

**OCCUPATIONAL SAFETY  
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**FINAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 7, Article 13, Section 3456  
of the General Industry Safety Orders

Hand Weeding, Hand Thinning, and Hand Hot-Capping Operations in AgricultureMODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM  
THE 45-DAY PUBLIC COMMENT PERIOD

There are no modifications to the information contained in the Initial Statement of Reasons except for the following substantive modifications that are the result of public comments and/or Board staff evaluation.

Section 3456 Hand-Held ToolsSubsection (c)(1)

The phrase “*in a stooped, kneeling or squatting position*” was added to the proposed text to qualify hand weeding, thinning, and hot-capping operations to specify the precise operations that are not permitted by this subsection. The proposed language is consistent with subsection (b), which prohibits the use of short handled tools in a stooped, kneeling or squatting position, and subsection (c)(3), which provides an exception for certain hand weeding, thinning, and hot-capping operations performed in a stooped, kneeling or squatting position. The proposed language is necessary to prohibit hand operations when they are performed in postures that are associated with an increased risk of injury, and to permit hand operations when they are performed in other positions, such as standing erect.

The phrase “*or no*” was deleted from the proposed text to clarify the conditions that allow for an exemption from the prohibition on hand weeding, thinning, and hot-capping. The revision is necessary to permit hand operations when there is no alternative means of performing the work that is both readily available and reasonable, because the alternative must satisfy both conditions, not merely one or the other, to avoid placing an unreasonable burden on employers.

Subsection (d)(2)

The text of the exemption was revised to delete the term “without pesticides” and add language that more clearly states the intent of the subsection. The revision is necessary to provide an exemption for registered producers of organic commodities, including horticultural and agricultural commodities grown in fields or greenhouses using pesticides such as soaps, oils and mulches.

Subsection (d)(4)

The subsection was revised to replace the phrase “when the use of a long handled tool or other alternative is unsuitable to the production of the commodity” with the phrase “with an opening not to exceed fifteen (15) inches.” The revision is necessary to specify the maximum size of tub or container opening that is unsuitable for the use of a long handled tool or other alternative, and to provide an exemption from the requirements of subsections (c)(1) and (c)(2) to avoid placing an unreasonable burden on employers when this condition is met.

Summary and Response to Oral and Written Comments:

I. Written Comments

#1 Richard Matteis, Executive Vice President, California Seed Association, by letter dated November 18, 2004.

Comment:

Mr. Matteis asked that the standard include the following seed exemption language: “The crop being produced is for planting seed to be used for research development, production, or multiplication, and hand weeding or thinning is required to eliminate off-type plants, meet purity and germination standards required by law, or for other plant selection purposes required to produce a particular seed crop when any seed crop is produced by a seed labeler registered pursuant to Section 52351 of the Food and Agricultural Code, a company producing flower seed for planting, or anyone producing or planting seed under contract by a third party for a registered seed labeler. The exemption granted by this paragraph pertains to fields dedicated only to producing planting seeds and does not apply to any non-seed crops grown by a registered seed labeler or a grower under contract with a registered seed labeler.” Mr. Matteis states that the proposed exemption is necessary because of the precision work that is required by the seed industry.

Response:

The proposed amendments to subsection 3456 were carefully crafted to control the practice of hand weeding without having an unduly adverse affect on any segment of agriculture. The Board considered numerous factors related to the utility of various methods, tools and equipment for controlling weeds in a wide range of agricultural operations. The Board also considered specific

exemptions that would address each situation where the proposed prohibition on hand weeding would place an unreasonable burden on agriculture; however this prescriptive approach became excessively complex. The performance-based language in subsection (c)(1) accomplishes the same objective as prescriptive language, without discouraging the development of innovative alternatives to hand weeding. In addition to the broad exemption provided by subsection (c)(1), the proposal includes four narrow exemptions under subsection (d) that provide relief from the provisions of subsections (c)(1) and (c)(2) in specific situations where these provisions would be an unreasonable burden. The Board believes these subsections clearly state the criteria for an exemption from the prohibition on hand weeding. The Board concludes that the performance-based provisions of subsections (c)(1) and (c)(2), and the specific exemptions under subsection (d), provide relief from the prohibition on hand weeding without placing an unreasonable burden on the seed industry. Therefore, the Board makes no revisions as a result of this comment. The Board thanks Mr. Matteis for his comment and participation in the Board's rulemaking process.

