

tional List to obtain a complete list of ingredients and determine whether such substances contain inert materials that are synthetically produced; and

(3) submit to the Secretary, along with the proposed National List or any proposed amendments to such list, the results of the Board's evaluation and the evaluation of the technical advisory panel of all substances considered for inclusion in the National List.

**(m) Evaluation**

In evaluating substances considered for inclusion in the proposed National List or proposed amendment to the National List, the Board shall consider—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effect of the substance on human health;

(5) the effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.

**(n) Petitions**

The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating substances for inclusion on the National List.

**(o) Confidentiality**

Any confidential business information obtained by the Board in carrying out this section shall not be released to the public.

(Pub. L. 101-624, title XXI, §2119, Nov. 28, 1990, 104 Stat. 3947; Pub. L. 102-237, title X, §1001(7), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 115-334, title X, §10104(e), (f), Dec. 20, 2018, 132 Stat. 4901.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

**AMENDMENTS**

2018—Subsec. (b)(1). Pub. L. 115-334, §10104(e)(1), inserted “, or employees of such individuals” after “operation”.

Subsec. (b)(2). Pub. L. 115-334, §10104(e)(2), inserted “, or employees of such individuals” after “operation”.

Subsec. (b)(3). Pub. L. 115-334, §10104(e)(3), inserted “, or an employee of such individual” after “products”.

Subsec. (i). Pub. L. 115-334, §10104(f), designated existing provisions as par. (1), inserted heading, substituted “ $\frac{2}{3}$ ” for “Two-thirds”, and added par. (2).

1991—Subsec. (a). Pub. L. 102-237 substituted “to assist” for “(to assist)”.

**§ 6519. Recordkeeping, investigations, and enforcement**

**(a) Recordkeeping**

**(1) In general**

Except as otherwise provided in this chapter, each person who sells, labels, or represents any agricultural product as having been produced or handled using organic methods shall make available to the Secretary or the applicable governing State official, on request by the Secretary or official, all records associated with the agricultural product.

**(2) Certified operations**

Each producer that operates a certified organic farm or certified organic handling operation under this chapter shall maintain, for a period of not less than 5 years, all records concerning the production or handling of any agricultural product sold or labeled as organically produced under this chapter, including—

(A) a detailed history of substances applied to fields or agricultural products;

(B) the name and address of each person who applied such a substance; and

(C) the date, rate, and method of application of each such substance.

**(3) Certifying agents**

**(A) Maintenance of records**

A certifying agent shall maintain all records concerning the activities of the certifying agent under this chapter for a period of not less than 10 years.

**(B) Access for Secretary**

A certifying agent shall provide to the Secretary and the applicable governing State official (or a representative) access to all records concerning the activities of the certifying agent under this chapter.

**(C) Transference of records**

If a private person that was certified under this chapter is dissolved or loses accreditation, all records and copies of records concerning the activities of the person under this chapter shall be—

(i) transferred to the Secretary; and

(ii) made available to the applicable governing State official.

**(4) Unlawful act**

It shall be unlawful and a violation of this chapter for any person covered by this chapter to fail or refuse to provide accurate information (including a delay in the timely delivery of such information) required by the Secretary under this chapter.

**(5) Confidentiality**

Except as provided in section 6506(a)(9) of this title, or as otherwise directed by the Secretary or the Attorney General for enforcement purposes, no officer, employee, or agent of the United States shall make available to the public any information, statistic, or document obtained from, or made available by, any person under this chapter, other than in a

manner that ensures that confidentiality is preserved regarding—

- (A) the identity of all relevant persons (including parties to a contract); and
- (B) proprietary business information.

**(b) Investigations**

**(1) In general**

The Secretary may take such investigative actions as the Secretary considers to be necessary—

- (A) to verify the accuracy of any information reported or made available under this chapter; and
- (B) to determine whether a person covered by this chapter has committed a violation of any provision of this chapter, including an order or regulation promulgated by the Secretary pursuant to this chapter.

**(2) Specific investigative powers**

In carrying out this chapter, the Secretary may—

- (A) administer oaths and affirmations;
- (B) subpoena witnesses;
- (C) compel attendance of witnesses;
- (D) take evidence; and
- (E) require the production of any records required to be maintained under this chapter that are relevant to an investigation.

**(3) Information sharing during active investigation**

In carrying out this chapter, all parties to an active investigation (including certifying agents, State organic certification programs, and the national organic program) shall share confidential business information with Federal Government officers and employees involved in the investigation as necessary to fully investigate and enforce potential violations of this chapter.

**(c) Violations of chapter**

**(1) Misuse of label**

Any person who knowingly sells or labels a product as organic, except in accordance with this chapter, shall be subject to a civil penalty of not more than \$10,000.

**(2) False statement**

Any person who makes a false statement under this chapter to the Secretary, a governing State official, or a certifying agent shall be punished in accordance with section 1001 of title 18.

**(3) Ineligibility**

**(A) In general**

Except as provided in subparagraph (C), any person that carries out an activity described in subparagraph (B), after notice and an opportunity to be heard, shall not be eligible, for the 5-year period beginning on the date of the occurrence, to receive a certification under this chapter with respect to any farm or handling operation in which the person has an interest.

**(B) Description of activities**

An activity referred to in subparagraph (A) is—

- (i) making a false statement;
- (ii) attempting to have a label indicating that an agricultural product is organically produced affixed to an agricultural product that a person knows, or should have reason to know, to have been produced or handled in a manner that is not in accordance with this chapter; or
- (iii) otherwise violating the purposes of the applicable organic certification program, as determined by the Secretary.

