(1) the national bioengineered food disclosure standard established under this section; and

(2) the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) and any rules or regulations implementing that Act.

(g) Enforcement

(1) Prohibited act

It shall be a prohibited act for a person to knowingly fail to make a disclosure as required under this section.

(2) Recordkeeping

Each person subject to the mandatory disclosure requirement under this section shall maintain, and make available to the Secretary, on request, such records as the Secretary determines to be customary or reasonable in the food industry, by regulation, to establish compliance with this section.

(3) Examination and audit

(A) In general

The Secretary may conduct an examination, audit, or similar activity with respect to any records required under paragraph (2).

(B) Notice and hearing

A person subject to an examination, audit, or similar activity under subparagraph (A) shall be provided notice and opportunity for a hearing on the results of any examination, audit, or similar activity.

(C) Audit results

After the notice and opportunity for a hearing under subparagraph (B), the Secretary shall make public the summary of any examination, audit, or similar activity under subparagraph (A).

(4) Recall authority

The Secretary shall have no authority to recall any food subject to this subchapter on the basis of whether the food bears a disclosure that the food is bioengineered.

(Aug. 14, 1946, ch. 966, title II, § 293, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 835.)

Editorial Notes

REFERENCES IN TEXT

The Organic Foods Production Act of 1990, referred to in subsec. (f)(2), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, which is classified generally to chapter 94 (§ 6501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of this title and Tables.

§ 1639c. Savings provisions

(a) Trade

This subchapter shall be applied in a manner consistent with United States obligations under international agreements.

(b) Other authorities

Nothing in this subchapter—

(1) affects the authority of the Secretary of Health and Human Services or creates any rights or obligations for any person under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(2) affects the authority of the Secretary of the Treasury or creates any rights or obligations for any person under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.).

(c) Other

A food may not be considered to be ''not bioengineered'', ''non-GMO'', or any other similar claim describing the absence of bioengineering in the food solely because the food is not required to bear a disclosure that the food is bioengineered under this subchapter.

(Aug. 14, 1946, ch. 966, title II, § 294, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 838.)

Editorial Notes

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(1), 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 Alcohol Administration Act, referred to in subsec. (b)(2), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, which is classified generally to subchapter I (§ 201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

SUBCHAPTER VI—LABELING OF CERTAIN FOOD

§ 1639i. Federal preemption

(a) Definition of food

In this subchapter, the term ''food'' has the meaning given the term in section 321 of title 21.

(b) Federal preemption

No State or a political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food or seed in interstate commerce any requirement relating to the labeling of whether a food (including food served in a restaurant or similar establishment) or seed is genetically engineered (which shall include such other similar terms as determined by the Secretary of Agriculture) or was developed or produced using genetic engineering, including any requirement for claims that a food or seed is or contains an ingredient that was developed or produced using genetic engineering.

(Aug. 14, 1946, ch. 966, title II, § 295, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 838.)

§ 1639j. Exclusion from Federal preemption

Nothing in this subchapter, subchapter V, or any regulation, rule, or requirement promulgated in accordance with this subchapter or subchapter V shall be construed to preempt any remedy created by a State or Federal statutory or common law right.

(Aug. 14, 1946, ch. 966, title II, § 296, as added Pub. L. 114–216, § 1, July 29, 2016, 130 Stat. 838.)

SUBCHAPTER VII—HEMP PRODUCTION

§ 1639*o*. Definitions

In this subchapter:

(1) Hemp

The term ''hemp'' means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 5304 of title 25.

(3) Secretary

The term ''Secretary'' means the Secretary of Agriculture.

(4) State

The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(5) State department of agriculture

The term ''State department of agriculture'' means the agency, commission, or department of a State government responsible for agriculture in the State.

(6) Tribal government

The term ''Tribal government'' means the governing body of an Indian tribe.

(Aug. 14, 1946, ch. 966, title II, § 297A, as added Pub. L. 115–334, title X, § 10113, Dec. 20, 2018, 132 Stat. 4908.)

Statutory Notes and Related Subsidiaries

INTERSTATE COMMERCE

Pub. L. 115–334, title X, § 10114, Dec. 20, 2018, 132 Stat. 4914, provided that:

''(a) RULE OF CONSTRUCTION.—Nothing in this title [enacting this subchapter and sections 1627c and 6521a of this title, amending sections 136a, 1622b, 1632a, 1632b, 2204h, 2207b, 2276, 2401, 2402, 2541, 2568, 3003, 5925c, 6502, 6514, 6515, 6518, 6519, 6521–6523, and 7655a of this title and section 714i of Title 15, Commerce and Trade, repealing sections 3005 and 3006 of this title, enacting provisions set out as notes under sections 1627c, 1639*o*, 6503, and 6521a of this title, and amending provisions set out as a note under section 1621 of this title] or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639*o*] (as added by section 10113)) or hemp products.

''(b) TRANSPORTATION OF HEMP AND HEMP PRODUCTS.—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639*o* et seq.] (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.''

§ 1639p. State and tribal plans

(a) Submission

(1) In general

A State or Indian tribe desiring to have primary regulatory authority over the production of hemp in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

(2) Contents

A State or Tribal plan referred to in paragraph (1)—

(A) shall only be required to include—

(i) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

(ii) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

(iii) a procedure for the effective disposal of—

(I) plants, whether growing or not, that are produced in violation of this subchapter; and

(II) products derived from those plants;

(iv) a procedure to comply with the enforcement procedures under subsection (e);

(v) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subchapter;

(vi) a procedure for submitting the information described in section 1639q(d)(2) of this title, as applicable, to the Secretary not more than 30 days after the date on which the information is received; and

(vii) a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi); and

(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subchapter.

(3) Relation to State and tribal law

(A) No preemption

Nothing in this subsection preempts or limits any law of a State or Indian tribe that—

(i) regulates the production of hemp; and

(ii) is more stringent than this subchapter.

(B) References in plans

A State or Tribal plan referred to in paragraph (1) may include a reference to a law of the State or Indian tribe regulating the production of hemp, to the extent that law is consistent with this subchapter.

(b) Approval

(1) In general

Not later than 60 days after receipt of a State or Tribal plan under subsection (a), the Secretary shall—