

AMENDED IN ASSEMBLY APRIL 26, 2016

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**

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**Introduced by Assembly Member Mark Stone**

February 8, 2016

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An act to amend Sections 46000, 46001, 46002, 46003, 46004.1, 46007, 46010.5, 46012, 46013.1, 46013.2, 46014.1, 46014.2, 46014.4, 46014.6, *46016.4*, 46016.5, 46021, and 46028 of, and to add Section 46003.2 to, the Food and Agricultural 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, and the Director of the State Department of Public Health to enforce state and federal laws governing the production, labeling, and marketing of organic products, as ~~specified~~. Existing *specified*. 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 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~~ *Secretary* 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 create  
11 a framework whereby state organic program enforcement activities  
12 are designed to supplement National Organic Program-funded  
13 enforcement in California.

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

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

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

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

30 46001. This chapter shall be interpreted in conjunction with  
31 Article 7 (commencing with Section 110810) of Chapter 5 of Part  
32 5 of Division 104 of the Health and Safety Code and regulations  
33 adopted by the National Organic Program (Section 6517 of the  
34 federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501  
35 et seq.)).

36 SEC. 4. Section 46002 of the Food and Agricultural Code is  
37 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.

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

27 (c) The advisory committee shall be comprised of 15 members.  
28 Each member may have an alternate. Six members and their  
29 alternates shall be producers, at least one of whom shall be a  
30 producer of meat, fowl, fish, dairy products, or eggs. Two members  
31 and their alternates shall be processors, one member and his or her  
32 alternate shall be wholesale distributors, one member and his or  
33 her alternate shall be representatives of an accredited certifying  
34 agency operating in the state, one member and his or her alternate  
35 shall be consumer representatives, one member and his or her  
36 alternate shall be environmental representatives, two members and  
37 their alternates shall be technical representatives with scientific  
38 credentials related to agricultural chemicals, toxicology, or food  
39 science, and one member and his or her alternate shall be retail  
40 representatives. Except for the consumer, environmental, and

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

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

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

30 (f) The members of the advisory committee and their alternates  
31 shall be reimbursed for the reasonable expenses actually incurred  
32 in the performance of their duties, as determined by the advisory  
33 committee and approved by the secretary.

34 (g) The secretary or his or her representative, the State Public  
35 Health Officer or his or her representative, and a county agricultural  
36 commissioner may serve as ex officio members of the advisory  
37 committee.

38 SEC. 6. Section 46003.2 is added to the Food and Agricultural  
39 Code, to read:

1 46003.2. (a) To the extent that funds are available, the  
2 secretary, in consultation with the California Organic Products  
3 Advisory Committee, may establish procedures for and conduct  
4 all of the following activities:

5 (1) Receive and investigate complaints filed by any person  
6 concerning suspected acts of noncompliance with this act or federal  
7 organic standards.

8 (2) Conduct periodic spot inspections.

9 (3) Conduct periodic prohibited substance testing on products  
10 labeled as organic.

11 (4) Conduct farmers' market inspections.

12 (5) Expand, improve, and protect the production of organic  
13 products.

14 (6) Assist operations in achieving organic certification, including  
15 transition to organic.

16 (7) Provide technical assistance, education, outreach, and  
17 guidance to the organic industry.

18 (8) Reimbursement of investigation, enforcement, and market  
19 surveillance expenses, including expenses incurred by any county  
20 agricultural commissioner for actions conducted pursuant to this  
21 chapter.

22 (9) Conduct hearings, appeals, mediation, or settlement  
23 conferences from actions taken to enforce this chapter.

24 (b) Investigation, inspection, and prohibited material testing  
25 reports shall be forwarded to the secretary for any required  
26 enforcement action.

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

30 SEC. 7. Section 46004.1 of the Food and Agricultural Code is  
31 amended to read:

32 46004.1. Unless defined pursuant to the National Organic  
33 Program (NOP), the following words and phrases, when used in  
34 this act, shall have the following meanings:

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

38 (b) "Act" means the California Organic Food and Farming Act.  
39 It also means the federal Organic Foods Production Act of 1990  
40 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted pursuant

1 to the federal Organic Foods Production Act of 1990 (7 U.S.C.  
2 Sec. 6501 et seq.).

