

AMENDED IN ASSEMBLY APRIL 21, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1826

Introduced by Assembly Member Mark Stone

February 8, 2016

An act to ~~repeal and add Chapter 10 (commencing with Section 46000) of Division 17 of~~ *amend Sections 46000, 46001, 46002, 46003, 46004.1, 46007, 46010.5, 46012, 46013.1, 46013.2, 46014.1, 46014.2, 46014.4, 46014.6, 46016.5, 46021, and 46028 of, and to add Section 46003.2 to, the Food and Agricultural Code, and to amend Sections 110810, 110812, 110860, 110875, and 110920 of, to repeal Section 110870 of, and to repeal and add Sections 110815 and 110958 of, the Health and Safety Code, relating to organic products.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Mark Stone. Organic products.

Existing law, the California Organic Products Act of 2003 (the act), requires the Secretary of Food and Agriculture, county agricultural ~~commissioners under the supervision and direction of the secretary,~~ *commissioners*, and the Director of the State Department of Public Health to enforce ~~federal regulations~~ *state and federal laws* governing the production, labeling, and marketing of organic products, as specified. ~~The act requires certain persons engaged in the production, processing, or handling of organic products to annually register and pay a fee, as specified, and imposes penalties for specified violations of the act.~~

Existing federal law establishes the National Organic Program which requires operations that produce or handle organic agricultural products to comply with federal organic standards and be certified by a certifying agent, as specified.

~~This bill would revise and recast the California Organic Products Act of 2003 as the California Organic Food and Farming Act. The bill would specify that a person certified pursuant to the National Organic Program shall be deemed registered for purposes of the State Organic Program and that those operations do not require additional registration under the state law. The bill would require all other persons engaged in the production or handling of raw agricultural products sold as organic and retailers engaged in the production and processing of organic products to register with the county agricultural commissioner in the county of principal operation. The bill would require the secretary, in consultation with the California Organic Products Advisory Committee, to establish a registration fee for producers, handlers, retail food establishments, and certifying agencies, and would authorize the secretary to establish an annual fee for the purpose of funding activities authorized under the act based on gross annual organic sales. To the extent this bill would impose additional duties on county agricultural commissioners, the bill would impose a state-mandated local program.~~

~~The bill would require the secretary to establish a memorandum of understanding with the director to assist in administering the State Organic Program, would authorize the secretary to establish procedures for and conduct specified activities to supplement enforcement of National Organic Program standards, as specified, and to use State Organic Program funds to conduct specified activities.~~

~~Existing law requires the director to enforce regulations promulgated by the National Organic Program relating to organic products.~~

~~This bill would state that certification under the National Organic Program shall be deemed registration for purposes of the State Organic Program. The bill would, among other things, revise information that the director is required to annually compile, publish, and submit to the California Organic Products Advisory Committee.~~

This bill would revise and recast the California Organic Products Act of 2003 as the California Organic Food and Farming Act and would set forth the purposes of the act.

Existing law establishes the California Organic Products Advisory Committee, comprised of 15 members, to advise the secretary on his or her responsibilities under the act.

The bill would revise the composition of the advisory committee and would expand the scope of the advisory committee's duties to include advising the secretary on education, outreach, and technical assistance for producers. The bill would authorize the secretary, in consultation with the advisory committee, to establish procedures for and conduct certain activities, including providing technical assistance, education, outreach, and guidance to the organic industry. The bill would specify that penalties collected by the secretary and fees collected by county agricultural commissioners pursuant to the act's provisions shall be expended to fulfill the responsibilities authorized under the act, and would exempt from the Administrative Procedure Act the adoption, amendment, or repeal of a registration fee.

Existing law requires every person engaged in the state in the production or handling of raw agricultural products sold as organic to register with the county agricultural commissioner and specifies the information required on the registration form.

This bill would require those persons to instead register with the Department of Food and Agriculture, would revise the registration fees required to be paid by certain registrants, and would revise the information required on the registration form. The bill would also revise the type of information and records that persons who produce, handle, or retail products sold as organic are required to keep or make available.

The bill would define certain terms for purposes of the act's provisions and would make technical and conforming changes to various code sections. To the extent the bill would impose additional duties on county agricultural commissioners, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares both of the*
2 *following:*

3 *(a) The state organic program was first established under the*
4 *California Organic Products Act of 1990 and amended in the*
5 *California Organic Products Act of 2003. The state organic*
6 *program was developed before and during the development of*
7 *federal organic standards. Today, a robust federal organic*
8 *certification and enforcement program exists.*

9 *(b) The purpose of amending the existing law governing the*
10 *state organic program is to reform fees and paperwork and to*
11 *create a framework whereby state organic program enforcement*
12 *activities are designed to supplement National Organic*
13 *Program-funded enforcement in California.*

14 *SEC. 2. Section 46000 of the Food and Agricultural Code is*
15 *amended to read:*

16 46000. ~~(a) This chapter shall be known, and may be cited as,~~
17 ~~the California Organic Products Act of 2003. and Article 7~~
18 *(commencing with Section 110810) of Chapter 5 of Part 5 of*
19 *Division 104 of the Health and Safety Code shall be known and*
20 *may be cited as the California Organic Food and Farming Act.*

21 *(b) The secretary and county agricultural commissioners under*
22 *the supervision and direction of the secretary shall enforce*
23 *regulations adopted by the National Organic Program (NOP)*
24 *(Section 6517 of the federal Organic Foods Production Act of 1990*
25 *(7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with*
26 *Section 110810) of Chapter 5 of Part 5 of Division 104 of the*
27 *Health and Safety Code and this act applicable to any person selling*
28 *products as organic.*

29 *SEC. 3. Section 46001 of the Food and Agricultural Code is*
30 *amended to read:*

31 46001. ~~This act chapter shall be interpreted in conjunction~~
32 ~~with Article 7 (commencing with Section 110810) of Chapter 5~~
33 ~~of Part 5 of Division 104 of the Health and Safety Code and~~
34 ~~regulations adopted by the National Organic Program (Section~~
35 ~~6517 of the federal Organic Foods Production Act of 1990 (7~~
36 ~~U.S.C. Sec. 6501 et seq.); seq.)).~~

37 *SEC. 4. Section 46002 of the Food and Agricultural Code is*
38 *amended to read:*

1 46002. (a) All organic food or product regulations and any
2 amendments to those regulations adopted pursuant to the federal
3 Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et
4 seq.), that are in effect on the date this bill is enacted or that are
5 adopted after that date, shall be the organic food and product
6 regulations of this state.

7 (b) The secretary may, by regulation, prescribe conditions under
8 which organic foods or other products not addressed by the
9 National Organic Program may be sold in this state.

10 (c) *The purpose of the act shall be to do all of the following:*

11 (1) *Promote coordination of federal, state, and local agencies*
12 *in implementing the National Organic Program.*

13 (2) *Expand, improve, and protect the production of organic*
14 *products.*

15 (3) *Provide technical assistance, education, outreach, and*
16 *guidance to the organic industry.*

17 (d) *The secretary may receive and expend state and federal*
18 *funds for activities authorized under this act.*

19 *SEC. 5. Section 46003 of the Food and Agricultural Code is*
20 *amended to read:*

21 46003. (a) The secretary shall establish an advisory committee,
22 which shall be known as the California Organic Products Advisory
23 Committee, for the purpose of advising the secretary with respect
24 to his or her responsibilities under this ~~act and Article 7~~
25 ~~(commencing with Section 110810) of Chapter 5 of Part 5 of~~
26 ~~Division 104 of the Health and Safety Code.~~ *act.*

27 (b) *The advisory committee shall advise the secretary on*
28 *education, outreach, and technical assistance for producers.*

29 ~~(b)~~

30 (c) The advisory committee shall be comprised of 15 members.
31 Each member may have an alternate. Six members and their
32 alternates shall be producers, at least one of whom shall be a
33 producer of meat, fowl, fish, dairy products, or eggs. Two members
34 and their alternates shall be processors, one member and his or her
35 alternate shall be wholesale distributors, ~~two members and their~~
36 ~~alternates~~ *one member and his or her alternate shall be*
37 *representatives of an accredited certifying agency operating in*
38 *the state, one member and his or her alternate shall be consumer*
39 *representatives, one member and his or her alternate shall be*
40 *environmental representatives, two members and their alternates*

1 shall be technical representatives with scientific credentials related
 2 to agricultural chemicals, toxicology, or food science, and one
 3 member and his or her alternate shall be retail representatives.
 4 Except for the consumer, environmental, and technical
 5 representatives, the members of the advisory committee and their
 6 alternates shall have derived a substantial portion of their business
 7 income, wages, or salary as a result of services they provide ~~which~~
 8 *that* directly result in the production, handling, processing, or
 9 retailing of products sold as organic for at least three years
 10 preceding their appointment to the advisory committee. The
 11 consumer and environmental representatives and their alternates
 12 shall not have a financial interest in the direct sales or marketing
 13 of the organic product industry and shall be members or employees
 14 of representatives of recognized nonprofit organizations whose
 15 principal purpose is the protection of consumer health or protection
 16 of the environment. The technical representatives and their
 17 alternates shall not have a financial interest in the production,
 18 handling, processing, or marketing of the organic products industry.
 19 The technical representatives may be involved in organic research
 20 or technical review providing they have no financial benefit from
 21 results of the research project or technical review.

22 ~~(e)~~

23 *(d)* An alternate member shall serve at an advisory committee
 24 meeting only in the absence of, and shall have the same powers
 25 and duties as, the category whom he or she is representing as
 26 alternate, except for duties and powers as an officer of the
 27 committee. The number of alternates present who are not serving
 28 in the capacity of a member shall not be considered in determining
 29 a quorum.

30 ~~(d)~~

31 *(e)* An alternate member may serve at an advisory committee
 32 subcommittee meeting only in the absence of, and shall have the
 33 same powers and duties as, the member whom he or she is
 34 designated as alternate, except for duties and powers as a
 35 subcommittee chairperson.

36 ~~(e)~~

37 *(f)* The members of the advisory committee and their alternates
 38 ~~described in subdivision (b)~~ shall be reimbursed for the reasonable
 39 expenses actually incurred in the performance of their duties, as

1 determined by the advisory committee and approved by the
2 secretary.

3 (f)

4 (g) The secretary or his or her representative, the State Public
5 Health Officer or his or her representative, and a county agricultural
6 commissioner may serve as ex officio members of the advisory
7 committee.

