on record.

The Summary of Business breaks down the experience by commodity, by state and by type of insurance product.

The Summary also includes experience for Transitional Producers. A ten-year average Loss Ratio of 1.57. Still a relatively small sample

Continued high Loss Ratios will continue to keep the price of organic crop insurance policies high. This is another level of data that is not included in the Summary but needs to be part of the analysis.

So, organic crop insurance overall is a steady loser for the insurance underwriters. This is a glaring problem that is unsustainable. We need to examine why this is so, and what can be done about it, in much greater detail. T-Yield calculations are a factor in the equation, but not necessarily the central issue for continued high loss ratios.

- b. This document does not strongly follow the through-line of *climate-induced risk* and the relationship of that phenomenon to organic agriculture *per se*. Organic insurance is highly problematic, regardless of excess risk from climate change-induced extreme weather. Pursuing improved coverage for organic is still a baseline structural challenge, without getting to how the system could provide even better protection from climate risks. That said, organic systems offer the potential to be less climate-risk-labile than conventional systems, and this is the theme that NOSB should pursue. That is, the resilience of

(established) organic systems could be able to be a price-discount factor. We understand this is not a general consideration for the RMA/FCIC, and such a goal is hampered by the high loss ratios for RMA's organic customers in most years so far.

- c. NOSB and MRP-AMS need to be more closely integrated and aligned with the education of agents and underwriters and have stronger channels of communication to be effective and productive.
- d. NOSB needs to understand the statutory and operational roles and capacities of the Federal Crop Insurance Corporation (FCIC), which is distinct from *and governs* RMA itself. The organic sector needs sustained engagement and representation with FCIC and needs to identify opportunities for progress on that level.

Discussion Document: Organic Food System Capacity and Constraints

Regarding the Questions for Stakeholders:

These questions will no doubt generate many anecdotal responses that suggest diverse dynamics in different regions and supply segments. While these comments need to be considered and weighed appropriately, we contend that NOSB and AMS should be getting substantive and more wholistic data from ERS, and shortly from any information available through import data generated through SOE-related documentation requirements.

1. Are we retaining our existing organic acres and producers or are we experiencing overall loss of current organic producers?

Census data shows a slight decline in the number of producers in the years 2017-2022 (17,741-17,048) or a ~4% reduction. We would hope that a fairly straightforward analysis could be made of the Organic Integrity Database to corroborate or disconfirm this data.

See <https://www.usda.gov/sites/default/files/documents/AOF-2024-Raszap-Skorbiansky.pdf>, Slide 5.

2. Are existing organic producers expanding or contracting acres of organic production?

Undoubtedly both are true for varying regions, subregions, crop types and mixes, and so on. Answering this question in aggregate may be interesting, but it would not be actionable. Data would need to be generated at a granularity and specificity that would allow a meaningful action plan to be developed.

3. What additional infrastructure is needed to make organic supply chains more lean and more efficient?

We suggest that leanness and efficiency may not be the most important goals, and even if they are, the question begs a more important one, "Lean and efficient for whom"? Efficiency and leanness are often associated with linear systems, or systems which are encouraged to be more linear than they can be and maintain stability, in other words, to be sustainable.

Relevant models suggest that multivariate, dynamic, and interdependent systems are most stable and productive over time not when efficiency (or diversity of elements for that matter) are maximized, but when the maximum proportion of possible connections in a given system are realized; this is often framed in terms of 'connectance.'

We propose that a preferred question would be something akin to, "What infrastructure is needed to encourage, incentivize, and support the maximum number of supply chain relationships within a given region, sector, or community - broadly defined"?

We also note that this discussion should include supply chains supporting organic producers and those leading to markets for agricultural goods.

4. What organic processing capability do we need to establish?

We would again suggest looking at any available ERS data first, if any is available. We assume some data would be becoming available through the TOPP grantee network, though this is likely rudimentary now to help guide such decisions going forward. The answers will vary wildly by region and other factors, of course. We contend that the only broadly applicable answer to this question is: Processing capability that maximizes the proportion of possible connections in a given system. Each system requires its own analysis of the processing capability it needs.

In some reasons, vegetable cooling and distribution hubs are lacking, while in others meat slaughter and processing is needed.

