



| | | | | | | |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|
| Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|

AB-1826 Organic products. (2015-2016)

SHARE THIS:  

Assembly Bill No. 1826

CHAPTER 403

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.

[Approved by Governor September 21, 2016. Filed with Secretary of State September 21, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, 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.

This 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, 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

(b) California is the "Capital of Organic Agriculture" in the United States and, in 2014, contributed 40 percent to the nation's \$5.5 billion in organic crop and livestock sales. In 2015, California also realized over \$12.7 billion in gross organic product sales—\$2.9 billion in organic farm sales and \$9.8 billion in organic processed products. Nationally, sales of all organic products reached over \$43 billion in 2015.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The advisory committee shall be comprised of 15 members. Each member may have an alternate. Six members and their alternates shall be producers, at least one of whom shall be a producer of meat, fowl, fish, dairy products, or eggs. Two members and their alternates shall be processors, one member and his or her alternate shall be wholesale distributors, one member and his or her alternate shall be representatives of an accredited certifying agency operating in the state, one member and his or her alternate shall be consumer representatives, one member and his or her alternate shall be environmental representatives, two members and their alternates shall be technical representatives with scientific credentials related to agricultural chemicals, toxicology, or food science, and one member and his or her alternate shall be retail representatives. Except for the consumer, environmental, and technical representatives, the members of the advisory committee and their alternates shall have derived a substantial portion of their business income, wages, or salary as a result of services they provide that directly result in the production, handling, processing, or retailing of products sold as organic for at least three years preceding their appointment to the advisory committee. The consumer and environmental representatives and their alternates shall not have a financial interest in the direct sales or marketing of the organic product industry and shall be members or employees of representatives of recognized nonprofit organizations whose principal purpose is the protection of consumer health or protection of the environment. The technical representatives and their alternates shall not have a financial interest in the production, handling, processing, or marketing of the organic products industry. The technical representatives may be involved in organic research or technical review providing they have no financial benefit from results of the research project or technical review.

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

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

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

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

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

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

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

(2) Conduct periodic spot inspections.

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

(4) Conduct farmers' market inspections.

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

(6) Reimburse investigation, enforcement, and market surveillance expenses, including expenses incurred by any county agricultural commissioner for actions conducted pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) "Handle" means to sell, process, or package agricultural products.

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

(o) "Handling operation" means any operation or portion of an operation, except final retailers of agricultural products that do not process agricultural products that (1) receives or otherwise acquires agricultural products, and (2) processes, packages, or stores agricultural products.

(p) "Inspection" means the act of examining and evaluating production or handling operation to determine compliance with state and federal law.

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

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

(s) "Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes packaging, canning, jarring, or

otherwise enclosing food in a container.

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

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

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

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

(x) "Secretary" means the Secretary of Food and Agriculture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Citrus.

(B) Fruits, excluding citrus.

(C) Livestock or dairy.

(D) Nuts.

(E) Vegetables.

(F) Other, which includes, but is not limited to, apiculture, organic fallow ground, herbs, mushrooms, cut flowers, and nursery.

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

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

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

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

| Gross Sales | | Registration Fee | |
|-------------|------------------------|------------------|-------|
| \$ | 0– 4,999 | \$ | 25 |
| \$ | 5,000– 10,000 | \$ | 50 |
| \$ | 10,001– 50,000 | \$ | 75 |
| \$ | 50,001– 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 |

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The name and address of the registrant.

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

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

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

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

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

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

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

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

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

46014.1. (a) Any certification agency that certifies product in this state sold as organic shall register with the secretary and shall thereafter annually renew the registration, unless the organization is no longer engaged in the activities requiring the registration. Registration shall be on a form provided by the secretary, shall include a copy of accreditation by the USDA or proof of application if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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