3 (c) “Categorical products” means categories of products of like  
4 commodity such as apples, salad products, etc. and does not require  
5 variety specific information.

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

11 (e) “Data” means the information provided annually by persons  
12 registered under the act, including certified organic acreage and  
13 gross sales of certified organic products.

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

15 (g) “Director” means the director and State Public Health Officer  
16 for the State Department of Public Health.

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

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

23 (j) “Exempt operation” means a production or handling operation  
24 that sells agricultural products but is exempt from certification  
25 under federal organic standards.

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

30 (l) “Federal organic standards” means the federal regulations  
31 governing production, labeling, and marketing of organic products  
32 as authorized by the federal Organic Foods Production Act of 1990  
33 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the  
34 National Organic Program (7 C.F.R. Sec. 205 et seq.), and any  
35 amendments to the federal act or regulations made subsequent to  
36 the enactment of this chapter.

37 (m) “Handle” means to sell, process, or package agricultural  
38 products.

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

4 (o) “Handling operation” means any operation or portion of an  
5 operation, except final retailers of agricultural products that do not  
6 process agricultural products that (1) receives or otherwise acquires  
7 agricultural products, and (2) processes, packages, or stores  
8 agricultural products.

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

12 (q) “National Organic Program” or “NOP” means the National  
13 Organic Program established pursuant to the federal Organic Foods  
14 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the  
15 regulations adopted for implementation.

16 (r) “Person” means any individual, firm, partnership, trust,  
17 corporation, limited liability company, company, estate, public or  
18 private institution, association, organization, group, city, county,  
19 city and county, political subdivision of this state, other  
20 governmental agency within the state, and any representative,  
21 agent, or agency of any of the foregoing.

22 (s) “Processing” means cooking, baking, heating, drying, mixing,  
23 grinding, churning, separating, extracting, cutting, fermenting,  
24 eviscerating, preserving, dehydrating, freezing, or otherwise  
25 manufacturing, and includes packaging, canning, jarring, or  
26 otherwise enclosing food in a container.

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

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

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

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



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

2 (y) “State Organic Program” or “SOP” means a state program  
3 that meets the requirements of Section 6506 of the federal Organic  
4 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), is  
5 approved by the Secretary of the United States Department of  
6 Agriculture, and is designed to ensure that a product that is sold  
7 or labeled as organically produced under the federal Organic Foods  
8 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) is produced  
9 and handled using organic methods.

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

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

13 46007. (a) Any penalties collected by the secretary and any  
14 fees collected by a county agricultural commissioner pursuant to  
15 this chapter shall be deposited in the Department of Food and  
16 Agriculture Fund and, upon appropriation by the Legislature, shall  
17 be expended solely to fulfill the responsibilities authorized under  
18 this chapter.

19 (b) Any fees and penalties collected by a county agricultural  
20 commissioner pursuant to Section 46017 and any other penalties  
21 collected by a county agricultural commissioner pursuant to this  
22 chapter shall be paid directly to the county agricultural  
23 commissioner and expended to fulfill the responsibilities of the  
24 county agricultural commissioner, as specified in this chapter.

25 (c) The secretary shall establish a specific minimum amount to  
26 be reimbursed to each county agricultural commissioner per  
27 registrant in that county. This reimbursement shall not limit the  
28 amount of the reimbursement otherwise made to county  
29 commissioners for their enforcement activities.

30 SEC. 9. Section 46010.5 of the Food and Agricultural Code is  
31 amended to read:

32 46010.5. (a) No fee established and collected pursuant to this  
33 chapter shall exceed the ~~department’s~~ *secretary’s* costs or the  
34 county agricultural commissioner’s costs, as the case may be, of  
35 regulating and enforcing the provisions of this chapter related to  
36 the function for which the fee is established.

37 (b) The fees established and collected pursuant to this chapter  
38 may be expended, under the advisement of the California Organic  
39 Products Advisory Committee, for activities authorized under this  
40 chapter, including assisting operations in achieving certification,

1 conducting education and outreach, entering research and  
2 development partnerships, and addressing production or marketing  
3 obstacles to the growth of the organic sector.

