

AMENDED IN SENATE JUNE 30, 2016  
AMENDED IN SENATE JUNE 15, 2016  
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 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 supporting organic agriculture through education, outreach, and other programmatic activities. 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. *Existing law requires a certification organization that certifies product in the state as organic to register with the secretary and to pay an annual registration fee based on the number of clients the organization has certified, up to a maximum of \$250.*

This bill would require those persons to instead register with the ~~Secretary of Food and Agriculture~~, *secretary*, 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 increase the maximum annual registration fee for certification agencies from \$250 to \$500.*

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~~ 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) 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 *(a) The California Organic Products Act of 1990 and the federal*  
15 *Organic Foods Production Act of 1990 were established to regulate*  
16 *organic agricultural products. Improved coordination between*  
17 *federal and state organic program enforcement will benefit*  
18 *producers and consumers.*

19 *(b) California is the “Capital of Organic Agriculture” in the*  
20 *United States and, in 2014, contributed 40 percent to the nation’s*  
21 *\$5.5 billion in organic crop and livestock sales. In 2015, California*  
22 *also realized over \$12.7 billion in gross organic product*  
23 *sales—\$2.9 billion in organic farm sales and \$9.8 billion in organic*  
24 *processed products. Nationally, sales of all organic products*  
25 *reached over \$43 billion in 2015.*

26 *(c) Organic soil-building practices enhance biodiversity,*  
27 *conserve natural resources, and contribute other public and*  
28 *environmental health benefits.*

1     *(d) Demand for organic products grew by 11 percent in 2015,*  
2     *far outpacing domestic supply. Streamlining and updating the state*  
3     *organic program will improve California competitiveness in this*  
4     *vital sector of the state's agricultural economy.*

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

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

11    (b) The secretary and county agricultural commissioners under  
12    the supervision and direction of the secretary shall enforce  
13    regulations adopted by the National Organic Program (NOP)  
14    (Section 6517 of the federal Organic Foods Production Act of 1990  
15    (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with  
16    Section 110810) of Chapter 5 of Part 5 of Division 104 of the  
17    Health and Safety Code and this act applicable to any person selling  
18    products as organic.

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

21    46001. This chapter shall be interpreted in conjunction with  
22    Article 7 (commencing with Section 110810) of Chapter 5 of Part  
23    5 of Division 104 of the Health and Safety Code and regulations  
24    adopted by the National Organic Program (Section 6517 of the  
25    federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501  
26    et seq.)).

27    SEC. 4. Section 46002 of the Food and Agricultural Code is  
28    amended to read:

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

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

38    (c) The purpose of the act shall be to do both of the following:

39    (1) Promote coordination of federal, state, and local agencies  
40    in implementing the National Organic Program.

1 (2) Support organic agriculture through education, outreach,  
2 and other programmatic activities.

3 (d) The secretary may receive and expend state and federal  
4 funds for activities authorized under this act.

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

7 46003. (a) The secretary shall establish an advisory committee,  
8 which shall be known as the California Organic Products Advisory  
9 Committee, for the purpose of advising the secretary with respect  
10 to his or her responsibilities under this act.

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

13 (c) The advisory committee shall be comprised of 15 members.  
14 Each member may have an alternate. Six members and their  
15 alternates shall be producers, at least one of whom shall be a  
16 producer of meat, fowl, fish, dairy products, or eggs. Two members  
17 and their alternates shall be processors, one member and his or her  
18 alternate shall be wholesale distributors, one member and his or  
19 her alternate shall be representatives of an accredited certifying  
20 agency operating in the state, one member and his or her alternate  
21 shall be consumer representatives, one member and his or her  
22 alternate shall be environmental representatives, two members and  
23 their alternates shall be technical representatives with scientific  
24 credentials related to agricultural chemicals, toxicology, or food  
25 science, and one member and his or her alternate shall be retail  
26 representatives. Except for the consumer, environmental, and  
27 technical representatives, the members of the advisory committee  
28 and their alternates shall have derived a substantial portion of their  
29 business income, wages, or salary as a result of services they  
30 provide that directly result in the production, handling, processing,  
31 or retailing of products sold as organic for at least three years  
32 preceding their appointment to the advisory committee. The  
33 consumer and environmental representatives and their alternates  
34 shall not have a financial interest in the direct sales or marketing  
35 of the organic product industry and shall be members or employees  
36 of representatives of recognized nonprofit organizations whose  
37 principal purpose is the protection of consumer health or protection  
38 of the environment. The technical representatives and their  
39 alternates shall not have a financial interest in the production,  
40 handling, processing, or marketing of the organic products industry.

