



Accredited Certifiers Association, Inc.

*USDA-accredited certifying agents working together to ensure
the integrity of organic certification in the United States*

Working Group:

Materials Review

White Paper Regarding Status of Materials Review

September 9, 2010

Draft #4

Introduction

This **White Paper on Status of Materials Review** is a first step, meant to place both a historical and current perspective and imperative on the increasingly (and likely continuing) problematic reality of assessing compliance of materials with the NOP Rule and National List.

Many ACA members believe that issues surrounding the materials review process must be addressed in order to provide more consistent material/product determination in a timely manner. Currently there is much duplication of work and inconsistent determinations. This inconsistency leads to “certifier shopping” among operators seeking organic certification.

A. Background

Prior to the formation of the Organic Materials Review Institute (OMRI) in 1996, individual certification agencies reviewed materials for compliance with their standards. The practice of individual review led to inconsistent decisions, and much duplication of material review work. Operators would “shop” for the certifier who would let them use a particular material. With the introduction of the Organic Foods Production Act certifiers believed that the USDA would address review of materials in the National Organic Program, eventually standardizing materials review. This was not the case. Upon implementation of the National Organic Program in 2001, certifiers were still responsible for determining whether materials were compliant with the National Organic Program.

OMRI expanded and grew over the years. This growth was not without growing pains. Some certification agencies did not support the work of OMRI, manufacturers complained the fees were excessive and dropped their OMRI Listing, a lack of timely product review performance by OMRI in some instances and the lack of a formal approval by the NOP of OMRI have all have contributed to these growing pains.

In 2008 OMRI received ISO Guide 65 accreditation from the USDA, and in a March 5, 2008, memo to accredited certification agencies, the NOP officially permitted certifiers to contract with OMRI (or other ‘third party approved’ entities) to perform reviews of commercial products for organic use.

In 2009 several liquid fertilizers products previously approved by various certification agencies and OMRI were found to contain excessive levels of nitrogen. The source of the nitrogen was also questioned. The NOP issued a directive to manufacturers and certification agencies stating that liquid fertilizers with a nitrogen analysis of 3% or greater must have a 3rd party review for compliance with the National Organic Program. As part of this review an inspection must be conducted of the manufacturing facility. The NOP also stated that the materials review programs of certifying agencies would come under increased scrutiny during the accreditation audit process. OMRI began conducting on-site evaluations of liquid fertilizer manufacturers. The majority of certifying agencies indicated they would not be conducting inspections of liquid fertilizer manufacturers. The manufacturer must be enrolled in the OMRI program or locate another ‘third party approved’ materials review program to continue marketing their products after October, 2009.

In 2010, at the Accredited Certifiers Association / NASOP Professional Development Training Program in Savannah GA, discussion began regarding how to improve the overall materials review process. Certifiers expressed the following concerns about the review of materials:

- inconsistent material review determinations;
- the amount of staff time expended upon materials review;
- the duplication of efforts in materials review;
- the credentials of certification agency staff reviewing materials;
- the “depth” of review of the material by certifying agents vs the depth of materials review by OMRI;
- the need for a quick turn-around determination of a materials acceptance (in relation to the Organic System Plan) and the lack of such an “on-demand” style of review by OMRI;
- the lack of sufficient numbers of OMRI approved materials for use in livestock production;
- the lack of oversight by the National Organic Program of the materials review programs of accredited certifying agencies.

ACA formed a Materials Review Working Group to discuss the issues surrounding the review of materials, and they first met in June 2010. The above concerns were raised again during several conference calls. In addition, a Livestock Material Subcommittee was also formed to discuss issues around the review of livestock materials.

It appears that in 2010 there are just as many certifying agencies conducting internal materials review programs as when OMRI was first formed. Many feel this is undermining OMRI and is inherently undermining the larger effort of the organic community in establishing and maintaining a credible organic oversight structure for all stakeholders, particularly the consumer.

