

REVIEW OF THE

CALIFORNIA STATE ORGANIC PROGRAM

CCOF • December 2015



Review of the California State Organic Program

Report Authors

Kelly Damewood
CCOF Policy Director

Jane Sooby
CCOF Policy Specialist

About CCOF

CCOF (California Certified Organic Farmers) is an organic certification agency, advocacy organization, and foundation. A small group of California farmers founded CCOF in 1973. Today, CCOF certifies and advocates on behalf of more than 3,000 certified organic members in 41 states and three countries, covering 2.1 million acres of productive farmland.

CCOF's mission is to advance organic agriculture for a healthy world.

We accomplish our purpose through organic certification, education, advocacy, and promotion. CCOF envisions a world where organic *is* the norm.

CCOF membership is diverse. From field to fork, we represent organic growers, livestock producers, ingredient suppliers, handlers, packaging companies, warehousing and storage facilities, brokers, wholesalers, private labelers, retailers, and restaurants. Collectively, our membership produces over 1,100 different organic crops, products, and services. CCOF also represents noncertified operations, such as organic consumers, who join CCOF as supporting members.

CCOF, Inc. Board of Directors

Phil LaRocca
Chair, LaRocca Vineyards

Malcolm Ricci
Vice Chair, Bolthouse Farms

Vernon Peterson
Treasurer, Abundant Harvest Organics

Stephanie Alexandre
Secretary, Alexandre Ecodairy Farms

Karen Archipley
Archi's Acres

Thaddeus Barsotti
Capay Organic and Farm Fresh to You

Grant Brians
Heirloom Organic Gardens

Andrea Davis-Cetina
Quarter Acre Farm

Randy Hansen
Stoney Point-Pine Ridge Orchards

Allen Harthorn
Harpos Organics

Neal MacDougall
California Polytechnic State University, San Luis Obispo

Eduardo Morales
Promotora Agrícola El Toro

Brad Samuelson
Corigin

Renee Thresher
Lundberg Family Farms

Cathy Calfo
Executive Director/CEO, CCOF, Inc.



Table of Contents

- Executive Summary 6**
- I. Introduction 7**
- II. Background and History 8**
- III. State Organic Program Structure 12**
- IV. Funding 15**
- V. State Organic Program Services and Activities 21**
- VI. Recommendation 29**
- Sources 31**
- Acknowledgments 32**
- Appendix A 34**



Executive Summary

CCOF prepared this report on the California State Organic Program (SOP) to address our members' ongoing concern that the SOP fees and reporting requirements duplicate those required by the National Organic Program (NOP). CCOF carefully reviewed the information set forth in the report and vetted potential reforms to the SOP with an advisory committee and diverse stakeholders.

To address duplicative, burdensome SOP fees and reporting requirements, CCOF recommends legislation to end SOP registration requirements and fee-based enforcement activities. CCOF also recommends reinvesting or refunding the existing SOP reserve for the benefit of California organic producers. Our recommendation is based on three fundamental findings:

- 1.** The SOP imposes unfair, duplicative fees on California's certified organic producers.
- 2.** The SOP imposes unnecessary reporting and verification hardships on California's certified organic producers.
- 3.** SOP fee-based enforcement activities are not justified under today's robust organic regulatory framework.

CCOF will work to establish legislation that ends SOP registration requirements and fee-based enforcement activities. Our goal is to ensure an equitable, meaningful regulatory framework that supports the integrity of organic production in California.

CHAPTER I.

Introduction

CCOF's *Review of the California State Organic Program* is a comprehensive report on the California State Organic Program (SOP). CCOF wrote this report to address our members' ongoing concerns that the SOP imposes unnecessary fees and requirements on organic producers, handlers, and processors in California. California is the only state with a state organic program, and CCOF members consistently express frustration that the SOP fees and reporting requirements duplicate those required by the National Organic Program (NOP). The purpose of the report is to guide CCOF and organic stakeholders in addressing these concerns.

This report begins with an analysis of the function of the SOP in the overall organic regulatory framework. Specifically, it details the SOP's history, structure, funding, services, and costs to organic operations. The report concludes with a recommendation to end state registration and fee-based enforcement activities and presents findings that support this recommendation.

CCOF wrote this report with an advisory team to ensure input of a broad range of stakeholders. The advisory committee includes certified organic producers, public officials, and other stakeholders. The advisory committee identified the scope of inquiry and reviewed drafts of the report.

In addition to the advisory committee, CCOF interviewed over 15 diverse stakeholders and reviewed multiple public documents, including laws and regulations that regulate certified organic production and marketing. CCOF interviewed public officials at the California Department of Food and Agriculture (CDFA) and the California Department of Public Health (CDPH); NOP public officials; California county agriculture commissioners and staff; organic farmers, handlers, and processors; and certification services experts. CCOF also reviewed the legislative history and mandates of the SOP and examined the SOP's budget and fee structures.

CCOF used a comprehensive methodology of interviews and document analysis to ensure a well-rounded report with high stakeholder engagement. As such, the *Review of the California State Organic Program* is a foundation for the organic community to understand the functions of the SOP, respond to concerns, and improve the regulatory framework of organic production in California.

CHAPTER II.

Background and History

This chapter reviews federal organic regulation and certification, defines State Organic Programs (SOPs), and reviews the history of organic regulation in California.

Overview of Federal Organic Regulation and Certification

The Organic Foods Production Act (OFPA), enacted under the 1990 Farm Bill, authorized the U.S. Department of Agriculture (USDA) to establish the National Organic Program (NOP). NOP sets regulations and guidance on certification, production, and labeling of organic products. NOP regulations are commonly referred to as the national organic standards.¹

Production or handling operations that sell, label, or represent products as organic must comply with the national organic standards. Additionally, operations with gross agricultural income from organic sales of more than \$5,000 must be certified organic by an accredited certification agent (ACA). Operations in states with SOPs must comply with any additional requirements that have been set by the SOP in addition to the national organic standards.

Accredited Certifying Agents (ACA)

NOP accredits ACAs to certify operations to the national organic standards. An ACA can be a private organization or a state or local agency. ACAs review organic system plans; annually inspect facilities; collect and analyze product samples for pesticide residues from 5% of their operations each year; investigate potential applications of prohibited substances (including drift); verify compliance with the organic standards and organic system plans; issue notices of noncompliance when they are discovered; evaluate actions taken to correct any noncompliances; and notify NOP of noncompliances.

State Organic Programs (SOP)

Under national organic standards, the NOP may allow a state to establish an SOP to regulate organic agricultural products produced and handled within the state. In 2003, the California Department of Food and Agriculture (CDFA) requested that NOP approve a California SOP. In 2004, NOP approved CDFA's request, and California is now the only state with an SOP.

An SOP may have more restrictive requirements than the national organic standards for producers operating in their state. NOP must approve more restrictive requirements based upon a compelling environmental condition or the necessity of specific production or handling practices particular to the state or region of the U.S.

The Difference Between an SOP and a State Certifying Agent

An SOP is not the same as a state organic certifying agent. California's SOP does not and never has offered organic certification services. Private certifiers, like CCOF, provide organic certification services throughout the state. In the absence of private certifiers, other states developed state certification services in their departments of agriculture. Some

¹ Code of Federal Regulations. Title 7, Subtitle B, Chapter I, Subchapter M, Part 205—National Organic Program.

states retain their certification services today. Whether private or publicly managed, an ACA must meet the same requirements under the NOP.

To comply with the SOP, California producers must register annually and pay a registration fee. To comply with the NOP, California operations must meet organic standards, and operations with gross agricultural income from organic sales of more than \$5,000 annually must be certified organic by an accredited certification agent (ACA).