1 The technical representatives may be involved in organic research  
2 or technical review providing they have no financial benefit from  
3 results of the research project or technical review.

4 (d) An alternate member shall serve at an advisory committee  
5 meeting only in the absence of, and shall have the same powers  
6 and duties as, the category whom he or she is representing as  
7 alternate, except for duties and powers as an officer of the  
8 committee. The number of alternates present who are not serving  
9 in the capacity of a member shall not be considered in determining  
10 a quorum.

11 (e) An alternate member may serve at an advisory committee  
12 subcommittee meeting only in the absence of, and shall have the  
13 same powers and duties as, the member whom he or she is  
14 designated as alternate, except for duties and powers as a  
15 subcommittee chairperson.

16 (f) The members of the advisory committee and their alternates  
17 shall be reimbursed for the reasonable expenses actually incurred  
18 in the performance of their duties, as determined by the advisory  
19 committee and approved by the secretary.

20 (g) The secretary or his or her representative, the State Public  
21 Health Officer or his or her representative, and a county agricultural  
22 commissioner may serve as ex officio members of the advisory  
23 committee.

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

26 46003.2. (a) To the extent that funds are available, the  
27 secretary, in consultation with the California Organic Products  
28 Advisory Committee, may establish procedures for and conduct  
29 all of the following activities:

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

33 (2) Conduct periodic spot inspections.

34 (3) Conduct periodic prohibited substance testing on products  
35 labeled as organic.

36 (4) Conduct farmers' market inspections.

37 (5) Support organic agriculture through education, outreach,  
38 and other programmatic activities.

39 (6) Reimburse investigation, enforcement, and market  
40 surveillance expenses, including expenses incurred by any county

1 agricultural commissioner for actions conducted pursuant to this  
2 chapter.

3 (7) Conduct hearings, appeals, mediation, or settlement  
4 conferences from actions taken to enforce this chapter.

5 (b) Investigation, inspection, and prohibited material testing  
6 reports shall be forwarded to the secretary for any required  
7 enforcement action.

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

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

13 46004.1. Unless defined pursuant to the National Organic  
14 Program (NOP), the following words and phrases, when used in  
15 this act, shall have the following meanings:

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

19 (b) “Act” means the California Organic Food and Farming Act.  
20 It also means the federal Organic Foods Production Act of 1990  
21 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted pursuant  
22 to the federal Organic Foods Production Act of 1990 (7 U.S.C.  
23 Sec. 6501 et seq.).

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

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

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

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

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

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

1 (i) “Exempt handler” means a handling 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 (j) “Exempt operation” means a production or handling operation  
6 that sells agricultural products but is exempt from certification  
7 under federal organic standards.

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

12 (l) “Federal organic standards” means the federal regulations  
13 governing production, labeling, and marketing of organic products  
14 as authorized by the federal Organic Foods Production Act of 1990  
15 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the  
16 National Organic Program (7 C.F.R. 205 et seq.), and any  
17 amendments to the federal act or regulations made subsequent to  
18 the enactment of this chapter.

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

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

24 (o) “Handling operation” means any operation or portion of an  
25 operation, except final retailers of agricultural products that do not  
26 process agricultural products that (1) receives or otherwise acquires  
27 agricultural products, and (2) processes, packages, or stores  
28 agricultural products.

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

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

36 (r) “Person” means any individual, firm, partnership, trust,  
37 corporation, limited liability company, company, estate, public or  
38 private institution, association, organization, group, city, county,  
39 city and county, political subdivision of this state, other

1 governmental agency within the state, and any representative,  
2 agent, or agency of any of the foregoing.

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

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

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

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

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

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 Foods  
29 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) is produced  
30 and handled using organic methods.

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

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

34 46007. (a) Any penalties collected by the secretary and any  
35 fees collected by a county agricultural commissioner pursuant to  
36 this chapter shall be deposited in the Department of Food and  
37 Agriculture Fund and, upon appropriation by the Legislature, shall  
38 be expended solely to fulfill the responsibilities authorized under  
39 this chapter.

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

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

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

14 46010.5. (a) No fee established and collected pursuant to this  
15 chapter shall exceed the secretary's costs or the county agricultural  
16 commissioner's costs, as the case may be, of regulating and  
17 enforcing the provisions of this chapter related to the function for  
18 which the fee is established.