Also problematic is the increasing number of product manufacturers who are not participating in the OMRI process, instead opting for review of their product by individual certifying agents or ‘self representing’ their product’s compliance to the NOP Rule.

The review of a material by most certification agencies does not result in a “product list” of acceptable materials, as the materials are reviewed for a specific operator in relation to the

organic system plan. A few certifiers do periodically publish an ‘intra-organization’ material list for their clients benefit, based on cumulative reviews of products requested for use by their clients. Product manufacturers may not use the determination of acceptance as an advertising tool. However, there is some gaming of the system, as manufacturers do indicate their product is accepted for use by such and such certification agency, and encourage potential buyers of their products to either consider this approval by such and such agency and/or for the buyer to seek approval of the same product through their certification agency.

Either way, OMRI is not considered an option by these companies who are ‘self representing’ and the system – companies w/product to sell, operators wanting to buy product and certifiers having to assess these products – is/becomes, as indicated above, burdened with:

- duplication of work in review of the same product by multiple certifiers
- possibly inconsistent decisions by multiple certifiers
- continuation of ‘self-representation’ as a viable tool for a company to sell product
- continuation of a lesser quality of review work done by less qualified material review specialists in the different certification agencies doing multiple reviews of the same product

Further, certification agencies generally do not charge for the review of a material, thus product manufacturers who are ‘self representing’ are not paying for the cost of this service. There was not agreement in the working group as to whether product manufacturers should be paying for this service to individual certifiers willing to review their products, primarily due to the expanded legal liability such fees would invite.

The National Organic Program also placed increased emphasis on the importance of and steps towards materials review accreditation when, in April, 2010, it asked the National Organic Standards Board Compliance, Accreditation and Certification Committee to begin looking at what criteria might be necessary for the establishment of an additional scope of NOP accreditation for review of materials.

Additionally, discussion took place regarding the desirability of reconfiguring the National List into a Positive List. Canada and the EU have positive lists and those with experience noted that reviewing a material for compliance with these lists is much easier and does not take as much time. It was agreed that this task would take many years to accomplish – even if there was a will to do this.

Continued discussions by the ACA Materials Review Working Group did not necessarily develop agreement on how to best proceed in improving the materials review process. Many believed that without the development of extremely detailed review criteria for materials, the discussion of review of individual materials could not take place. There was agreement that the development of the detailed criteria would take up much time, and that was not necessarily where the group wanted to spend its time.

The status of material review among European certification groups appears quite similar to the status of review in the US, with the same issues arising. The European Organic Certifiers Council has established a Working Group to address Inputs, and their preliminary conclusions are very similar to this ACA Working Group: lack of guidance from oversight bodies, lack of criteria for review of inputs, differing processes of review among certification agencies, differing

interpretations of regulations, increasing complexity of review, and increasing numbers of products requested for review requiring increasing staff time.

B. What are the issues critical to solving concerns about materials review?

The following topics were identified as critical to solving the materials review concerns:

1. How to develop more consistency in review of materials among certifying agencies

2. How deep should the review be

Comments: Currently there are many differing levels of depth of material review. Can we develop a standardized level for review?

3. What type of system(s) could be developed that would reduce/eliminate duplication of work

Comments: A suggestion was made that a database be developed of all materials reviewed by certifying agencies (not necessarily available to the public). Materials that have been reviewed would be listed. Fees would be assessed to fund the maintenance of the database.

4. Do we support development of an additional accreditation scope for materials review programs

Comments: There was concern that with only a few accredited materials review programs there could be a backlog of needed reviews and the fees could be high. There will need to be added scrutiny by NOP during the accreditation process for this to be a valued program.

There is also concern that with only a few programs, there might not be published lists from these programs, thus certification agencies not conducting product review would not be aware of the materials that have been reviewed and whether the product is allowed. Sharing of this information is critical.

5. Can we develop a long term goal of requiring product manufacturers to obtain 3rd party review of materials

Comments: There was concern for small manufacturers, such as local compost producers that fees would be too high. It was suggested that a \$5,000 exemption could be applied to smaller product manufactures.

