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SENATE BILL 221

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO AGRICULTURE; TRANSFERRING THE FUNCTIONS, RECORDS,  
PERSONNEL, APPROPRIATIONS, MONEY, EQUIPMENT, SUPPLIES AND OTHER  
PROPERTY OF THE ORGANIC COMMODITY COMMISSION TO THE NEW MEXICO  
DEPARTMENT OF AGRICULTURE AND THE DIRECTOR OF THAT DEPARTMENT;  
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 76-22-4 NMSA 1978 (being Laws 1990,  
Chapter 122, Section 4, as amended) is amended to read:

"76-22-4. DEFINITIONS.--As used in the Organic Commodity  
Act:

A. "advertise" means to present a commercial  
message in any medium, including but not limited to print,  
radio, television, sign, display, label, tag or oral statement;

B. "agricultural commodity" means any distinctive

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1 type of agricultural, horticultural, floricultural,  
2 viticultural, vegetable or animal product of any class in its  
3 natural or processed state;

4 C. "assessment" means funds collected by the  
5 [~~commission~~] department as provided for in the Organic  
6 Commodity Act;

7 D. "certification" means formal verification by a  
8 certifying agent that food articles are organically produced;

9 E. "certification handbook" means a collection of  
10 production and handling standards and rules adopted and  
11 promulgated by the [~~commission~~] department;

12 F. "certifying agent" means the [~~commission~~]  
13 department and any other person designated as a certifying  
14 agent by the United States department of agriculture;

15 [~~G. "commission" means the organic commodity~~  
16 ~~commission;~~]

17 G. "department" means the New Mexico department of  
18 agriculture;

19 H. "director" means the director of the New Mexico  
20 department of agriculture;

21 [~~H.~~] I. "food article" means any raw or processed  
22 agricultural commodity or product derived from livestock,  
23 including any fruits, vegetables, berries, eggs, seeds or dairy  
24 or grain products marketed in New Mexico for human or animal  
25 consumption;

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1            [~~F.~~] J. "handle" means to sell, process, transport  
2 or package organically produced food articles;

3            [~~J.~~] K. "handler" means any individual in the  
4 business of handling organically produced food articles;

5            [~~K.~~] L. "handling operation" means any operation or  
6 portion of an operation that:

7                    (1) receives or otherwise acquires organically  
8 produced food articles from the producer of those organically  
9 produced food articles;

10                   (2) prepares organically produced food  
11 articles for market; or

12                   (3) processes, packages, transports or stores  
13 organically produced food articles;

14            [~~L.~~] M. "label" means a commercial message in a  
15 printed medium that is affixed by any method to a receptacle,  
16 including a container or package;

17            [~~M.~~] N. "materials list" means a list of approved  
18 and prohibited substances to be determined by the [~~commission~~]  
19 department, in compliance with the national materials list, and  
20 set forth in the certification handbook;

21            [~~N.~~] O. "ombudsman" means [~~a member of the~~  
22 ~~commission~~] an employee of the department who has the function  
23 of facilitating communication between certified persons and the  
24 [~~commission~~] department by addressing certified persons'  
25 complaints, participating in the fact-finding process,

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1 investigating complaints, arbitrating when possible and  
2 advocating for the certified person when necessary; except that  
3 the ombudsman shall not represent a certified person before the  
4 [~~commission~~] department or any other fact-finding body;

5 [Ø-] P. "organic certification program" means a  
6 program designed to ensure that a product is produced, handled,  
7 transported and marketed in compliance with the Organic  
8 Commodity Act and the federal Organic Foods Production Act of  
9 1990;

10 [P-] Q. "organically certified farm" means a farm  
11 or portion of a farm that is certified by the [~~commission~~]  
12 department as utilizing organic productive techniques as set  
13 forth by the [~~commission~~] department in the certification  
14 handbook provided for in the Organic Commodity Act;

15 [Ø-] R. "organically certified handling operation"  
16 means any handling operation or portion of any handling  
17 operation that is certified by the [~~commission~~] department and  
18 operated by organically certified handlers;

19 [R-] S. "organically produced label" means a label  
20 established for the purpose of indicating compliance with the  
21 certification standards promulgated pursuant to provisions of  
22 the Organic Commodity Act;

23 [S-] T. "organically produced" means food articles  
24 produced using organic productive techniques on an organically  
25 certified farm and handled by an organically certified handling

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1 operation;