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

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

28 46012. Article 14 (commencing with Section 43031) of Chapter  
29 2 applies to any food product that is represented as organically  
30 produced by any person who is not registered as required by this  
31 chapter or any product that is not in compliance with this chapter  
32 or Article 7 (commencing with Section 110810) of Chapter 5 of  
33 Part 5 of Division 104 of the Health and Safety Code. The  
34 secretary, agricultural commissioners, and the director shall be  
35 considered enforcing officers for purposes of those provisions of  
36 law under their respective jurisdiction.

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

39 46013.1. (a) Every person engaged in this state in the  
40 production or handling of raw agricultural products sold as organic

1 shall register with the secretary before the first sale of the product.  
2 All processors of organic agriculturally derived products that are  
3 not required to be registered as outlined in subdivision (b) shall  
4 register with the secretary. Each registrant shall annually renew  
5 the registration with the secretary unless no longer engaged in the  
6 activities requiring the registration.

7 (b) Every person engaged in this state in the processing or  
8 handling of processed products pursuant to Section 110460 of the  
9 Health and Safety Code, and pet food pursuant to Section 18653,  
10 and cosmetics pursuant to Section 111795 of the Health and Safety  
11 Code, including processors of alcoholic beverages, fish, and  
12 seafood, shall register with the State Public Health Officer.

13 (c) Registration pursuant to this section shall be on a form either  
14 provided by the secretary or approved by the secretary and shall  
15 be valid for a period of one calendar year from the date of  
16 validation by the secretary of the completed registration ~~form~~. *form*  
17 *or for a period determined by the secretary to promote*  
18 *coordination with organic certification applications and renewals,*  
19 *organic certification cost share programs, and other state program*  
20 *registration.*

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

23 (1) The nature of the registrant's business, including the  
24 categorical products produced, handled, or processed that are sold  
25 as organic. For the purposes of registration, organic products shall  
26 ~~be categorized as follows:~~ *reported in accordance with the*  
27 *following specified categories unless the secretary, in consultation*  
28 *with the California Organic Products Advisory Committee,*  
29 *establishes different categories:*

30 (A) Citrus.

31 (B) ~~Fruit and vegetable row crops.~~ *Fruits, excluding citrus.*

32 (C) Livestock ~~and~~ or dairy.

33 ~~(D) Stone fruit.~~

34 ~~(E) Tree fruit.~~

35 ~~(F) Tree nuts.~~

36 (D) *Nuts.*

37 (E) *Vegetables.*

38 ~~(G)~~

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

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

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

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

12 (e) (1) A registration form shall be accompanied by payment  
13 of a nonrefundable registration fee by producers, handlers, and  
14 processors, which shall be based on total gross sales by the  
15 registrant of product sold as organic in the calendar year that  
16 precedes the date of registration or, if no sales were made in the  
17 preceding year, then based on the expected sales during the 12  
18 calendar months following the date of registration in accordance  
19 with the following fee schedule. The secretary, in consultation  
20 with the California Organic Products Advisory Committee, may  
21 lower the amounts specified in the following fee schedule by  
22 regulation.

	Gross Sales	Registration Fee
24		
25	\$ 0 – 4,999	\$ 25
26	\$ 5,000 – 10,000	\$ 50
27	\$ 10,001 – 50,000	\$ 75
28	\$ 50,001 – 250,000	\$ 100
29	\$ 250,001 – 500,000	\$ 450
30	\$ 500,001 – 1,000,000	\$ 750
31	\$ 1,000,001 – 2,500,000	\$ 1,000
32	\$ 2,500,001 – 5,000,000	\$ 1,500
33	\$ 5,000,001 – 15,000,000	\$ 2,000
34	\$ 15,000,001 – 25,000,000	\$ 2,500
35	\$ 25,000,001 – and above	\$ 3,000

36  
37 (2) Producers that sell processed product shall pay fees based  
38 on the value of raw product before being processed and the value  
39 of any product sold as unprocessed.

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

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

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

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

17 (f) The secretary may adopt regulations that supersede the terms  
18 of this section to the extent reasonably necessary to provide an  
19 online system of registration for those required to register pursuant  
20 to this section.

