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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4] (*Part 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 5. Food [110425 - 111224.6] (*Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

ARTICLE 7. The California Organic Food and Farming Act [110810 - 110959] (*Heading of Article 7 amended by Stats. 2020, Ch. 302, Sec. 8.*)

110810. This article shall be known, and may be cited as, the California Organic Food and Farming Act.

(*Amended by Stats. 2020, Ch. 302, Sec. 9. (SB 406) Effective September 29, 2020.*)

110811. This article shall be interpreted in conjunction with Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code and the regulations promulgated by the National Organic Program (NOP) (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)).

(*Added by Stats. 2002, Ch. 533, Sec. 40. Effective January 1, 2003.*)

110812. The director shall enforce regulations promulgated by the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), provisions of this article, and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code.

(*Added by Stats. 2002, Ch. 533, Sec. 41. Effective January 1, 2003.*)

110815. Unless otherwise defined pursuant to the National Organic Program, the following words and phrases, when used in this article, shall have the following meanings:

- (a) "Animal food" means any food intended to be fed to any household animal, including, but not limited to, cats, or dogs and other carnivores. It does not include "feed" intended for livestock as defined in Section 205.2 of Title 7 of the Code of Federal Regulations.
- (b) "Director" means the Director of the Department of Health Services.
- (c) "Enforcement authority" means the governmental unit with primary enforcement jurisdiction, as provided in Section 110930.
- (d) "Handle" means to sell, process, or package agricultural products.
- (e) "Handler" means any person engaged in the business of handling agricultural products, but does not include final retailers of agricultural products that do not process agricultural products.
- (f) "Handling operation" means any operation or portion of an operation, except final retailers of agricultural products that do not process agricultural products, that (1) receives or otherwise acquires agricultural products and (2) processes, packages, or stores agricultural products.
- (g) "NOP" means the National Organic Program established pursuant to the Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted for implementation.
- (h) "Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes packaging, canning, jarring, or otherwise enclosing food in a container.
- (i) "Prohibited materials" means any materials prohibited under regulations adopted by (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)). For products not covered by the National Organic Program, prohibited materials are anything not on the approved list.
- (j) "Secretary" means the Secretary of the California Department of Food and Agriculture.

(k) "Sold as organic" means any use of the terms "organic," "organically grown," or grammatical variations of those terms, whether orally or in writing, in connection with any product grown, handled, processed, sold, or offered for sale in this state, including, but not limited to, any use of these terms in labeling or advertising of any product and any ingredient in a multi-ingredient product.

(l) "USDA" means the United States Department of Agriculture.

(Amended by Stats. 2003, Ch. 726, Sec. 6. Effective January 1, 2004.)

110818. Water, including substances dissolved in water, shall not be a prohibited material, even if it contains incidental contamination from a prohibited material, if the prohibited material was not added by, or under the direction or control of, the person in control of the product.

(Added by Stats. 2002, Ch. 533, Sec. 43. Effective January 1, 2003.)

110820. Except as otherwise provided in this article, no product shall be sold as organic pursuant to this article unless it is produced according to regulations promulgated by the NOP, and consists entirely of products manufactured only from raw or processed agricultural products except as follows:

(a) Water, air, and salt may be added to the product.

(b) Ingredients other than raw or processed agricultural products may be added to the product if these ingredients include nonagricultural substances or nonorganically produced agricultural products produced in a manner consistent with, or which are on the national list adopted by the United States Secretary of Agriculture pursuant to Section 6517 of the NOP and do not represent more than 5 percent of the weight of the total finished product, excluding salt and water.

(Amended by Stats. 2002, Ch. 533, Sec. 44. Effective January 1, 2003.)

110825. Materials acceptable in this state are those outlined by regulations promulgated by the NOP and the provisions of this article.

(Amended by Stats. 2002, Ch. 533, Sec. 45. Effective January 1, 2003.)

110827. No aquaculture, fish, or seafood product, including, but not limited to, farmed and wild caught species, shall be labeled or represented as "organic" until formal organic certification standards have been developed and implemented by the United States Department of Agriculture's National Organic Program or the California Department of Food and Agriculture.