The Differences Between a State ACA and an SOP

FUNCTION	STATE ACA	SOP
Provides certification services	Yes	No; but has the option to also be a certifier
Enforces federal and state organic standards	Partially	Yes
Able to impose additional requirements	No	Yes
Duties can be performed by private sector	Yes	No
Regulated as an Accredited Certifying Agent	Yes	Only if also provides certification services

History of Organic Regulation in California

California was one of the first states to regulate organic products. In 1979, California passed the Organic Food Act into law, which defined the term “organic.” In 1990, California amended the law to require organic operations to register with the state and pay an annual registration fee. The purpose of registration and fees was to create a regulatory framework to enforce California’s organic production requirements.

Also in 1990, the federal Organic Foods Production Act of 1990 (OFPA) was signed into law and created uniform regulation of organic sales and labeling throughout the United States. OFPA authorized the USDA’s NOP to regulate the sale and labeling of agricultural products as organic. NOP finalized the national organic standards in 2001. By 2002, organic operations, unless exempt, were required to be certified.

In 2003, California amended the state organic law to conform to OFPA and national organic standards. The new law was named the California Organic Products Act of 2003 (COPA). That same year, CDFA requested that NOP approve the existing registration and enforcement program in California as an SOP. NOP approved the application in 2004, and today the SOP enforces the national organic standards and state organic law.

Notably, NOP originally approved California’s SOP in 2004 without considering the registration and fee requirements as additional SOP requirements. However, NOP learned from a 2009 audit of its procedures that it was required to specifically approve fees and registration requirements for SOPs.

In 2010, CDFA formally requested and received NOP approval of California’s registration and fee requirements as additional requirements. In 2011, NOP issued a Policy Memorandum confirming approval of registration and fee requirements.

California’s SOP has four additional requirements:

1. Organic producers and handlers must register with their county agricultural commissioner;
2. Organic processors must register with California Department of Public Health (CDPH);

3. Organic producers, processors, and handlers must provide verification of SOP registration to their accredited certifying agent prior to granting or continuing organic certification; and
4. Accredited certifying agents must register with CDFA and pay registration fees.

Reforms to the SOP

In 2005, NOP conducted an onsite review of the SOP and found that it had not established enforcement and compliance procedures; however, these findings were not communicated to CDFA. In 2008, lack of consistent enforcement by SOP led CCOF to lodge a formal complaint with the NOP. A follow-up review of the SOP by NOP in 2009 revealed a number of issues. NOP found that SOP employees used outdated materials, including materials pre-dating the national organic standards. It also found that the SOP was not adequately regulating processed products, and SOP was not following correct procedures for noncompliances.

SOP had already initiated an internal improvement program in 2008. A significant outcome was the *Quality Systems Manual (QSM)*, which standardized enforcement procedures and communications templates.

In 2009, COPA was amended to reduce the registration information requirements for certified organic businesses.

In 2013, the SOP implemented an online database system. The web-based system is used by CDFA, the counties, and organic registrants. The online database system:

- ▶ Automates and consolidates registration, complaints, inspections, sampling, and non-compliances.
- ▶ Allows access to authorized users via any device that has wireless internet capability.
- ▶ Collects information in “real time.”

NOP will conduct its next audit of the SOP in September 2015, which will determine whether SOP must implement further reforms.

The SOP Today

All businesses marketing organic product in the state of California must register and pay a registration fee to the SOP. In 2015, 3,315 certified organic and 523 non-certified businesses are registered with the SOP, a total of 3,838 registrants. The SOP works with the NOP’s compliance division, and the NOP relies on the SOP to investigate all complaints, perform spot inspections, and conduct periodic residue samplings in California.

Summary

- ▶ An SOP is different than a state ACA because it does not certify operations. NOP approves an SOP to enforce national organic standards and an SOP may, upon approval, create and enforce additional state requirements.
- ▶ California has the first approved and only existing SOP. California’s SOP has additional requirements for organic producers operating within the state. It requires registration and registration fees for operations that sell or label agricultural products as organic.

- ▶ To sell or label agricultural products as organic, operations must be certified by an accredited certifying agent when they have annual organic sales greater than \$5,000. Anyone selling organic product in the state of California must also register with the state and pay a registration fee based on gross annual sales. In contrast, nonexempt operations in other states are only required to certify with an ACA.
- ▶ 3,838 organic businesses are registered with the SOP.

CHAPTER III.

State Organic Program Structure

The California Department of Food and Agriculture (CDFA) administers the SOP² but shares oversight of organic products with the California Department of Public Health (CDPH). CDFA regulates fresh organic products and CDPH regulates processed organic products. A memorandum of understanding (MOU) sets forth each agency's authority under federal and state law to conduct registration and enforcement activities.

CDFA and County Agricultural Commissioner Staff

The Director of CDFA's Inspection Services Division oversees the California State Organic Program (SOP).³ The Chief of the Inspection and Compliance Branch of the Inspection Services Division manages the organic program staff. Six full-time staff work on the organic program: one supervising special investigator, three special investigators, and two office technicians. One seasonal agricultural technician is also assigned to the organic program.

The SOP contracts with County Agricultural Commissioners (CACs) to carry out county-level verification and enforcement of organic regulations. In fiscal year (FY) 2014-15, 55 CACs contracted with the SOP, 51 of them with enforcement responsibilities. (The three counties that manage organic certification programs do not conduct organic enforcement because of potential conflicts of interest and one county has opted out of organic enforcement.)

The CDFA organic program also contracts other branch staff for work done on behalf of the organic program. The SOP pays branch staff on an hourly basis for services such as preparing the budget, managing contracts and finances, and answering phones.

Other contracted staff services include information technology (IT) and referral to the attorney general.

CDPH Staff

The Chief of the Food Safety Section of the Food & Drug Branch of CDPH's Division of Food, Drug & Radiation Safety oversees CDPH's side of the SOP. Unlike CDFA, CDPH does not assign specific staff to the SOP; CDPH estimates that the responsibilities related to the SOP spread across its staff is equivalent to the amount of work that would be performed by five full-time employees.⁴

In addition to the five full-time equivalents, CDPH contracts for IT and legal services.

California Organic Products Advisory Committee (COPAC)

Composition

The California Organic Foods Act of 1990 established what is now called the California Organic Products Advisory Committee (COPAC), a 15-member advisory board to advise

² Ultimately, state law assigns responsibility for enforcement of state and federal organic laws to the California Secretary of Agriculture and County Agricultural Commissioners under direction of the secretary.

³ CDFA is comprised of six divisions and other special programs. The SOP is housed in the Inspection and Compliance Branch of the Inspection Services Division.

⁴ Source: Interview with Patrick Kennelly, Chief of the Food Safety Section, California Dept. of Public Health, May 11, 2015.

the Secretary of Food and Agriculture on organic-related issues. By law, COPAC has six producer representatives, two processors, two technical representatives with scientific expertise, one retail and one wholesale distributor, two consumer advocates, and one environmental representative.

Appointment

The Secretary of Food and Agriculture appoints COPAC members. SOP staff solicit nominations from the organic community. COPAC reviews the nominations and forwards a list of recommended nominees to the secretary. Term limits were implemented in 2009 and now each member serves a three-year term and may serve two consecutive terms. After taking a year off from COPAC, a former member is eligible to reapply for a vacant seat.

Role

The advisory committee has advised the SOP on a wide range of topics, including how to structure registration forms, the amount of funds that should be held in reserve, and the SOP database features.