#2 Ray Cruz, Ergonica, provided via email dated November 15, 2004, and in writing and orally at the Public Hearing on November 18, 2004.

Comment:

Mr. Cruz requested that language be added to the proposed standard to help encourage other garden tool manufacturers to develop ergonomic weed removing tools for agriculture: "Reasonable alternative means for hand weeding should include the consideration of using ergonomically designed hand tools for weeding and cultivating gardens that may be effectively applied to agriculture." In addition, he suggested that the Board may wish to establish an upper weight limit of three pounds for any weed removing hand tool.

Response:

Proposed subsection (c)(1) exempts employers from the prohibition on hand weeding when there is no readily available "reasonable alternative means" of performing the work that is suitable and appropriate to the production of the agricultural or horticultural commodity. Subsection (c)(2) requires that the employer justify that the use of hand weeding was required due to the unsuitability of the use of a long-handled tool or other alternative means of performing the work. The current language clearly informs the affected public that the use of long-handled tools should be considered as a potential alternative to hand weeding. The term "long-handled tool" is preferable to the term "ergonomically designed hand tool" because "long-handled tool" is defined in Section 3437, which specifies the tool must be at least 48 inches long. The term "ergonomically designed hand tool" is not defined and therefore is subject to different interpretations. Consequently, the language proposed by Mr. Cruz would not specifically prohibit the use of tools less than 48 inches in length. The Board concludes that the current language is preferable as it more clearly states the employer's obligation in regards to alternatives to hand weeding. For this reason, the Board does not consider it necessary to change the current language to help encourage garden tool manufacturers to develop ergonomic weed removing tools for agriculture.

The suggestion to set an upper weight limit of three pounds on any weed removing hand tool is outside the scope of this proposal in that the purpose of the proposed standard is to prevent employee injuries caused by weeding, thinning and hot-capping in a stooped, bending, or squatting position. Mr. Cruz did not provide data to support the need for an upper weight limit of three pounds for hand tools that are used in an erect position. For the above reasons, the Board makes no revisions as a result of the comment. The Board thanks Mr. Cruz for his comments and participation in the Board's rulemaking process.

#3 Vanessa Bogenholm, Owner of VB Farms and Chair of the Board, California Certified Organic Farmers, provided in writing and orally at the Public Hearing on November 18, 2004.

Comment:

Subsection (d)(2), which reads "Any agricultural commodity grown without pesticides," was intended to exempt organic commodities, however Ms. Bogenholm stated that it fails to do so because organic commodities still use "pesticides" such as sulfurs and mineral oils which are non-toxic. Therefore, she stated that subsection (d)(2) should be amended to read as follows: "Any agricultural commodity grown in accordance with the standards prescribed by the National Organic Program under the direction of the Agricultural Marketing Service of the United States Department of Agriculture [7 CFR part 205]."

Response:

The Board agrees with Ms. Bogenholm that the intent of subsection (d)(2) is to exempt the producers of organic commodities. The proposed wording would have the unintended consequence of prohibiting such producers from using the exemption because the U.S. Department of Agriculture, National Organic Program (NOP) allows certain nontoxic substances to be used as pesticides in the production of organic commodities. Therefore, the Board agrees that subsection (d)(2) should be amended to exempt commodities grown in accordance with the NOP. However, the Board is concerned that the language proposed by the commenter would be difficult for the Division of Occupational Safety and Health (Division) to enforce. The proposed changes would require the Division to determine whether a particular commodity was grown in accordance with 7 CFR Part 205, which regulates agricultural practices that are outside of the purview of the Division. The referenced NOP standard does, however, establish a procedure to certify that a commodity is organically grown. In California, fields and greenhouses that meet the NOP requirements for producing certified organic commodities are registered with the County Agricultural Commissioner as organic.