8 *SEC. 6. Section 46003.2 is added to the Food and Agricultural*
9 *Code, to read:*

10 *46003.2. (a) To the extent that funds are available, the*
11 *secretary, in consultation with the California Organic Products*
12 *Advisory Committee, may establish procedures for and conduct*
13 *all of the following activities:*

14 *(1) Receive and investigate complaints filed by any person*
15 *concerning suspected acts of noncompliance with this act or federal*
16 *organic standards.*

17 *(2) Conduct periodic spot inspections.*

18 *(3) Conduct periodic prohibited substance testing on products*
19 *labeled as organic.*

20 *(4) Conduct farmers' market inspections.*

21 *(5) Expand, improve, and protect the production of organic*
22 *products.*

23 *(6) Assist operations in achieving organic certification,*
24 *including transition to organic.*

25 *(7) Provide technical assistance, education, outreach, and*
26 *guidance to the organic industry.*

27 *(8) Reimbursement of investigation, enforcement, and market*
28 *surveillance expenses, including expenses incurred by any county*
29 *agricultural commissioner for actions conducted pursuant to this*
30 *chapter.*

31 *(9) Conduct hearings, appeals, mediation, or settlement*
32 *conferences from actions taken to enforce this chapter.*

33 *(b) Investigation, inspection, and prohibited material testing*
34 *reports shall be forwarded to the secretary for any required*
35 *enforcement action.*

36 *(c) The secretary shall coordinate activities authorized under*
37 *this section with other county and state licensing, registration,*
38 *inspection, and fee collection procedures applicable to registrants.*

39 *SEC. 7. Section 46004.1 of the Food and Agricultural Code is*
40 *amended to read:*

1 46004.1. Unless defined pursuant to the National Organic
2 Program (NOP), the following words and phrases, when used in
3 this act, shall have the following meanings:

4 (a) *“Accredited certification agency” means an entity accredited*
5 *by the United States Department of Agriculture to certify*
6 *operations as compliant with the federal organic standards.*

7 ~~(a)~~

8 (b) *“Act” means ~~this chapter.~~ the California Organic Food and*
9 *Farming Act. It also means the federal Organic Foods Production*
10 *Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the regulations*
11 *adopted pursuant to the federal Organic Foods Production Act of*
12 *1990 (7 U.S.C. Sec. 6501 et seq.).*

13 ~~(b)~~

14 (c) *“Categorical products” means categories of products of like*
15 *commodity such as apples, salad products, etc. and does not require*
16 *variety specific information.*

17 (d) *“Certified operation” means a producer, handler, or retail*
18 *food establishment that is certified organic by an accredited*
19 *certification agency as authorized by the federal Organic Foods*
20 *Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and*
21 *implemented pursuant to the National Organic Program.*

22 (e) *“Data” means the information provided annually by persons*
23 *registered under the act, including certified organic acreage and*
24 *gross sales of certified organic products.*

25 (f) *“Department” means the State Department of Public Health.*

26 (g) *“Director” means the director and State Public Health*
27 *Officer for the State Department of Public Health.*

28 ~~(e)~~

29 (h) *“Enforcement authority” means the governmental unit with*
30 *primary enforcement jurisdiction, as provided in Section 46008.*

31 ~~(d)~~

32 (i) *“Exempt handler” means a handling operation that sells*
33 *agricultural products as “organic” but whose gross agricultural*
34 *income from organic sales totals five thousand dollars (\$5,000) or*
35 *less annually.*

36 (j) *“Exempt operation” means a production or handling*
37 *operation that sells agricultural products but is exempt from*
38 *certification under federal organic standards.*

39 ~~(e)~~

1 (k) “Exempt producer” means a production operation that sells
2 agricultural products as “organic” but whose gross agricultural
3 income from organic sales totals five thousand dollars (\$5,000) or
4 less annually.

5 (l) “Federal organic standards” means the federal regulations
6 governing production, labeling, and marketing of organic products
7 as authorized by the federal Organic Foods Production Act of
8 1990 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to
9 the National Organic Program (7 C.F.R. Sec. 205 et seq.), and
10 any amendments to the federal act or regulations made subsequent
11 to the enactment of this chapter.

12 ~~(m)~~
13 (m) “Handle” means to sell, process, or package agricultural
14 products.

15 ~~(n)~~
16 (n) “Handler” means any person engaged in the business of
17 handling agricultural products, but does not include final retailers
18 of agricultural products that do not process agricultural products.

19 ~~(o)~~
20 (o) “Handling operation” means any operation or portion of an
21 operation, except final retailers of agricultural products that do not
22 process agricultural products that (1) receives or otherwise acquires
23 agricultural products, and (2) processes, packages, or stores
24 agricultural products.

25 (p) “Inspection” means the act of examining and evaluating
26 production or handling operation to determine compliance with
27 state and federal law.

28 ~~(q)~~
29 (q) “National Organic Program” or “NOP” means the National
30 Organic Program established pursuant to the federal Organic Foods
31 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the
32 regulations adopted for implementation.

33 ~~(r)~~
34 (r) “Person” means any individual, firm, partnership, trust,
35 corporation, limited liability company, company, estate, public or
36 private institution, association, organization, group, city, county,
37 city and county, political subdivision of this state, other
38 governmental agency within the state, and any representative,
39 agent, or agency of any of the foregoing.

40 ~~(s)~~

1 (s) “Processing” means cooking, baking, heating, drying, mixing,
 2 grinding, churning, separating, extracting, cutting, fermenting,
 3 eviscerating, preserving, dehydrating, freezing, or otherwise
 4 manufacturing, and includes packaging, canning, jarring, or
 5 otherwise enclosing food in a container.

6 (t) “Producer” means a person who engages in the business of
 7 growing or producing food, fiber, feed, and other
 8 agricultural-based consumer products.

9 (u) “Prohibited substance” means a substance the use of which
 10 in any aspect of organic production or handling is prohibited or
 11 not provided for in state or federal law.

12 (v) “Residue testing” means an official or validated analytical
 13 procedure that detects, identifies, and measures the presence of
 14 chemical substances, their metabolites, or degradation products
 15 in or on raw or processed agricultural products.

16 (w) “Retail food establishment” means a restaurant,
 17 delicatessen, bakery, grocery store, or any retail outlet with an
 18 in-store restaurant, delicatessen, bakery, salad bar, or other eat-in
 19 or carry-out service of processed or prepared raw and
 20 ready-to-eat-food.

21 (†)

22 (x) “Secretary” means the Secretary of Food and Agriculture.

23 (y) “State Organic Program” or “SOP” means a state program
 24 that meets the requirements of Section 6506 of the federal Organic
 25 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), is
 26 approved by the Secretary of the United States Department of
 27 Agriculture, and is designed to ensure that a product that is sold
 28 or labeled as organically produced under the federal Organic
 29 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) is
 30 produced and handled using organic methods.

31 (‡)

32 (z) “USDA” means the United States Department of Agriculture.

33 SEC. 8. Section 46007 of the Food and Agricultural Code is
 34 amended to read:

35 46007. (a) Any penalties collected by the secretary and any
 36 fees collected by a county agricultural commissioner pursuant to
 37 this chapter shall be deposited in the Department of Food and
 38 Agriculture Fund and, upon appropriation by the Legislature, shall
 39 be expended solely to fulfill the responsibilities of the secretary
 40 and county agricultural commissioner acting under the direction

1 ~~and supervision of the secretary, as specified in this act.~~ *authorized*
2 *under this chapter.*

3 (b) Any fees and penalties collected by a county agricultural
4 commissioner pursuant to Section 46017 and any other penalties
5 collected by a county agricultural commissioner pursuant to this
6 chapter shall be paid directly to the county agricultural
7 commissioner and expended to fulfill the responsibilities of the
8 county agricultural commissioner, as specified in this chapter.

9 (c) The secretary shall establish a specific minimum amount to
10 be reimbursed to each county agricultural commissioner per
11 registrant in that county. This reimbursement shall not limit the
12 amount of the reimbursement otherwise made to county
13 commissioners for their enforcement activities.

14 *SEC. 9. Section 46010.5 of the Food and Agricultural Code is*
15 *amended to read:*

16 46010.5. (a) No fee established and collected pursuant to this
17 chapter shall exceed the department's costs or the county
18 agricultural commissioner's costs, as the case may be, of regulating
19 and enforcing the provisions of this chapter related to the function
20 for which the fee is established.

21 (b) *The fees established and collected pursuant to this chapter*
22 *may be expended, under the advisement of the California Organic*
23 *Products Advisory Committee, for activities authorized under this*
24 *chapter, including assisting operations in achieving certification,*
25 *conducting education and outreach, entering research and*
26 *development partnerships, and addressing production or marketing*
27 *obstacles to the growth of the organic sector.*

28 *SEC. 10. Section 46012 of the Food and Agricultural Code is*
29 *amended to read:*

30 46012. Article 14 (commencing with Section 43031) of Chapter
31 2 applies to any food product that is represented as organically
32 produced by any person who is not registered as required by this
33 chapter or any product that is not in compliance with this chapter
34 or Article 7 (commencing with Section 110810) of Chapter 5 of
35 Part 5 of Division 104 of the Health and Safety Code. ~~The director,~~
36 ~~secretary,~~ agricultural commissioners, and ~~the State Director of~~
37 ~~Health Services~~ *director* shall be considered enforcing officers for
38 purposes of those provisions of law under their respective
39 jurisdiction.

1 *SEC. 11. Section 46013.1 of the Food and Agricultural Code*
 2 *is amended to read:*

3 46013.1. (a) Every person engaged in this state in the
 4 production or handling of raw agricultural products sold as ~~organic,~~
 5 ~~and retailers that are engaged in the production of products sold~~
 6 ~~as organic, and retailers that are engaged in the processing, as~~
 7 ~~defined by the NOP, of products sold as organic, shall register~~
 8 ~~with the agricultural commissioner in the county of principal~~
 9 ~~operation prior to organic shall register with the department before~~
 10 the first sale of the product. All processors of organic agriculturally
 11 derived products that are not required to be registered as outlined
 12 in subdivision (b) ~~must shall~~ register with the secretary. Each
 13 registrant ~~must shall~~ annually renew the registration *with the*
 14 *department* unless no longer engaged in the activities requiring
 15 the registration. ~~Each registrant shall provide a complete copy of~~
 16 ~~its registration to the county agricultural commissioner in any~~
 17 ~~county in which the registrant operates.~~

18 (b) Every person engaged in this state in the processing or
 19 handling of processed products pursuant to Section 110460 of the
 20 Health and Safety Code, and pet food pursuant to Section 18653,
 21 and cosmetics pursuant to Section 111795 of the Health and Safety
 22 Code, including processors of alcoholic beverages, fish and
 23 seafood, shall register with the State Public Health Officer.

24 (c) Registration pursuant to this section shall be on a form either
 25 provided by the secretary or approved by the secretary and shall
 26 be valid for a period of one calendar year from the date of
 27 validation by the secretary or county agricultural commissioner
 28 of the completed registration form.

29 (d) The information provided on the registration form shall
 30 include all of the following:

31 (1) The nature of the registrant’s business, including the
 32 categorical products produced, handled, or processed that are sold
 33 ~~as organic and the names and registration numbers of those persons~~
 34 ~~for whom they sell product as applicable.~~ *organic. For the purposes*
 35 ~~of registration, organic products shall be categorized as follows:~~

- 36 (A) *Citrus.*
- 37 (B) *Fruit and vegetable row crops.*
- 38 (C) *Livestock and dairy.*
- 39 (D) *Stone fruit.*
- 40 (E) *Tree fruit.*

1 (F) *Tree nuts.*

2 (G) *Other, which includes, but is not limited to, organic fallow*
3 *ground, herbs and mushrooms, cut flowers, nursery, and apiaries.*

4 ~~(2) (A) For producers, a detailed physical description of the~~
5 ~~precise location and dimensions of the facility or farm where the~~
6 ~~products are produced.~~

7 ~~(B) For exempt producers, in addition to the physical description~~
8 ~~specified in subparagraph (A), a map describing the boundaries~~
9 ~~and dimensions of the production area and all adjacent land uses,~~
10 ~~assigning field numbers to distinct fields or management units,~~
11 ~~and describing the size of each field or management unit.~~

12 ~~(C) When the exempt producer or exempt handler has not had~~
13 ~~control of the property being registered for at least 36 months,~~
14 ~~documentation shall be provided from previous owners or managers~~
15 ~~that shows the 36-month land use history. When the exempt~~
16 ~~producer or exempt handler is not the owner, documentation shall~~
17 ~~be provided from the owner granting permission for the parcel to~~
18 ~~be registered as organic by the exempt producer or exempt handler.~~

19 ~~(2) The address or assessor's parcel number of the precise~~
20 ~~location or locations where the products are produced, processed,~~
21 ~~or handled.~~

22 ~~(3) Sufficient information, under penalty of perjury, to enable~~
23 ~~the secretary or county agricultural commissioner to verify the~~
24 ~~amount of the registration fee to be paid in accordance with this~~
25 ~~act.~~

26 ~~(4) The names of all certification organizations or governmental~~
27 ~~entities, if any, providing organic certification to them.~~

28 ~~(5) In the case of exempt producers, for each field or~~
29 ~~management unit, a list of all substances applied to the crop, soil,~~
30 ~~growing medium, growing area, irrigation water or postharvest~~
31 ~~wash or rinse water, or seed, including the source of the substance,~~
32 ~~the brand name, if any, the rate of application, and the total amount~~
33 ~~applied in each calendar year, for at least the applicable time~~
34 ~~periods specified in this act.~~