(Added by Stats. 2005, Ch. 685, Sec. 2. Effective January 1, 2006.)

110830. (a) No product handled, processed, sold, advertised, represented, or offered for sale in this state, shall be sold as organic unless it also is prominently labeled and invoiced with similar terminology as set forth by regulations promulgated by the NOP.

(b) No product may be advertised or labeled as "organic when available" or similar terminology that leaves in doubt whether the food is being sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 48. Effective January 1, 2003.)

110835. The director may adopt regulations allowing or prohibiting the use of substances in the processing of products that are exempt or excluded from certification under the NOP, and animal food and cosmetics sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 49. Effective January 1, 2003.)

110838. (a) Cosmetic products sold, labeled, or represented as organic or made with organic ingredients shall contain, at least 70 percent organically produced ingredients.

(b) The percentage of all organically produced ingredients in an agricultural product sold, labeled, or represented as "organic" or "100 percent organic," or sold, labeled, or represented as being made with organic ingredients or food groups, or as inclusive of organic ingredients, shall be calculated as follows:

(1) For products containing organically produced ingredients in solid form, by dividing the total net weight of combined organic ingredients at formulation, excluding water and salt, by the total weight of the finished product, excluding water and salt.

(2) For products containing organically produced ingredients in liquid form, by dividing the fluid volume of all organic ingredients, excluding water and salt, by the fluid volume of the finished product, excluding water and salt. If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation should be made on the basis of single-strength concentrations of the ingredients and finished product.

(3) For products containing organically produced ingredients in both solid and liquid form, by dividing the combined weight of the solid ingredients and the weight of the liquid ingredients, excluding water and salt, by the total weight of the finished product, excluding water and salt.

(c) The percentage of all organically produced ingredients in an agricultural product must be rounded down to the nearest whole number.

(d) The percentage of all organically produced ingredients in an agricultural product must be determined by the handler who affixes the label to the consumer package and verified by the handler's certifying agent. The handler may use information provided by the certified operation in determining the percentage.

(Added by Stats. 2002, Ch. 533, Sec. 50. Effective January 1, 2003.)

110839. Multi-ingredient cosmetic products sold as organic in California with less than 70 percent organically produced ingredients, by weight or by fluid volume, excluding water and salt, may only identify the organic content as follows:

(a) By identifying each organically produced ingredient in the ingredient statement with the word "organic" or with an asterisk or other reference mark that is defined below the ingredient statement to indicate the ingredient is organically produced.

(b) If the organically produced ingredients are identified in the ingredient statement, by displaying the product's percentage of organic contents on the information panel.

(Added by Stats. 2002, Ch. 533, Sec. 51. Effective January 1, 2003.)

110840. (a) All persons who handle products sold as organic shall keep accurate and specific records of the following:

(1) Except when sold to the consumer, the name and address of all persons, to whom or from whom the product is sold, purchased, or otherwise transferred, the quantity of product sold or otherwise transferred, and the date of the transaction.

(2) Invoices, bills of lading, or other documents that show transfer of title of certified organic products must indicate the product is "organic" or "certified organic."

(3) Any person selling a product that is exempt or excluded from certification under NOP rules, shall follow the requirements of Section 205.101 of Title 7 of the Code of Federal Regulations.

(4) All substances applied to the product or used in or around any area where product is kept, including the quantity applied and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(b) All persons who sell, at retail, products sold as organic shall keep accurate and specific records of the following:

(1) Except when sold to the consumer, the name and address of all suppliers of persons, to whom or from whom the product is sold, purchased, or otherwise transferred, the quantity of product purchased or otherwise transferred, and the date of the transaction.

(2) Invoices, bills of lading or other documents that show transfer of title of certified organic products must indicate the product is "organic" or "certified organic."

(3) Any person selling a product that is exempt or excluded from certification under NOP rules, shall follow the requirements of Section 205.101 of Title 7 of the Code of Federal Regulations.

