

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) comply with the requirements of this section and section 6515 of this title.

(c) Duration of designation

An accreditation made under this section shall be for a period of not to exceed 5 years, as determined appropriate by the Secretary, and may be renewed.

(Pub. L. 101-624, title XXI, §2115, Nov. 28, 1990, 104 Stat. 3944.)

§ 6515. Requirements of certifying agents

(a) Ability to implement requirements

To be accredited as a certifying agent under section 6514 of this title, a governing State official or a person shall be able to fully implement the applicable organic certification program established under this chapter.

(b) Inspectors

Any certifying agent shall employ a sufficient number of inspectors to implement the applicable organic certification program established under this chapter, as determined by the Secretary.

(c) Agreement

Any certifying agent shall enter into an agreement with the Secretary under which such agent shall—

(1) agree to carry out the provisions of this chapter; and

(2) agree to such other terms and conditions as the Secretary determines appropriate.

(d) Private certifying agent agreement

Any certifying agent that is a private person shall, in addition to the agreement required in subsection (c)—

(1) agree to hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of this chapter; and

(2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the applicable organic certification program established under this chapter.

(e) Compliance with program

Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this chapter.

(f) Confidentiality

Except as provided in section 6506(a)(9) of this title, any certifying agent shall maintain strict confidentiality with respect to its clients under the applicable organic certification program and may not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client obtained while implementing this chapter.

(g) Conflict of interest

Any certifying agent shall not—

(1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

(h) Administrator

A certifying agent that is a private person shall nominate the individual who controls the day-to-day operation of the agent.

(i) Loss of accreditation

(1) Noncompliance

If the Secretary or the governing State official (if applicable) determines that a certifying agent is not properly adhering to the provisions of this chapter, the Secretary or such governing State official may suspend such certifying agent's accreditation.

(2) Effect on certified operations

If the accreditation of a certifying agent is suspended under paragraph (1), the Secretary or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by such certifying agent may retain their organic certification.

(Pub. L. 101-624, title XXI, §2116, Nov. 28, 1990, 104 Stat. 3944; Pub. L. 102-237, title X, §1001(5), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 113-79, title X, §10005(b)(1), Feb. 7, 2014, 128 Stat. 944.)

AMENDMENTS

2014—Subsecs. (c) to (i). Pub. L. 113-79 redesignated subsecs. (d) to (j) as (c) to (i), respectively, substituted “subsection (c)” for “subsection (d)” in introductory provisions of subsec. (d), and struck out former subsec. (c) which related to maintenance of, access to, and transference of records of certifying agents.

1991—Subsec. (j)(2). Pub. L. 102-237 substituted “such certifying” for “certifying such”.

§ 6516. Peer review of certifying agents

(a) Peer review

In determining whether to approve an application for accreditation submitted under section 6514 of this title, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b).

(b) Peer review panel

To assist the Secretary in evaluating applications under section 6514 of this title, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable State government.

(Pub. L. 101-624, title XXI, §2117, Nov. 28, 1990, 104 Stat. 3945.)

§ 6517. National List**(a) In general**

The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production and handling established under this chapter in order for such products to be sold or labeled as organically produced under this chapter.

(b) Content of list

The list established under subsection (a) shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) or each natural substance prohibited under subsection (c)(2).

(c) Guidelines for prohibitions or exemptions**(1) Exemption for prohibited substances in organic production and handling operations**

The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this chapter only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling of the agricultural product because of the unavailability of wholly natural substitute products; and

(iii) is consistent with organic farming and handling;

(B) the substance—

(i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock parasiticides and medicines and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers; or

(ii) is used in production and contains synthetic inert ingredients that are not classified by the Administrator of the Environmental Protection Agency as inerts of toxicological concern; and

(C) the specific exemption is developed using the procedures described in subsection (d).

(2) Prohibition on the use of specific natural substances

The National List may prohibit the use of specific natural substances in an organic farming or handling operation that are otherwise allowed under this chapter only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would be harmful to human health or the environment; and

(ii) is inconsistent with organic farming or handling, and the purposes of this chapter; and

(B) the specific prohibition is developed using the procedures specified in subsection (d).

(d) Procedure for establishing National List**(1) In general**

The National List established by the Secretary shall be based upon a proposed national list or proposed amendments to the National List developed by the National Organic Standards Board.

(2) No additions

The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or Proposed Amendments to the National List.

(3) Prohibited substances

In no instance shall the National List include any substance, the presence of which in food has been prohibited by Federal regulatory action.

(4) Notice and comment

Before establishing the National List or before making any amendments to the National List, the Secretary shall publish the Proposed National List or any Proposed Amendments to the National List in the Federal Register and seek public comment on such proposals. The Secretary shall include in such Notice any changes to such proposed list or amendments recommended by the Secretary.

(5) Publication of National List

After evaluating all comments received concerning the Proposed National List or Proposed Amendments to the National List, the Secretary shall publish the final National List in the Federal Register, along with a discussion of comments received.

(6) Expedited petitions for commercially unavailable organic agricultural products constituting less than 5 percent of an organic processed product

The Secretary may develop emergency procedures for designating agricultural products that are commercially unavailable in organic form for placement on the National List for a period of time not to exceed 12 months.

(e) Sunset provision

No exemption or prohibition contained in the National List shall be valid unless the National Organic Standards Board has reviewed such exemption or prohibition as provided in this section within 5 years of such exemption or prohibition being adopted or reviewed and the Secretary has renewed such exemption or prohibition.

(Pub. L. 101-624, title XXI, §2118, Nov. 28, 1990, 104 Stat. 3946; Pub. L. 102-237, title X, §1001(6), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 109-97, title VII, §797(b), Nov. 10, 2005, 119 Stat. 2165.)

AMENDMENTS

2005—Subsec. (c)(1). Pub. L. 109-97, §797(b)(1)(A), inserted “in organic production and handling operations” after “substances” in heading.