35 ~~(e) The registration form shall include a separate "public~~
36 ~~information sheet" or its equivalent that shall include:~~

37 ~~(1) The name and address of the registrant.~~

38 ~~(2) The nature of the registrant's business, including the~~
39 ~~categorical products produced, handled, or processed that are sold~~
40 ~~as organic.~~

1 ~~(3) The names of all certification organizations or governmental~~
2 ~~entities, if any, providing certification pursuant to the NOP and~~
3 ~~this act.~~

4 ~~(f)~~

5 ~~(e) (1) A registration form shall be accompanied by payment~~
6 ~~of a nonrefundable registration fee by producers, handlers, and~~
7 ~~processors, which shall be based on total gross sales by the~~
8 ~~registrant of product sold as organic in the calendar year that~~
9 ~~precedes the date of registration or, if no sales were made in the~~
10 ~~preceding year, then based on the expected sales during the 12~~
11 ~~calendar months following the date of registration. Unless specified~~
12 ~~elsewhere the fee is based according to The secretary, in~~
13 ~~consultation with the California Organic Products Advisory~~
14 ~~Committee, shall establish the registration fee not to exceed the~~
15 ~~amounts specified in the following schedule:~~

	Gross Sales	Registration Fee
17		
18	\$ 0 – 4,999	\$ 25
19	\$ 5,000 – 10,000	\$ 50
20	\$ 10,001 – 25,000	\$ 75
21	<i>50,000</i>	
22	\$ 25,001 – 50,000	\$ 100
23	\$ 50,001 – 100,000	\$ 175
24	<i>250,000</i>	<i>\$100</i>
25	\$ 100,001 – 250,000	\$ 300
26	\$ 250,001 – 500,000	\$ 450
27	\$ 500,001 – 1,000,000	\$ 750
28	\$ 1,000,001 – 2,500,000	\$ 1,000
29	\$ 2,500,001 – 5,000,000	\$ 1,500
30	\$ 5,000,001 – 15,000,000	\$ 2,000
31	\$ 15,000,001 – 25,000,000	\$ 2,500
32	\$ 25,000,001 – and above	\$ 3,000

33
34 ~~(1) Any person required to register pursuant to this section~~
35 ~~whose registration fee would be less than seventy-five dollars (\$75)~~
36 ~~shall pay an initial registration fee of seventy-five dollars (\$75).~~
37 ~~Thereafter, the amount of the annual fee shall be as specified above~~
38 ~~or, according to the applicable classification, as described in~~
39 ~~paragraphs (2) to (9), inclusive.~~

1 ~~(2) Any person selling a multi-ingredient product in which less~~
2 ~~than 70 percent of the ingredients are organic shall pay a fee of~~
3 ~~one hundred dollars (\$100) or one-half of the amount that would~~
4 ~~be due based on the above chart, whichever is more.~~

5 ~~(3)~~

6 (2) Producers that sell processed product shall pay fees based
7 on the value of raw product ~~prior to~~ *before* being processed and
8 the value of any product sold as unprocessed.

9 ~~(4)~~

10 (3) Any person that packs, repacks, labels, sorts, or otherwise
11 handles any organic product that is outside the jurisdiction of the
12 State Public Health Officer and that does not take title or manage
13 the sale of the product, but provides only handling services for
14 organic product, shall register and pay one hundred dollars (\$100)
15 per year.

16 ~~(5) Commission merchants or brokers that do not take possession~~
17 ~~or title of the product but arrange for the sale of the product shall~~
18 ~~register and pay one hundred dollars (\$100) per year.~~

19 ~~(6) A retail store engaged in the handling or processing of~~
20 ~~organic products shall register and pay a fee of one hundred dollars~~
21 ~~(\$100) for each store location that processes organic products~~
22 ~~onsite.~~

23 ~~(7)~~

24 (4) Any person that provides temporary storage or transportation
25 for organic product and does not handle the raw unpackaged
26 product does not have to register.

27 ~~(8) Any person that hires any other person for custom packing~~
28 ~~or labeling shall register and pay a fee based on the total sales of~~
29 ~~product custom produced for them as outlined in the chart above.~~
30 ~~In addition to the required registration information above the person~~
31 ~~must disclose on the registration form the names of all companies~~
32 ~~that pack and process for them.~~

33 ~~(9)~~

34 (5) Any person required to register pursuant to this section that
35 fits the description of more than one of the persons described above
36 shall pay the greater of the multiple amounts.

37 ~~(10)~~

38 (6) The secretary may require any producer, handler, processor,
39 or other organic registrant to provide the exact dollar amount of
40 gross sales of twenty-five million one dollars (\$25,000,001) or

1 more in lieu of the range specified in ~~subdivision (f)~~. *paragraph*
 2 *(1)*.

3 ~~(11) The secretary may require any producer, handler, processor,~~
 4 ~~or other organic registrant to submit gross sales by commodity and~~
 5 ~~gross sales by acreage.~~

6 ~~(g)~~
 7 *(f)* The secretary may adopt regulations that supersede the terms
 8 of this section to the extent reasonably necessary to provide an
 9 online system of registration for those required to register pursuant
 10 to this section.

11 *(g) The adoption, amendment, or repeal of any fee pursuant to*
 12 *this section shall not be subject to the requirements of Chapter 3.5*
 13 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
 14 *2 of the Government Code. An order to adopt, amend, or repeal*
 15 *the regulations concerning assessment rates pursuant to this*
 16 *section shall be transmitted within 30 days by the secretary to the*
 17 *Office of Administrative Law. The Office of Administrative Law*
 18 *shall file the order promptly with the Secretary of State without*
 19 *further review pursuant to Article 6 (commencing with Section*
 20 *11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the*
 21 *Government Code. The order shall do all of the following:*

22 *(1) Indicate that the regulations are being adopted, amended,*
 23 *or repealed pursuant to this chapter.*

24 *(2) State that the order is being transmitted for filing.*

25 *(3) Request that the Office of Administrative Law publish a*
 26 *notice of the filing of the order and print an appropriate reference*
 27 *in Title 3 of the California Code of Regulations.*

28 *SEC. 12. Section 46013.2 of the Food and Agricultural Code*
 29 *is amended to read:*

30 46013.2. *(a) To the extent feasible, the ~~secretary~~ secretary, in*
 31 *consultation with the director, shall coordinate the registration and*
 32 *annual fee collection procedures of this section with similar*
 33 *licensing or registration procedures applicable to registrants.*

34 *(b) The secretary or county agricultural commissioner shall*
 35 *deny a registration submission that is incomplete or not in*
 36 *compliance with this act.*

37 *(c) A registrant shall, within a reasonable time, notify the*
 38 *secretary of any change in the information reported on the*
 39 *registration form and shall pay any additional fee owed if that*
 40 *change results in a higher fee owed than that previously paid.*

1 (d) (1) At the request of any person, the “public information
2 sheet” described in subdivision (e) of Section 46013.1 for any
3 registrant shall be made available for inspection and copying at
4 the main office of the department and each county agricultural
5 commissioner. Copies of the “public information sheet” shall also
6 be made available by mail, upon written request. The person, the
7 department or county agricultural commissioner shall provide the
8 following:

9 (A) The name and address of the registrant.

10 (B) The nature of the registrant’s business.

11 (C) The names of all certification organizations or governmental
12 entities, if any, providing certification pursuant to the NOP and
13 this act.

14 (2) The secretary or county agricultural commissioner may
15 charge a reasonable fee for the cost of reproducing a “public
16 information sheet.” this information. Except as provided in this
17 subdivision, a registration form is exempt from Chapter 3.5
18 (commencing with Section 6250) of Division 7 of Title 1 of the
19 Government Code.

20 (e) The secretary, in consultation with the California Organic
21 Products Advisory Committee, may suspend the registration
22 program set forth in this section if the secretary determines that
23 income derived from registration fees is insufficient to support a
24 registration enforcement program.

25 (f) A registration is considered legal and valid until revoked,
26 suspended, or until the expiration of the registration.

27 (g) The registration revocation process shall be in conjunction
28 with other provisions of this act. The secretary or county
29 agricultural commissioner’s office may initiate the revocation
30 process for failure to comply with the NOP or this act. Any person
31 against whom the action is being taken shall have the opportunity
32 to appeal the action and be afforded the opportunity to be heard
33 in an administrative appeal. This appeal shall be administered by
34 either the state or county agricultural commissioner’s office.

35 (h) When the registration fee is not paid within 60 days from
36 the expiration date, the account shall be considered closed and the
37 registration voided. A notification shall be sent to the registrant
38 and the certifier, if applicable, notifying them the registrant is no
39 longer able to market products as organic until the account is paid
40 in full.

1 (i) Any producer, handler, processor, or certification agency
2 subject to this chapter that does not pay the fee within 10 days of
3 the date on which the fee is due and payable shall pay a penalty
4 of 10 percent of the total amount determined to be due plus interest
5 at the rate of 1.5 percent per month on the unpaid balance.

6 *SEC. 13. Section 46014.1 of the Food and Agricultural Code*
7 *is amended to read:*

8 46014.1. (a) Any certification-~~organization~~ agency that certifies
9 product in this state sold as organic shall register with the secretary
10 and shall thereafter annually renew the registration, unless the
11 organization is no longer engaged in the activities requiring the
12 registration. Registration shall be on a form provided by the
13 secretary, shall include a copy of accreditation by the USDA or
14 proof of application if applicable. *The secretary, in consultation*
15 *with the California Organic Products Advisory Committee, shall*
16 *establish a registration fee not to exceed five hundred dollars*
17 *(\$500) annually for certifying agencies operating within the state.*

18 (b) Each certification-~~organization~~ agency shall pay to the
19 secretary an annual registration fee of twenty-five dollars (\$25)
20 for each client they have certified in this state up to a maximum
21 of two hundred fifty dollars (\$250). Any registration submitted by
22 a certification-~~organization~~ agency shall be made available to the
23 public for inspection and copying. The secretary may audit the
24 ~~organization's~~ agency's certification procedures and records at
25 any time, but any records of the certification-~~organization~~ agency
26 not otherwise required to be disclosed shall be kept confidential
27 by the secretary.

28 (c) *An accredited certifying agency may submit an annual*
29 *registration fee and application on behalf of their client provided*
30 *that all of the information required under Section 46013.1 is*
31 *included when remitting applicable fees to the department.*

32 (e)

33 (d) The secretary and the county agricultural commissioners
34 under the supervision of the secretary shall, if requested by a
35 sufficient number of persons to cover the costs of the program in
36 a county as determined by the secretary, establish a certification
37 program. This program shall meet all of the requirements of this
38 act. In addition, this program shall meet all of the requirements of
39 the federal certification program, including federal accreditation.
40 The secretary shall establish a fee schedule for participants in this

1 program that covers all of the department’s reasonable costs of the
2 program. A county agricultural commissioner that conducts a
3 voluntary certification program pursuant to this section shall
4 establish a fee schedule for participants in this program that covers
5 all of the county’s reasonable costs of the program. The secretary
6 may not expend funds obtained from registration fees collected
7 under this chapter for the purposes of adopting or administering
8 this program. The certification fee authorized by this subdivision
9 is due and payable on January 1 or may be prorated before the
10 10th day of the month following the month in which the decision
11 to grant the certification is issued. Any person who does not pay
12 the amount that is due within the required period shall pay the
13 enforcement authority providing the certificate a penalty of 10
14 percent of the total amount determined to be due, plus interest at
15 the rate of 1.5 percent interest per month on the unpaid balance.

