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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Continuous Improvement and Accountability in Organic Standards Act”.

SEC. 2. PUBLICATION OF ALL NATIONAL ORGANIC STANDARDS BOARD RECOMMENDATIONS.

(a) Notice and Public Comment.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish a notice in the Federal Register that—

(1) identifies and sets forth the recommendations approved by the National Organic Standards Board (in this Act referred to as the “NOSB”) by a decisive vote and submitted to the Secretary pursuant to subsections (i)(1) and (k)(1) of section 2119 of the Organic Foods Production Act of 1990 (7 U.S.C. 6518), during the period beginning on December 31, 2000, and ending on the date of the enactment of this Act, that have not been implemented by a final rule or any other agency action, including published agency guidance, as of the date of the enactment of this Act; and

(2) seeks comments from the public for a 90-day period beginning on the date on which notice required under this subsection is published in the Federal Register that address the order of priority in which the recommendations identified under paragraph (1) are to be implemented through notice and comment rulemaking or through agency guidance.

(b) Implementation.—
(1) IN GENERAL.—Not later than 90 days after the date on which the notice required under subsection (a) is published in the Federal Register, the Secretary shall publish an additional notice in the Federal Register that—

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

(B) contains a determination of the order of priority for implementation of the recommendations identified and set forth in subsection (a)(1).

(2) INTERIM RULES.—The Secretary may consider issuing any interim final rule that sets forth a plan for implementation of any recommendation that has not been ranked under paragraph (1) or grouping related recommendations as one rule.

(3) CRITERIA FOR PRIORITIZATION RANKING.—In determining the order of priority for implementation of each recommendation under paragraph (1), the Secretary shall consider—

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

(B) the extent to which the recommendation resolves any inconsistency in the regulations contained in part 205 of title 7, Code of
Federal Regulations that are in effect as of the date of the enactment of this Act, including existing agency guidance;

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

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

(E) any previous action by the Secretary, including a proposed rule that has been published but not finalized, or a proposed rule that has been drafted but not published.

(c) ORGANIC IMPROVEMENT ACTION PLAN.—

(1) IN GENERAL.—Not later than 120 days after the date on which the order of priority for implementation of the recommendations identified and set forth in subsection (a)(1) is published under subsection (b)(1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and make available on the website of the Department of Agriculture, a report containing the information described in subsection (b)(1), and a plan to implement the recommendations based on such order of priority.
(2) Contents of the organic improvement action plan.—The plan required under paragraph (1) shall include a timeline for publication in the Federal Register of such recommendation in the order of priority for implementation determined under subsection (b).

(3) Practicability of final rule.—If the Secretary determines that it is not practicable to promulgate a final rule based on any such recommendation then the Secretary shall identify the specific constraints precluding the issuance of such final rule and shall submit such restraints to the committees identified in paragraph (1).

(d) Adoption of a final rule.—Not later than the date on which the report required by subsection (c)(1) is submitted, the Secretary shall publish and implement a final rule to implement each recommendation identified and set forth in the notice required under subsection (a)(1) in the order of priority determined under subsection (b)(1)(B).

SEC. 3. FUTURE NATIONAL ORGANIC STANDARDS BOARD RECOMMENDATIONS.

(a) In general.—The Secretary shall publish each 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 rule-making 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-
resentatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report detailing the Secretary’s reasons for designating such rule-making as inactive or determining not to publish a final rule.

(d) ANNUAL AUDIT OF CERTIFYING AGENTS.—

(1) CERTIFYING AGENTS.—Not less than annually, the Secretary shall require each certifying agent to submit a report to the Secretary describing any action taken by such agent to implement any new rule or agency guidance, as well as any step taken to notify every client of the certifying agent, and initiate compliance with any new requirement established by the Secretary to carry out the national organic program under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(2) REPORT.—Not later than 180 days after the date on which the audit in paragraph (1) is completed, the Secretary shall submit to Congress a report on the annual audit of certifying agents and the implementation by such agents of any new requirement.

SEC. 4. DEFINITIONS.

In this Act:
(1) **Certifying agent.**—The term “certifying agent” has the meaning given that term in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).

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

(3) **Secretary.**—The term “Secretary” means the Secretary of Agriculture.