



# Accredited Certifiers Association, Inc.

*Accredited certifying agents working together to ensure  
the integrity of organic certification in the United States*

June 3, 2013

Toni Strother, Agricultural Marketing Specialist  
National Organic Program  
USDA-AMS-NOP  
1400 Independence Ave., SW.  
Room 2646- So., Ag Stop 0268  
Washington, DC 20250-0268.

**RE: AMS-NOP-12-0060; NOP-12-14  
National Organic Program Draft Guidance Classification of Materials (5033)**

Dear Ms. Strother:

Thank you for the opportunity to provide comments on the National Organic Program Draft Guidance on Classification of Materials and the Agricultural/Nonagricultural and Synthetic/Nonsynthetic Decision Trees.

The Accredited Certifiers Association, Inc. (ACA) is a 501(c)(3) non-profit educational organization created to benefit the accredited organic certifier community and the organic industry. The ACA strives for consistency in organic certification to uphold organic integrity, maintain stakeholder trust, and grow the organic industry. We are committed to being a positive influence for the good of the organic community. 47 certifying agencies worldwide are currently members of ACA, representing 20,230 certified operations. In order to develop our comments the ACA formed a working group comprised of staff of our member certification agencies.

ACA would like to thank the National Organic Program (NOP) for the work on the draft documents and the effort to provide guidance on consistent determinations of classifications of materials. Classification of materials is a very complex topic and process, and we are aware of many very detailed comments being submitted to the NOP. We ask that NOP consider publishing the revised Guidance in "Draft" form once again after incorporating the comments received. We understand that this is not the normal process, however, due to the complexity we would appreciate the opportunity to review the document prior to it being issued as Final Guidance.

In general, ACA is very supportive of the Classification of Materials Draft Guidance. Our specific comments follow.

We identified a process that was not specifically included in the document and we ask for clarification regarding whether this process is included in the broader wording:

In Section 4.8 covering burning, heating and combustion of biological matter, Pyrolysis was not specifically listed in the description. Pyrolysis is the process of burning biological material in the absence of air, which is different than combustion. Without specific language it is confusing whether or not “burning” or “heating” includes pyrolysis. Using the current language it could be construed as being permitted. Whether “burning” or “heating” does or does not include pyrolysis should be specified, as this impacts the classification of materials

ACA believes that both the Agricultural/Nonagricultural and Synthetic/Nonsynthetic Decision Trees would work in 99% of reviews, but that there would be some materials where a conclusion could not be reached. We believe that in those cases, The National Organic Standards Board or the National Organic Program should make that final decision.

We note that many substances are produced with the use of auxiliary ingredients. While these ingredients do not change the classification of a substance, these auxiliary ingredients must be evaluated for compliance if they are not removed. We believe that the decision trees should include a reference to the evaluation of the auxiliary ingredients. We suggest the addition of the following question to both the Agricultural / Nonagricultural (after ‘Yes’ on question 4) and Synthetic / Nonsynthetic (after question 3) Decision Trees:

Have synthetic materials (e.g. processing aids) been used to manufacture, separate, isolate or extract the substance and if so have they been removed from the final substance such that they have no technical or functional effect in the final product?

If the answer is *Yes*, the substance is agricultural (Agricultural / Nonagricultural Decision Tree) or Nonsynthetic (Synthetic / Nonsynthetic Decision Tree). In both Decision Trees if the answer is *No*, the auxiliary ingredients must be evaluated for compliance with NOP Policy.

In our review of the Decision Tree for Classification of Agricultural / Nonagricultural as proposed would classify most microorganisms, bacterial cultures, microbial metabolites and enzymes as agricultural. Classification as agricultural would conflict with the Regulation because the definition of ‘non-agricultural’ specifically uses ‘bacterial culture’ as an example of a non-agricultural substance. Without the inclusion of the complete ‘non-agricultural’ definition in the Decision Tree, materials identified as ‘non-agricultural’ in the Regulation would be reclassified as agricultural.

The definition of ‘non-agricultural’ is:

**Non-agricultural substance:** A substance that is not a product of agriculture, such as a mineral or a bacterial culture that is used as an ingredient in an agricultural product. For the purposes of this part, a non-agricultural ingredient also includes any substance, such as gums, citric acid, or pectin, that is extracted from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.

The classification of substances as agricultural (such as bacterial cultures, enzymes, etc.) also impacts their use in livestock feed formulations, since they would then be required to be organic by §205.237(a). This creates a question of whether these substances would be available in an organic form.

We do believe that microorganisms, bacterial cultures, microbial metabolites and enzymes are distinctly different than fermented agricultural products such as beer, wine and yogurt and thus must be handled differently in the Decision Tree.

In order to clarify the Decision Trees we ask that the NOP give consideration to detailed revisions that are being submitted by other organizations.

Again, we appreciate the efforts of the National Organic Program to provide this guidance and respectfully request the revised Guidance be issued in "Draft" form due to the complexity of this issue.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Kane".

Patricia Kane  
Coordinator