

ble organic certification program established under this chapter, as determined by the Secretary.

(c) Recordkeeping

(1) Maintenance of records

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

(2) Access for Secretary

Any certifying agent shall allow representatives of the Secretary and the governing State official access to any and all records concerning the certifying agent's activities under this chapter.

(3) Transference of records

If any private person that was certified under this chapter is dissolved or loses its accreditation, all records or copies of records concerning such person's activities under this chapter shall be transferred to the Secretary and made available to the applicable governing State official.

(d) 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.

(e) Private certifying agent agreement

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

- (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.

(f) Compliance with program

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

(g) 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.

(h) 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.

(i) Administrator

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

(j) 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.)

AMENDMENTS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6506, 6514, 6518 of this title.

§ 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) of this section.

(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.