COPAC performs the following functions:

- ▶ Reviews CDFA and CDPH reports on their organic enforcement activities,
- ▶ Makes recommendations to the Secretary of Food and Agriculture on how to enhance organic enforcement,
- ▶ Informs the secretary of trends in the organic industry and changes in organic food laws, and
- ▶ Reviews the budget for the CDFA side of the SOP and recommends approval by the secretary.

COPAC meetings also provide the opportunity for SOP staff to share information with organic constituents.

Notably, COPAC does not have the same relationship to CDPH as it does to CDFA. For example, COPAC does not oversee the CDPH budget for SOP activities but it does oversee the CDFA budget. Additionally, the Director of the CDPH must issue an annual report to COPAC on specific elements of its organic program, including total gross annual sales of organic processed products. CDFA does not have the same reporting requirement but does report information to COPAC, including revenue from registrations, program budgets, and pesticide residue sampling logs.

Meetings

COPAC convenes three public meetings annually. (Prior to 2011, meetings were held quarterly.) Most meetings are held at a CDFA office in Sacramento. Since 2008, COPAC's first meeting of the year is held at the EcoFarm conference in January in Pacific Grove, California. The EcoFarm conference is generally more accessible to the public because it is a common gathering place for organic stakeholders from around the state.

Individuals can sign up to be on COPAC's list of interested parties and receive notification about upcoming meetings by sending an email to CDFA's Branch Analyst, Regs & Committees.⁵ Public notice of meetings and minutes from past meetings starting in 2008

⁵ Currently Laurel Rudolph, Laurel.Rudolph@cdfa.ca.gov

are posted on CDFA's Inspection Services Division's web page: <http://www.cdfa.ca.gov/is/uploader/postings/hearings/#Org>.

Summary

- ▶ The California Department of Food and Agriculture (CDFA) administers the SOP.
- ▶ Two agencies share oversight of organic products: CDFA and the California Department of Public Health (CDPH). Generally speaking, CDFA regulates fresh organic products and CDPH regulates processed organic products.
- ▶ CDFA has six full-time staff for the SOP.
- ▶ CDFA contracts with 55 county agricultural commissioners' offices to perform organic activities, 51 of which have enforcement responsibilities.
- ▶ CDPH spreads SOP responsibilities across its staff, which equals about 5 full-time employees.
- ▶ The SOP is advised by a 15-member advisory committee, COPAC.
- ▶ COPAC reviews and recommends approval of CDFA's SOP budget annually, but it does not review CDPH's SOP-related budget.

CHAPTER IV.

Funding

Sources of Revenue⁶

The primary source of funding for the California State Organic Program (SOP) is registration fees. Organic businesses must submit a nonrefundable registration fee with their annual registration. The registration fees are calculated based on gross sales of products sold as organic in the calendar year preceding the date of registration.

The following entities must register with the California Department of Food and Agriculture (CDFA) and pay a registration fee annually:

1. Every person engaged in production or handling of raw agricultural products sold as organic.
2. Retailers engaged in production or processing of products sold as organic.
3. Producers of dairy products, eggs, minimally processed meats, animals for slaughter, and butchered animals.

All other processors register with the California Department of Public Health (CDPH).

Registration Fees: CDFA

The California organic law sets forth a fee schedule for producers. The law specifies that those whose registration fee would be less than \$75 shall pay an initial fee of \$75 and each subsequent year pay a fee based on gross annual sales. After the first year, fees range from \$25 for those who have sales up to \$4,999 to \$3,000 for those who have sales of \$25,000,001 and above.

Accredited certification agents that certify product in the state must register and pay an annual fee of \$25 per certified client in the state, up to a maximum of \$250. There are 29 accredited certifiers who certify in California and they all register and pay a fee annually. These fees are not broken out as a separate line item in documentation of CDFA income. CDFA reports that certifier registration fees collected in 2015 total \$5,100.

See the following table for a list of other business categories required to register with the state and the associated fees.

⁶ The source of revenue information is the CDFA Organic Program budget, which is included as Appendix A to this report.

Additional Business Categories that Require CDFA Registration

CATEGORY OF REGISTRANT	FEE
Sellers of multi-ingredient products that contain less than 70% organic ingredients	\$100 or ½ amount from fee schedule, whichever is more
Producers that sell processed product	Fee based on the value of raw product prior to being processed and the value of any product sold as unprocessed
Any person that hires any other person for custom packing or labeling	Fee from fee schedule based on total sales of custom product
Handlers and packers outside of the jurisdiction of CDPH	\$100 per year
Commission merchants or brokers who only arrange for the sale of product	\$100 per year
Retail stores that handle or process organic products	\$100 for each store location that processes organic products onsite

Source: California Organic Products Act of 2003, Food and Agricultural Code, section 46013.1 (f)

Registration Fees: CDPH

The California organic law sets forth the fee schedule for processors. Fees range from \$50 (gross annual sales up to \$5,000) to \$700 (gross sales of \$2,500,001 and more).

Persons that hire other persons to custom pack, repack, or label organic products must register and pay fees based on total annual sales of those products according to this fee schedule. Handlers who do not take possession or title but arrange for sale of products must register and pay a flat fee of \$100 per year.

Revenue generated by the organic processor/handler registration program is deposited into the state's Food Safety Fund.⁷ The CDPH organic program does not have a stand-alone budget within the state budget; rather, it is included in the Food Safety Fund budget, which covers a range of programs managed by the department in addition to the organic program.⁸

Fees and Penalties

The SOP is also funded through civil penalties collected from operations found to be in violation of the state organic law and fees for payments received more than 10 days past their due date.

CDFA deposits collected fees and civil penalties for violations of the regulations into the General Fund. The California Legislature can then appropriate the funds to the SOP.⁹ Recent CDFA and CDPH budgets do not include an income line item for late fees or penalties. CDFA reports that it collected \$24,154 in late fees in fiscal year (FY) 2014-15.

Gas Tax

California collects taxes on gasoline sales. Every other year, the Secretary of Food and Agriculture and the Director of Transportation prepare a report estimating the amount of fuel used by agricultural off-highway use, and transfer a portion of collected gasoline taxes

⁷ California Organic Products Act of 2003, Health and Safety Code, section 110875(e).

⁸ Source: Patrick Kennelly, Chief of the Food Safety Section, California Dept. of Public Health.

⁹ California Organic Products Act of 2003, Health and Safety Code, section 110925.

to the CDFA Agriculture Fund. The SOP projects it will collect \$14,520 in Gas Tax funds in FY 2014-15.

Administrative Overhead from the National Organic Certification Cost Share Program

State agencies that administer the federal organic cost share program are allowed to claim up to 10% of the cost share funds disbursed in the state each year as administrative overhead. For FY 2014-15, the SOP estimates it will receive \$65,946 for administering the cost share program.

Expenditures

CDFA¹⁰

Projected expenditures for CDFA's organic program in FY 2014-15 total \$1,589,678. The top five expenditures are:

LINE ITEM	AMOUNT	DETAIL*
Personnel	\$595,000	CDFA has four investigators and two office staff, one of whom is responsible for administering the organic certification cost share program.
County contracts	\$220,000	CDFA contracts with counties to conduct enforcement activities. See <i>SOP Contracts with Counties</i> section below for details.
Chem lab charges	\$180,000	For full-spectrum pesticide residue analysis. Each sample costs approximately \$600 to analyze.
Indirect charges—Branch	\$174,000	For work done by different branch staff on behalf of the SOP.
Facilities	\$56,000	building and operating costs

*Source: Interview with Danny Lee, Supervising Special Investigator for the SOP.

