

112TH CONGRESS
2D SESSION

H. R. 5962

To amend the Organic Foods Production Act of 1990 to require recordkeeping and authorize investigations and enforcement actions for violations of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2012

Mrs. CAPPS (for herself, Mr. HANNA, Mr. FARR, and Mr. DEFAZIO) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Organic Foods Production Act of 1990 to require recordkeeping and authorize investigations and enforcement actions for violations of such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organic Standards
5 Protection Act”.

1 **SEC. 2. RECORDKEEPING, INVESTIGATIONS, AND ENFORCE-**
2 **MENT.**

3 The Organic Foods Production Act of 1990 is amend-
4 ed by inserting after section 2120 (7 U.S.C. 6519) the
5 following:

6 **“SEC. 2120A. RECORDKEEPING, INVESTIGATIONS, AND EN-**
7 **FORCEMENT.**

8 “(a) RECORDKEEPING.—

9 “(1) IN GENERAL.—Except as otherwise pro-
10 vided in this title, all persons, including producers,
11 handlers, and certifying agents, required to report
12 information to the Secretary under this title shall
13 maintain, and make available to the Secretary on
14 the request of the Secretary, all contracts, agree-
15 ments, receipts, and other records associated with
16 the organic certification program established by the
17 Secretary under this title.

18 “(2) DURATION OF RECORDKEEPING REQUIRE-
19 MENT.—A record covered by paragraph (1) shall be
20 maintained—

21 “(A) by a person covered by this title, ex-
22 cept for a certifying agent, for a period of 5
23 years beginning on the date of the creation of
24 the record; and

1 “(B) by a certifying agent, for a period of
2 10 years beginning on the date of the creation
3 of the record.

4 “(b) CONFIDENTIALITY.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 and except as otherwise directed by the Secretary or
7 the Attorney General for enforcement purposes, no
8 officer, employee, or agent of the United States shall
9 make available to the public information, statistics,
10 or documents obtained from or made available by
11 any person under this title, other than in a manner
12 that ensures that confidentiality is preserved regard-
13 ing the identity of persons, including parties to a
14 contract, and proprietary business information.

15 “(2) ALLEGED VIOLATORS AND NATURE OF AC-
16 TIONS.—The Secretary may release the name of the
17 alleged violator and the nature of the actions trig-
18 gering an order or revocation under subsection (e).

19 “(c) INVESTIGATION.—

20 “(1) IN GENERAL.—The Secretary may take
21 such investigative actions as the Secretary considers
22 to be necessary to carry out this title—

23 “(A) to verify the accuracy of any informa-
24 tion reported or made available under this title;
25 and

1 “(B) to determine, with regard to actions,
2 practices, or information required under this
3 title, whether a person covered by this title has
4 committed, or will commit, a violation of any
5 provision of this title.

6 “(2) INVESTIGATIVE POWERS.—The Secretary
7 may administer oaths and affirmations, subpoena
8 witnesses, compel attendance of witnesses, take evi-
9 dence, and require the production of any books, pa-
10 pers, and documents that are relevant to the inves-
11 tigation.

12 “(d) UNLAWFUL ACT.—It shall be unlawful and a
13 violation of this title for any person covered by this title—

14 “(1) to fail or refuse to provide, or delay the
15 timely provision of, accurate information required by
16 the Secretary under this section;

17 “(2) to violate—

18 “(A) an order of the Secretary;

19 “(B) a revocation of the organic certifi-
20 cation of a producer or handler; or

21 “(C) a revocation of the accreditation of a
22 certifying agent; or

23 “(3) to sell, or attempt to sell, a product that
24 is represented as being organically produced in ac-
25 cordance with this title if in fact the product has not

1 been produced or handled in accordance with this
2 title.

3 “(e) ENFORCEMENT.—

4 “(1) ORDER.—The Secretary may issue an
5 order to stop the sale of an agricultural product that
6 is labeled or otherwise represented as being organi-
7 cally produced—

8 “(A) only upon the reasonable belief by the
9 Secretary, supported by substantial evidence,
10 that such agricultural product does not meet
11 the national and State standards for organic
12 production and handling provided in sections
13 2105 through 2114 and section 2118, until the
14 product can be verified—

15 “(i) as meeting the national and State
16 standards for organic production and han-
17 dling as provided in sections 2105 through
18 2114;

19 “(ii) as having been produced or han-
20 dled without the use of a prohibited sub-
21 stance listed under section 2118; and

22 “(iii) as being produced and handled
23 by a certified organic operation; and

1 “(B) if a person has committed an unlaw-
2 ful act with respect to the product under sub-
3 section (d).

4 “(2) REVOCATION OF CERTIFICATION OR AC-
5 CREDITATION.—After notice and opportunity for an
6 administrative appeal under section 2121, if the Sec-
7 retary determines a producer, a handler, or a certi-
8 fying agent committed a violation of this title that
9 is an unlawful act under subsection (d), the Sec-
10 retary may revoke the organic certification of such
11 producer or such handler, or the accreditation of
12 such certifying agent.

13 “(3) VIOLATION OF ORDER OR REVOCATION.—
14 A person who violates an order to stop the sale of
15 a product as an organically produced product under
16 paragraph (1), or a revocation of certification or ac-
17 creditation under paragraph (2), shall be subject to
18 1 or more of the penalties provided in subsections
19 (a) and (b) of section 2120.

20 “(f) APPEAL.—

21 “(1) IN GENERAL.—An order under subsection
22 (e)(1), or a revocation of certification or accredita-
23 tion under subsection (e)(2)(B), shall be final and
24 conclusive unless the affected person files an appeal
25 of the order—

1 “(A) first, to the administrative appeals
2 process established under section 2121(a); and

3 “(B) after a final decision of the Secretary
4 under the process referred to in subparagraph
5 (A), if the affected person so elects, to a United
6 States district court as provided in section
7 2121(b) not later than 30 days after the date
8 of the final decision.

9 “(2) STANDARD.—An order under subsection
10 (e)(1), or a revocation of certification or accredita-
11 tion under subsection (e)(2)(B), shall be set aside
12 only if the order, or the revocation of certification or
13 accreditation, is not supported by substantial evi-
14 dence.

15 “(g) NONCOMPLIANCE.—

16 “(1) IN GENERAL.—If a person covered by this
17 title fails to obey an order, or a revocation of certifi-
18 cation or accreditation, described in subsection (f)(2)
19 after the order or revocation has become final and
20 conclusive or after the appropriate United States
21 district court has entered a final judgment in favor
22 of the Secretary, the United States may apply to the
23 appropriate United States district court for enforce-
24 ment of the order, or the revocation of certification
25 or accreditation.

1 “(2) ENFORCEMENT.—If the court determines
2 that the order or revocation was lawfully made and
3 duly served and that the person violated the order
4 or revocation, the court shall enforce the order or
5 revocation.

6 “(3) CIVIL PENALTY.—If the court finds that
7 the person violated the order or revocation, the per-
8 son shall be subject to a civil penalty of not more
9 than \$10,000 for each offense.”.

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