2 [F-] U. "organic productive technique" means a  
3 system of farming that substitutes appropriate farm management  
4 practices for chemical and technological methods and enhances  
5 rather than replaces existing biological systems to ensure  
6 minimum adverse effects on human health and the environment;

7 [U-] V. "person" means any individual, group of  
8 individuals, corporation, association, cooperative or other  
9 entity;

10 [V-] W. "processing" means cooking, baking,  
11 heating, drying, mixing, churning, separating, extracting,  
12 cutting, fermenting, eviscerating, preserving, dehydrating,  
13 freezing or otherwise manufacturing food articles and includes  
14 packaging, canning, jarring or otherwise enclosing such food  
15 articles in a container;

16 [W-] X. "producer" means a person who engages in  
17 the business of growing or producing organically produced  
18 agricultural commodities; and

19 [X-] Y. "steward" means an individual appointed by  
20 the [commission] department to oversee the verification  
21 component of the certification program."

22 Section 2. Section 76-22-5 NMSA 1978 (being Laws 1990,  
23 Chapter 122, Section 5, as amended) is amended to read:

24 "76-22-5. ORGANIC MARKET DEVELOPMENT FUND CREATED.--There  
25 is created in the state treasury the "organic market

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1 development fund". No money appropriated to this fund or  
2 accruing to it through cooperative research agreements, gifts,  
3 grants, bequests, including bequests from a private, public,  
4 nonprofit or any other source, advertising, fees from  
5 conferences or workshops, civil penalties, sales of promotional  
6 items or educational materials, speaker fees, agricultural  
7 input approval fees, handbooks, grant administrative costs or  
8 any other sources shall be transferred to another fund or  
9 encumbered or disbursed in any manner except for activities  
10 conducted pursuant to the Organic Commodity Act. The fund  
11 shall not revert at the end of any fiscal year. All interest  
12 earned on the fund shall remain in the fund. Disbursements  
13 from the fund shall be made only upon warrant drawn by the  
14 secretary of finance and administration pursuant to vouchers  
15 signed by the ~~[chairman of the commission or his]~~ director or  
16 the director's designee for the purpose of paying the cost of  
17 the ~~[commission's]~~ department's activities conducted pursuant  
18 to the Organic Commodity Act."

19 Section 3. Section 76-22-7 NMSA 1978 (being Laws 1990,  
20 Chapter 122, Section 7, as amended) is amended to read:

21 "76-22-7. ORGANIC COMMODITY ~~[COMMISSION]~~--DEPARTMENT  
22 POWERS AND DUTIES--The ~~[commission]~~ department:

23 A. shall adopt and promulgate certification  
24 standards for the production and handling of organically  
25 produced food articles in the state. The certification

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1 standards shall include agricultural commodities used but not  
2 consumed as foods by humans and animals. The standards shall  
3 be compiled in a certification handbook to be included in the  
4 annual report to the legislature;

5 B. shall conduct studies to increase commercial  
6 value of and discover new markets for organically produced food  
7 articles;

8 C. shall disseminate reliable information relative  
9 to market conditions, current prices and sources of supply and  
10 demand for organically produced food articles;

11 D. may sue and be sued as a [~~commission~~]  
12 department, without individual liability for acts of the  
13 [~~commission~~] department within the scope of the powers  
14 conferred by the Organic Commodity Act;

15 E. may enter into contracts;

16 F. may appoint subordinate officers and employees  
17 of the [~~commission~~] department, prescribe their duties and fix  
18 their compensation;

19 G. shall cooperate with local, state or national  
20 organizations or government agencies engaged in activities  
21 similar to that of the [~~commission~~] department;

22 H. shall adopt, rescind, modify or amend  
23 regulations, orders and resolutions for the exercise of its  
24 powers and duties after providing public notice and the  
25 opportunity for public comment on the action;

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1 I. shall adopt the federal materials list upon its  
2 promulgation and shall prepare a registration program for all  
3 purveyors of these materials and an assessment schedule for the  
4 purveyors of the class of materials appearing on that list; and

5 J. is designated as the "state organic program"  
6 pursuant to the United States department of agriculture's  
7 national organic program and, in that capacity, may:

8 (1) regulate all aspects of the organic  
9 agriculture marketplace in New Mexico;

10 (2) take all actions necessary to ensure that  
11 all agricultural products in New Mexico that are labeled or  
12 represented as "certified organic", "organic" or "made with  
13 organic ingredients" have been produced under a valid  
14 certification issued by a certifying agent; and

15 (3) assume investigative and enforcement  
16 responsibilities relating to such labeled agricultural  
17 products, including products certified by a certifying agent  
18 other than the [~~commission~~] department and labeled products not  
19 certified."