CDPH¹¹

Expenditures for CDPH's organic program in FY 2013-14 (the most recent year for which expense information was provided) totaled \$707,373. The top five expenditures were:

LINE ITEM	AMOUNT
Personnel	\$557,000
Department overhead	\$51,400
Legal services	\$34,900
IT (data processing)	\$26,700
Facility operations	\$19,800

¹⁰ The source of expense information for the CDFA side of the SOP is the CDFA Organic Program budget, which is included as Appendix A to this report.

¹¹ Source: Patrick Kennelly, Chief of the Food Safety Section, California Dept. of Public Health, reported these estimated expenditures. Because the CDPH organic program does not have its own budget or specific organic personnel, these are estimates of expenses charged to the organic program and likely underestimate actual expenditures.

Income and Expenses

CDFA and CDPH income from registration fees exceeded expenditures in FY 2013-14 (FY 2013-2014 is the most recent year with available data for both programs).

Income and Expenses Reported by Each Agency for FY 2013-14

AGENCY	REGISTRATION FEES COLLECTED (INCLUDES LATE FEES)	DOCUMENTED EXPENDITURES	AMOUNT OF FEES LESS EXPENDITURES
CDFA	\$1,420,871	\$1,252,918	\$167,953
CDPH	\$797,395	\$707,373	\$90,022
Total	\$2,218,266	\$1,960,291	\$257,975

Organic Program Fund Condition

State programs often hold in reserve a minimum of the amount needed to run the program for at least one year. The estimated one-year operating reserve for the SOP is \$1.5 million to \$2 million.¹² At the same time, under state organic law, the SOP cannot establish and collect fees that exceed the department's or the county agricultural commissioners' costs.

Since 2005, the SOP reserve fund has exceeded the one-year reserve amount. By May 2008, CDFA had close to \$2 million in its fund. Today, the balance is over \$2.9 million.¹³ The \$2.9 million balance does not include CDPH funds, if any, carried over from year to year. The SOP now reports operating at budget, and it does not anticipate increases in excess reserve funds.

As early as 2005, the California Organic Products Advisory Committee (COPAC) discussed ways to use surplus program funds. For example, in 2005 and in 2006, COPAC discussed providing rebates to registrants. In 2009, plans were initiated to build a web-based SOP database, and this project was completed in 2013 utilizing funds from the reserve. Over the years, COPAC has advised SOP to increase the number of random samples analyzed for pesticide residues. The SOP continues to have an excess fund of approximately \$1.5 million.

SOP Contracts with Counties

CDFA currently contracts with 55 county agricultural commissioners' offices. There are 58 counties in California and 55 county contracts with the SOP. (Two counties have joint contracts with an adjacent county and one county, Sierra, shares the Plumas County Agricultural Commissioner.) Of these 55 contracts, 51 of them include organic enforcement responsibilities. The three counties that manage organic certification programs are not contracted to conduct organic enforcement for the SOP but do handle state organic registrations. One county decided not to contract to conduct enforcement but continues to manage registrations.

The county commissioners and their staff perform the following services for the SOP:

1. Manage new, amended, and renewing registrations.
2. Conduct spot inspections on farms, retail outlets, and other facilities.

¹² Source: Interview with Danny Lee, Supervising Special Investigator for the SOP.

¹³ Source: Attachment G, "Organic Program 2014-15 Fund Condition as of March 31, 2015," a document distributed to COPAC in advance of their May 6, 2015 meeting. The actual balance is \$2,973,326.

3. Conduct inspections at farmers' markets.
4. Take soil and plant tissue samples for pesticide residue analysis.
5. Investigate complaints.

Organic Enforcement Tasks Performed by Counties for FY 2014-15

TASK	CONTRACTED PAYMENT FOR TASK	TOTAL NUMBER CONTRACTED	TOTAL OF CONTRACTED PAYMENTS
Process new and amended registrations	\$60 each	604	\$36,240
Conduct spot inspections	\$210 each	431	\$90,510
Conduct farmers' market inspections	\$70 per first organic participant, \$10 for each additional	1,023	\$31,110
Take soil and plant tissue samples for pesticide residue analysis	\$120 each	209	\$25,080

In addition, \$159,750 is assigned to 51 counties to cover investigation costs. Specific amounts vary by county with a range of \$400 to \$19,000 and an average of \$3,132 per county.

The budget for FY 2014-15 shows projected expenditures of \$220,000 for county contracts. Contracted annual totals range from \$35,000 for San Diego County to \$300 for Solano County, with an average of \$6,200 for each of the 55 counties.

Given a total of 3,838 registrants in 2015, the number of spot inspections plus farmers' market inspections add up to 38% of registrants undergoing some type of inspection this year. SOP personnel¹⁴ will collect samples for pesticide residue testing from 8% of registrants.

Annual county contract totals are estimates of the costs that may be incurred in the county that year. Counties vary in the degree of enforcement required. Sometimes approved contract amounts are not spent. For example, Santa Cruz County was authorized to spend \$4,000 on investigation costs in FY 2014-15, but Santa Cruz County rarely uses the full amount of authorized investigation money.¹⁵ At other times, counties will request additional funding because the contracted amount is inadequate to cover the amount of work required to oversee organic activity in the county.

Summary

- ▶ The main source of SOP funds is registration fees.
- ▶ Fee schedules are based on gross organic annual sales.
- ▶ Annual fees for organic producers range from \$25 to \$3,000 and for processor/handlers, from \$50 to \$700.
- ▶ Annual fees are assessed on a range of other operation types including retailers, custom packers, and certifiers.

¹⁴ Counties are assigned to collect 209 samples and state staff to collect 91 samples in FY 2014-15.

¹⁵ Source: Interview with Santa Cruz County Agricultural Commissioner Mary Lou Nicoletti, March 4, 2015.

- ▶ Total expenditures for the CDFA organic program in FY 2013-14 were \$1.25 million and for CDPH were \$707,000, an overall program cost of \$1.9 million. Registration fees collected that year totaled \$1.4 million for CDFA and \$800,000 for CDPH, a total of \$2.2 million.
- ▶ CDFA's organic program runs a surplus. CDFA has a current balance of over \$2.9 million for the SOP, approximately \$1.5 million over a one-year operating reserve. Any surplus from CDPH is not known.
- ▶ CDFA contracts with 55 county agricultural commissioners' offices in the state, 51 of which are assigned a specific number of enforcement activities to perform for the year. A fee schedule specifies the amount the state pays counties to perform each activity. Projected expenditures for county contracts is \$220,000 for this fiscal year.
- ▶ Currently, 38% of registrants will be subject to either a spot inspection or an inspection at a farmers' market by the SOP.
- ▶ SOP staff will collect pesticide residue samples from 8% of registered operations.

CHAPTER V.

State Organic Program Services and Activities

The California State Organic Program (SOP) enforces state and federal laws regarding production, processing, labeling, and sale of organic products in the state. As noted in *Chapter II*, California is the only state in the U.S. with a state organic program. In all other states, the National Organic Program (NOP) is responsible for enforcing the federal organic regulations.

In addition to enforcement of organic regulations, the SOP also:

- ▶ Administers the National Organic Certification Cost Share Program, which rebates a portion of certification costs back to certified growers and processors, and
- ▶ Gathers data on organic production in the state.

County-Level Enforcement

In California, most enforcement of state and federal organic laws is conducted by the SOP, which includes agricultural inspectors based at county agricultural commissioners' offices. There are 58 counties in California and 55¹⁶ county contracts with the California Department of Food and Agriculture (CDFA), 51 of them to enforce organic regulations. (Four counties have contracts to manage registrations but do not perform organic enforcement.)