(4) All substances applied to the product or used in or around any area where product is kept, including the quantity applied and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(c) All records required to be kept under this section shall be maintained as set forth by regulations promulgated by the NOP, when applicable, or as follows: by producers for not less than three years and by handlers for not less than two years from the date that the product is sold, and shall be maintained by retailers for not less than one year from the date that the product is sold, and shall be maintained by the retailers for not less than one year from the date that the product is received by the retailer. These records shall be made available for inspection at any time by the director or the secretary and by each certification organization that certifies the product, if any, for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code.

(Amended by Stats. 2020, Ch. 302, Sec. 10. (SB 406) Effective September 29, 2020.)

110845. (a) Notwithstanding any other provision of law, any producer, handler, processor, or retailer of products sold as organic shall immediately make available for inspection by, and shall upon request, within 72 hours of the request, provide a copy to, the

director, the Attorney General, any prosecuting attorney, any governmental agency responsible for enforcing laws related to the production or handling of products sold as organic, or the secretary of any record required to be kept under this section for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code. Records acquired pursuant to this subdivision shall not be public records as that term is defined in Section 7920.530 of the Government Code and shall not be subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b) Upon written request of any person that establishes cause for the request, the director and the secretary shall obtain and provide to the requesting party within 10 working days of the request a copy of any of the following records required to be kept under this article that pertain to a specific product sold or offered for sale, and that identify substances applied, administered, or added to that product, except that financial information about an operation or transaction, information regarding the quantity of a substance administered or applied, the date of each administration or application, information regarding the identity of suppliers or customers, and the quantity or price of supplies purchased or products sold shall be removed before disclosure and shall not be released to any person other than persons and agencies authorized to acquire records under subdivision (a):

(1) Records of a handler, as described in paragraph (4) of subdivision (a) of Section 110840, records of previous handlers, if any, without identifying the previous handlers or producers, and, if applicable, records obtained as required in subdivision (b).

(2) Records of a retailer, as described in paragraph (4) of subdivision (b) of Section 110840, records of previous handlers, if any, as described in paragraph (4) of subdivision (a) of, Section 110840, without identifying the previous handlers, and, if applicable, records obtained as required in subdivision (b).

This subdivision shall be the exclusive means of public access to records required to be kept by handlers and retailers under this article.

A person required to provide records pursuant to a request under this subdivision, may petition the director or the secretary to deny the request based on a finding that the request is of a frivolous or harassing nature. The secretary or director may, upon the issuance of this finding, waive the information production requirements of this subdivision for the specific request for information that was the subject of the petition.

(c) Information specified in subdivision (b) that is required to be released upon request shall not be considered a "trade secret" under Section 110165, Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code).

(d) The director or the secretary may charge the person requesting records a reasonable fee to reimburse the director, the secretary, or the source of the records for the cost of reproducing the records requested.

(e) Any person who first imports into this state, for resale, products sold as organic shall obtain and provide to the enforcement authority, upon request, proof that the products being sold have been certified by an accredited certifying organization or have otherwise been produced in compliance with this article.

(f) The director shall not be required to obtain records not in the director's possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the director shall delete any information regarding the identity of suppliers or customers and the quantity or price of supplies purchased or products sold.

(Amended by Stats. 2021, Ch. 615, Sec. 276. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

110850. (a) Following initial United States Department of Agriculture accreditation of certifying agents as provided in Section 6514 of Title 7 of the United States Code and upon implementation of the federal organic certification requirement pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq., Sec. 2101, P.L. 101-624), all products sold as organic in California shall be certified by a federally accredited certifying agent, if they are required to be certified under the federal act. In addition products shall be sold as organic only in accordance with this section, Sections 110855 to 110870, inclusive, and Section 46009 of the Food and Agricultural Code. The secretary, director, and the county agricultural commissioners shall carry out this subdivision to the extent that adequate funds are made available for that purpose.

(b) Products sold as organic may be certified only by a certification organization registered pursuant to Section 46014.1 of the Food and Agricultural Code or a federally accredited certification organization.

