

117TH CONGRESS
1ST SESSION

H. R. 2918

To require the Secretary of Agriculture to initiate and complete notice and comment rulemaking to implement recommendations approved by the National Organic Standards Board, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2021

Mr. DEFazio (for himself, Mr. RODNEY DAVIS of Illinois, Mr. KIND, Mr. NEWHOUSE, Ms. PINGREE, and Mr. PANETTA) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To require the Secretary of Agriculture to initiate and complete notice and comment rulemaking to implement recommendations approved by the National Organic Standards Board, 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 “Continuous Improve-
5 ment and Accountability in Organic Standards Act”.

1 **SEC. 2. PUBLICATION OF ALL NATIONAL ORGANIC STAND-**
2 **ARDS BOARD RECOMMENDATIONS.**

3 (a) NOTICE AND PUBLIC COMMENT.—Not later than
4 90 days after the date of the enactment of this Act, the
5 Secretary shall publish a notice in the Federal Register
6 that—

7 (1) identifies and sets forth the recommenda-
8 tions approved by the National Organic Standards
9 Board (in this Act referred to as the “NOSB”) by
10 a decisive vote and submitted to the Secretary pur-
11 suant to subsections (i)(1) and (k)(1) of section
12 2119 of the Organic Foods Production Act of 1990
13 (7 U.S.C. 6518), during the period beginning on De-
14 cember 31, 2000, and ending on the date of the en-
15 actment of this Act, that have not been implemented
16 by a final rule or any other agency action, including
17 published agency guidance, as of the date of the en-
18 actment of this Act; and

19 (2) seeks comments from the public for a 90-
20 day period beginning on the date on which notice re-
21 quired under this subsection is published in the Fed-
22 eral Register that address the order of priority in
23 which the recommendations identified under para-
24 graph (1) are to be implemented through notice and
25 comment rulemaking or through agency guidance.

26 (b) IMPLEMENTATION.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date on which the notice required under sub-
3 section (a) is published in the Federal Register, the
4 Secretary shall publish an additional notice in the
5 Federal Register that—

6 (A) summarizes the comments received
7 under subsection (a)(2); and

8 (B) contains a determination of the order
9 of priority for implementation of the rec-
10 ommendations identified and set forth in sub-
11 section (a)(1).

12 (2) INTERIM RULES.—The Secretary may con-
13 sider issuing any interim final rule that sets forth a
14 plan for implementation of any recommendation that
15 has not been ranked under paragraph (1) or group-
16 ing related recommendations as one rule.

17 (3) CRITERIA FOR PRIORITIZATION RANKING.—
18 In determining the order of priority for implementa-
19 tion of each recommendation under paragraph (1),
20 the Secretary shall consider—

21 (A) recommendations that advance human
22 health and environmental protection;

23 (B) the extent to which the recommenda-
24 tion resolves any inconsistency in the regula-
25 tions contained in part 205 of title 7, Code of

1 Federal Regulations that are in effect as of the
2 date of the enactment of this Act, including ex-
3 isting agency guidance;

4 (C) the marketplace needs of producers,
5 handlers, certifiers, and consumers;

6 (D) whether the recommendation was the
7 result of a unanimous vote by the NOSB; and

8 (E) any previous action by the Secretary,
9 including a proposed rule that has been pub-
10 lished but not finalized, or a proposed rule that
11 has been drafted but not published.

12 (c) ORGANIC IMPROVEMENT ACTION PLAN.—

13 (1) IN GENERAL.—Not later than 120 days
14 after the date on which the order of priority for im-
15 plementation of the recommendations identified and
16 set forth in subsection (a)(1) is published under sub-
17 section (b)(1), the Secretary shall submit to the
18 Committee on Agriculture of the House of Rep-
19 resentatives and the Committee on Agriculture, Nu-
20 trition, and Forestry of the Senate and make avail-
21 able on the website of the Department of Agri-
22 culture, a report containing the information de-
23 scribed in subsection (b)(1), and a plan to imple-
24 ment the recommendations based on such order of
25 priority.