20 Section 4. Section 76-22-8 NMSA 1978 (being Laws 1990,  
21 Chapter 122, Section 8, as amended) is amended to read:

22 "76-22-8. REPORT OF THE [~~COMMISSION~~] DEPARTMENT.--The  
23 [~~commission~~] department shall review the statutes under which  
24 it operates, the state certification program and the contents  
25 of the materials list for any conflict with federal statutory

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1 enactments or actions of the United States secretary of  
2 agriculture at least every two years."

3 Section 5. Section 76-22-11 NMSA 1978 (being Laws 1990,  
4 Chapter 122, Section 11) is amended to read:

5 "76-22-11. [~~COMMISSION~~] DEPARTMENT--LIMITATION ON  
6 LIABILITY.--The [~~members of the commission and~~] employees of  
7 the [~~commission~~] department shall not be held individually  
8 responsible in any way to any producer, processor, distributor  
9 or any other person for errors in judgment, mistakes or other  
10 acts, either of commission or omission, as principal, agent,  
11 person or employee, except for their individual acts of gross  
12 negligence or criminality. No [~~member or~~] employee shall be  
13 held individually responsible for any act or omission of any  
14 other [~~member or~~] employee. The liability of the [~~members of~~  
15 ~~the commission~~] department's employees shall be several and not  
16 joint, and no [~~member~~] employee shall be liable for the default  
17 of any other [~~member~~] employee."

18 Section 6. Section 76-22-12 NMSA 1978 (being Laws 1990,  
19 Chapter 122, Section 12, as amended) is amended to read:

20 "76-22-12. STANDARDS.--To fulfill the purposes of the  
21 Organic Commodity Act, the [~~commission~~] department may  
22 prescribe and adopt standards relating to the production,  
23 handling, processing and distribution of organically produced  
24 food articles. [~~Under this section~~] The [~~commission~~]  
25 department is empowered to adopt and promulgate certification

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1 standards for the production, handling, processing and  
2 distribution of organically produced food articles and  
3 agricultural commodities, including setting reasonable  
4 application fees and requirements. Where a production or  
5 handling practice is not prohibited or otherwise restricted,  
6 the practice shall be permitted unless the [~~commission~~]  
7 department determines that the practice [~~would be~~] is  
8 inconsistent with the purposes of the Organic Commodity Act."

9 Section 7. Section 76-22-13 NMSA 1978 (being Laws 1990,  
10 Chapter 122, Section 13, as amended) is amended to read:

11 "76-22-13. ORGANIC CERTIFICATION PROGRAM--GENERALLY.--

12 A. The [~~commission~~] department shall certify any  
13 farm or handling operation in New Mexico that meets the  
14 requirements of the Organic Commodity Act and standards set  
15 forth in the certification handbook.

16 B. In order for the certification program to be  
17 consistent with the provisions of the Organic Commodity Act,  
18 the certification program may:

19 (1) provide that each food article bearing an  
20 organically produced label [~~must~~] shall be produced on an  
21 organically certified farm and handled through an organically  
22 certified handling operation in accordance with the Organic  
23 Commodity Act;

24 (2) require the establishment of an organic  
25 farm plan;

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1 (3) provide for procedures that allow  
2 producers and handlers to appeal an adverse determination  
3 [~~under~~] pursuant to provisions of the Organic Commodity Act;

4 (4) provide for an annual, on-site inspection  
5 of each farm and handling operation that has been certified  
6 [~~under~~] pursuant to provisions of this section;

7 (5) make and publish rules and standards for  
8 soil inspection and tissue sampling designed to detect  
9 prohibited pesticide or fertilizer residues; and

10 (6) provide for periodic residue testing of  
11 food articles and agricultural commodities that have been  
12 produced on organically certified farms and handled by  
13 organically certified handling operations to determine whether  
14 those products contain any unacceptable residue or otherwise  
15 indicate whether the provisions of the organic certification  
16 program or the Organic Commodity Act have been violated."

17 Section 8. Section 76-22-14 NMSA 1978 (being Laws 1990,  
18 Chapter 122, Section 14, as amended) is amended to read:

19 "76-22-14. CERTIFICATION.--Each producer and handler  
20 covered by the organic certification program shall certify to  
21 the [~~commission~~] department, on an annual basis, that [~~he~~] the  
22 producer or handler has not produced, processed or marketed any  
23 food article or agricultural commodity bearing an organically  
24 produced label not in compliance with the Organic Commodity Act  
25 and the standards set forth in the certification handbook."