Proposal: Opportunities in Organic - Improving Support for Organic Transition

In its current form, this document holds import, yet it falls short of constituting a developed or compelling strategy recommendation for USDA aimed at "maximizing the benefits of public investments." We fear the message will be received more as a statement of platonic ideals instead of a list of strategically important and effective priorities. While it does include certain urgent messages directed toward the USDA, they are somewhat obscured within the structure and form and should be articulated more forcefully and distinctly with practical suggestions and recommendations for implementation.

Immediate priorities center around critical specifics regarding initiatives already in progress or under consideration, such as NRCS, OMDG, TOPP, and RMA transitional insurance.

Although the proposal is in effect trying to chart a "U.S. Organic Plan for Transition," it diverges from the European model and lacks the depth required for such a designation. It neglects available analysis, failing to glean insights from comments or direct solicitations.

Most notably absent (a gap mirrored by USDA presently) is REE, particularly ERS. Comprehensive support for transition necessitates the inclusion of Research, Extension, Education, Science Careers, and Economic Data and Analysis.

Analysis should encompass both quantitative data and qualitative case studies, assessing both successful endeavors and areas of inefficacy. Regional breakdowns detailing transition trends and differentiation by sector are imperative for a useful understanding.

Included in the first paragraph in the Background section:

Organic agriculture offers significant climate, health, and economic benefits for producers and consumers.

We consider this to be a significant understatement and should be far more descriptive and extensive. This is a chance to assert several benefits in each area: climate, health, and economics and should be made robust and proud. We suggest that benefits to soil, soil quality, and soil health should be called out as an additional, specific area of benefit.

Included later in the section is the following comment:

In addition, many beginning producers and producers of color face heightened challenges related to language, cultural competency, and discrimination that must be addressed. Increasing diversity among organic producers and handlers could contribute to a stronger sense of inclusion and opportunities in organic.

We suggest that this section should be more emphatic, particularly with respect to following through on commitments by Secretary Vilsack and President Biden in the areas of DEI and young farmer populations.

We also feel it important to note in this statement that the development of OTI proceeded without input from stakeholders, lacking any meaningful consultation. Moreover, it lacks clearly defined, measurable objectives. Despite these shortcomings, the organic non-profit sector has admirably stepped up to address the situation, striving to maintain momentum for USDA's investments. Their response encompasses a wide array of strategies aimed at diversifying U.S. organic production.

Of paramount concern here should be the absence of any discernible plan or USDA internal initiatives for analyzing the various components of OTI, either individually or collectively. This is deeply concerning to us, and we urge the NOSB to call attention to this point.

Additionally, the absence of a science-centric approach within OTI is concerning. This deficiency has not been adequately addressed by USDA to the stakeholder community. It is imperative that the NOSB direct its attention to this issue and advocate for its inclusion.

In the Regulatory Relevance section, we note the following:

One of the three primary purposes of the Organic Foods Production Act of 1990 (OFPA) is "to assure consumers that organically produced products meet a consistent standard," and the NOSB is charged with advising USDA on implementing this purpose.

We do not understand the attempt to focus this discussion around the "consistent standard" purpose of OFPA. This seems like an odd approach given that many arguments in support of Diversity, Equity, and Inclusion (DEI), for just one example, suggest a departure from rigid consistency. Moreover, the purpose of assuring consistency does not inherently require market growth.

We believe this document would be more productive by asserting relevance to the third statutory purpose of OFPA (OFPA Sec. 2012(3)): "facilitate interstate commerce." We contend that this aspect holds greater significance in framing the discussion of market development.

While we generally support each of the four main areas identified by stakeholders and included in the Summary, some stand out as warranting additional attention. Our comments are included below.

1. Support economically viable opportunities in organic

- a. *Ensure strong integration of all elements of USDA's Organic Transition Initiative (OTI) and other federal and state resources to support organic, so opportunities and deadlines are communicated to all agencies and partners involved with OTI. For example, participants in the Transition to Organic Partnerships Program (TOPP) should receive and disseminate information about market grant and conservation program deadlines and the NOP Climate Smart Agriculture Crosswalk. (NOP, NRCS, T&M, USDA).*

We suggest this needs to be worded with far more vigor. Integration across agencies is not happening effectively and this is deeply problematic for the organic industry at every level.

