

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE
Revised

House Bill 994 (Chairman, Environmental Matters Committee)
 (Departmental – Agriculture)
 Environmental Matters Education, Health, and Environmental Affairs

Organically Produced Commodities

This departmental bill modifies the provisions of law relating to the Maryland Department of Agriculture’s (MDA) certification program governing organically produced commodities.

The bill takes effect June 1, 2002.

Fiscal Summary

State Effect: Special fund expenditures would increase by \$22,800 in FY 2003 to meet federal requirements as required by the bill; special fund revenues will increase by an offsetting amount from an increase in fees under the certification program. Out-year estimates reflect an increase in the number of producers participating in the program.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	\$22,800	\$26,400	\$30,000	\$33,600	\$37,200
SF Expenditure	22,800	26,400	30,000	33,600	37,200
Net Effect	\$0	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: MDA has determined that this bill will have a meaningful impact on small business (attached). Legislative Services concurs with that assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The program, as amended by the bill, would cover the production and handling of organic agricultural commodities as opposed to covering the production, processing, and distribution of organically produced commodities. The bill modifies the existing certification program as follows:

- repeals a provision relating to the adoption of regulations for the existing program and provides that MDA must adopt regulations creating a program that meets the requirements of the federal Organic Food Production Act;
- specifies that producers and handlers may apply for certification under the program;
- modifies the requirements MDA must establish regarding certification;
- repeals existing fee provisions and directs MDA to set a reasonable fee, not to exceed \$500, to defray the cost of conducting field inspections and lab analysis as required by the U.S. Department of Agriculture's (USDA) organic food program for accredited certifying agents; and
- provides for confidentiality of specified records under the program.

Current Law: MDA is required to establish a certification program governing organically produced commodities. MDA must establish regulations creating a program under which products may be certified and labeled as organically produced commodities. MDA may:

- issue permits to producers, processors, or distributors who apply for certification;
- establish requirements governing the production, processing, or distribution of commodities certified by MDA as organically produced;
- adopt logos for organically produced commodities certified by MDA; and
- deny, suspend, or revoke the permit of any producer, processor, or distributor who violates any regulations adopted by MDA.

An applicant for initial certification as a producer must pay a deposit of \$300 to be applied to costs of inspection and testing. If an applicant is rejected or withdraws the application, the deposit must be refunded to the applicant, less the cost of administration, inspection, and testing. The annual renewal fee for a producer is \$100. The annual permit fee for a processor of organic commodities is \$100, and the annual permit fee for a distributor or retailer is \$75. Permits and certifications expire one year from the date of issuance. The Secretary of Agriculture must establish procedures for the issuance of permits and certifications.

Background: The Maryland Organic Certification program (OCP) was established in 1991 to encourage the development of the State's organic food industry. OCP provides certification services and marketing support to organic producers and handlers, and assurances to customers that state that certified organic producers and handlers are adhering to a uniform set of standards. OCP services include providing information about organic standards to new and renewing farmers, receiving and reviewing certification applications, and conducting on-farm inspections and audits of records. MDA has adopted regulations governing production and distribution of organic products and organic certification standards. MDA advises that currently there are 72 certified farm operators.

In October 2002, regulations promulgated by USDA under the federal Organic Food Production Act of 1990 will supercede the State's organic laws and regulations. States have been asked to begin taking steps to meet the new federal standards so that they will be prepared to meet the October 2002 deadline. This legislation will allow MDA to meet the federal requirements. If the State certification program is not accredited by USDA, organic operations will have to turn to privately operated certification programs, which, according to MDA, cost substantially more than the State's program.

The existing certification fees have not changed since OCP's inception. According to MDA, this has hampered OCP's ability to operate effectively and is a particular concern now that USDA standards will impose additional record keeping requirements and enforcement responsibilities. MDA advises that any fee changes will be made in consultation with the Maryland Organic Certification Advisory Committee, which consists of representatives from the organic industry, consumers, and natural resource and technical experts.

State Fiscal Effect: Special fund expenditures for MDA to operate the certification program would increase by an estimated \$22,800 in fiscal 2003 in order to meet the USDA requirements for an accredited organic certifying agent. Based on the expected expenditure increases over the next five years, MDA anticipates adopting regulations that establish an annual fee of \$400 for new and renewing producers in order to offset the costs of the federal requirements, as provided by the bill. (Under current law, MDA charges a fee of \$300 for new applicants and \$100 for renewals.) Currently, there are approximately 72 certified producers; an estimated 12 new producers become certified each year. Based on that information, special fund revenues would increase by an estimated \$22,800 in fiscal 2003, as shown below:

<u>Fiscal Year</u>	<u>Applicants</u>	<u>Current Revenue</u>	<u>Proposed Revenue</u>	<u>Increase</u>
2003	84	\$10,800	\$33,600	\$22,800
2004	96	12,000	38,400	26,400
2005	108	13,200	43,200	30,000
2006	120	14,400	48,000	33,600
2007	132	15,600	52,800	37,200

Out-year estimates reflect an additional 12 applicants each year, but do not reflect any increase in fees above the anticipated level (\$400). If MDA increases its fees above that level, special fund revenues would increase accordingly.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2002
ncs/cer Revised - House Third Reader - March 26, 2002

Analysis by: Lesley Frymier

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510