Subsequent to the public hearing on November 18, 2004, Ms. Bogenholm, other grower representatives, and Mr. Mark Schacht, labor representative, notified Board staff that they agreed subsection (d)(2) should be amended to the following: "Any agricultural or horticultural commodity grown in fields or greenhouses which have been registered with the County Agricultural Commissioner as organic." The Board concludes that this change meets the objectives expressed by the commenter, without placing an unreasonable burden on the employer or the Division. Therefore, the Board agrees to amend subsection (d)(2) to the proposed

consensus language. The Board thanks Ms. Bogenholm for her comments and participation in the Board's rulemaking process.

#4 Robert Falconer, Executive Vice President, California Association of Nurseries and Garden Centers, by letter dated November 16, 2004.

Comment:

Mr. Falconer stated that nursery stock grown in the ground has different requirements than containerized stock in that field grown nursery stock is often sold to farmers to establish commercial orchards. More stringent standards are imposed on nursery stock, because it is relied on to produce an economical crop. Most nursery stock is certified under a California Department of Food and Agriculture (CDFA) program that guarantees the stock is free of pests and diseases. The CDFA program requires suitable precautions be taken in farming practices to guard against the spread of soil-borne pests to plantings entered in this program. A compliance officer may misinterpret what is "suitable and appropriate" under proposed subsection (c)(1). He states that this is a problem because: 1) trees are grown 5 – 6 inches apart, 2) use of a sharp tool in this space may injure the tree and make it susceptible to disease, 3) herbicides are not always an option, 4) a nursery could be sued for selling stock that is infested with a disease due to injury. He believes that the standard should acknowledge and give more guidance to field enforcement officers to recognize and accommodate the special needs of field grown nursery stock.

Response:

The proposed amendments to subsection 3456 were carefully crafted to control the practice of hand weeding without having an unduly adverse affect on any segment of agriculture. The Board considered numerous factors related to the utility of various methods, tools, and equipment for controlling weeds in a wide range of agricultural operations. The Board also considered specific exemptions that would address each situation where the proposed prohibition on hand weeding would place an unreasonable burden on agriculture; however this prescriptive approach became excessively complex. The performance-based language in subsection (c)(1) accomplishes the same objective as prescriptive language, without discouraging the development of innovative alternatives to hand weeding. In addition to the broad exemption provided by subsection (c)(1), the proposal includes four narrow exemptions under subsection (d) that provide relief from the provisions of subsections (c)(1) and (c)(2) in specific situations where these provisions would be an unreasonable burden. The Board believes that these subsections clearly state the criteria for an exemption from the prohibition on hand weeding. The Board concludes the performance-based provisions of subsection (c)(1) and (c)(2), and the specific exemptions under subsection (d), provide relief from the prohibition on hand weeding without placing an unreasonable burden on employers who grow nursery stock in the ground. Therefore, the Board makes no revisions as a result of this comment. The Board thanks Mr. Falconer for his comment and participation in the Board's rulemaking process.

#5 Carl Borden, Associate Counsel, California Farm Bureau Federation, by letter dated November, 16, 2004, and transmitted via email on November 16, 2004.

Comment:

The following organizations co-signed the letter that was submitted by Mr. Borden:

Agricultural Council of California  
California Association of Nurseries and Garden Centers  
California Certified Organic Farmers  
California Farm Bureau Federation  
California Floral Council  
California Grape and Tree Fruit League  
California Seed Association  
California State Floral Association  
Grower-Shipper Association of Central California  
Nisei Farmers League  
Ventura County Agricultural Association  
Western Growers  
Wine Institute

The comments suggested the following technical changes:

1. Amend subsection (c)(1) by:
  - a. Adding “in a stooped, kneeling or squatting position” between “hot-capping” and “shall;” and
  - b. Deleting “or no” from between “available” and “reasonable.”
2. Amend subsection (d)(2) to read as follows: “Any agricultural commodity grown in accordance with the standards prescribed by the National Organic Program under the direction of the Agricultural Marketing Service of the United States Department of Agriculture [7 CFR Part 205].
3. Amend subsection (d)(4) by placing a period after “containers” and deleting the rest of the phrase.

Response:

**Issue #1a.** The Board agrees with Mr. Borden that the addition of the proposed phrase is necessary to provide clarity and consistency. Therefore, the Board agrees to add the phrase, “in a stooped, kneeling or squatting position,” to subsection (c)(1) as suggested by the commenter.