1 (2) CONTENTS OF THE ORGANIC IMPROVEMENT
2 ACTION PLAN.—The plan required under paragraph
3 (1) shall include a timeline for publication in the
4 Federal Register of such recommendation in the
5 order of priority for implementation determined
6 under subsection (b).

7 (3) PRACTICABILITY OF FINAL RULE.—If the
8 Secretary determines that it is not practicable to
9 promulgate a final rule based on any such rec-
10 ommendation then the Secretary shall identify the
11 specific constraints precluding the issuance of such
12 final rule and shall submit such restraints to the
13 committees identified in paragraph (1).

14 (d) ADOPTION OF A FINAL RULE.—Not later than
15 the date on which the report required by subsection (c)(1)
16 is submitted, the Secretary shall publish and implement
17 a final rule to implement each recommendation identified
18 and set forth in the notice required under subsection
19 (a)(1) in the order of priority determined under subsection
20 (b)(1)(B).

21 **SEC. 3. FUTURE NATIONAL ORGANIC STANDARDS BOARD**
22 **RECOMMENDATIONS.**

23 (a) IN GENERAL.—The Secretary shall publish each
24 recommendation supported by a decisive vote and sub-

mitted to the Secretary after the date of the enactment
of this Act—

(1) in the form of a notice of proposed rulemaking in the Federal Register not later than 120 days after the date on which the recommendation receives an affirmative vote; and

(2) in the form of a final rule for public comment in the Federal Register not later than 180 days after the date on which the public comment period expires under section 2(a)(2).

(b) FUTURE RULEMAKING.—In all future rulemaking and published agency guidance, the Secretary shall include information on how the action relates to recommendations provided by the NOSB.

(c) INACTIVE FINAL RULEMAKING.—The Secretary may designate any final rulemaking as inactive or determine not to publish a final rule based on an analysis of comments received in response to the notice of proposed rulemaking issued under subsection (a) if—

(1) the reason for such designation or such determination is set forth in the notice; and

(2) not later than 120 days after the date of completion of the comment period required by section 2(a)(2), the Secretary has submitted to the Committee on Agriculture of the House of Rep-

1 representatives and the Committee on Agriculture, Nu-
2 trition, and Forestry of the Senate a report detailing
3 the Secretary's reasons for designating such rule-
4 making as inactive or determining not to publish a
5 final rule.

6 (d) ANNUAL AUDIT OF CERTIFYING AGENTS.—

7 (1) CERTIFYING AGENTS.—Not less than annu-
8 ally, the Secretary shall require each certifying agent
9 to submit a report to the Secretary describing any
10 action taken by such agent to implement any new
11 rule or agency guidance, as well as any step taken
12 to notify every client of the certifying agent, and ini-
13 tiate compliance with any new requirement estab-
14 lished by the Secretary to carry out the national or-
15 ganic program under the Organic Foods Production
16 Act of 1990 (7 U.S.C. 6501 et seq.).

17 (2) REPORT.—Not later than 180 days after
18 the date on which the audit in paragraph (1) is com-
19 pleted, the Secretary shall submit to Congress a re-
20 port on the annual audit of certifying agents and the
21 implementation by such agents of any new require-
22 ment.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

1 (1) CERTIFYING AGENT.—The term “certifying
2 agent” has the meaning given that term in section
3 2103 of the Organic Foods Production Act of 1990
4 (7 U.S.C. 6502).

5 (2) DECISIVE VOTE.—The term “decisive vote”
6 means, with respect to a vote taken by the National
7 Organic Standards Board established under section
8 2110 of the Organic Foods Production Act of 1990
9 (7 U.S.C. 6518), any motion that receives at least
10 two-thirds of the votes cast at a meeting of the Na-
11 tional Organic Standards Board at which a quorum
12 is present.

13 (3) SECRETARY.—The term “Secretary” means
14 the Secretary of Agriculture.

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