16 *(e) Notwithstanding any other law, any certification agency that*
17 *certifies product in this state sold as organic shall immediately*
18 *make the following records available for inspection by, and shall*
19 *upon request within 72 hours of the request provide a copy to, the*
20 *secretary or county agricultural commissioner:*

21 *(1) Records obtained from applicants for certification and*
22 *certified operations.*

23 *(2) Records created by the certifying agent regarding applicants*
24 *for certification and certified operations.*

25 *(3) Any record required to be kept under the National Organic*
26 *Program (Section 6517 of the federal Organic Foods Production*
27 *Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and 7 C.F.R. 205 et seq.),*
28 *Article 7 (commencing with Section 110810) of Chapter 5 of Part*
29 *5 of Division 104 of the Health and Safety Code, and this act*
30 *applicable to any person selling products as organic.*

31 *(f) Records acquired pursuant to this section shall not be public*
32 *records as that term is defined in Section 6252 of the Government*
33 *Code and shall not be subject to Chapter 3.5 (commencing with*
34 *Section 6250) of Division 7 of Title 1 of the Government Code.*

35 *SEC. 14. Section 46014.2 of the Food and Agricultural Code*
36 *is amended to read:*

37 46014.2. (a) All products sold as organic in California shall
38 be certified by ~~a federally~~ *an accredited certifying agent, agent* if
39 they are required to be certified under the federal act.

1 (b) Product shall be sold as organic only in accordance with this
2 act.

3 (c) A certification-~~organization~~ agency shall be accredited by
4 the USDA as provided in the NOP.

5 *SEC. 15. Section 46014.4 of the Food and Agricultural Code*
6 *is amended to read:*

7 46014.4. A registered certification-~~organization~~ agency shall
8 submit to the secretary every January and June a list of all persons
9 whose production or processing of product in California is certified.
10 The list shall be publicly available within 30 days after the end of
11 each filing period. A certifier that keeps a current list on a Web
12 site available to the public may be deemed to meet this requirement.

13 *SEC. 16. Section 46014.6 of the Food and Agricultural Code*
14 *is amended to read:*

15 46014.6. Only products that have been produced and handled
16 in accordance with this act may be certified by a registered
17 certification-~~organization~~ agency.

18 *SEC. 17. Section 46016.5 of the Food and Agricultural Code*
19 *is amended to read:*

20 46016.5. As provided for in regulations adopted by the NOP,
21 the action proposed by a NOP accredited-~~certifier~~ certification
22 agency against a client may be appealed to the secretary for
23 mediation.

24 *SEC. 18. Section 46021 of the Food and Agricultural Code is*
25 *amended to read:*

26 46021. (a) It is unlawful for any person to certify any product
27 in violation of this act.

28 (b) It is unlawful for any person to certify a product or company
29 as organic unless duly registered as a certification-~~organization~~
30 agency pursuant to this act.

31 (c) It is unlawful for any person to willfully make a false
32 statement or representation, or knowingly fail to disclose a fact
33 required to be disclosed, in registration for a certification
34 ~~organization~~ agency pursuant to this act.

35 *SEC. 19. Section 46028 of the Food and Agricultural Code is*
36 *amended to read:*

37 46028. ~~(a)~~ All persons who produce, handle, or retail products
38 that are sold as organic shall keep accurate and specific records of
39 the following as applicable: as required by the secretary in

1 *consultation with the California Organic Products Advisory*
2 *Committee.*

3 ~~(1) The quantity harvested from each field or management unit,~~
4 ~~the size of the field or management unit, the field number, and the~~
5 ~~date of harvest.~~

6 ~~(2) Unless the livestock, fowl, or fish was raised or hatched by~~
7 ~~the producer, the name and address of all suppliers of livestock,~~
8 ~~fowl, or fish and the date of the transaction.~~

9 ~~(3) For each field or management unit, all substances applied~~
10 ~~to the crop, soil, growing medium, growing area, irrigation or post~~
11 ~~harvest wash or rinse water, or seed, the quantity of each substance~~
12 ~~applied, and the date of each application. All substances shall be~~
13 ~~identified by brand name, if any, and by source.~~

14 ~~(4) All substances administered and fed to the animal, including~~
15 ~~all feed, medication and drugs, and all substances applied in any~~
16 ~~area in which the animal, milk, or eggs are kept, including the~~
17 ~~quantity administered or applied, and the date of each application.~~
18 ~~All substances shall be identified by brand name, if any, and by~~
19 ~~source.~~

20 ~~(5) (A) Invoices, bills of lading or other documents that show~~
21 ~~transfer of title of certified organic products shall indicate the~~
22 ~~product is “organic” or “certified organic” and, if applicable, the~~
23 ~~California registration number of the person transferring the~~
24 ~~product.~~

25 ~~(B) Any person selling product that is exempt or excluded from~~
26 ~~certification under NOP rules, must follow the requirements of~~
27 ~~Section 205.101 of Title 7 of the Code of Federal Regulations.~~

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

32 ~~(7) Except when sold to the consumer, the name and address of~~
33 ~~all persons, to whom or from whom the product is sold, purchased~~
34 ~~or otherwise transferred, the quantity of product sold or otherwise~~
35 ~~transferred, and the date of the transaction.~~

36 *SEC. 20. If the Commission on State Mandates determines that*
37 *this act contains costs mandated by the state, reimbursement to*
38 *local agencies and school districts for those costs shall be made*
39 *pursuant to Part 7 (commencing with Section 17500) of Division*
40 *4 of Title 2 of the Government Code.*

1 SECTION 1. ~~The Legislature finds and declares all of the~~
 2 ~~following:~~

3 (a) ~~The State Organic Program was first established under the~~
 4 ~~California Organic Products Act of 1990 and amended in the~~
 5 ~~California Organic Products Act of 2003. The State Organic~~
 6 ~~Program was developed before and during the development of~~
 7 ~~federal organic standards. Today, a robust federal organic~~
 8 ~~certification and enforcement program exists.~~

9 (b) ~~As a result of the State Organic Program, California certified~~
 10 ~~organic producers pay more fees, are subject to duplicate~~
 11 ~~registration and extra documentation, and are required to comply~~
 12 ~~with more regulation than producers outside of California to use~~
 13 ~~the same organic label.~~

14 (c) ~~As a result of the State Organic Program, the National~~
 15 ~~Organic Program focuses its enforcement funds outside of~~
 16 ~~California, and it relies on the State Organic Program's additional~~
 17 ~~fees on California producers to fund enforcement in California.~~

18 (d) ~~The purpose of amending the existing law governing the~~
 19 ~~State Organic Program is to reform fees and paperwork and to~~
 20 ~~create a framework whereby state organic program enforcement~~
 21 ~~activities are designed to supplement National Organic~~
 22 ~~Program-funded enforcement in California.~~

23 SEC. 2. ~~Chapter 10 (commencing with Section 46000) of~~
 24 ~~Division 17 of the Food and Agricultural Code is repealed.~~

25 SEC. 3. ~~Chapter 10 (commencing with Section 46000) is added~~
 26 ~~to Division 17 of the Food and Agricultural Code, to read:~~

27
 28 CHAPTER 10. CALIFORNIA ORGANIC FOOD AND FARMING ACT

29
 30 Article 1. General Provisions

31
 32 46000. (a) ~~This chapter and Article 7 (commencing with~~
 33 ~~Section 110810) of Chapter 5 of Part 5 of Division 104 of the~~
 34 ~~Health and Safety Code shall be known and may be cited as the~~
 35 ~~California Organic Food and Farming Act.~~

36 (b) ~~The secretary and county agricultural commissioners under~~
 37 ~~the supervision and direction of the secretary shall enforce~~
 38 ~~regulations adopted by the National Organic Program (NOP)~~
 39 ~~(Section 6517 of the federal Organic Foods Production Act of 1990~~
 40 ~~(7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with~~

1 ~~Section 110810) of Chapter 5 of Part 5 of Division 104 of the~~
2 ~~Health and Safety Code and this act applicable to any person selling~~
3 ~~products as organic.~~

4 ~~(e) This chapter shall be interpreted in conjunction with Article~~
5 ~~7 (commencing with Section 110810) of Chapter 5 of Part 5 of~~
6 ~~Division 104 of the Health and Safety Code and regulations~~
7 ~~adopted by the National Organic Program (Section 6517 of the~~
8 ~~federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501~~
9 ~~et seq.)).~~

10 ~~46001. For purposes of this act, the following terms have the~~
11 ~~following meanings:~~

12 ~~(a) "Accredited certification agency" means an entity accredited~~
13 ~~by the United States Department of Agriculture to certify~~
14 ~~operations as compliant with the federal organic standards.~~

15 ~~(b) "Act" means the California Organic Food and Farming Act.~~

16 ~~(c) "Categorical products" means categories of products of like~~
17 ~~commodity such as apples and salad products, and does not require~~
18 ~~variety specific information.~~

19 ~~(d) "Certified operation" means a producer, handler, or retail~~
20 ~~food establishment that is certified organic by an accredited~~
21 ~~certification agency as authorized by the federal Organic Foods~~
22 ~~Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and~~
23 ~~implemented pursuant to the National Organic Program.~~

24 ~~(e) "Data" means the information provided annually by persons~~
25 ~~registered under the act, including certified organic acreage and~~
26 ~~gross sales of certified organic products.~~

27 ~~(f) "Department" means the State Department of Public Health.~~

28 ~~(g) "Director" means the director and State Public Health Officer~~
29 ~~for the State Department of Public Health.~~

30 ~~(h) "Enforcement authority" means the governmental unit with~~
31 ~~primary enforcement jurisdiction, as provided in Section 46022.~~

32 ~~(i) "Exempt handler" means a handling operation that sells~~
33 ~~agricultural products as "organic" but whose gross agricultural~~
34 ~~income from organic sales totals five thousand dollars (\$5,000) or~~
35 ~~less annually.~~

36 ~~(j) "Exempt operation" means a production or handling operation~~
37 ~~that sells agricultural products but is exempt from certification~~
38 ~~under federal organic standards.~~

39 ~~(k) "Exempt producer" means a production operation that sells~~
40 ~~agricultural products as "organic" but whose gross agricultural~~

1 income from organic sales totals five thousand dollars (\$5,000) or
2 less annually.

3 (l) ~~“Federal organic standards” means the federal regulations~~
4 ~~governing production, labeling, and marketing of organic products~~
5 ~~as authorized by the federal Organic Foods Production Act of 1990~~
6 ~~(7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the~~
7 ~~National Organic Program (7 C.F.R. Sec. 205 et seq.), and any~~
8 ~~amendments to the federal act or regulations made subsequent to~~
9 ~~the enactment of this chapter.~~

10 (m) ~~“Handle” means to sell, process, or package agricultural~~
11 ~~products. Handle does not include a producer selling, transporting,~~
12 ~~or delivering his or her crops or livestock to a handler.~~

13 (n) ~~“Handler” means any person engaged in the business of~~
14 ~~handling agricultural products, but does not include final retailers~~
15 ~~of agricultural products that do not process agricultural products.~~

16 (o) ~~“Handling operation” means any operation or portion of an~~
17 ~~operation, except final retailers of agricultural products that do not~~
18 ~~process agricultural products that (1) receives or otherwise acquires~~
19 ~~agricultural products, and (2) processes, packages, or stores~~
20 ~~agricultural products.~~

21 (p) ~~“Inspection” means the act of examining and evaluating a~~
22 ~~production or handling operation to determine compliance with~~
23 ~~state and federal law.~~

24 (q) ~~“National Organic Program” or “NOP” means the National~~
25 ~~Organic Program established pursuant to the federal Organic Foods~~
26 ~~Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the~~
27 ~~regulations adopted for implementation.~~

28 (r) ~~“Person” means any individual, firm, partnership, trust,~~
29 ~~corporation, limited liability company, company, estate, public or~~
30 ~~private institution, association, organization, group, city, county,~~
31 ~~city and county, political subdivision of this state, other~~
32 ~~governmental agency within the state, and any representative,~~
33 ~~agent, or agency of any of the foregoing.~~

34 (s) ~~“Processing” means cooking, baking, heating, drying, mixing,~~
35 ~~grinding, churning, separating, extracting, cutting, fermenting,~~
36 ~~eviscerating, preserving, dehydrating, freezing, or otherwise~~
37 ~~manufacturing, and includes packaging, canning, jarring, or~~
38 ~~otherwise enclosing food in a container.~~

1 (t) “Producer” means a person who engages in the business of
2 growing or producing food, fiber, feed, and other agricultural-based
3 consumer products.

