

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 or an entity acting as an agent of the 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) Oversight of certifying offices and foreign operations

(A) In general

If the Secretary determines that an office of a certifying agent or entity described in paragraph (1) is not complying with the provisions of this chapter, the Secretary may suspend the operations of the certifying agent or the noncompliant office, including—

(i) an office operating in a foreign country; and

(ii) an office operating in the United States, including an office acting on behalf of a foreign-domiciled entity.

(B) Process for resuming operations following suspension

The Secretary shall provide for a process that is otherwise consistent with this section that authorizes a suspended office to resume operations.

(3) 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.

(j) Notice

Not later than 90 days after the date on which a new certifying office performing certification activities opens, an accredited certifying agent shall notify the Secretary of the opening.

(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; Pub. L. 115-334, title X, §10104(d), Dec. 20, 2018, 132 Stat. 4900.)

Editorial Notes

AMENDMENTS

2018—Subsec. (i)(1). Pub. L. 115-334, §10104(d)(1)(A), inserted “or an entity acting as an agent of the certifying agent” after “a certifying agent”.

Subsec. (i)(2), (3). Pub. L. 115-334, §10104(d)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (j). Pub. L. 115-334, §10104(d)(2), added subsec. (j).

2014—Subsecs. (c) to (j). 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—