(c) In order to be registered, a certification organization shall be accredited by the USDA, if required.

(d) A certification organization that certifies processed products sold as organic shall register with the secretary.

(e) The director may audit the organization's certification procedures and records at any time. Records of certification organizations not otherwise required to be released upon request or made publicly available shall not be released by the director except to other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or any government agency responsible for enforcing laws related to the activities of the person subject to this part.

(Amended by Stats. 2002, Ch. 533, Sec. 56. Effective January 1, 2003.)

110855. Prior to initial certification of a producer, a registered certification organization shall conduct at least one initial physical inspection of the premises where the food to be certified is produced. This inspection shall include the recordkeeping system necessary for compliance with Section 110840 and the area or facility at which the food is produced.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110860. (a) A registered certification organization shall no less often than, at the end of each calendar quarter, prepare a list by name of all persons whose production or processing of food is certified or pending certification by the certification organization. This list shall be filed with the department or the Department of Food and Agriculture, as applicable, by the certification organization and made publicly available within 30 days after the end of each quarter.

(b) A registered certification organization or a federally accredited certification organization shall, at least annually, physically inspect the premises where the food to be certified is produced and processed. The inspection shall include an examination of recordkeeping.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110865. A registered certification organization shall adopt and adhere to a certification plan filed annually and made publicly available. Except in the case of a certification program established pursuant to subdivision (e) of Section 110850, a certification plan shall be filed as part of the registration required pursuant to subdivision (d) of Section 110850. A certification plan shall at minimum include a detailed description of all of the following elements of the certification organization's program:

(a) Minimum information required from producers or processors regarding growing or processing practices and methods for verifying that information.

(b) Qualifications of and training requirements for all inspectors.

(c) Procedures for inspection, including frequency and items covered.

(d) Procedures for soil and tissue sampling and analysis.

(e) Criteria for certification.

(f) Process for certification decisionmaking, including identification of persons with decisionmaking authority.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110870. Only products that have been handled and processed in accordance with this article may be certified by a registered certification organization.

(Amended by Stats. 2002, Ch. 533, Sec. 57. Effective January 1, 2003.)

110875. (a) Every person engaged in this state in the processing or handling of processed products for human consumption, including dietary supplements, alcoholic beverages, and fish or seafood sold as organic (except for processors and handlers of processed meat, fowl, or dairy products and retailers that are engaged in the processing or handling of products sold as organic), and every person engaged in the processing or handling of animal food and cosmetics sold as organic, shall register with the director, and shall thereafter annually renew the registration unless no longer so engaged. Handlers of processed food products that are registered with the department pursuant to Article 2 (commencing with Section 110460) shall register under this section in conjunction with the annual renewal of their registration pursuant to that article. Handlers of organic products that are required to be registered to manufacture, pack, or hold processed food pursuant to Article 2 (commencing with Section 110460) of Chapter 5 of Part 5 of Division 104, licensed to bottle, vend, haul, or process water pursuant to Article 12 (commencing with Section 11070) of Chapter 5 of Part 5 of Division 104, certified to process or handle fresh or frozen seafood or fresh or frozen raw shellfish pursuant to Chapter 5 (commencing with Section 112150) of Part 6 of Division 104, licensed to operate a cold storage facility pursuant to Chapter 6 (commencing with Section 112350) of Part 6 of Division 104, licensed to process low acid canned foods pursuant to Chapter 8 (commencing with Section 112650) of Part 6 of Division 104, licensed to manufacture olive oil pursuant to Chapter 9 (commencing with Section 112875) of Part 6 of Division 104, and licensed or registered to process or hold pet food in California pursuant to Chapter 10 (commencing with Section 113025) of Part 6 of Division 104, shall possess a valid registration or license in order to obtain a valid organic registration for the same facility under this section. All others required to register under this subdivision shall register within 30 days of forms being made available for this purpose. Any processor or handler of processed products required to register under this subdivision that does not pay the registration fee required by subdivision (c) within 30 days of the date on which the fee is due and payable shall pay a penalty of $1\frac{1}{2}$ percent per month on the unpaid balance.