4 SEC. 10. Section 46012 of the Food and Agricultural Code is  
5 amended to read:

6 46012. Article 14 (commencing with Section 43031) of Chapter  
7 2 applies to any food product that is represented as organically  
8 produced by any person who is not registered as required by this  
9 chapter or any product that is not in compliance with this chapter  
10 or Article 7 (commencing with Section 110810) of Chapter 5 of  
11 Part 5 of Division 104 of the Health and Safety Code. The  
12 secretary, agricultural commissioners, and the director shall be  
13 considered enforcing officers for purposes of those provisions of  
14 law under their respective jurisdiction.

15 SEC. 11. Section 46013.1 of the Food and Agricultural Code  
16 is amended to read:

17 46013.1. (a) Every person engaged in this state in the  
18 production or handling of raw agricultural products sold as organic  
19 shall register with the ~~department~~ *secretary* before the first sale of  
20 the product. All processors of organic agriculturally derived  
21 products that are not required to be registered as outlined in  
22 subdivision (b) shall register with the secretary. Each registrant  
23 shall annually renew the registration with the ~~department~~ *secretary*  
24 unless no longer engaged in the activities requiring the registration.

25 (b) Every person engaged in this state in the processing or  
26 handling of processed products pursuant to Section 110460 of the  
27 Health and Safety Code, and pet food pursuant to Section 18653,  
28 and cosmetics pursuant to Section 111795 of the Health and Safety  
29 Code, including processors of alcoholic beverages, fish and  
30 seafood, shall register with the State Public Health Officer.

31 (c) Registration pursuant to this section shall be on a form either  
32 provided by the secretary or approved by the secretary and shall  
33 be valid for a period of one calendar year from the date of  
34 validation by the secretary or county agricultural commissioner  
35 of the completed registration form.

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

38 (1) The nature of the registrant's business, including the  
39 categorical products produced, handled, or processed that are sold

1 as organic. For the purposes of registration, organic products shall  
2 be categorized as follows:

- 3 (A) Citrus.
- 4 (B) Fruit and vegetable row crops.
- 5 (C) Livestock and dairy.
- 6 (D) Stone fruit.
- 7 (E) Tree fruit.
- 8 (F) Tree nuts.
- 9 (G) Other, which includes, but is not limited to, organic fallow  
10 ground, herbs and mushrooms, cut flowers, nursery, and apiaries.

11 (2) The address or assessor’s parcel number of the precise  
12 location or locations where the products are produced, processed,  
13 or handled.

14 (3) Sufficient information, under penalty of perjury, to enable  
15 the secretary to verify the amount of the registration fee to be paid  
16 in accordance with this act.

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

19 (e) (1) A registration form shall be accompanied by payment  
20 of a nonrefundable registration fee by producers, handlers, and  
21 processors, which shall be based on total gross sales by the  
22 registrant of product sold as organic in the calendar year that  
23 precedes the date of registration or, if no sales were made in the  
24 preceding year, then based on the expected sales during the 12  
25 calendar months following the date of ~~registration.~~ *registration in*  
26 *accordance with the following fee schedule.* The secretary, in  
27 consultation with the California Organic Products Advisory  
28 Committee, ~~shall establish the registration fee not to exceed the~~  
29 ~~amounts specified in the following schedule:~~ *may lower the*  
30 *amounts specified in the following fee schedule by regulation.*

	Gross Sales	Registration Fee
33	\$ 0 – 4,999	\$ 25
34	\$ 5,000 – 10,000	\$ 50
35	\$ 10,001 – 50,000	\$ 75
36	\$ 50,001 – 250,000	\$ 100
37	\$ 250,001 – 500,000	\$ 450
38	\$ 500,001 – 1,000,000	\$ 750
39	\$ 1,000,001 – 2,500,000	\$ 1,000
40	\$ 2,500,001 – 5,000,000	\$ 1,500

1	\$	5,000,001 – 15,000,000	\$	2,000
2	\$	15,000,001 – 25,000,000	\$	2,500
3	\$	25,000,001 – and above	\$	3,000

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

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

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

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

20 (6) The secretary may require any producer, handler, processor,  
21 or other organic registrant to provide the exact dollar amount of  
22 gross sales of twenty-five million one dollars (\$25,000,001) or  
23 more in lieu of the range specified in paragraph (1).