4 (u) “Prohibited substance” means a substance the use of which
5 in any aspect of organic production or handling is prohibited or
6 not provided for in state or federal law.

7 (v) “Residue testing” means an official or validated analytical
8 procedure that detects, identifies, and measures the presence of
9 chemical substances, their metabolites, or degradation products in
10 or on raw or processed agricultural products.

11 (w) “Retail food establishment” means a restaurant, delicatessen,
12 bakery, grocery store, or any retail outlet with an in-store restaurant,
13 delicatessen, bakery, salad bar, or other eat-in or carry-out service
14 of processed or prepared raw and ready-to-eat food.

15 (x) “Secretary” means the Secretary of Food and Agriculture.

16 (y) “State Organic Program” or “SOP” means a state program
17 that meets the requirements of Section 6506 of the federal Organic
18 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), is
19 approved by the Secretary of the United States Department of
20 Agriculture, and is designed to ensure that a product that is sold
21 or labeled as organically produced under the federal Organic Foods
22 Production Act of 1990 is produced and handled using organic
23 methods.

24 (z) “USDA” means the United States Department of Agriculture.

25 46002. (a) All organic food or product regulations and any
26 amendments to those regulations adopted pursuant to the federal
27 Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et
28 seq.), that are in effect on the date this act is enacted or that are
29 adopted after that date, shall be the organic food and product
30 regulations of this state.

31 (b) The secretary may, by regulation, prescribe conditions under
32 which organic foods or other products not addressed by the
33 National Organic Program may be sold in this state.

34 (c) The purpose of the State Organic Program shall be to do the
35 following:

36 (1) Supplement the National Organic Program enforcement of
37 federal organic standards.

38 (2) Promote coordination of federal, state, and local agencies
39 in implementation of the National Organic Program.

1 ~~(3) Expand, improve, and protect the production of organic~~
2 ~~products.~~

3 ~~(4) Assist operations in achieving organic certification.~~

4 ~~(5) Provide technical assistance, education, outreach, and~~
5 ~~guidance to the organic industry.~~

6 ~~(d) The secretary may receive and expend state and federal~~
7 ~~funds for activities authorized under this act.~~

8

9

Article 2. Administration

10

11 ~~46011. (a) The secretary shall establish a memorandum of~~
12 ~~understanding with the director to assist in the administration of~~
13 ~~the State Organic Program and responsibilities authorized under~~
14 ~~this act.~~

15 ~~(b) The secretary may contract with county agricultural~~
16 ~~commissioners to implement this act.~~

17 ~~46012. (a) To the extent that funds are available, the secretary,~~
18 ~~in consultation with the advisory committee established pursuant~~
19 ~~to Section 46014, may establish procedures for and conduct the~~
20 ~~following activities to supplement enforcement of NOP standards~~
21 ~~in the state:~~

22 ~~(1) Receive and investigate complaints filed by any person~~
23 ~~concerning suspected acts of noncompliance with this act or federal~~
24 ~~organic standards.~~

25 ~~(2) Conduct periodic spot inspections.~~

26 ~~(3) Conduct periodic prohibited substance testing on products~~
27 ~~labeled as organic to supplement the Department of Pesticide~~
28 ~~Regulation residue testing program authorized in Section 12532,~~
29 ~~the pesticide residue monitoring program on processed foods~~
30 ~~authorized by Article 1 (commencing with Section 110425) of~~
31 ~~Chapter 5 of Part 5 of Division 104 of the Health and Safety Code,~~
32 ~~and annual testing conducted by accredited certification agencies.~~

33 ~~(4) Conduct farmers' market inspections to supplement those~~
34 ~~conducted under the certified farmers' market program pursuant~~
35 ~~to Chapter 10.5 (commencing with Section 47000).~~

36 ~~(b) Investigation, inspection, and prohibited material testing~~
37 ~~reports shall be forwarded to the secretary or to NOP for any~~
38 ~~required enforcement action.~~

39 ~~(e) The secretary shall coordinate State Organic Program~~
40 ~~activities authorized under this section with other county and state~~

1 licensing, registration, inspection, and fee collection procedures
2 applicable to registrants.

3 46013. To the extent funds are available, the secretary may, in
4 consultation with the advisory committee, use state organic
5 program funds to conduct the following activities:

6 (a) ~~Expand, improve, and protect the production of organic~~
7 ~~products.~~

8 (b) ~~Assist operations in achieving organic certification, including~~
9 ~~transition to organic.~~

10 (c) ~~Provide technical assistance, education, outreach, and~~
11 ~~guidance to the organic industry.~~

12 46014. (a) ~~The secretary shall establish an advisory committee,~~
13 ~~which shall be known as the California Organic Products Advisory~~
14 ~~Committee, for the purpose of advising the secretary with respect~~
15 ~~to his or her responsibilities under this act and Article 7~~
16 ~~(commencing with Section 110810) of Chapter 5 of Part 5 of~~
17 ~~Division 104 of the Health and Safety Code.~~

18 (b) ~~An advisory committee established under this chapter shall~~
19 ~~also advise the secretary, the University of California, and the~~
20 ~~California State University on education, outreach, and technical~~
21 ~~assistance for organic producers.~~

22 (c) ~~The advisory committee shall be comprised of 16 members~~
23 ~~as follows:~~

24 (1) ~~Six members shall be producers, at least one of whom shall~~
25 ~~be a producer of meat, fowl, fish, dairy products, or eggs.~~

26 (2) ~~Two members shall be processors.~~

27 (3) ~~One member shall be a wholesale distributor.~~

28 (4) ~~One member shall be a representative of an accredited~~
29 ~~certification agency operating in the state.~~

30 (5) ~~One member shall be a consumer representatives.~~

31 (6) ~~One member shall be an environmental representative.~~

32 (7) ~~Two members shall be technical representatives with~~
33 ~~scientific credentials related to agriculture or food science.~~

34 (8) ~~One member shall be a food retail establishment~~
35 ~~representative.~~

36 (9) ~~One member shall be a representative from the University~~
37 ~~of California or California State University system.~~

38 (d) ~~Except for the consumer, environmental, technical, and~~
39 ~~University of California or California State University system~~
40 ~~representatives, the members of the advisory committee shall have~~

1 ~~derived a substantial portion of their business income, wages, or~~
2 ~~salary as a result of services they provide that directly result in the~~
3 ~~production, handling, processing, or retailing of products sold as~~
4 ~~organic for at least three years preceding their appointment to the~~
5 ~~advisory committee.~~

6 ~~(e) The consumer and environmental representatives shall not~~
7 ~~have a financial interest in the direct sales or marketing of the~~
8 ~~organic product industry and shall be members or employees of~~
9 ~~representatives of recognized nonprofit organizations whose~~
10 ~~principal purpose is the protection of consumer health or protection~~
11 ~~of the environment.~~

12 ~~(f) The technical and University of California or California State~~
13 ~~University system representatives shall not have a financial interest~~
14 ~~in the production, handling, processing, or marketing of the organic~~
15 ~~products industry. The technical and university system~~
16 ~~representatives may be involved in organic research or technical~~
17 ~~review providing they have no financial benefit from results of the~~
18 ~~research project or technical review.~~

19 ~~(g) (1) Each member of the committee may have an alternate~~
20 ~~who satisfies the same requirements as the member.~~

21 ~~(2) An alternate member shall serve at an advisory committee~~
22 ~~meeting only in the absence of, and shall have the same powers~~
23 ~~and duties as, the category whom he or she is representing as~~
24 ~~alternate, except for duties and powers as an officer of the~~
25 ~~committee. The number of alternates present who are not serving~~
26 ~~in the capacity of a member shall not be considered in determining~~
27 ~~a quorum.~~

28 ~~(3) An alternate member may serve at an advisory committee~~
29 ~~subcommittee meeting only in the absence of, and shall have the~~
30 ~~same powers and duties as, the member whom he or she is~~
31 ~~designated as alternate, except for duties and powers as a~~
32 ~~subcommittee chairperson.~~

33 ~~(h) The members of the advisory committee and their alternates~~
34 ~~shall be reimbursed for the reasonable expenses actually incurred~~
35 ~~in the performance of their duties, as determined by the advisory~~
36 ~~committee and approved by the secretary. The secretary may~~
37 ~~authorize payment of per diem to each attendee based on a~~
38 ~~recommendation of the advisory committee.~~

39 ~~(i) The secretary or his or her representative, the director or his~~
40 ~~or her representative, the director of the Department of Pesticide~~

1 Regulation or his or her representative, and a county agricultural
2 commissioner may serve as ex officio members of the advisory
3 committee.

4 (j) The advisory committee shall review and make
5 recommendations to the secretary and the director on the state
6 organic program budget, including all fee revenues and penalties
7 assessed from exempt operations, accredited certification agencies,
8 and retail food establishments, and all expenses of the program.

9 (k) The advisory committee shall meet at least two times
10 annually and submit an annual report to the secretary that
11 summarizes issues for organic agriculture and food production in
12 the state.

13
14 Article 3. Registration

15
16 46021. (a) Except as specified in subdivision (b), a person
17 engaged in this state in the production or handling of raw
18 agricultural products sold as organic, and retailers that are engaged
19 in the production of products sold as organic, and retailers that are
20 engaged in the processing, as defined by the NOP, of products
21 sold as organic, shall register with the county agricultural
22 commissioner in the county of principal operation before the first
23 sale of the product. All processors of organic agriculturally derived
24 products that are not required to be registered with the director
25 under Article 7 (commencing with Section 110810) of Chapter 5
26 of Part 5 of Division 104 of the Health and Safety Code shall
27 register with the secretary. Each registrant shall provide a complete
28 copy of its registration to the county agricultural commissioner in
29 any county in which the registrant operates.

30 (b) A person certified under the National Organic Program shall
31 be deemed registered and shall not be required to register pursuant
32 to subdivision (a).

33 (c) The secretary, in consultation with the advisory committee,
34 shall establish procedures for registration and information required
35 for registration.

36 (d) Registration pursuant to this section shall be valid for one
37 year and shall be renewed annually.

38 46022. (a) This act shall not apply to the term “natural” when
39 used in the labeling or advertising of a product.

1 ~~(b) This act also applies to seed, fiber, and horticultural products.~~
2 ~~The terms “foods” and “raw agricultural commodities” as used in~~
3 ~~this chapter include seed, fiber, and horticultural products where~~
4 ~~the context requires to effectuate this section.~~

5 ~~(e) Article 14 (commencing with Section 43031) of Chapter 2~~
6 ~~applies to any food product that is represented as organically~~
7 ~~produced by any person who is not registered as required by this~~
8 ~~chapter or any product that is not in compliance with this chapter~~
9 ~~or Article 7 (commencing with Section 110810) of Chapter 5 of~~
10 ~~Part 5 of Division 104 of the Health and Safety Code. The~~
11 ~~secretary, county agricultural commissioners, and the director shall~~
12 ~~be considered enforcing officers for purposes of those provisions~~
13 ~~of law under their respective jurisdiction.~~

14 ~~46023. (a) To the extent feasible, the secretary shall coordinate~~
15 ~~the registration and fee collection procedures of this section with~~
16 ~~similar licensing or registration procedures applicable to registrants.~~

17 ~~(b) The secretary or county agricultural commissioner shall~~
18 ~~deny a registration submission that is incomplete or not in~~
19 ~~compliance with this act.~~

20 ~~(c) A registrant shall, within a reasonable time, notify the~~
21 ~~secretary of any change in the information reported on the~~
22 ~~registration form and shall pay any additional fee owed if that~~
23 ~~change results in a higher fee owed than that previously paid.~~

24 ~~(d) At the request of any person, the public information sheet~~
25 ~~for any registrant shall be made available for inspection and~~
26 ~~copying at the main office of the department and each county~~
27 ~~agricultural commissioner. Copies of the “public information sheet”~~
28 ~~shall also be made available by mail, upon written request. The~~
29 ~~secretary or county agricultural commissioner may charge a~~
30 ~~reasonable fee for the cost of reproducing a “public information~~
31 ~~sheet.” Except as provided in this subdivision, a registration form~~
32 ~~is exempt from Chapter 3.5 (commencing with Section 6250) of~~
33 ~~Division 7 of Title 1 of the Government Code.~~