(b) Registration shall be on a form provided by the director and shall be valid for a period of one calendar year from the date of validation of the completed registration form. The director shall make registration forms available for this purpose. The information provided on the registration form shall include all of the following:

- (1) The nature of the registrant's business, including the specific commodities and quantities of each commodity that is handled and sold as organic.
- (2) The total current annual organic gross sales, or if not selling the product, the total current gross annual revenue received from processing, packaging, repackaging, labeling, or otherwise handling organic products for others, in dollars.
- (3) The names of all certification organizations and governmental entities, if any, providing certification to the registrant pursuant to this article and the regulations adopted by the NOP.
- (4) Sufficient information, under penalty of perjury, to enable the director to verify the amount of the registration fee to be paid in accordance with subdivision (c).

(c) To the extent feasible, the director shall coordinate the registration and fee collection procedures of this section with similar licensing or registration procedures applicable to registrants. When coordinating the organic registration with other required registrations or licenses identified in subdivision (a), the expiration date shall be the same expiration date as the valid license or registration. For persons that hold two-year licenses or registrations pursuant to subdivision (a), the organic registration shall be renewed annually using the same expiration month and day as the two-year license or registration.

(d) A registration form shall be accompanied by payment of a nonrefundable registration fee payable to the department by handlers which shall be based on annual gross sales of organic product or annual revenue received from processing, packaging, repackaging, labeling, or otherwise handling organic product for others, by the registrant in the calendar year that precedes the date of registration. If no sales or revenue were made in the preceding year, then based on the expected sales or revenue during the 12 calendar months following the date of registration. Unless specified elsewhere, the fee is based according to the following schedule:

Gross Annual Sales or Revenue	Annual Registration Fee
\$0–\$5,000	\$ 50
\$5,001–\$50,000	\$100
\$50,001–\$125,000	\$200
\$125,001–\$250,000	\$300
\$250,001–\$500,000	\$400
\$500,001–\$1,500,000	\$500
\$1,500,001–\$2,500,000	\$600
\$2,500,001–and above	\$700

- (1) Any handler that does not take possession or title of the product but arranges for the sale of the product shall register and pay one hundred dollars (\$100) per year.
 - (2) Any person that only provides temporary storage for seven days or less, or only provides transportation for organic product and does not handle the processed packaged product, does not have to register.
 - (3) Any person that hires any other person to custom pack, repack, or label organic products shall register and pay a fee based on the total annual sales of products custom packed, repacked, or labeled for them as outlined in the chart above.
- (e) Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050.
- (f) The director shall reject a registration submission that is incomplete or not in compliance with this article and regulations promulgated by the NOP.
- (g) The director shall provide a validated certificate to the registrant.
- (h) Registration forms shall be made available to the public for inspection and copying at the main office of the department. Copies of registration forms shall also be made available by mail, upon written request and payment of a reasonable fee, as determined by the director. Registration information regarding quantity of products sold and gross sales volume in dollars shall be deleted prior to public inspection and copying and shall not be released to any person except other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or any government agency responsible for enforcing laws related to the activities of the person subject to this part.

- (i) A registrant shall immediately notify the director of any change in the information reported on the registration form and shall pay any additional fee owed if that change results in a higher fee owed than previously paid.
- (j) The director in consultation with the California Organic Products Advisory Committee, may suspend the registration program set forth in this section if the director determines that income derived from registration fees is insufficient to support a registration enforcement program.
- (k) A registration is considered legal and valid until revoked, suspended, or until the expiration of the registration.
- (l) The registration revocation process must be in conjunction with other provisions of this article. The director can initiate the revocation process for failure to comply with this article or any part of the regulations adopted pursuant to the NOP. Any person against whom the action is being taken shall have the opportunity to appeal the action and be afforded the opportunity to be heard in an administrative appeal. This appeal can be administered by either the state or county agricultural commissioner's office.
- (m) When the registration fee is not paid within 60 days from the expiration date the account may be considered closed and the registration voided. A notification will be sent to the registrant and the certifier will notify them that they are no longer able to market products as organic until the account is paid in full.
- (n) Any registration that is more than 60 days late will be considered invalid and it is a violation if product is sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 58. Effective January 1, 2003.)