- b. *Identify and address barriers to organic transition, including assisting farmers with long-term access to land and capital. (NOP, ERS, USDA).*

We assert that the barriers have been well identified for some time, and that what is needed is a well-defined, strategic, implementable plan.

- c. *Build consumer demand for organic by educating the public about what organic is and why it matters. Campaigns run through check-off programs (e.g., Got Milk?) are the type of promotion that organic producers would like to see. (NOP, USDA).*

While we concur with the desire to build consumer demand, past experience suggests that campaigns for a check off program would need to be approached more carefully, comprehensively, cohesively, and strategically than past attempts.

- d. *Create stable markets for organic through public procurement (i.e. government food purchasing). (FNS, USDA).*

We consider this to be the most substantive line item of the first section and deserves to be fleshed out far more thoroughly either in this process or a subsequent effort.

We also suggest an additional line item in this section to insist on an in-depth evaluation of the Organic Market Development Grants (OMDG) program, including analyses of submitted proposals (i.e., quality, information sufficiency, patterns of opportunity, etc.) and measurement of expected impacts to features such as new producers, jobs, investment multipliers, and replacement of imports.

2. Reduce costs of certification by offsetting costs that organic producers bear.

- a. *Ensure the Organic Certification Cost-Share Program is administered consistently and predictably. (FSA)*

If there is evidence that this is not being done currently, then this is important; otherwise, we suggest lowering this as a priority.

- b. *Pay producers for participation in training programs (both presenters/mentors and participants/mentees). (NOP)*

We have no substantive comment to offer here.

- c. *Ensure the benefits of organic are acknowledged and compensated in programs that pay producers for public benefits they provide, like building healthy soil and ecosystem services. (NRCS)*

We contend that among the line items in this section, this should be a top priority for NOSB to further develop and argue for.

- d. *Provide culturally appropriate, inclusive, and supportive certification services; adapt certification culture to the people and communities that certifiers serve. (NOP)*

We support this general concept and believe articulating the specific ways in which the current programs and services fail to do so should be the first step in this direction.

3. Invest in relationship and trust building.

- a. *Continue to work through organizations that producers already trust. (NOP, USDA)*
- b. *Provide funding early in processes to both resource organizations with demonstrated experience and capacity and build capacity at additional organizations. (NOP)*
- c. *Build organic-relevant capacity at all USDA agencies, and particularly those that directly interface with producers. (NRCS, FSA, RMA, USDA)*

These are all appropriate sentiments and requests, though we feel compelled to note that insufficient capacity building within the USDA has been a generations-old challenge, but we recognize the need nonetheless to call attention to these needs.

4. Diversify and expand the organic community.

- a. *Resource organizations that serve producers of color for a multi-year timeframe, including to support activities not directed specifically toward organic certification. (NOP, USDA)*
- b. *Actively educate farming communities on opportunities in and benefits of organic agriculture. (NOP, NRCS, USDA)*
- c. *Target outreach to organizations working on succession planning, to leverage organic to keep land in agriculture. (USDA)*

We also suggest an additional line item in this section to actively support intense focus on southeastern U.S. organic production, particularly in crop production focused on

reducing imported organic goods, post-harvest handling and processing capacities, major initiatives highlighting Historically Black Colleges and Universities and other Minority-Serving Institutions.

Thank you for your consideration and willingness to use regulatory incentives to encourage more organic agriculture and conversion of ground to organic production.

Sincerely,
the Management Team of Wolf & Associates



Bill Wolf
Chief Executive Officer
and President



John Foster
Chief Operating Officer



Sue Wagner
Vice President
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The Wolf & Associates team has over 500 years of combined experience in the organic sector. We have served hundreds of farms and businesses with their organic production systems and regulatory compliance, both nationally and internationally. We have been involved in the founding of several key organic organizations including the Organic Trade Association, Organic Materials Review Institute, and the Organic Center. We are fiercely committed to continual improvement and to provide our clients and the organic sector with the tools to advance organic, environmental, and social practices.