

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 subsecs. (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.