

AN ACT

RELATING TO AGRICULTURE; AMENDING SECTIONS OF THE ORGANIC
COMMODITY ACT TO COMPLY WITH FEDERAL REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 76-22-5 NMSA 1978 (being Laws 1990, Chapter 122,
Section 5) is amended to read:

"76-22-5. ORGANIC MARKET DEVELOPMENT FUND CREATED.--There
is created in the state treasury the "organic market development fund". No money
appropriated to this fund or accruing to it through cooperative research agreements,
gifts, grants, bequests, including bequests from a private, public, nonprofit or any
other source, advertising, fees from conferences or workshops, civil penalties, sales
of promotional items or educational materials, speaker fees, agricultural input
approval fees, handbooks, grant administrative costs or any other sources, shall be
transferred to another fund or encumbered or disbursed in any manner except for
activities conducted pursuant to the Organic Commodity Act. The fund shall not
revert at the end of any fiscal year. All interest earned on the fund shall remain in
the fund. Disbursements from the fund shall be made only upon warrant drawn by
the secretary of finance and administration pursuant to vouchers signed by the
chairman of the commission or his designee for the purpose of paying the cost of
the commission's activities conducted pursuant to the Organic Commodity Act."

Section 2. Section 76-22-6 NMSA 1978 (being Laws 1990, Chapter 122,
Section 6, as amended) is amended to read:

"76-22-6. ORGANIC COMMODITY COMMISSION CREATED.--

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A. There is created the "organic commodity commission" to achieve the purposes set forth in Section 76-22-2 NMSA 1978.

B. The commission shall be composed of five members appointed by the governor with the advice and consent of the senate.

C. The commission shall elect one of its members to serve as chairman, one to serve as vice chairman, one to serve as secretary and one to serve as ombudsman. A majority of the members of the commission constitutes a quorum for the transaction of business.

D. All commission members shall be residents of New Mexico, and, if a commissioner is certified by the commission, that commissioner shall also be certified by another certifying agent.

E. The commission members shall serve staggered terms of four years with a minimum term of two years.

F. Members of the commission shall be compensated as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance."

Section 3. Section 76-22-14.1 NMSA 1978 (being Laws 2001, Chapter 157, Section 5) is amended to read:

"76-22-14.1. CERTIFYING AGENTS--REPORTS TO COMMISSION.--A certifying agent, other than the commission, that certifies any food article in New Mexico as being organically produced shall:

A. simultaneous with its issuance, report to the commission any information regarding denials of certification, notifications of noncompliance, notifications of noncompliance correction, notifications of proposed suspension or

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revocation and notifications of suspension or revocation sent to any person in New Mexico;

B. on January 2 of each year, submit to the commission a list, including the name, address and telephone number of each operation granted certification in New Mexico during the preceding year; and

C. pay an annual fee to the commission that shall reasonably reflect the cost of enforcing the Organic Commodity Act with respect to that certifying agent."

Section 4. Section 76-22-16 NMSA 1978 (being Laws 1990, Chapter 122, Section 16, as amended) is amended to read:

"76-22-16. LEVY OF ASSESSMENT--ORGANICALLY PRODUCED FOOD ARTICLES--SALES.--

A. The commission may impose and collect assessments as follows:

(1) producers and handlers shall be assessed at an annual rate not to exceed one-half percent of the total gross sales of the organically produced food articles;

(2) certified handling operations may be assessed at an annual rate of one-fourth percent of the total price of the services; and

(3) purveyors of materials as set forth in the federal materials list shall be registered with the commission and assessed at an annual rate not to exceed one-half percent of the total gross sales of the class of materials appearing on that list.

B. The commission, following notice and comment, may adjust the assessment rate up or down by no more than one hundred percent."

Section 5. Section 76-22-22 NMSA 1978 (being Laws 1990, Chapter 122,
Section 22) is amended to read:
"76-22-22. STATE ORGANIC CHEMIST--DUTIES.--The commission may
designate a "state organic chemist". The state organic chemist shall hold a doctoral
degree in chemistry or a related field and shall be knowledgeable and experienced
in the techniques used for testing soil and plant and animal tissue for pesticide and
fertilizer residues. The chemist may be an employee of a private laboratory or an
employee of an agency of the state. The chemist shall perform duties as prescribed
by the commission."

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