3rd party review could be a long term goal, but in the short term materials review by certification agencies would still need to be done, especially for livestock materials. Many believe that until 3rd party review is required it will not happen, especially for livestock materials.

One certifier has ceased signing confidentiality agreements and tells manufacturers if they want a confidentiality agreement to have their product reviewed by OMRI.

6. Can we encourage an “on-demand” review process through OMRI

Comments: There does need to be a two-track materials review system – one for the manufacturer of materials, the other a more streamlined process for review of materials in accordance with the organic system plan. As this scenario is the basis for many certification agency based review systems, many feel this more streamlined review process should be addressed by OMRI. Certifiers could pay additional fees for this type of review, or a specified number of “on-demand” reviews could be included as part of the subscriber fee. The goal of this type of service should be a determination within 10 days. Liability and concomitant effects on normal OMRI services are issues to be addressed with an “on-demand” review process.

7. Can certification agencies charge for review of materials

Comments: The question of whom to charge arose – the operator or the product manufacturer. It is generally believed that manufacturers should be paying for this review, as they are businesses benefitting from this review. How to accomplish this without allowing the approval as an advertising tool is problematic. Similarly, as above, liability for the certification agency and corresponding affects of multiple certification agencies doing material review on OMRI services are issues to be addressed.

C. Where do we go from here....Options for Input Material Review:

1. Status Quo continues

- Certifiers do internal reviews with implicit approval via NOP crops/livestock/processing accreditation
- Some certifiers charge fees to either clients or manufacturers, some do not
- Some certifiers deal directly with manufacturers, some do not
- Some certifiers publish lists or issue approval certificates, some do not
- Some certifiers recognize OMRI, some require OMRI, some do not recognize OMRI
- Inefficient, inconsistent & ineffective
- Determined to be undesirable, unsustainable

2. One organization reviews ALL materials

- Could be OMRI, could be NOP (or other)
- Organization has explicit authority/approval under NOP
- Manufacturers would be required to get approval prior to use by farmers
- Issues of motivation for manufacturers who do not directly target organic customers
- How to allow exemption for small, local producers (neighbor’s compost)
- General direction being taken by CA (AB856) appears to be problematic
- Issues of turn-around time and responsiveness to needs of operators
- Issues of costs, capacity

3. One organization reviews MOST materials
 - Could be OMRI, could be NOP (or other)
 - Organization has explicit authority/approval under NOP
 - Certifiers review some materials for operations when quicker turn-around time is needed
 - Could involve certifier Materials Review Accreditation scope
 - Why would manufacturers choose to go to review organization if certifiers continue review? Similar problems to current situation, especially if review by certifier is easier than review by review organization?
 - Issues of costs, capacity

4. Multiple organizations review materials under Accreditation Scope
 - NOP would offer accreditation for the scope of material review; certifiers and other organizations (OMRI) could choose to be accredited
 - Those that are not accredited do not do material review for either clients or manufacturers
 - Accredited bodies publish lists or maintain single list or database for public (or subscriber) use
 - Accredited bodies could charge fees to clients/manufacturers
 - Certifiers would have to agree to accept decisions from all other accredited review bodies
 - Issues of consistency remain – does NOP (AMS auditors) have ability to determine who deserves accreditation?
 - Does NOP have authority to grant new scope? Does this require change to OFPA?
 - Issues of cost & burden to certifiers

5. Multiple organizations review materials under Accreditation Scope (alternate)
 - NOP would offer accreditation for the scope of material review; certifiers and other organizations (OMRI) could choose to be accredited
 - Those that are not accredited do not do material review for manufacturers, but continue to do so for clients
 - Same issues as #4 above
 - Question of manufacturer motivation- why get reviewed by an accredited body if unaccredited body can do review, especially if review by unaccredited body is easier and less expensive (similar to issues with ACA's & OMRI now)