SOP and the county agricultural commissioners

1. Manage new, amended, and renewing registrations;
2. Conduct spot inspections on farms, retail outlets, and other facilities;
3. Conduct inspections at farmers' markets;
4. Take soil and plant tissue samples for pesticide residue analysis; and
5. Investigate complaints.

Additionally, the SOP reviews and tracks complaints, issues notices for formal actions, and advises and trains county agricultural staff.

SOP staff assigns each county a target number of registrations, spot inspections, farmers' market inspections, residue samples, and investigations to perform during the year. The assignments for inspections and residue samples are based on historical information collected through registrations and complaint investigations.¹⁷

Registration

SOP enforcement begins with registration. NOP approved the SOP to require all businesses that sell organic product to register annually with the state.

¹⁶ Two counties have joint contracts with an adjacent county and one county, Sierra, shares the Plumas County Agricultural Commissioner.

¹⁷ California Dept. of Food and Agriculture State Organic Program. *Quality Systems Manual*. p. 2-8.

Registration is the foundation of SOP enforcement for two reasons: 1) registration fees are the primary source of the program's income, and 2) the list of registered entities defines the scope of the program's enforcement.

Registration for the CDFA organic program is available online or through a paper application. The registration process with the California Department of Public Health (CDPH) is only available through a paper application.

Some county-level enforcement is done at the desk as inspectors review registration forms. The document "Use of Sales Data per Commodity from Organic Farmers"¹⁸ demonstrates how reported acreage can be compared to reported sales to determine if they match up. Inspectors check to make sure that everything in a registration application adds up. If anything doesn't quite look right, they would conduct a spot inspection of the operation if needed.¹⁹

A. CDFA

i. Registration Forms

a. Basic Forms

All organic operations in California must complete a Registration Form and a Site Profile. Certified organic operations have fewer forms to fill out than non-certified operations because amendments to the state organic law in 2009 reduced the reporting requirements for certified organic businesses.

Non-certified operations, e.g., operations that are exempt from certification because they sell less than \$5,000 annually in organic product sales, must submit a Substance List that documents all substances used at production sites and facilities plus the amounts of each material applied. They must also answer additional questions on the Site Profile document. Noncertified operations must also submit a map of their operation.

b. Additional Forms

Producers, handlers, and processors have two additional form requirements: the Production Questions form asks general questions about the operation, and the Production Record form asks for gross sales from each production unit and the unit area. These forms are essentially the same but customized to each of the three types of operations.

All operations must report gross sales for each commodity grown, processed, or handled using an identifying commodity number for each product. Commodity numbers are listed on a three-page Commodity Chart that lists 31 crop categories and 8 poultry/livestock categories. Yields of 303 distinct crops and 63 poultry/livestock products can be reported to CDFA annually.

¹⁸ This document was created in 2013 for program director Rick Jensen and forwarded to the office of California Assemblymember Mariko Yamada (who was in office at that time) for their discussions regarding the SOP's need to collect sales information from organic registrants.

¹⁹ Source: Interview with Priscilla Yeane, Deputy Agricultural Commissioner/Sealer, Plant Health and Pest Prevention Division, County of San Diego Department of Agriculture Weights & Measures, April 28, 2015.

ii. New Registrations

SOP procedures for registrations, enforcement, sampling, due process, and administrative duties are described in the *Quality Systems Manual*, or QSM.²⁰ Under state law, all businesses that sell organic product must register with the SOP.

Applications may be submitted either electronically or by mail to the county office. County agricultural personnel review the application for completeness and accuracy and can work with the applicant to properly complete the application.²¹ County staff enter completed applications into the SOP database. The application is electronically delivered to the state for final approval.

iii. Amended Registrations

Operations do not have to file amendments for minor changes; however, they must file amendments if a location or additional acreage has been added, if change in ownership occurs, or if there is a change or addition to the operation.²² The procedure is similar to that for new registrations: an application is submitted to the county agricultural commissioner's office along with supporting documentation, county staff reviews it and works with the applicant if necessary to ensure completeness and accuracy, and then enters it into the SOP database for state-level review.

iv. Renewing Registrations

Each registrant must renew annually. Annual registration requires filling out a registration renewal form, completing a Gross Sales & Operation Information Form, and paying the fee associated with reported gross sales from the previous year. Non-certified operations must also submit a Substance List.

B. CDPH

CDPH has a separate one-page Organic Processed Product Registration Application. Applicants must also submit a completed Organic Processed Product Commodity Codes form, where they specify the total pounds handled and brokered within 49 separate commodity categories. Both forms must be submitted annually along with a fee based on the previous year's gross organic sales.

Spot Inspections

SOP state and county staff conduct spot inspections of organically-registered fields, greenhouses, nurseries, restaurants, handlers, processors, and retail stores. In practice, most spot inspections are conducted in fields, processing facilities, farmers' markets, and retail outlets.

SOP has a policy to prioritize spot inspections on non-certified operations. The QSM states, "The [Spot Inspection] Program will focus primarily on operations registered with the SOP that report annual gross sales below \$5,000; as these operations are exempt from certification. However, certified operations are not exempt from the [Spot Inspection] Program and will be subject to spot inspections."²³

²⁰ The *Quality Systems Manual* (QSM) was developed to standardize SOP procedures during the "reorganization" of the SOP that occurred in 2008-2009. A technical subcommittee of COPAC reviewed the QSM in 2009.

²¹ QSM p. 1-4.

²² California Department of Food and Agriculture State Organic Program. Form: Instructions for New or Amended Organic Registrations Rev. 2/2013.

²³ QSM p. 2-7.

Typically a farmer or other registrant is not notified in advance that a spot inspection is occurring; however, the state’s policy is, “The [County Agricultural Commissioner] or SOP will make every attempt to perform unannounced inspections when the operation’s activities present the highest probability of contact with a responsible representative of the operation.”²⁴

Often a site inspection is followed by a meeting at the registrant’s office to conduct a records inspection. Inspectors may pull a random sample for residue testing.

CDPH also conducts spot inspections, but it does not have an annual target number.²⁵

Farmers’ Market Inspections

Counties also receive assignments to conduct a certain number of “first organic participant” and “additional organic participant” inspections at farmers’ markets. An inspector arrives at a farmers’ market and inspects a series of vendors to verify they are complying with NOP regulations, which include confirming that registration and certification are up-to-date and displays and signage are compliant.

Surveillance Residue (Random) Sampling

SOP state staff and county agricultural commissioners’ offices collect an assigned number of plant tissue and soil samples for pesticide residue analysis.

They use California Department of Pesticide Regulation (DPR) and NOP sampling protocols for soil and plant samples.²⁶ They fill out a form to verify chain of custody and send samples to the state chemistry lab for analysis. The SOP is notified of the results of the analysis.

When a positive result for a pesticide residue is detected, the operation, county agricultural commissioner, and certifier are notified. Consequences of a positive residue sample vary depending on the level of detection and type of chemical. The SOP, county agricultural staff, and certifiers conduct a follow-up investigation when they receive notice that a random sample from product they certify tests positive for pesticide residue.

Organic Produce Pesticide Residue Testing Results

FY	# OF SAMPLES	# OF POSITIVES	% OF POSITIVES	# ABOVE 5% OF THE EPA TOLERANCE	% ABOVE 5% OF THE EPA TOLERANCE
2011-12	56	4	7%	unknown	unknown
2012-13	62*	14	23%	5	8%
2013-14	185	27	15%	6**	3%
2014-15	228	34	15%	10**	4%

*10 soil samples also taken as part of an investigation

**many positive samples tested positive for multiple residues

The table shows that SOP has taken increasing numbers of samples for pesticide residue analysis over the past four years. In the past two years, while the number of samples has increased, the percentage of samples that test positive at a level 5% or more above the EPA tolerance has decreased compared to the 2012-13 results.