34 ~~(e) The secretary, in consultation with the California Organic~~
35 ~~Products Advisory Committee, may suspend the registration~~
36 ~~program set forth in this section if the secretary determines that~~
37 ~~income derived from registration fees is insufficient to support a~~
38 ~~registration enforcement program.~~

39 ~~(f) A registration is considered legal and valid until revoked,~~
40 ~~suspended, or until the expiration of the registration.~~

1 ~~(g) The registration revocation process shall be in conjunction~~
2 ~~with other provisions of this chapter. The secretary or county~~
3 ~~agricultural commissioner's office may initiate the revocation~~
4 ~~process for failure to comply with the NOP or this act. Any person~~
5 ~~against whom the action is being taken shall have the opportunity~~
6 ~~to appeal the action and be afforded the opportunity to be heard~~
7 ~~in an administrative appeal. This appeal shall be administered by~~
8 ~~either the state or county agricultural commissioner's office.~~

9 ~~(h) When the registration fee is not paid within 60 days from~~
10 ~~the expiration date, the account shall be considered closed and the~~
11 ~~registration voided. A notification shall be sent to the registrant~~
12 ~~and the certifier, if applicable, notifying them the registrant is no~~
13 ~~longer able to market products as organic until the account is paid~~
14 ~~in full.~~

15 ~~(i) Any producer, handler, processor, or certification agency~~
16 ~~subject to this chapter that does not pay the fee within 10 days of~~
17 ~~the date on which the fee is due and payable shall pay a penalty~~
18 ~~of 10 percent of the total amount determined to be due plus interest~~
19 ~~at the rate of 1.5 percent per month on the unpaid balance.~~

20 ~~46024. (a) Any certification agency that certifies product in~~
21 ~~this state sold as organic shall register with the secretary and shall~~
22 ~~thereafter annually renew the registration, unless the certification~~
23 ~~agency is no longer engaged in the activities requiring the~~
24 ~~registration. Registration shall be on a form provided by the~~
25 ~~secretary, and shall include a copy of accreditation by the USDA~~
26 ~~or proof of application, if applicable.~~

27 ~~(b) For the purpose of conducting activities authorized under~~
28 ~~this act, the secretary shall require certifying agencies operating~~
29 ~~in the state to also annually submit the information that it submits~~
30 ~~to the NOP directly to the State Organic Program. The secretary~~
31 ~~shall accept the information in the same format that the certifying~~
32 ~~agent uses to submit information to the NOP.~~

33 ~~(c) Any registration submitted by a certification agency shall~~
34 ~~be made available to the public for inspection and copying. The~~
35 ~~secretary may audit the certification agency's certification~~
36 ~~procedures and records at any time, but any records of the~~
37 ~~certification agency not otherwise required to be disclosed shall~~
38 ~~be kept confidential by the secretary.~~

39 ~~(d) The secretary and the county agricultural commissioners~~
40 ~~under the supervision of the secretary shall, if requested by a~~

1 sufficient number of persons to cover the costs of the program in
 2 a county as determined by the secretary, establish a certification
 3 program. This program shall meet all of the requirements of this
 4 chapter. In addition, this program shall meet all of the requirements
 5 of the federal certification program, including federal accreditation.
 6 A county agricultural commissioner that conducts a voluntary
 7 certification program pursuant to this section shall establish a fee
 8 schedule for participants in this program that covers all of the
 9 county's reasonable costs of the program. The secretary may not
 10 expend funds obtained from registration fees collected under this
 11 chapter for the purposes of adopting or administering this program.

12 (e) ~~The certification fee authorized under subdivision (d) is due~~
 13 ~~and payable on January 1 or may be prorated before the 10th day~~
 14 ~~of the month following the month in which the decision to grant~~
 15 ~~the certification is issued. Any person who does not pay the amount~~
 16 ~~that is due within the required period shall pay the enforcement~~
 17 ~~authority providing the certificate a penalty of 10 percent of the~~
 18 ~~total amount determined to be due, plus interest at the rate of 1.5~~
 19 ~~percent per month on the unpaid balance.~~

20 46025. (a) ~~All products sold as organic in California shall be~~
 21 ~~certified by a federally accredited certifying agent, if they are~~
 22 ~~required to be certified under the federal act.~~

23 (b) ~~Product shall be sold as organic only in accordance with this~~
 24 ~~chapter.~~

25 (e) ~~A certification agency shall be accredited by the USDA as~~
 26 ~~provided in the NOP.~~

27 46026. ~~Materials allowed in organic production and processing~~
 28 ~~are specified in the Federal Organic Standards (7 C.F.R. Sec. 205~~
 29 ~~et seq.). Organic input materials for organic production are~~
 30 ~~regulated under Chapter 5 (commencing with Section 14501) of~~
 31 ~~Division 7.~~

32
 33 **Article 4. Fees and Penalties**
 34

35 46031. (a) ~~The secretary, in consultation with the advisory~~
 36 ~~committee, shall establish a registration fee for producers, handlers,~~
 37 ~~and retail food establishments that are exempt from certification~~
 38 ~~under the NOP but who are required to register with the state~~
 39 ~~pursuant to Section 46021. The registration fee shall not exceed~~
 40 ~~the reasonable costs of enforcement activities as authorized under~~

1 Section 46012 on operations exempt from certification, up to a
2 maximum of five hundred dollars (\$500).

3 (b) The secretary, in consultation with the advisory committee,
4 shall establish a registration fee for certifying agencies operating
5 within the state. The registration fee shall not exceed the reasonable
6 costs of enforcement and monitoring of certifying agents.

7 (c) The secretary, in consultation with the advisory committee,
8 may establish an annual fee for producers for the purposes of
9 funding the activities authorized under this act. Any fee established
10 shall not exceed the following fee schedule for gross annual organic
11 sales amounts:

Gross Annual Organic Sales	Annual Fee Amount
\$0 - 4,999	\$25
\$5,000 - 25,000	\$50
\$25,001 - 250,000	\$100
\$ 250,001 - 500,000	\$450
\$ 500,001 - 1,000,000	\$750
\$ 1,000,001 - 2,500,000	\$1,000
\$ 2,500,001 - 5,000,000	\$1,500
\$ 5,000,001 - 15,000,000	\$2,000
\$ 15,000,001 - 25,000,000	\$2,500
\$ 25,000,001 and above	\$3,000

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25 (d) The secretary, in consultation with the director pursuant to
26 subdivision (a) of Section 46011, shall coordinate the collection
27 and expenditure of annual fees. The secretary shall identify certified
28 organic producers under the enforcement authority of the
29 department based on the information provided under subdivision
30 (b) of Section 46024 and shall annually bill and collect the
31 applicable annual fee from the certified organic producers. The
32 secretary shall not require information other than gross annual
33 organic sales in the billing forms. The secretary shall forward
34 certified organic producers identified as subject to enforcement
35 by the department to the director for billing and fee collection.

36 46032. (a) The fees and penalties collected by the secretary
37 and county agricultural commissioners pursuant to this chapter
38 shall be deposited in the Department of Food and Agriculture Fund

1 and, upon appropriation by the Legislature, shall be expended
2 solely to fulfill the activities authorized under this chapter.

3 (b) By regulation, the secretary may establish procedures to
4 allow any fees and penalties collected by a county agricultural
5 commissioner pursuant to Section 46047 and any other penalties
6 collected by a county agricultural commissioner pursuant to this
7 chapter to be paid directly to the county agricultural commissioner
8 and expended to fulfill the responsibilities of the county agricultural
9 commissioner, as specified in this chapter.

10 (c) Any person subject to this chapter that does not pay the
11 registration fee within 10 days of the date on which the fee is due
12 and payable shall pay a penalty of 10 percent of the total amount
13 determined to be due plus interest at the rate of 1.5 percent per
14 month on the unpaid balance.

15 46033. (a) Any fee established and collected pursuant to this
16 chapter shall not exceed the department's cost or the county
17 agricultural commissioner's costs, as the case may be, of regulating
18 and enforcing the provisions of this chapter related to the function
19 for which the fee is established.

20 (b) The fees established and collected pursuant to this chapter
21 may be expended, under the advisement of the advisory committee,
22 for activities authorized under this chapter, including assisting
23 operations in achieving certification, conducting education and
24 outreach, entering research and development partnerships, and
25 addressing production or marketing obstacles to the growth of the
26 organic sector.

27

28 Article 5. Enforcement

29

30 46041. (a) This chapter shall apply notwithstanding any other
31 law that is inconsistent with this chapter. Nothing in this chapter
32 is intended to repeal any other law consistent with this chapter.

33 (b) Article 14 (commencing with Section 43031) of Chapter 2
34 applies to any product that is represented as organically produced
35 by any person who is not registered as required by this chapter or
36 any product that is not in compliance with this chapter or the NOP.

37 (c) The secretary, county agricultural commissioners, and the
38 director shall be considered enforcing officers for purposes of
39 those provisions of law under their respective jurisdiction.

1 ~~(d) Any person may file a complaint with the director concerning~~
2 ~~suspected noncompliance with this chapter or Article 7~~
3 ~~(commencing with Section 110810) of Chapter 5 of Part 5 of~~
4 ~~Division 104 of the Health and Safety Code by a person under the~~
5 ~~enforcement jurisdiction of the director, as provided in subdivision~~
6 ~~(e).~~

7 ~~(e) The director shall, to the extent funds are available, establish~~
8 ~~procedures for handling complaints, including provision of a~~
9 ~~written complaint form, and procedures for commencing an~~
10 ~~investigation within three working days after receiving a complaint~~
11 ~~regarding fresh food, and within seven working days for other~~
12 ~~food, and completing an investigation and reporting findings and~~
13 ~~enforcement action taken, if any, to the complainant within 60~~
14 ~~days thereafter.~~

15 ~~(f) The director may establish minimum information~~
16 ~~requirements to determine the verifiability of a complaint, and~~
17 ~~may provide for rejection of a complaint that does not meet the~~
18 ~~requirements. The director shall provide written notice of the~~
19 ~~reasons for rejection to the person filing the complaint.~~

20 ~~(g) The director shall carry out the functions and objectives of~~
21 ~~this chapter and Article 7 (commencing with Section 110810) of~~
22 ~~Chapter 5 of Part 5 of Division 104 of the Health and Safety Code,~~
23 ~~to the extent funds are available for those purposes.~~

24 ~~(h) A certified organic producer shall not be penalized if an~~
25 ~~accredited certifying agent fails to meet reporting requirements~~
26 ~~set forth in subdivision (b) of Section 46024.~~

27 ~~46042. At the request of a county agricultural commissioner,~~
28 ~~the district attorney for that county may bring an action to enforce~~
29 ~~this act within the enforcement jurisdiction of that commissioner.~~

30 ~~46043. (a) Any person may file a complaint with the secretary~~
31 ~~concerning suspected noncompliance with this act, as provided in~~
32 ~~regulations adopted by the NOP.~~

33 ~~(b) The secretary shall, to the extent funds are available,~~
34 ~~establish procedures for handling complaints, including provision~~
35 ~~of a written complaint form, and procedures for commencing an~~
36 ~~investigation within three working days after receiving a complaint~~
37 ~~regarding fresh food, and within seven working days for other~~
38 ~~products, and completing an investigation and reporting findings~~
39 ~~and enforcement action taken, if any, to the complainant within~~
40 ~~60 days thereafter.~~