110880. This article shall apply to all products sold as organic within the state, wherever produced, handled, or processed, and to all products produced, that are handled or processed in the state, wherever sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 59. Effective January 1, 2003.)

110885. This article shall not apply to the term "natural" when used in the labeling or advertising of a product.

(Amended by Stats. 2002, Ch. 533, Sec. 60. Effective January 1, 2003.)

110890. (a) It is unlawful for any person to sell, offer for sale, advertise, or label any product in violation of this article.

(b) Notwithstanding subdivision (a), a person engaged in business as a distributor or retailer of products who in good faith sells, offers for sale, labels, or advertises any product in reliance on the representations of a producer, handler, or other distributor that the product may be sold as organic, shall not be found to violate this article unless the distributor either: (1) knew or should have known that the product could not be sold as organic; (2) was engaged in producing or processing the product; or (3) prescribed or specified the manner in which the product was produced or processed.

(Amended by Stats. 2002, Ch. 533, Sec. 61. Effective January 1, 2003.)

110895. (a) It is unlawful for any person to certify products in violation of this article.

(b) It is unlawful for any person to certify products as organic unless duly registered or accredited as a certification organization pursuant to Section 110850.

(c) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration for a certification organization pursuant to Section 110850.

(Amended by Stats. 2002, Ch. 533, Sec. 62. Effective January 1, 2003.)

110900. (a) It is unlawful for any person to produce, handle, or process products sold as organic unless duly registered pursuant to Section 110875.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration pursuant to Section 110875.

(Amended by Stats. 2002, Ch. 533, Sec. 63. Effective January 1, 2003.)

110905. It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records pursuant to Sections 110840 and 110845.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110910. It is unlawful for any person to do any of the following:

- (a) Advertise, label, or otherwise represent that any fertilizer or pesticide chemical may be used in connection with the production, processing, or distribution of products sold as organic if that fertilizer or pesticide chemical contains a prohibited material.
- (b) Alter any organic registration form.

- (c) Alter any certification document.
- (d) Falsify any document.
- (e) Use the term “transitional organic” in this state to represent a product for sale.

(Amended by Stats. 2002, Ch. 533, Sec. 64. Effective January 1, 2003.)

110915. (a) In lieu of prosecution, the director may levy a civil penalty against any person who violates this article, any regulation adopted pursuant to this article, or any regulation promulgated by the NOP in an amount not more than five thousand dollars (\$5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon effectuation of the purposes and provisions of this article, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the director finds that a violation was not intentional, the director may levy a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation.

(c) For a first offense, in lieu of a civil penalty as prescribed in subdivisions (a) and (b), the director may issue a notice of violation, if he or she finds that the violation is minor.

(d) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the director, upon request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to review the director's evidence of the violation and the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(e) If a hearing is held, review of the decision of the director may be sought by any person within 30 days of the date of the final order of the director pursuant to Section 1094.5 of the Code of Civil Procedure.

(f) A civil penalty levied by the director pursuant to this section may be recovered in a civil action brought in the name of the state.

(Amended by Stats. 2002, Ch. 533, Sec. 65. Effective January 1, 2003.)

110920. No fee established and collected pursuant to this article shall exceed the department's costs of regulating and enforcing the provisions of this article related to the function for which the fee is established.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110925. Any fees and civil penalties collected pursuant to this article shall be deposited in the General Fund and, upon appropriation by the Legislature, shall be expended to fulfill the responsibilities of the director as specified in this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110930. The director shall, to the extent funds are available, enforce this article applicable to all processors and handlers of processed products sold as organic, including handlers and processors of fish and seafood, cosmetics, and animal food products sold as organic, except for processors and handlers of processed meat, fowl, and dairy products.

(Amended by Stats. 2002, Ch. 533, Sec. 66. Effective January 1, 2003.)