²⁴ QSM p. 2-9.

²⁵ Source: Interview with Patrick Kennelly, Chief of the Food Safety Section, California Dept. of Public Health, May 11, 2015.

²⁶ From QSM p. 2-4: “The SOP has adopted CDPR’s sampling protocol and the NOP sampling procedures for all organic products except organic soil amendments, compost, and fertilizers.”

A. Proposed Expansion of Residue Sampling and Pilot GMO Testing Program

CDFA is expanding the SOP's surveillance residue sampling program based upon the California Organic Products Advisory Committee's (COPAC) recommendation. At its May 2015 meeting, COPAC approved an additional \$60,000 for SOP's FY 2015-16 budget to pay for 100 additional sample analyses. COPAC also approved a \$30,000 pilot program to test for presence of GMOs in organic products in the state.

Investigation of Complaints

State and county SOP staff may conduct investigations under the following circumstances:

- ▶ A county inspector who finds something suspicious during a spot inspection or at a farmers' market;
- ▶ A positive pesticide residue sample; or
- ▶ A complaint reported by a member of the public.

Additionally, NOP forwards some complaints to the SOP for investigation.

The SOP website links to a web page that allows a member of the public to submit a complaint online. The web page also provides information on submitting a complaint via mail, and contains contact information for filing a complaint about organic processed products with the CDPH. The CDPH organic web page provides a toll-free telephone number for filing complaints.

A. Procedures²⁷

All complaints are logged into a "complaint database." Each complaint is given an initial review to determine if it warrants further investigation. Complaints will result in one of three possible outcomes:

1. Accept complaint and assign complaint to an investigative entity;
2. Refer to another agency if the complaint falls outside the jurisdiction of the SOP; or
3. Dismiss if there is inadequate information to support the complaint.

Depending on the nature of the complaint, the investigation is assigned to a county agricultural commissioner's office, an accredited certification agency, a state investigator, another agency, or the NOP. Individuals who have lodged a complaint are notified that an investigation is being conducted.

Investigators interview witnesses, review documents, and inspect sites. Then, investigators write and submit an investigation report to the state office.

B. Volume and Nature of Complaints

CDFA reports that it received 68 complaints directly and an additional 22 that were referred by the NOP between July 1, 2014 and June 20, 2015, for a total of 90 complaints.²⁸ Thirty-four of the complaints (38%) were referred to county agricultural commissioners' offices for investigation. SOP itself investigated 21 of them (25%), 16 were referred to CDPH (18%), 16 were referred to accredited certification agencies (18%), two (2%) were complaints

²⁷ This account of investigation procedures is based on the QSM.

²⁸ Source: Personal communication from Danny Lee, Supervising Special Investigator for the State Organic Program.

about organic input materials and were referred to the Fertilizing Materials Inspection Program, and one (1%) was referred to the NOP.

CDFA reports that the complaint categories, from most to least common, were:

1. False claims,
2. Misbranding or mislabeling containers,
3. Failure to properly segregate organic from non-organic products,
4. Not registered or certified/organic status questionable, and
5. Pesticides detected.

CDPH reported that it investigated 26 complaints in 2014, half of which were substantiated.²⁹

Noncompliance

SOP takes a series of steps when an instance of noncompliance with state or federal law is alleged.³⁰

The first step is to send a notification of noncompliance to the operation spelling out what part of the law and/or regulations is not being followed. The notice of noncompliance may be issued by an Accredited Certifying Agent (ACA), county agricultural commissioner's office, or the state. If a certified operation demonstrates that it has addressed the issue, a notice of resolution is issued.

If the issue is not resolved, an ACA, county agricultural commissioner's office, or the state will issue a notice of proposed suspension or revocation. If a willful violation of the law is thought to have occurred, a governing entity can issue a proposed suspension or revocation without first sending a notice of noncompliance.

If the issue still remains unresolved, an ACA or the state will issue suspension or revocation of the operation's organic certificate. Operations that have requested mediation or filed an appeal may not have their certificate suspended or revoked until the process is complete.

In cases where the law has been violated by purposefully selling or labeling non-organic product as organic or making a false statement to a state official or organic certifier, civil penalties can be assessed. Civil penalties are assessed in lieu of criminal prosecution, though criminal prosecution can be pursued in egregious cases.

Suspensions, revocations, and assessment of civil penalties are considered to be "adverse actions" taken by county or state agencies.

Appeals

Certified organic operations may appeal an ACA's decision to deny, suspend, or revoke certification.³¹ If an operation is located in a state without an SOP, then the operation must use a federal administrative appeals procedure. If an operation is located in a state with an SOP, then the operation must use its state SOP appeals process.

²⁹ Source: "California Department of Public Health Organic Complaints—2014." Handout distributed at COPAC meeting Jan. 22, 2015.

³⁰ This account is drawn from the QSM.

³¹ California Organic Products Act of 2003. California Food and Agricultural Code 46016 et seq.

California is the only state with an SOP, so it is the only state where certified operations use a state-level administrative appeals process. As a result, California operations do not have to wait for review under the federal system, which has limited resources and a high volume of cases.

Training

CDFA provides training to county inspectors on the national organic standards and the state organic regulations as well as procedures for spot inspections, residue sampling, and investigations. Six regional training sessions were conducted in 2013, and eight regional trainings were held in 2014. The 2014 training sessions were attended by 142 county staff from 46 counties. CDFA staff will also travel to a county to provide custom training if requested by the county. CDFA has also conducted online training via GoToMeeting, an online meeting service.

Organic Certification Cost Share Administration

Organic certification cost share is a federal program that distributes federal funds to states. States use these funds to reimburse certified organic entities 75% of eligible certification-related expenses up to a maximum of \$750 per certified scope. In most states, the state department of agriculture administers the program, but in some states, non-profit entities have bid for the job. In the 2014 Farm Bill, funding was allocated for the cost share program nationwide, averaging \$13 million per year over the five-year lifetime of the bill.

California receives the largest allocation of cost share funds because it produces the largest volume of organic product in the U.S. In 2015, California was allocated \$2,173,600 for cost share. The SOP administers cost share and provides some outreach to increase participation in the program.

The NOP pays administrative overhead for handling the program. The SOP can claim up to 10% of the amount of funds distributed for reimbursement as overhead for administering the Cost Share program. In FY 2014-15, this amount was projected to be \$65,946.

The SOP mails a letter to all of its certified registrants notifying them that the cost share program is open. One SOP staff person is dedicated to the cost share program and provides support to applicants.

Organic Data Collection

SOP collects statewide data on organic acreage of up to 303 crops and 68 livestock and poultry products, the value of these crops, and changes in these over time, but CDFA has not regularly posted production statistics since 2007. Since 1992, agricultural economist Karen Klonsky from the University of California, Davis mined the information and compiled statistical reports on organic in California. These reports documented gross sales and acreage of numerous organic commodities. CDFA made these data available on its SOP website and upon specific request.

The SOP stopped reporting data because it was corrupted by outdated technology, but in 2013 the SOP starting using a new database. COPAC has repeatedly indicated that it would be beneficial to report statistical data on organic production in California, and the SOP recently released a fact sheet that contains statistical information about organic in

California.³² Additionally, the SOP has provided data on growers of specific crops to other state agencies for purposes of notifying producers when an invasive pest threatened that crop.