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1 Section 9. Section 76-22-14.1 NMSA 1978 (being Laws 2001,  
2 Chapter 157, Section 5, as amended) is amended to read:

3 "76-22-14.1. CERTIFYING AGENTS--REPORTS TO [~~COMMISSION~~]  
4 DEPARTMENT.--A certifying agent, other than the [~~commission~~]  
5 department, that certifies any food article in New Mexico as  
6 being organically produced shall:

7 A. simultaneous with its issuance, report to the  
8 [~~commission~~] department any information regarding denials of  
9 certification, notifications of noncompliance, notifications of  
10 noncompliance correction, notifications of proposed suspension  
11 or revocation and notifications of suspension or revocation  
12 sent to any person in New Mexico;

13 B. on January 2 of each year, submit to the  
14 [~~commission~~] department a list, including the name, address and  
15 telephone number of each operation granted certification in New  
16 Mexico during the preceding year; and

17 C. pay an annual fee to the [~~commission~~] department  
18 that shall reasonably reflect the cost of enforcing the Organic  
19 Commodity Act with respect to that certifying agent."

20 Section 10. Section 76-22-16 NMSA 1978 (being Laws 1990,  
21 Chapter 122, Section 16, as amended) is amended to read:

22 "76-22-16. LEVY OF ASSESSMENT--ORGANICALLY PRODUCED FOOD  
23 ARTICLES--SALES.--

24 A. The [~~commission~~] department may impose and  
25 collect assessments as follows:

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1 (1) producers and handlers shall be assessed  
2 at an annual rate not to exceed one-half percent of the total  
3 gross sales of the organically produced food articles;

4 (2) certified handling operations may be  
5 assessed at an annual rate of one-fourth percent of the total  
6 price of the services; and

7 (3) purveyors of materials as set forth in the  
8 federal materials list shall be registered with the  
9 [~~commission~~] department and assessed at an annual rate not to  
10 exceed one-half percent of the total gross sales of the class  
11 of materials appearing on that list.

12 B. The [~~commission~~] department, following notice  
13 and comment, may adjust the assessment rate up or down by no  
14 more than one hundred percent."

15 Section 11. Section 76-22-17 NMSA 1978 (being Laws 1990,  
16 Chapter 122, Section 17) is amended to read:

17 "76-22-17. SUPPLEMENTAL ASSESSMENT.--

18 A. The [~~commission~~] department may authorize a  
19 supplemental assessment to the assessments provided for in the  
20 Organic Commodity Act, which shall be collected or paid in the  
21 same manner as the assessments.

22 B. If a supplemental assessment is authorized, it  
23 shall not exceed one-fourth of one percent of the total gross  
24 sales of the organically produced food articles."

25 Section 12. Section 76-22-18 NMSA 1978 (being Laws 1993,

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1 Chapter 330, Section 12) is amended to read:

2 "76-22-18. COLLECTION OF ASSESSMENT.--

3 A. The [~~commission~~] department shall set forth in  
4 the certification handbook a schedule for payment of all  
5 assessments due the [~~commission~~] department.

6 B. The [~~commission~~] department may adopt rules  
7 providing for an exemption from all or part of assessments due  
8 the [~~commission under~~] department pursuant to the provisions of  
9 the Organic Commodity Act.

10 C. Failure to pay a due assessment shall result in  
11 revocation of certification or assessment of other penalties  
12 prescribed by law, upon notice from the [~~commission~~]  
13 department."

14 Section 13. Section 76-22-19 NMSA 1978 (being Laws 1990,  
15 Chapter 122, Section 19) is amended to read:

16 "76-22-19. DISPOSITION OF ASSESSMENTS.--The [~~commission~~]  
17 department shall remit assessments and fees received from  
18 producers and handlers of organically produced food articles to  
19 the state treasurer for credit to the organic market  
20 development fund."

21 Section 14. Section 76-22-20 NMSA 1978 (being Laws 1990,  
22 Chapter 122, Section 20) is amended to read:

23 "76-22-20. RECORD OF PERSONS REQUIRED TO PAY ASSESSMENT.--  
24 Each person required to pay an assessment under the Organic  
25 Commodity Act shall keep records sufficient to enable the

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1 [commission] department to determine by inspection and audit the  
2 accuracy of assessments paid or due to the [commission]  
3 department and of reports made or due to the [commission]  
4 department. The [commission] department or any person  
5 authorized by the [commission] department may inspect and audit  
6 the records. The records shall be maintained in compliance with  
7 the standards adopted and promulgated under the Organic  
8 Commodity Act and set forth in the certification handbook."