110935. The director shall maintain in a central location, and make publicly available for inspection and copying, upon request, a list of all penalties levied within the past five years, including the amount of each penalty, the party against whom the penalty was levied, and the nature of the violation. The list also shall be available by mail, upon written request and payment of a reasonable fee, as determined by the director.

(Amended by Stats. 1999, Ch. 609, Sec. 26. Effective January 1, 2000.)

110940. (a) Any person may file a complaint with the director concerning suspected noncompliance with this article by a person over whom the director has responsibility as provided in this article or regulations adopted by the NOP.

(b) The director shall, to the extent funds are available, establish a procedure for handling complaints, including, provision of a written complaint form, and procedures for commencing an investigation within three working days of receiving a written complaint regarding fresh food, and within seven working days for other product, and completing an investigation and reporting findings and enforcement action taken, if any, to the complainant within 90 days thereafter.

(c) The director may establish minimum information requirements to determine the verifiability of a complaint and may provide for rejection of a complaint that does not meet the requirements. The director shall provide written notice of the reasons for rejection to the person filing the complaint.

(d) The responsibilities of the director under this section shall be carried out to the extent funds are available.

(e) The complaint process in this state shall also meet all the complaint processes outlined in regulations promulgated by the NOP.

(Amended by Stats. 2002, Ch. 533, Sec. 67. Effective January 1, 2003.)

110945. This article shall apply notwithstanding any other provision of law that is inconsistent with this article. Nothing in this article is intended to repeal any other provision of law not inconsistent with this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110950. The director may adopt any regulations as are reasonably necessary to assist in the implementation of, or to make more specific, the provisions of, this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110955. Any reference in law to former Section 26569.11, whether existing or hereinafter enacted, shall be interpreted to refer to this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code as the successor section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110956. (a) All organic product regulations and any amendments to those regulations adopted pursuant to the NOP, that are in effect on the date this bill is enacted or that are adopted after that date shall be the organic product regulations of this state.

(b) The director may, by regulation, prescribe conditions under which organic products not addressed by the National Organic Program may be sold in this state.

(Amended by Stats. 2002, Ch. 533, Sec. 68. Effective January 1, 2003.)

110957. It shall be unlawful for a person to represent in advertising or labeling that the person or the products of the person are registered pursuant to this article.

(Amended by Stats. 2002, Ch. 533, Sec. 69. Effective January 1, 2003.)

110958. Annually, the director shall compile and publish and submit to the California Organic Products Advisory Committee a summary of information collected under Section 110875, including, but not limited to, the following:

(a) The total number of registrations received under this section.

(b) The total number and quantity of each type of product sold as organic by all registrants combined.

(c) The total annual organic gross sales volume or revenue of all registrants combined, and the median gross annual organic sales or revenue of all registrants.

(d) The names of all registrants.

(e) The number of registrants in each of the following ranges of annual gross sales volume:

(1) \$0–\$5,000

(2) \$5,001–\$25,000

(3) \$25,001–\$50,000

(4) \$50,001–\$125,000

(5) \$125,001–\$250,000

(6) \$250,001–\$500,000

(7) \$500,001–\$750,000

(8) \$750,001–\$1,000,000

(9) \$1,000,001–\$1,500,000

(10) \$1,500,001–\$2,500,000

(11) \$2,500,001–\$10,000,000

(12) \$10,000,001–\$30,000,000

(13) \$30,000,001 and above.

(f) The report published pursuant to this section shall present the required information in an aggregate form that preserves the confidentiality of the proprietary information of individual registrants.

(Amended by Stats. 2002, Ch. 533, Sec. 70. Effective January 1, 2003.)

110959. Beginning January 1, 2003, the director shall conduct a program of spot inspections of persons required to register pursuant to Section 110875 to verify continuing compliance with this article and the regulations adopted by the NOP according to uniform procedures established by the director and regulations promulgated by the NOP.

(Added by Stats. 2002, Ch. 533, Sec. 71. Effective January 1, 2003.)