In contrast to CDFA, state law requires CDPH to report annually some of the data it gathers from organic registrants, including annual gross sales by organic processors and handlers. There is no parallel reporting requirement in the state organic law for the CDFA-managed part of the SOP. However, the California Food and Agricultural Code requires counties report data on county agricultural production annually, and every county agricultural commissioner issues a Crop Report each year. Some, but not all, voluntarily report organic acreage and production value in their county.

Summary

- ▶ The SOP enforces national organic standards.
- ▶ The SOP has 55 contracts with county agricultural commissioners' offices throughout the state to manage registrations. 51 of the contracts also include enforcement activities such as conducting random spot inspections, conducting inspections at farmers' markets, collecting samples for pesticide residue testing, and conducting investigations.
- ▶ Registration fees are the primary source of funding for the SOP.
- ▶ NOP pays administration fees for federal organic cost share.
- ▶ State law requires CDPH to report annually some of the data it gathers from organic registrants, including annual gross sales by organic processors and handlers. There is no parallel reporting requirement in the state organic law for the CDFA-managed part of the SOP.

³² California Organic Program Fact Sheet, download from website: http://www.cdfa.ca.gov/is/i_&_c/organic.html

CHAPTER VI.

Recommendation

To address our members' ongoing concerns that the California State Organic Program (SOP) imposes unnecessary fees and requirements on organic operations in California, CCOF recommends legislation to end SOP registration requirements and fee-based enforcement activities. CCOF also recommends reinvesting or refunding the existing SOP reserve for the benefit of California organic producers.

Findings

CCOF's final recommendation to end SOP registration and fee-based enforcement activities is based upon the following fundamental findings:

The SOP imposes unfair, duplicative fees on California's certified organic producers.

The SOP imposes duplicative, and thereby unfair, fees on California's certified organic producers. Organic producers in California pay annual registration fees to the SOP in addition to the annual certification fees they pay to their Accredited Certifying Agent (ACA). In contrast, producers in other states only pay fees to their ACA. As a result, California's certified organic producers pay more fees than producers in other states, yet they certify to the same organic standards and use the same label as producers who only pay a single fee.

Additionally, the SOP imposes duplicative fees because it assesses state fees to fund enforcement activities when California producers already pay certification fees for federal enforcement. In California, SOP registration fees fund state-level enforcement of national organic standards, which allows the NOP in turn to direct national enforcement resources outside California. Consequently, California producers unfairly fund enforcement of organic standards through their SOP fees in addition to their certification fees.

As a result of registration fees, the SOP has an excess reserve fund of close to \$3 million that has not been spent on organic enforcement. The excess reserve funds could be used to address organic priorities such as research, education, and technical assistance.

The SOP imposes unnecessary reporting and verification hardships on California's certified organic producers.

Certified organic operations complete burdensome paperwork to fulfill unnecessary SOP reporting requirements. For each commodity, operations report acreage, yield, and gross sales. Most operations, especially diversified operations, spend significant time compiling, reviewing, and formatting records for the SOP. National organic standards do not require commodity-specific acreage, yield, and sales. Additionally, the SOP does not use this specific information for enforcement activities. The reporting requirements are not only burdensome, but some requirements also duplicate reporting that certified operations already provide for their ACA, such as location and parcel information. Thus, the SOP requires unnecessary reporting that results in burdensome and duplicative paperwork.

Moreover, delays in SOP registration verification are an ongoing issue for certified operations. In California, ACAs cannot issue new or renewed certifications without verification that the operation has registered with the SOP. Some operations may be in full compliance for organic certification except for their SOP registration; sometimes the SOP

has failed to process or verify registration in a timely manner. Therefore, SOP registration requirements often result in delays and compliance costs for certification.

SOP fee-based enforcement activities are not justified under today's robust organic regulatory framework.

SOP fee-based enforcement activities are not justified under today's robust organic regulatory framework because the SOP performs services that either overlap ACA enforcement of organic standards or performs services that are already provided by other California programs.

For example, a significant SOP enforcement expenditure is periodic residue testing, but ACAs and California's Department of Pesticide Regulation (DPR) already conduct periodic residue testing. ACAs must conduct pesticide residue testing on 5% of their certified operations annually. DPR, which has a rigorous pesticide residue testing program, also routinely gathers organic samples. DPR collects about approximately 3,500 fruit and vegetable samples annually and analyzes each sample for presence of 300 pesticide compounds. Thus, the SOP periodic residue testing enforcement services are not necessary under the existing regulatory framework.

Another example where SOP enforcement overlaps existing ACA and state activity is inspections. ACAs must conduct in-depth annual inspections of all the operations they certify. Under the Certified Farmers' Market Program, agricultural commissioners' offices have the authority to verify the source and "the manner and method of production," including organic certification, for each product sold at a farmers' market.

Additionally, the NOP has the authority to investigate complaints of fraud or misuse of the organic label regardless of whether California has a SOP. ACAs investigate complaints about their certified operations when complaints are submitted to them directly or assigned to them by the NOP. Although the SOP handles all other investigations in California, the NOP has a federal mandate to investigate complaints and already handles complaints for all other states. So even if the SOP discontinues, NOP will still be required to investigate complaints in California.

Even the most unique enforcement activity conducted by the SOP—registration of noncertified organic operations—is not necessary for strong enforcement of national standards. SOP requires noncertified operations, which are operations that sell \$5,000 or less in organic product sales annually, to register with the state. In turn, the SOP has information and authority to inspect, monitor, and verify noncertified operations. However, regardless of whether noncertified operations register with the SOP, they must comply with organic standards. Thus, NOP can also stop or penalize an operation for misuse of the organic label.

Finally, organic cost share can continue without unfair, duplicative registration fees because NOP pays for the administration of cost share to state agencies or other administrators.

Next Steps

CCOF will work to establish legislation that ends SOP registration requirements and fee-based enforcement activities. CCOF will also recommend a plan to reinvest or refund existing SOP reserve to the benefit of California organic producers. Our goal is to ensure an equitable, meaningful regulatory framework that supports the integrity of organic production in California.

Sources

California Department of Food and Agriculture State Organic Program. California Organic Program Fact Sheet. Retrieved April 17, 2015, from http://www.cdfa.ca.gov/is/i_&_c/organic.html

California Department of Food and Agriculture State Organic Program. Form: Instructions for New or Amended Organic Registrations Rev. 2/2013. Retrieved May 13, 2015, from <http://organic.cdfa.ca.gov/Files/NewAmendedInstructions.pdf>

California Department of Food and Agriculture State Organic Program. Quality Systems Manual. Provided by State Organic Program staff.

California Organic Products Act of 2003, California Food and Agricultural Code. Chapter 10. Organic Foods. Sections 46000-46029 and California Health and Safety Code. Chapter 5. Food. Article 7. Sections 110810-110959. Retrieved Jan. 5, 2015, from <http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=fac> and <http://www.leginfo.ca.gov/cgi-bin/diisplaycode?section=hsc&group=110001-111000&file=110810-110959>

California Organic Products Advisory Committee. Meeting minutes 2008-2015. Retrieved May 27, 2015, from <http://www.cdfa.ca.gov/is/uploader/postings/hearings/#Org>

California Organic Products Advisory Committee. Meeting minutes 2000-2007. Provided by State Organic Program staff.