24 (f) The secretary may adopt regulations that supersede the terms  
25 of this section to the extent reasonably necessary to provide an  
26 online system of registration for those required to register pursuant  
27 to this section.

28 (g) The adoption, amendment, or repeal of any fee pursuant to  
29 this section shall not be subject to the requirements of Chapter 3.5  
30 (commencing with Section 11340) of Part 1 of Division 3 of Title  
31 2 of the Government Code. An order to adopt, amend, or repeal  
32 the regulations concerning assessment rates pursuant to this section  
33 shall be transmitted within 30 days by the secretary to the Office  
34 of Administrative Law. The Office of Administrative Law shall  
35 file the order promptly with the Secretary of State without further  
36 review pursuant to Article 6 (commencing with Section 11349) of  
37 Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government  
38 Code. The order shall do all of the following:

39 (1) Indicate that the regulations are being adopted, amended,  
40 or repealed pursuant to this chapter.

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

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

5 SEC. 12. Section 46013.2 of the Food and Agricultural Code  
6 is amended to read:

7 46013.2. (a) To the extent feasible, the secretary, in  
8 consultation with the director, shall coordinate the registration and  
9 annual fee collection procedures of this section with similar  
10 licensing or registration procedures applicable to registrants.

11 (b) The secretary or county agricultural commissioner shall  
12 deny a registration submission that is incomplete or not in  
13 compliance with this act.

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

18 (d) (1) At the request of any person, the ~~department~~ secretary  
19 or county agricultural commissioner shall provide the following:

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

21 (B) The nature of the registrant's business.

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

25 (2) The secretary or county agricultural commissioner may  
26 charge a reasonable fee for the cost of reproducing this information.  
27 Except as provided in this subdivision, a registration form is  
28 exempt from Chapter 3.5 (commencing with Section 6250) of  
29 Division 7 of Title 1 of the Government Code.

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

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

37 (g) The registration revocation process shall be in conjunction  
38 with other provisions of this act. The secretary or county  
39 agricultural commissioner's office may initiate the revocation  
40 process for failure to comply with the NOP or this act. 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 shall be administered by  
4 either the state or county agricultural commissioner's office.

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

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

16 SEC. 13. Section 46014.1 of the Food and Agricultural Code  
17 is amended to read:

18 46014.1. (a) Any certification agency that certifies product in  
19 this state sold as organic shall register with the secretary and shall  
20 thereafter annually renew the registration, unless the organization  
21 is no longer engaged in the activities requiring the registration.  
22 Registration shall be on a form provided by the secretary, shall  
23 include a copy of accreditation by the USDA or proof of  
24 application if applicable. The secretary, in consultation with the  
25 California Organic Products Advisory Committee, shall establish  
26 a registration fee not to exceed five hundred dollars (\$500) annually  
27 for certifying agencies operating within the state.

28 (b) Each certification agency shall pay to the secretary an annual  
29 registration fee of twenty-five dollars (\$25) for each client they  
30 have certified in this state up to a maximum of two hundred fifty  
31 dollars (\$250). Any registration submitted by a certification agency  
32 shall be made available to the public for inspection and copying.  
33 The secretary may audit the agency's certification procedures and  
34 records at any time, but any records of the certification agency not  
35 otherwise required to be disclosed shall be kept confidential by  
36 the secretary.

37 (c) An accredited certifying agency may submit an annual  
38 registration fee and application on behalf of their client provided  
39 that all of the information required under Section 46013.1 is

1 included when remitting applicable fees to the ~~department~~.  
2 *secretary*.