9 Section 15. Section 76-22-21 NMSA 1978 (being Laws 1990,  
10 Chapter 122, Section 21) is amended to read:

11 "76-22-21. PROPRIETARY INFORMATION.--Any information  
12 obtained by the [commission] department that is deemed by the  
13 [~~chairman~~] director to be proprietary, technical or business  
14 information shall be held in confidence. Proprietary,  
15 technical or business information shall not be deemed a public  
16 record as set forth in [~~Subsection C of~~] Section 14-3-2 NMSA  
17 1978 or be open to inspection as set forth under Section 14-2-1  
18 NMSA 1978. The [commission] department shall take such steps  
19 as are necessary to safeguard the confidentiality of the  
20 information."

21 Section 16. Section 76-22-22 NMSA 1978 (being Laws 1990,  
22 Chapter 122, Section 22, as amended) is amended to read:

23 "76-22-22. STATE ORGANIC CHEMIST--DUTIES.--The  
24 [commission] department may designate a "state organic  
25 chemist". The state organic chemist shall hold a doctoral

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1 degree in chemistry or a related field and shall be  
2 knowledgeable and experienced in the techniques used for  
3 testing soil and plant and animal tissue for pesticide and  
4 fertilizer residues. The chemist may be an employee of a  
5 private laboratory or an employee of an agency of the state.  
6 The chemist shall perform duties as prescribed by the  
7 ~~[commission]~~ department."

8 Section 17. Section 76-22-23 NMSA 1978 (being Laws 1990,  
9 Chapter 122, Section 23, as amended) is amended to read:

10 "76-22-23. STEWARDS--POWERS AND DUTIES--REVIEW.--The  
11 powers and duties of the stewards appointed by the ~~[commission]~~  
12 department shall conform to the minimum standards contained in  
13 the federal Organic Foods Production Act of 1990 and shall be  
14 set forth in the state certification program."

15 Section 18. Section 76-22-24 NMSA 1978 (being Laws 1990,  
16 Chapter 122, Section 24, as amended) is amended to read:

17 "76-22-24. STEWARDS--AUTHORITY TO INSPECT.--Stewards  
18 appointed by the ~~[commission under the Organic Commodity Act]~~  
19 department may inspect any production, handling, processing or  
20 distribution place or vehicle that is certified by the  
21 ~~[commission]~~ department or is being considered for  
22 certification or any other place or vehicle believed to be in  
23 violation of the federal or state provisions that the  
24 ~~[commission]~~ department implements. ~~[Any]~~ The inspection shall  
25 be conducted during normal business hours."

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1           Section 19. Section 76-22-25 NMSA 1978 (being Laws 1990,  
2 Chapter 122, Section 25) is amended to read:

3           "76-22-25. STEWARDS--INSPECTION.--

4           A. Stewards appointed by the [~~commission~~]  
5 department under the Organic Commodity Act shall make at least  
6 one announced visit to each certified organic producer and  
7 handler per year for the purpose of verifying compliance with  
8 the standards of certification set by the [~~commission~~]  
9 department. Stewards appointed by the [~~commission~~] department  
10 may make unannounced visits if a need exists.

11           B. The inspection may entail a survey of required  
12 records, an examination of crops and fields and any other  
13 information deemed necessary to demonstrate compliance with the  
14 requirements of the Organic Commodity Act and the standards set  
15 forth in the certification handbook.

16           C. It shall be the responsibility of the producer  
17 or handler to arrange for and bear the costs of additional  
18 verification that is deemed necessary by stewards."

19           Section 20. Section 76-22-26 NMSA 1978 (being Laws 1990,  
20 Chapter 122, Section 26, as amended) is amended to read:

21           "76-22-26. LABELING.--

22           A. The [~~commission~~] department shall establish a  
23 label to be affixed to agricultural products that have been  
24 produced on organically certified farms and have been handled  
25 by organically certified handlers.

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1           B. The label shall state that a food article has  
2 been organically produced and shall bear the seal of the  
3 [~~commission~~] department.