California State Board of Equalization. (2015). Business Taxes Law Guide. Volume 3. Motor Vehicle Fuel Tax Law. Chapter 10. Distribution of Proceeds. Section 8352.5. Transfer to Agriculture Fund. Retrieved July 29, 2015, from <http://www.boe.ca.gov/lawguides/business/current/btlg/vol3/mvftl/mvftl-8352-5.html>

Code of Federal Regulations. Title 7, Subtitle B, Chapter I, Subchapter M, Part 205—National Organic Program. Retrieved Feb. 23, 2015, from http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=3f34f4c22f9aa8e6d9864cc2683cea02&tpl=/ecfrbrowse/Title07/7cfr205_main_02.tpl

University of California, Santa Cruz Library. (2010). Regional Oral History Project. Cultivating a Movement, An Oral History Series on Organic Farming and Sustainable Agriculture on California's Central Coast. Timeline. Retrieved May 6, 2015, from <http://library.ucsc.edu/reg-hist/cultiv/timeline>

U.S. Department of Agriculture Agricultural Marketing Service. (2015). Organic Certification Cost-Share Programs Fiscal Year 2015 Terms and Conditions. Retrieved July 30, 2015, from <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5110703>

U.S. Department of Agriculture Office of Inspector General. (2010). Oversight of the National Organic Program. Audit Report 01601-03-Hy. Retrieved April 20, 2015, from <http://www.usda.gov/oig/webdocs/01601-03-HY.pdf>

Acknowledgements

Advisory Committee

The findings and recommendations presented in the report do not necessarily represent the views or opinions of the Advisory Committee members.

Amigo Bob Cantisano

Owner, Heaven and Earth Farm; President, Organic Ag Advisors; Founder, Felix Gillet Institute

Mark Lipson

Consultant, Pacific Plate Organics

Brian McElroy

Vice President, Driscoll's

Vernon Peterson

Farmer/owner, Abundant Harvest Organics

Judith Redmond

Co-owner, Full Belly Farms

Office of Assemblymember Mark Stone

29th District, California State Assembly

Interviews

County Agricultural Commissioners' Offices

Mary Lou Nicoletti

Agricultural Commissioner, Santa Cruz County

Brian Taylor

Environmental Biologist, Glenn County Agricultural Commissioner's Office

Priscilla Yeaney

Deputy Agricultural Commissioner/Sealer, Plant Health and Pest Prevention Division, County of San Diego Department of Agriculture Weights and Measures

Administrators

Ken Everett

Environmental Program Manager, Northern Regional Office, California Department of Pesticide Regulation

Rick Jensen

Director of Inspection Services, California Department of Food and Agriculture

Patrick Kennelly

Chief of the Food Safety Section, California Department of Public Health

Danny Lee

Supervising Special Investigator, California Department of Food and Agriculture

Jenny Lester Moffitt

Deputy Secretary, California Department of Food and Agriculture

Miles McEvoy

Deputy Administrator of National Organic Program, U.S. Department of Agriculture Agricultural Marketing Service

Matthew Michael

Director, Compliance & Enforcement Division, U.S. Department of Agriculture National Organic Program

Mike Papathakis

Food Safety Coordinator - Senior Environmental Scientist (Supervisor), California Department of Pesticide Regulation

Scott Rice

Accreditation and Quality Manager Washington State Department of Agriculture Organic Food Program

Certified Organic Businesses

Thaddeus Barsotti

Co-owner, Capay Organic

Amigo Bob Cantisano

Owner, Heaven and Earth Farm; President, Organic Ag Advisors; Founder, Felix Gillet Institute

Jeremy Johnson

Legal & Regulatory Affairs Manager,
Traditional Medicinals

Brian McElroy

Vice President, Driscoll's

Bridget Montesanti

Director—Quality, Food Safety & Organic
Integrity Systems Coordinator, Earthbound
Farm; Member, California Organic Products
Advisory Committee

Courtney Mudge

Organic Certification Specialist, Whole
Foods Market

Vernon Peterson

Farmer/owner, Abundant Harvest Organics

Judith Redmond

Co-owner, Full Belly Farms

Zea Sonnabend

Co-owner, Fruitilicious Farms; Policy
Specialist & Organic Inspector, CCOF;
Member, National Organic Standards Board

Academics

David Granatstein

Sustainable Agriculture Specialist,
Washington State University

Karen Klonsky, Ph.D.

Specialist in Cooperative Extension,
University of California, Davis

Certifiers

Kelly Lehman Goswamy

Associate Quality System Manager, CCOF
Certification Services, LLC

Jake Lewin

President, CCOF Certification Services, LLC

Others

Mark Lipson

Consultant, Pacific Plate Organics

Melody Meyer

Vice-President of Global Initiatives, United
Natural Foods, Inc.; Member, California
Organic Products Advisory Committee

Appendix A

CDFA Organic Program 2015-2016 Proposed Budget

Budget Category	2013-14 Approved Expenditures	2013-14 Actual Expenditures	2014-15 Approved Expenditures	2014-15 Projected Expenditures	2015-16 Proposed Expenditures
PERSONAL SERVICES					
Salaries	354,651	367,444	410,915	407,642	437,107
Benefits	121,847	157,305	171,404	187,531	213,125
TOTAL PERSONAL SERVICES	476,498	524,749	582,319	595,172	650,232
OPERATING EXP & EQUIP					
General Expenses	8,500	2,981	5,000	7,941	5,000
Printing	2,500	10	-	3,000	1,000
Communications	500	620	1,250	709	750
Postage	8,000	8,337	7,500	7,880	7,900
Travel: In-State & Out-Of-State	35,000	13,788	35,000	16,712	35,000
Training	2,000	165	1,000	1,999	1,000
Facilities Operation (GWO Rent)	22,000	18,600	24,500	56,055	56,055
Cons/Prof Serv-Interdept	-	390	550	41,170	450
Information Technology (Supplies)	-	2,942	3,500	4,843	3,250
Other items of Expense (County Contracts)	400,830	187,818	380,000	220,000	380,000
Miscellaneous Expenses (Ag Supplies, etc)	-	6	1,400	-	-
Database Charges	-	52,242	50,000	50,000	50,000
Credit Card Service Charges	-	12,054	10,000	14,000	15,000
Chem Lab	60,000	120,000	180,000	180,000	180,000
Attorney General Fees	200,000	40,925	75,000	10,000	50,000
TOTAL OP EXP & EQUIP	739,330	460,878	774,700	614,310	785,405
DEPARTMENTAL SERVICES					
Direct Charges	85,000	-	-	-	-
Indirect CHG - Branch	75,000	90,213	165,776	174,019	126,000
Indirect Cost - Exec/Admin	-	70,740	79,000	84,179	88,432
Indirect Dept Cost - IT	10,000	45,473	50,000	52,489	56,000
Indirect Costs - Div	40,000	26,271	35,000	37,172	38,364
Central Admin Services	-	1,727	1,800	1,505	1,596
Pro Rata	40,000	32,867	33,000	35,759	36,000
Indirect CHG Recovery	-	-	-	(4,928)	(4,928)
TOTAL DEPARTMENTAL	250,000	267,291	364,576	380,195	341,463
Budget Adjustment Unallocated	-	-	-	-	-
TOTAL PROGRAM COST	1,465,828	1,252,918	1,721,595	1,589,678	1,777,100
Gas Tax (Sect 224)	(16,000)	(14,786)	(12,500)	(14,520)	(14,520)
Fed Fund Budget Act					
Direct Charge Recovery (from cost share)			(64,372)	(65,946)	(70,013)
Year-End Closing Exp/Credit					
TOTAL PROGRAM BUDGET	1,449,828	1,238,132	1,644,723	1,509,212	1,692,567
ACTUAL REVENUE		1,363,219		1,375,000*	1,375,000*

*Projected Revenue