

(2) Records created by the certifying agent regarding applicants for certification and certified operations must be maintained for not less than 10 years beyond their creation; and

(3) Records created or received by the certifying agent pursuant to the accreditation requirements of this subpart F, excluding any records covered by § 205.510(b)(2), must be maintained for not less than 5 years beyond their creation or receipt.

(c) *Renewal of accreditation.* (1) The Administrator shall send the accredited certifying agent a notice of pending expiration of accreditation approximately 1 year prior to the scheduled date of expiration.

(2) An accredited certifying agent's application for accreditation renewal must be received at least 6 months prior to the fifth anniversary of issuance of the notification of accreditation and each subsequent renewal of accreditation. The accreditation of certifying agents who make timely application for renewal of accreditation will not expire during the renewal process. The accreditation of certifying agents who fail to make timely application for renewal of accreditation will expire as scheduled unless renewed prior to the scheduled expiration date. Certifying agents with an expired accreditation must not perform certification activities under the Act and the regulations of this part.

(3) Following receipt of the information submitted by the certifying agent in accordance with paragraph (a) of this section and the results of a site evaluation, the Administrator will determine whether the certifying agent remains in compliance with the Act and the regulations of this part and should have its accreditation renewed.

(d) *Notice of renewal of accreditation.* Upon a determination that the certifying agent is in compliance with the Act and the regulations of this part, the Administrator will issue a notice of renewal of accreditation. The notice of renewal will specify any terms and conditions that must be addressed by the certifying agent and the time within which those terms and conditions must be satisfied.

(e) *Noncompliance.* Upon a determination that the certifying agent is not in

compliance with the Act and the regulations of this part, the Administrator will initiate proceedings to suspend or revoke the certifying agent's accreditation.

(f) *Amending accreditation.* Amendment to scope of an accreditation may be requested at any time. The application for amendment shall be sent to the Administrator and shall contain information applicable to the requested change in accreditation, a complete and accurate update of the information submitted pursuant to §§ 205.503 and 205.504, and the applicable fees required in § 205.640.

[65 FR 80637, Dec. 21, 2000, as amended at 80 FR 6429, Feb. 5, 2015]

§ 205.511 Accepting foreign conformity assessment systems.

(a) Foreign product may be certified under the USDA organic regulations by a USDA-accredited certifying agent and imported for sale in the United States. Foreign product that is produced and handled under another country's organic certification program may be sold, labeled, or represented in the United States as organically produced if the U.S. Government determines that such country's organic certification program provides technical requirements and a conformity assessment system governing the production and handling of such products that are at least equivalent to the requirements of the Act and the regulations in this part.

(b) Countries desiring to establish eligibility of product certified under that country's organic certification program to be sold, labeled, or represented in the United States as organically produced may request equivalence determinations from AMS. A foreign government must maintain compliance and enforcement mechanisms to ensure that its organic certification program is fully meeting the terms and conditions of any equivalence determination provided by the U.S. Government pursuant to this section. To request an equivalence determination, the requesting country must submit documentation that fully describes its technical requirements and conformity assessment system. If the U.S. Government determines it can

proceed, AMS will assess the country’s organic certification program to evaluate if it is equivalent.

(c) USDA, working with other Federal agencies, will describe the scope of an equivalence determination.

(d) AMS will conduct regular reviews and reassessments of countries deemed equivalent to verify that the foreign government’s technical requirements and conformity assessment system continue to be at least equivalent to the requirements of the Act and the regulations of this part, and will determine if the equivalence determination should be continued, amended, or terminated. AMS will determine the timing and scope of reviews and re-assessments based on, but not limited to, factors such as: the terms of the equivalence determination, changes to the foreign country’s technical requirements or conformity assessment system, the results of previous reviews and re-assessments, instances of suspected or verified noncompliance issues, the volume of trade, and other factors contributing to the risk level of the equivalence determination.

(e) The U.S. Government may terminate an equivalence determination if the terms or conditions established under the equivalence determination are not met; if AMS determines that the country’s technical requirements and/or conformity assessment program are no longer equivalent; if AMS determines that the foreign government’s organic control system is inadequate to ensure that the country’s organic certification program is fully meeting the terms and conditions under the equivalence determination; or for other good cause.

[88 FR 3625, Jan. 19, 2023]

§§ 205.512–205.599 [Reserved]

Subpart G—Administrative

THE NATIONAL LIST OF ALLOWED AND PROHIBITED SUBSTANCES

§ 205.600 Evaluation criteria for allowed and prohibited substances, methods, and ingredients.

The following criteria will be utilized in the evaluation of substances or ingredients for the organic production

and handling sections of the National List:

(a) Synthetic and nonsynthetic substances considered for inclusion on or deletion from the National List of allowed and prohibited substances will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).

(b) In addition to the criteria set forth in the Act, any synthetic substance used as a processing aid or adjuvant will be evaluated against the following criteria:

(1) The substance cannot be produced from a natural source and there are no organic substitutes;

(2) The substance’s manufacture, use, and disposal do not have adverse effects on the environment and are done in a manner compatible with organic handling;

(3) The nutritional quality of the food is maintained when the substance is used, and the substance, itself, or its breakdown products do not have an adverse effect on human health as defined by applicable Federal regulations;

(4) The substance’s primary use is not as a preservative or to recreate or improve flavors, colors, textures, or nutritive value lost during processing, except where the replacement of nutrients is required by law;

(5) The substance is listed as generally recognized as safe (GRAS) by Food and Drug Administration (FDA) when used in accordance with FDA’s good manufacturing practices (GMP) and contains no residues of heavy metals or other contaminants in excess of tolerances set by FDA; and

(6) The substance is essential for the handling of organically produced agricultural products.

(c) Nonsynthetics used in organic processing will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).

§ 205.601 Synthetic substances allowed for use in organic crop production.

In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production: *Provided*, That, use of such substances do not contribute to contamination of crops, soil, or water. Substances allowed by this