4           C. Except as otherwise provided in the Organic  
5 Commodity Act, the terms "organic", "organically produced",  
6 "certified organic", "certified organically grown", "natural",  
7 "naturally grown", "pesticide-residue free" or derivatives of  
8 these terms shall not be used by any person for advertising,  
9 labeling or otherwise affixing the terms to a food article or  
10 its container, unless the food article has been produced and  
11 marketed in compliance with the provisions of the Organic  
12 Commodity Act and certified by a certifying agent.

13           D. The [~~commission~~] department shall have the  
14 exclusive authority under the state certification program to  
15 approve the affixing of labels to food articles."

16           Section 21. Section 76-22-27 NMSA 1978 (being Laws 1990,  
17 Chapter 122, Section 27, as amended) is amended to read:

18           "76-22-27. VIOLATIONS AND ENFORCING AUTHORITY--CIVIL  
19 PENALTY.--

20           A. In addition to a civil penalty that may be  
21 enforced pursuant to Subsection D of this section, any producer  
22 or handler of organically produced food articles who issues a  
23 false certification, attempts to have an organically produced  
24 label affixed to a food article that the producer or handler  
25 knows, or should have known, to have been produced in a manner

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1 that is not in compliance with the Organic Commodity Act or  
2 otherwise violates the purposes of the certification program,  
3 as determined by the [~~commission~~] department, shall be subject  
4 to the following procedures and penalties:

5 (1) the [~~commission~~] department shall cause  
6 notice of the violations to be given to the producer or handler  
7 having responsibility for the violation in the form of a  
8 complaint; any person so notified shall be given an opportunity  
9 to be heard under the rules prescribed by the [~~commission~~]  
10 department. If the [~~commission~~] department finds no violation  
11 has occurred, it shall dismiss the complaint and notify the  
12 parties to the complaint;

13 (2) if at the conclusion of the hearing the  
14 [~~commission~~] department finds that a violation has occurred,  
15 either in the presence or absence of the person notified, it  
16 shall enter findings to that effect and notify the parties to  
17 the complaint. If such a finding is made, the person shall not  
18 be eligible to receive certification for a period of five years  
19 with respect to any farm or handling operation in which the  
20 producer has an interest; and

21 (3) notwithstanding Paragraph (2) of this  
22 subsection, the [~~commission~~] department may reduce or eliminate  
23 the period of ineligibility if the [~~commission~~] department  
24 determines that modification or waiver would be in the best  
25 interest of the certification program.

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1           B. No person shall be subject to the penalties and  
2 procedures described in Subsection A of this section for having  
3 violated the provisions of the Organic Commodity Act or the  
4 standards contained in the certification handbook if ~~[he]~~ the  
5 person possesses a guaranty that states that the food article  
6 is labeled in compliance with the Organic Commodity Act and the  
7 standards contained in the certification handbook.

8           C. The ~~[commission]~~ department may apply for, and  
9 the court may grant, a temporary or permanent injunction  
10 restraining any person from violating or continuing to violate  
11 any of the provisions of the Organic Commodity Act or any  
12 certification standard adopted and promulgated under that act,  
13 notwithstanding the existence of other remedies at law. The  
14 injunction shall be issued without bond.

15           D. Any person who, except in accordance with the  
16 provisions of the Organic Commodity Act and rules adopted  
17 pursuant to that act, knowingly represents, labels or sells a  
18 product as "certified organic", "organic", "made with organic  
19 ingredients" or similar language intended to convey the  
20 impression that the product is organically produced is subject  
21 to a civil penalty of not more than five thousand dollars  
22 (\$5,000) for each violation. Any penalties collected pursuant  
23 to this subsection shall be deposited in the organic market  
24 development fund."

25           Section 22. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,  
.181039.2

underscoring material = new  
~~[bracketed material] = delete~~

1 PROPERTY, CONTRACTS, RECORDS AND APPROPRIATIONS.--On July 1,  
2 2010:

3 A. all records, personnel, appropriations, money,  
4 equipment, supplies and other property of the organic commodity  
5 commission shall be transferred to the New Mexico department of  
6 agriculture;

7 B. all contracts pursuant to the organic commodity  
8 commission shall be binding and effective on the New Mexico  
9 department of agriculture; and

10 C. all references in law to the organic commodity  
11 commission shall be deemed to be references to the New Mexico  
12 department of agriculture.

13 Section 23. REPEAL.--Sections 76-22-6 and 76-22-9 NMSA  
14 1978 (being Laws 1990, Chapter 122, Sections 6 and 9, as  
15 amended) are repealed.