**(C) Waiver**

Notwithstanding subparagraph (A), the Secretary may modify or waive a period of ineligibility under this paragraph if the Secretary determines that the modification or waiver is in the best interests of the applicable organic certification program established under this chapter.

**(4) Reporting of violations**

A certifying agent shall immediately report any violation of this chapter to the Secretary or the applicable governing State official.

**(5) Violations by certifying agent**

A certifying agent that is a private person that violates the provisions of this chapter or falsely or negligently certifies any farming or handling operation that does not meet the terms and conditions of the applicable organic certification program as an organic operation, as determined by the Secretary or the applicable governing State official shall, after notice and an opportunity to be heard—

- (A) lose accreditation as a certifying agent under this chapter; and
- (B) be ineligible to be accredited as a certifying agent under this chapter for a period of not less than 3 years, beginning on the date of the determination.

**(6) Effect on other law**

Nothing in this chapter alters—

- (A) the authority of the Secretary concerning meat, poultry and egg products under—
  - (i) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);
  - (ii) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); or
  - (iii) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(B) the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(C) the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(Pub. L. 101-624, title XXI, §2120, Nov. 28, 1990, 104 Stat. 3949; Pub. L. 102-237, title X, §1001(8), Dec. 13, 1991, 105 Stat. 1893; Pub. L. 113-79, title X, §10005(c), Feb. 7, 2014, 128 Stat. 944; Pub. L. 115-334, title X, §10104(g), Dec. 20, 2018, 132 Stat. 4901.)

**Editorial Notes**

REFERENCES IN TEXT

The Federal Meat Inspection Act, referred to in subsec. (c)(6)(A)(i), is titles I to V of act Mar. 4, 1907, ch.

2907, as added Pub. L. 90-201, Dec. 15, 1967, 81 Stat. 584, and Pub. L. 110-246, title XI, § 11015(a), June 18, 2008, 122 Stat. 2124, which are classified generally to subchapters I to IV-A (§601 et seq.) of chapter 12 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 21 and Tables.

The Poultry Products Inspection Act, referred to in subsec. (c)(6)(A)(ii), is Pub. L. 85-172, Aug. 28, 1957, 71 Stat. 441, which is classified generally to chapter 10 (§ 451 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 451 of Title 21 and Tables.

The Egg Products Inspection Act, referred to in subsec. (c)(6)(A)(iii), is Pub. L. 91-597, Dec. 29, 1970, 84 Stat. 1620, which is classified principally to chapter 15 (§ 1031 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1031 of Title 21 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(6)(B), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (c)(6)(C), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

#### AMENDMENTS

2018—Subsec. (b)(3). Pub. L. 115-334 added par. (3).

2014—Pub. L. 113-79 amended section generally. Prior to amendment, section consisted of subssecs. (a) to (f) relating to violations under this chapter.

1991—Subsec. (f). Pub. L. 102-237 inserted comma after “601 et seq.”.

### § 6520. Administrative appeal

#### (a) Expedited appeals procedure

The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this chapter that—

- (1) adversely affects such person; or
- (2) is inconsistent with the organic certification program established under this chapter.

#### (b) Appeal of final decision

A final decision of the Secretary under subsection (a) may be appealed to the United States district court for the district in which such person is located.

(Pub. L. 101-624, title XXI, § 2121, Nov. 28, 1990, 104 Stat. 3950; Pub. L. 102-237, title X, § 1001(9), Dec. 13, 1991, 105 Stat. 1894.)

#### Editorial Notes

##### AMENDMENTS

1991—Subsec. (b). Pub. L. 102-237 substituted “district court for the district” for “District Court for the District”.

### § 6521. Administration

#### (a) Regulations

Not later than 540 days after November 28, 1990, the Secretary shall issue proposed regulations to carry out this chapter.

### (b) Assistance to State

#### (1) Technical and other assistance

The Secretary shall provide technical, administrative, and National Institute of Food and Agriculture assistance to assist States in the implementation of an organic certification program under this chapter.

#### (2) Financial assistance

The Secretary may provide financial assistance to any State that implements an organic certification program under this chapter.

### (c) Access to data documentation systems

The Secretary shall have access to available data from cross-border documentation systems administered by other Federal agencies, including the Automated Commercial Environment system of U.S. Customs and Border Protection.

### (d) Reports

#### (1) In general

Not later than March 1, 2020, and annually thereafter through March 1, 2023, the Secretary shall submit to Congress, and make publicly available on the website of the Department of Agriculture, a report describing national organic program activities with respect to all domestic and overseas investigations and compliance actions taken pursuant to this chapter during the preceding year.

#### (2) Requirements

The data described in paragraph (1) shall be broken down by agricultural product, quantity, value, and month.

#### (3) Exception

Any data determined by the Secretary to be confidential business information shall not be provided in the report under paragraph (1).

(Pub. L. 101-624, title XXI, § 2122, Nov. 28, 1990, 104 Stat. 3951; Pub. L. 110-234, title VII, § 7511(c)(24), May 22, 2008, 122 Stat. 1269; Pub. L. 110-246, § 4(a), title VII, § 7511(c)(24), June 18, 2008, 122 Stat. 1664, 2031; Pub. L. 115-334, title X, § 10104(h), Dec. 20, 2018, 132 Stat. 4901.)

#### Editorial Notes

##### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

##### AMENDMENTS

2018—Subsecs. (c), (d). Pub. L. 115-334 added subssecs. (c) and (d).

2008—Subsec. (b)(1). Pub. L. 110-246, § 7511(c)(24), substituted “National Institute of Food and Agriculture” for “Extension Service”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Amendment by section 7511(c)(24) of Pub. L. 110-246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110-246, set out as a note under section 1522 of this title.