1 ~~(e) The secretary may establish minimum information~~
 2 ~~requirements to determine the verifiability of a complaint, and~~
 3 ~~may provide for rejection of a complaint that does not meet the~~
 4 ~~requirements. The secretary shall provide written notice of the~~
 5 ~~reasons for rejection to the person filing the complaint.~~
 6 ~~(d) The secretary shall carry out the functions and objectives of~~
 7 ~~this chapter to the extent funds are available for those purposes.~~
 8 ~~(e) The complaint process in this state must also comply with~~
 9 ~~the complaint process outlined in regulations adopted by the NOP.~~
 10 ~~46044. (a) A county agricultural commissioner may, at any~~
 11 ~~time, initiate a notice and hearing process to determine whether a~~
 12 ~~violation of these provisions has occurred. The hearing process to~~
 13 ~~determine if a violation has occurred may include a review of the~~
 14 ~~actions or records of all of the following:~~
 15 ~~(1) The organic registrant.~~
 16 ~~(2) A family member, employee, or any other person authorized~~
 17 ~~to act on behalf of the registrant.~~
 18 ~~(3) Any other person whose actions may have resulted in the~~
 19 ~~violation.~~
 20 ~~(b) The notice of hearing shall be on a form approved by the~~
 21 ~~secretary that contains all of the following:~~
 22 ~~(1) The reasons why the hearing is being held.~~
 23 ~~(2) A warning that failure to participate may result in other~~
 24 ~~adverse actions or may be considered to be admission to a possible~~
 25 ~~violation.~~
 26 ~~(3) A hearing date, time, and location of the hearing.~~
 27 ~~(4) The secretary or county agricultural commissioner may,~~
 28 ~~upon determination that a violation has been made in accordance~~
 29 ~~with subdivision (a), take any corrective action as specified in this~~
 30 ~~act.~~
 31 ~~46045. (a) Any person may appeal to the secretary for a hearing~~
 32 ~~if aggrieved by either of the following actions or decisions:~~
 33 ~~(1) Denial of any registration.~~
 34 ~~(2) Revocation of any registration.~~
 35 ~~(b) The appeal shall be submitted to the secretary in writing~~
 36 ~~within 30 days of the date the action, or the letter proposing the~~
 37 ~~action. The secretary's proceeding shall, insofar as practicable,~~
 38 ~~comply with the provisions of the Administrative Procedure Act~~
 39 ~~(Chapter 5 (commencing with Section 11500) of Part 1 of Division~~

1 ~~3 of Title 2 of the Government Code), except that a department~~
2 ~~hearing officer may be used.~~

3 ~~46046. As provided for in regulations adopted by the NOP,~~
4 ~~the action proposed by a NOP accredited certification agency~~
5 ~~against a client may be appealed to the secretary for mediation.~~

6 ~~46047. (a) In lieu of prosecution, the secretary or a county~~
7 ~~agricultural commissioner may levy an administrative penalty~~
8 ~~against any person under the enforcement jurisdiction of the~~
9 ~~secretary as provided in Section 46000 who violates this act, or~~
10 ~~any regulation adopted pursuant thereto or pursuant to this chapter,~~
11 ~~or regulations adopted by the NOP, in an amount not more than~~
12 ~~five thousand dollars (\$5,000) for each violation. The amount of~~
13 ~~the penalty assessed for each violation shall be based upon the~~
14 ~~nature of the violation, the seriousness of the effect of the violation~~
15 ~~upon effectuation of the purposes and provisions of this chapter~~
16 ~~and the impact of the penalty on the violator, including the deterrent~~
17 ~~effect on future violations.~~

18 ~~(b) Notwithstanding the penalties prescribed in subdivision (a),~~
19 ~~if the secretary or county agricultural commissioner finds that a~~
20 ~~violation was not intentional, the secretary or county agricultural~~
21 ~~commissioner may levy an administrative penalty of not more than~~
22 ~~two thousand five hundred dollars (\$2,500) for each violation.~~

23 ~~(c) For a first offense, in lieu of an administrative penalty as~~
24 ~~prescribed in subdivision (a) or (b), the secretary or county~~
25 ~~agricultural commissioner may issue a notice of violation if he or~~
26 ~~she finds that the violation is minor.~~

27 ~~(d) A person against whom an administrative penalty is proposed~~
28 ~~shall be afforded an opportunity for a hearing before the secretary~~
29 ~~or county agricultural commissioner, upon request made in writing~~
30 ~~within 30 days after the issuance of the notice of penalty. At the~~
31 ~~hearing, the person shall be given the right to review the secretary's~~
32 ~~or commissioner's evidence of the violation and the right to present~~
33 ~~evidence on his or her own behalf. If no hearing is requested, the~~
34 ~~administrative penalty shall constitute a final and nonreviewable~~
35 ~~order.~~

36 ~~(e) If a hearing is held, review of the final decision of the~~
37 ~~secretary or county agricultural commissioner may be requested~~
38 ~~in writing by any person, pursuant to Section 1094.5 of the Code~~
39 ~~of Civil Procedure within 30 days of the date of the final order of~~
40 ~~the secretary or county agricultural commissioner.~~

1 ~~(f) An administrative penalty levied by the secretary pursuant~~
2 ~~to this section may be recovered in a civil action brought in the~~
3 ~~name of the state. An administrative penalty levied by a county~~
4 ~~agricultural commissioner pursuant to this section may be~~
5 ~~recovered in a civil action brought in the name of the county. After~~
6 ~~the exhaustion of the review procedures provided in this section,~~
7 ~~a county agricultural commissioner, or his or her representative,~~
8 ~~may file a certified copy of a final decision of the commissioner~~
9 ~~that directs the payment of an administrative penalty and, if~~
10 ~~applicable, a copy of any order that denies a petition for a writ of~~
11 ~~administrative mandamus with the clerk of the superior court of~~
12 ~~any county. Judgment shall be entered immediately by the clerk~~
13 ~~in conformity with the decision or order. Pursuant to Section 6103~~
14 ~~of the Government Code, no fees shall be charged by the clerk of~~
15 ~~the superior court for the performance of any official service~~
16 ~~required in connection with the entry of judgment pursuant to this~~
17 ~~section.~~

18 ~~(g) The secretary shall maintain in a central location, and make~~
19 ~~publicly available for inspection and copying upon request, a list~~
20 ~~of all administrative penalties levied by the secretary and by each~~
21 ~~county agricultural commissioner within the past five years,~~
22 ~~including the amount of each penalty, the person against whom~~
23 ~~the penalty was levied, and the nature of the violation. Copies of~~
24 ~~this list shall also be available by mail, upon written request and~~
25 ~~payment of a reasonable fee, as set by the secretary.~~

26 ~~46048. The secretary and the county agricultural commissioners~~
27 ~~may conduct a program of spot inspections to determine~~
28 ~~compliance with this act.~~

29 ~~46049. (a) It is unlawful for any person to sell, offer for sale,~~
30 ~~advertise, or label any product in violation of this act.~~

31 ~~(b) Notwithstanding subdivision (a), a person engaged in~~
32 ~~business as a handler, distributor, or retailer of food who in good~~
33 ~~faith sells, offers for sale, labels, or advertises any product in~~
34 ~~reliance on the representations of a producer, processor, or other~~
35 ~~distributor that the product may be sold as organic, shall not be~~
36 ~~found to violate this act unless the distributor either:~~

37 ~~(1) Knew or should have known that the product could not be~~
38 ~~sold as organic.~~

39 ~~(2) Was engaged in producing or processing the product.~~

1 ~~(3) Prescribed or specified the manner in which the product was~~
2 ~~produced or processed.~~
3 ~~46050. (a) It is unlawful for any person to certify any product~~
4 ~~in violation of this act.~~
5 ~~(b) It is unlawful for any person to certify a product or company~~
6 ~~as organic unless duly registered as a certification agency pursuant~~
7 ~~to this act.~~
8 ~~(c) It is unlawful for any person to willfully make a false~~
9 ~~statement or representation, or knowingly fail to disclose a fact~~
10 ~~required to be disclosed, in registration for a certification agency~~
11 ~~pursuant to this act.~~
12 ~~46051. (a) It is unlawful for any person to produce or handle~~
13 ~~any product sold as organic unless duly registered pursuant to~~
14 ~~Section 46021.~~
15 ~~(b) It is unlawful for any person to willfully make a false~~
16 ~~statement or representation, or knowingly fail to disclose a fact~~
17 ~~required to be disclosed, in registration pursuant to Section 46021.~~
18 ~~46052. It is unlawful for any person to forge, falsify, fail to~~
19 ~~retain, fail to obtain, or fail to disclose records pursuant to Section~~
20 ~~46055.~~
21 ~~46053. (a) It is unlawful for any person to advertise, label, or~~
22 ~~otherwise represent that any fertilizer or pesticide chemical may~~
23 ~~be used in connection with the production, processing, or~~
24 ~~distribution of products sold as organic if that fertilizer or pesticide~~
25 ~~chemical contains a prohibited substance.~~
26 ~~(b) It is unlawful for any person to refuse to submit for~~
27 ~~inspection.~~
28 ~~(c) It is unlawful for any person to mislabel any organic product.~~
29 ~~(d) It is unlawful for any person to alter any organic registration~~
30 ~~form.~~
31 ~~(e) It is unlawful for any person to alter any certification~~
32 ~~document.~~
33 ~~(f) It is unlawful for any person to falsify any document.~~
34 ~~(g) It is unlawful for any person to remove a hold off sale or~~
35 ~~disposal order from any lot of product.~~
36 ~~(h) It is unlawful to use the term “transitional organic” in this~~
37 ~~state.~~
38 ~~46054. No food or product may be advertised or labeled as~~
39 ~~“organic when available” or similar terminology that leaves in~~
40 ~~doubt whether the food is being sold as organic.~~

1 ~~46055. All persons who produce, handle, or retail products~~
2 ~~sold as organic and are exempt from organic certification under~~
3 ~~the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec.~~
4 ~~6501 et seq.) shall keep accurate and specific records as required~~
5 ~~by the secretary, in consultation with the advisory committee.~~
6 ~~Certified organic operations shall keep records required under the~~
7 ~~federal organic standards.~~

8 ~~46056. (a) Notwithstanding any other law, any producer,~~
9 ~~handler, processor, or retailer of product sold as organic shall~~
10 ~~immediately make available for inspection by, and shall upon~~
11 ~~request, within 72 hours of the request, provide a copy to, the~~
12 ~~secretary, the Attorney General, any prosecuting attorney, any~~
13 ~~governmental agency responsible for enforcing laws related to the~~
14 ~~production or handling of products sold as organic, of any record~~
15 ~~required to be kept under this section for purposes of carrying out~~
16 ~~this chapter. Records acquired pursuant to this chapter shall not~~
17 ~~be public records as that term is defined in Section 6252 of the~~
18 ~~Government Code and shall not be subject to Chapter 3.5~~
19 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~
20 ~~Government Code.~~

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

35 ~~(1) Records of a producer, as described in Section 46056.~~

36 ~~(2) Records of a handler, as described in Section 46056, records~~
37 ~~of previous handlers, if any, and producers as described in Section~~
38 ~~46056 without identifying the previous handlers or producers, and,~~
39 ~~if applicable, records obtained as required in this act.~~

1 ~~(3) (A) Records of a retailer, as described in Section 46056,~~
2 ~~records of previous handlers, if any, and producers as described~~
3 ~~in Section 46056 without identifying the previous processors,~~
4 ~~handlers, or producers, and, if applicable, records obtained as~~
5 ~~required in subdivision (d). This subdivision shall be the exclusive~~
6 ~~means of public access to records required to be kept by producers,~~
7 ~~processors, handlers, and retailers under this chapter.~~

8 ~~(B) A person required to provide records pursuant to a request~~
9 ~~under this subdivision, may petition the secretary to deny the~~
10 ~~request based on a finding that the request is of a frivolous or~~
11 ~~harassing nature. The secretary may, upon the issuance of this~~
12 ~~finding, waive the information production requirements of this~~
13 ~~subdivision for the specific request for information that was the~~
14 ~~subject of the petition.~~

15 ~~(c) Information specified in subdivision (b) that is required to~~
16 ~~be released upon request shall not be considered a “trade secret”~~
17 ~~under Section 110165, Section 1060 of the Evidence Code, or the~~
18 ~~Uniform Trade Secrets Act (Title 5 (commencing with Section~~
19 ~~3426) of Part 1 of Division 4 of the Civil Code).~~

20 ~~(d) The secretary may charge the person requesting records a~~
21 ~~reasonable fee to reimburse himself or herself or the source of the~~
22 ~~records for the cost of reproducing the records requested.~~

23 ~~(e) The secretary shall not be required to obtain records not in~~
24 ~~his or her possession in response to a subpoena. Before releasing~~
25 ~~records required to be kept pursuant to this act in response to a~~
26 ~~subpoena, the secretary shall delete any information regarding the~~
27 ~~identity of suppliers or customers and the quantity or price of~~
28 ~~supplies purchased or products sold.~~

29 ~~SEC. 4. Section 110810 of the Health and Safety Code is~~
30 ~~amended to read:~~

31 ~~110810. This article and Chapter 10 (commencing with Section~~
32 ~~46000) of Division 17 of the Food and Agricultural Code shall be~~
33 ~~known and may be cited as the California Organic Food and~~
34 ~~Farming Act.~~

35 ~~SEC. 5. Section 110812 of the Health and Safety Code is~~
36 ~~amended to read:~~

37 ~~110812. The director, in consultation with the Secretary of~~
38 ~~Food and Agriculture, shall enforce regulations promulgated by~~
39 ~~the National Organic Program (Section 6517 of the federal Organic~~
40 ~~Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)),~~

1 provisions of this article, and Chapter 10 (commencing with
2 Section 46000) of Division 17 of the Food and Agricultural Code.