21 (g) The adoption, amendment, or repeal of any fee pursuant to  
22 this section shall not be subject to the requirements of Chapter 3.5  
23 (commencing with Section 11340) of Part 1 of Division 3 of Title  
24 2 of the Government Code. An order to adopt, amend, or repeal  
25 the regulations concerning assessment rates pursuant to this section  
26 shall be transmitted within 30 days by the secretary to the Office  
27 of Administrative Law. The Office of Administrative Law shall  
28 file the order promptly with the Secretary of State without further  
29 review pursuant to Article 6 (commencing with Section 11349) of  
30 Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government  
31 Code. The order shall do all of the following:

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

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

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

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

1 46013.2. (a) To the extent feasible, the secretary, in  
2 consultation with the director, shall coordinate the registration and  
3 annual fee collection procedures of this section with similar  
4 licensing or registration procedures applicable to registrants.

5 (b) The secretary shall deny a registration submission that is  
6 incomplete or not in compliance with this act.

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

11 (d) (1) At the request of any person, the secretary or county  
12 agricultural commissioner shall provide the following:

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

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

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

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

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

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

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

38 (h) When the registration fee is not paid within 60 days from  
39 the expiration date, the account shall be considered closed and the  
40 registration voided. A notification shall be sent to the registrant

1 and the certifier, if applicable, notifying them the registrant is no  
2 longer able to market products as organic until the account is paid  
3 in full.

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

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

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

21 (b) Each certification agency shall pay to the secretary an annual  
22 registration fee of twenty-five dollars (\$25) for each client they  
23 have certified in this state up to a maximum of ~~two hundred fifty~~  
24 ~~dollars (\$250).~~ *five hundred dollars (\$500)*. Any registration  
25 submitted by a certification agency shall be made available to the  
26 public for inspection and copying. The secretary may audit the  
27 agency's certification procedures and records at any time, but any  
28 records of the certification agency not otherwise required to be  
29 disclosed shall be kept confidential by the secretary.

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

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

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

17 (e) Notwithstanding any other law, any certification agency that  
 18 certifies product in this state sold as organic shall immediately  
 19 make the following records available for inspection by, and shall  
 20 upon request within three business days of the ~~request~~ *request, or*  
 21 *within a reasonable time exceeding three business days as*  
 22 *determined by the secretary*, provide a copy to, the secretary or  
 23 county agricultural commissioner:

24 (1) Records obtained from applicants for certification and  
 25 certified operations.

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

28 (3) Any record required to be kept under the National Organic  
 29 Program (Section 6517 of the federal Organic Foods Production  
 30 Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and 7 C.F.R. 205 et seq.),  
 31 Article 7 (commencing with Section 110810) of Chapter 5 of Part  
 32 5 of Division 104 of the Health and Safety Code, and this act  
 33 applicable to any person selling products as organic.

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

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

1 46014.2. (a) All products sold as organic in California shall  
2 be certified by an accredited certifying agent if they are required  
3 to be certified under the federal act.

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

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

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

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

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

19 46014.6. Only products that have been produced and handled  
20 in accordance with this act may be certified by a registered  
21 certification agency.

22 SEC. 17. Section 46016.4 of the Food and Agricultural Code  
23 is amended to read:

24 46016.4. The appeal shall be submitted to the secretary in  
25 writing within 30 days of the date of the action or the letter  
26 proposing the action. The secretary's proceeding shall, insofar as  
27 practicable, comply with the provisions of the Administrative  
28 Procedure Act, Chapter 5 (commencing with Section 11500) of  
29 Part 1 of Division 3 of Title 2 of the Government Code, except  
30 that a Department of Food and Agriculture hearing officer may be  
31 used.

32 SEC. 18. Section 46016.5 of the Food and Agricultural Code  
33 is amended to read:

34 46016.5. As provided for in regulations adopted by the NOP,  
35 the action proposed by an NOP accredited certification agency  
36 against a client may be appealed to the secretary for mediation.

37 SEC. 19. Section 46021 of the Food and Agricultural Code is  
38 amended to read:

39 46021. (a) It is unlawful for any person to certify any product  
40 in violation of this act.

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

4 (c) It is unlawful for any person to willfully make a false  
5 statement or representation, or knowingly fail to disclose a fact  
6 required to be disclosed, in registration for a certification agency  
7 pursuant to this act.

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

10 46028. All persons who produce, handle, or retail products that  
11 are sold as organic shall keep accurate and specific records as  
12 required by the secretary in consultation with the California  
13 Organic Products Advisory Committee.

14 SEC. 21. If the Commission on State Mandates determines  
15 that this act contains costs mandated by the state, reimbursement  
16 to local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.