3 (d) The secretary and the county agricultural commissioners  
4 under the supervision of the secretary shall, if requested by a  
5 sufficient number of persons to cover the costs of the program in  
6 a county as determined by the secretary, establish a certification  
7 program. This program shall meet all of the requirements of this  
8 act. In addition, this program shall meet all of the requirements of  
9 the federal certification program, including federal accreditation.  
10 The secretary shall establish a fee schedule for participants in this  
11 program that covers all of the ~~department's~~ *secretary's* reasonable  
12 costs of the program. A county agricultural commissioner that  
13 conducts a voluntary certification program pursuant to this section  
14 shall establish a fee schedule for participants in this program that  
15 covers all of the county's reasonable costs of the program. The  
16 secretary ~~may~~ *shall* not expend funds obtained from registration  
17 fees collected under this chapter for the purposes of adopting or  
18 administering this program. The certification fee authorized by  
19 this subdivision is due and payable on January 1 or may be prorated  
20 before the 10th day of the month following the month in which  
21 the decision to grant the certification is issued. Any person who  
22 does not pay the amount that is due within the required period shall  
23 pay the enforcement authority providing the certificate a penalty  
24 of 10 percent of the total amount determined to be due, plus interest  
25 at the rate of 1.5 percent interest per month on the unpaid balance.

26 (e) Notwithstanding any other law, any certification agency that  
27 certifies product in this state sold as organic shall immediately  
28 make the following records available for inspection by, and shall  
29 upon request within ~~72 hours~~ *three business days* of the request  
30 provide a copy to, the secretary or county agricultural  
31 commissioner:

32 (1) Records obtained from applicants for certification and  
33 certified operations.

34 (2) Records created by the certifying agent regarding applicants  
35 for certification and certified operations.

36 (3) Any record required to be kept under the National Organic  
37 Program (Section 6517 of the federal Organic Foods Production  
38 Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and 7 C.F.R. 205 et seq.),  
39 Article 7 (commencing with Section 110810) of Chapter 5 of Part

1 5 of Division 104 of the Health and Safety Code, and this act  
2 applicable to any person selling products as organic.

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

7 SEC. 14. Section 46014.2 of the Food and Agricultural Code  
8 is amended to read:

9 46014.2. (a) All products sold as organic in California shall  
10 be certified by an accredited certifying agent if they are required  
11 to be certified under the federal act.

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

14 (c) A certification agency shall be accredited by the USDA as  
15 provided in the NOP.

16 SEC. 15. Section 46014.4 of the Food and Agricultural Code  
17 is amended to read:

18 46014.4. A registered certification agency shall submit to the  
19 secretary every January and June a list of all persons whose  
20 production or processing of product in California is certified. The  
21 list shall be publicly available within 30 days after the end of each  
22 filing period. A certifier that keeps a current list on ~~a~~ *an Internet*  
23 Web site available to the public may be deemed to meet this  
24 requirement.

25 SEC. 16. Section 46014.6 of the Food and Agricultural Code  
26 is amended to read:

27 46014.6. Only products that have been produced and handled  
28 in accordance with this act may be certified by a registered  
29 certification agency.

30 *SEC. 17. Section 46016.4 of the Food and Agricultural Code*  
31 *is amended to read:*

32 46016.4. The appeal shall be submitted to the secretary in  
33 writing within 30 days of the date the action, or the letter proposing  
34 the action. The secretary's proceeding shall, insofar as practicable,  
35 comply with the provisions of the Administrative Procedure Act,  
36 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
37 3 of Title 2 of the Government Code, except that a ~~department~~  
38 *Department of Food and Agriculture* hearing officer may be used.



1     ~~SEC. 17.~~

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

4     46016.5. As provided for in regulations adopted by the NOP,  
5 the action proposed by a NOP accredited certification agency  
6 against a client may be appealed to the secretary for mediation.

7     ~~SEC. 18.~~

8     *SEC. 19.* Section 46021 of the Food and Agricultural Code is  
9 amended to read:

10    46021. (a) It is unlawful for any person to certify any product  
11 in violation of this act.

12    (b) It is unlawful for any person to certify a product or company  
13 as organic unless duly registered as a certification agency pursuant  
14 to this act.

15    (c) 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 for a certification agency  
18 pursuant to this act.

19     ~~SEC. 19.~~

20     *SEC. 20.* Section 46028 of the Food and Agricultural Code is  
21 amended to read:

22     46028. All persons who produce, handle, or retail products that  
23 are sold as organic shall keep accurate and specific records as  
24 required by the secretary in consultation with the California  
25 Organic Products Advisory Committee.

26     ~~SEC. 20.~~

27     *SEC. 21.* If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.