3 ~~SEC. 6. Section 110815 of the Health and Safety Code is~~
4 ~~repealed.~~

5 ~~SEC. 7. Section 110815 is added to the Health and Safety Code,~~
6 ~~to read:~~

7 ~~110815. The definitions set forth in Section 46001 of the Food~~
8 ~~and Agricultural Code shall apply to this article.~~

9 ~~SEC. 8. Section 110860 of the Health and Safety Code is~~
10 ~~amended to read:~~

11 ~~110860. A registered certification agency or a federally~~
12 ~~accredited certification agency shall, at least annually, physically~~
13 ~~inspect the premises where the food to be certified is produced~~
14 ~~and processed. The inspection shall include an examination of~~
15 ~~recordkeeping.~~

16 ~~SEC. 9. Section 110870 of the Health and Safety Code is~~
17 ~~repealed.~~

18 ~~SEC. 10. Section 110875 of the Health and Safety Code is~~
19 ~~amended to read:~~

20 ~~110875. (a) A person certified under the National Organic~~
21 ~~Program shall be deemed registered for the purposes of the State~~
22 ~~Organic Program and shall not be required to separately register~~
23 ~~with the state.~~

24 ~~(b) Every person engaged in this state in the processing or~~
25 ~~handling of processed products for human consumption, including~~
26 ~~dietary supplements, alcoholic beverages, and fish or seafood sold~~
27 ~~as organic (except for processors and handlers of processed meat,~~
28 ~~fowl, or dairy products and retailers that are engaged in the~~
29 ~~processing or handling of products sold as organic), and every~~
30 ~~person engaged in the processing or handling of animal food and~~
31 ~~cosmetics sold as organic, shall register with the director, and shall~~
32 ~~thereafter annually renew the registration unless no longer so~~
33 ~~engaged. Handlers of processed food products that are registered~~
34 ~~with the department pursuant to Article 2 (commencing with~~
35 ~~Section 110460) shall register under this section in conjunction~~
36 ~~with the annual renewal of their registration pursuant to that article.~~
37 ~~Handlers of organic products that are required to be registered to~~
38 ~~manufacture, pack, or hold processed food pursuant to Article 2~~
39 ~~(commencing with Section 110460) of Chapter 5 of Part 5 of~~
40 ~~Division 104, licensed to bottle, vend, haul, or process water~~

1 pursuant to Article 12 (commencing with Section 11070) of
2 Chapter 5 of Part 5 of Division 104, certified to process or handle
3 fresh or frozen seafood or fresh or frozen raw shellfish pursuant
4 to Chapter 5 (commencing with Section 112150) of Part 6 of
5 Division 104, licensed to operate a cold storage facility pursuant
6 to Chapter 6 (commencing with Section 112350) of Part 6 of
7 Division 104, licensed to process low acid canned foods pursuant
8 to Chapter 8 (commencing with Section 112650) of Part 6 of
9 Division 104, licensed to manufacture olive oil pursuant to Chapter
10 9 (commencing with Section 112875) of Part 6 of Division 104,
11 and licensed or registered to process or hold pet food in California
12 pursuant to Chapter 10 (commencing with Section 113025) of Part
13 6 of Division 104, shall possess a valid registration or license in
14 order to obtain a valid organic registration for the same facility
15 under this section. All others required to register under this
16 subdivision shall register within 30 days of forms being made
17 available for this purpose. Any processor or handler of processed
18 products required to register under this subdivision that does not
19 pay the registration fee required by subdivision (d) within 30 days
20 of the date on which the fee is due and payable shall pay a penalty
21 of 1 ½ percent per month on the unpaid balance.

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

27 (1) The nature of the registrant's business, including the specific
28 commodities and quantities of each commodity that is handled
29 and sold as organic.

30 (2) The total current annual organic gross sales, or if not selling
31 the product, the total current gross annual revenue received from
32 processing, packaging, repackaging, labeling, or otherwise handling
33 organic products for others, in dollars.

34 (3) The names of all certification organizations and
35 governmental entities, if any, providing certification to the
36 registrant pursuant to this article and the regulations adopted by
37 the NOP.

38 (4) Sufficient information, under penalty of perjury, to enable
39 the director to verify the amount of the registration fee to be paid
40 in accordance with subdivision (d).

1 ~~(d) To the extent feasible, the director shall coordinate the~~
 2 ~~registration and fee collection procedures of this section with~~
 3 ~~similar licensing or registration procedures applicable to registrants.~~
 4 ~~When coordinating the organic registration with other required~~
 5 ~~registrations or licenses identified in subdivision (b), the expiration~~
 6 ~~date shall be the same expiration date as the valid license or~~
 7 ~~registration. For persons that hold two-year licenses or registrations~~
 8 ~~pursuant to subdivision (b), the organic registration shall be~~
 9 ~~renewed annually using the same expiration month and day as the~~
 10 ~~two-year license or registration.~~

11 ~~(e) A registration form shall be accompanied by payment of a~~
 12 ~~nonrefundable registration fee payable to the department by~~
 13 ~~handlers that shall be based on annual gross sales of organic~~
 14 ~~product or annual revenue received from processing, packaging,~~
 15 ~~repackaging, labeling, or otherwise handling organic product for~~
 16 ~~others, by the registrant in the calendar year that precedes the date~~
 17 ~~of registration. If no sales or revenue were made in the preceding~~
 18 ~~year, then based on the expected sales or revenue during the 12~~
 19 ~~calendar months following the date of registration.~~

20 ~~(f) The director, in consultation with the California Organic~~
 21 ~~Products Advisory Committee, may establish an annual fee for~~
 22 ~~processors and handlers for the purpose of funding the activities~~
 23 ~~authorized under this article, not to exceed the following amounts:~~
 24

25 Gross Annual Sales or	Annual Registration
26 Revenue	Fee
27 \$0-\$5,000	\$ 50
28 \$5,001-\$50,000	\$100
29 \$50,001-\$125,000	\$200
30 \$125,001-\$250,000	\$300
31 \$250,001-\$500,000	\$400
32 \$500,001-\$1,500,000	\$500
33 \$1,500,001-\$2,500,000	\$600
34 \$2,500,001-and above	\$700

35
 36 ~~(1) Any handler that does not take possession or title of the~~
 37 ~~product but arranges for the sale of the product shall register and~~
 38 ~~pay one hundred dollars (\$100) per year.~~

39 ~~(2) Any person that only provides temporary storage for seven~~
 40 ~~days or less, or only provides transportation for organic product~~

1 and does not handle the processed packaged product, does not
2 have to register.

3 (3) Any person that hires any other person to custom pack,
4 repack, or label organic products shall register and pay a fee based
5 on the total annual sales of products custom packed, repacked, or
6 labeled for them as outlined in the chart above.

7 (g) Revenue received pursuant to this section shall be deposited
8 in the Food Safety Fund created pursuant to Section 110050.

9 (h) The director shall reject a registration submission that is
10 incomplete or not in compliance with this article and regulations
11 promulgated by the NOP.

12 (i) The director shall provide a validated certificate to the
13 registrant.

14 (j) Registration forms shall be made available to the public for
15 inspection and copying at the main office of the department. Copies
16 of registration forms shall also be made available by mail, upon
17 written request and payment of a reasonable fee, as determined by
18 the director. Registration information regarding quantity of
19 products sold and gross sales volume in dollars shall be deleted
20 before public inspection and copying and shall not be released to
21 any person except other employees of the department, the
22 Department of Food and Agriculture, a county agricultural
23 commissioner, the Attorney General, any prosecuting attorney, or
24 any government agency responsible for enforcing laws related to
25 the activities of the person subject to this part.

26 (k) A registrant shall immediately notify the director of any
27 change in the information reported on the registration form and
28 shall pay any additional fee owed if that change results in a higher
29 fee owed than previously paid.

30 (l) The director in consultation with the California Organic
31 Products Advisory Committee, may suspend the registration
32 program set forth in this section if the director determines that
33 income derived from registration fees is insufficient to support a
34 registration enforcement program.

35 (m) A registration is considered legal and valid until revoked,
36 suspended, or until the expiration of the registration.

37 (n) The registration revocation process shall be in conjunction
38 with other provisions of this article. The director can initiate the
39 revocation process for failure to comply with this article or any
40 part of the regulations adopted pursuant to the NOP. Any person

1 against whom the action is being taken shall have the opportunity
2 to appeal the action and be afforded the opportunity to be heard
3 in an administrative appeal. This appeal can be administered by
4 either the state or county agricultural commissioner's office.

5 (o) ~~When the registration fee is not paid within 60 days from~~
6 ~~the expiration date the account may be considered closed and the~~
7 ~~registration voided. A notification shall be sent to the registrant~~
8 ~~and the certifier shall notify them that they are no longer able to~~
9 ~~market products as organic until the account is paid in full.~~

10 (p) ~~Any registration that is more than 60 days late shall be~~
11 ~~considered invalid and it is a violation if product is sold as organic.~~

12 ~~SEC. 11. Section 110920 of the Health and Safety Code is~~
13 ~~amended to read:~~

14 ~~110920. (a) The department shall use funds appropriated by~~
15 ~~the Legislature in the annual Budget Act from fees collected~~
16 ~~pursuant to Section 46031 of the Food and Agricultural Code to~~
17 ~~fulfill its obligations under this article.~~

18 ~~(b) No fee established and collected pursuant to this article shall~~
19 ~~exceed the department's costs of regulating and enforcing the~~
20 ~~provisions of this article related to the function for which the fee~~
21 ~~is established.~~

22 ~~SEC. 12. Section 110958 of the Health and Safety Code is~~
23 ~~repealed.~~

24 ~~SEC. 13. Section 110958 is added to the Health and Safety~~
25 ~~Code, to read:~~

26 ~~110958. (a) Annually, the department shall compile, publish,~~
27 ~~and submit to the California Organic Products Advisory Committee~~
28 ~~a summary of the following information:~~

29 ~~(1) Enforcement actions taken by the department in that fiscal~~
30 ~~year.~~

31 ~~(2) Accounting revenues received and expended by the~~
32 ~~department in implementing this article.~~

33 ~~(3) Gross annual sales of organic processed products.~~

34 ~~(b) The information shall be presented in an aggregate form that~~
35 ~~preserves the confidentiality of proprietary information of~~
36 ~~individual businesses.~~

37 ~~SEC. 14. If the Commission on State Mandates determines~~
38 ~~that this act contains costs mandated by the state, reimbursement~~
39 ~~to local agencies and school districts for those costs shall be made~~

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

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