**Issue #1b.** The Board agrees with Mr. Borden that the exemption to the prohibition in subsection (c)(1) would be more consistent if the terms used to qualify the alternative were linked together rather than separated by “or no.” Therefore, the Board agrees to amend subsection (c)(1) by deleting the phrase, “or no,” as follows: “...unless there is no readily available, ~~or no~~ reasonable alternative means of performing the work ...”

**Issue #2.** The proposed changes to subsection (d)(2) are identical to those proposed by Comment #3. Please see Comment #3 for the Board’s response.

**Issue #3.** The Board agrees with Mr. Borden that the qualifying language used in subsection (d)(4) provides essentially the same relief to nursery operators as that already provided to every employer by subsection (c)(1). However, the Board disagrees with Mr. Borden that the intent of subsection (d)(4) was to exempt commodities grown in all tubs and containers, which would be the effect of Mr. Borden's proposal to delete the qualifying language. The intent of subsection (d)(4) was to grant an exception for tubs and containers, but only when there is no reasonable alternative to hand weeding. The Board concludes subsection (d)(4) lacks language to clarify and make specific the exemption provided in subsection (c)(1).

Subsequent to the public hearing on November 18, 2004, labor and grower representatives on the Hand Weeding Advisory Committee, including Mr. Borden and representatives of the organizations listed above, notified Board staff they agreed to amend subsection (d)(4) as follows: "Horticultural commodities grown in tubs or planter containers ~~when the use of a long-handled tool or other alternative is unsuitable to the production of the commodity~~ with an opening not to exceed fifteen (15) inches."

This revision provides clarity and is consistent with the subsection's intent. Therefore, the Board agrees to amend subsection (d)(4) to the consensus language. The Board thanks Mr. Borden and the other grower representatives for their comments and participation in the Board's rulemaking process.

## II. Oral Comments received at the November 18, 2004, Public Hearing.

### #6 Rob Roy, Ventura County Agricultural Association.

#### Comment:

Mr. Roy presented the same four issues that were submitted by letter dated November 11, 2004, by Mr. Borden on behalf of thirteen grower organizations, including the Ventura County Agricultural Association. The comment is summarized in the previously covered section in Written Comments as Comment #5.

#### Response:

See the response to Comment #5 in the above Written Comments. The Board thanks Mr. Roy for his comments and participation in the Board's rulemaking process.

### #7 Christopher Ono, Legislative and Regulatory Chairperson of CANCG and owner of Mitsuwa Nursery, Ventura County.

#### Comment:

Mr. Ono stated that the exemption in proposed subsection (d)(4) appears to be an exemption but has the same burden of proof as the rest of the standard. Nursery plants, regardless of size, need to live indefinitely, unlike some crops that might be destroyed at harvest. The root structure

needs to remain intact in the nursery container. Damaged roots can lead to the introduction of disease and pests. This would lead to less plant vigor and under the nursery certificate they are required to provide commercially clean plants and this is also required under federal standards. Mr. Ono stated he shared the concerns expressed by Mr. Bob Falconer in a letter to the Board regarding the interpretation of “suitable and appropriate,” as used in subsection (c)(1).

Response:

Mr. Falconer’s written comments regarding the interpretation of “suitable and appropriate,” which Mr. Ono referred to in his oral comment, are included in the previously covered section of the Written Comments as Comment #4. Mr. Ono’s comment in regards to subsection (d)(4) are closely related to the comments expressed in Comment #4, and Comment #5 - Issue #3, also discussed in the Written Comments. The Board’s response to these two written comments apply to Mr. Ono’s comment as well. Please see Comments #4 and #5 for the Board’s response. The Board thanks Mr. Ono for his comments and participation in the Board’s rulemaking process.

#8 Jason Resnick, Western Growers.

Comment:

Mr. Resnick supported the comments of Mr. Rob Roy, Ms. Vanessa Bogenholm, and Mr. Christopher Ono.

Response:

The Board thanks Mr. Resnick for his comment and participation in the Board’s rulemaking process.

#9 Mark Schacht, Deputy Director, California Rural Legal Assistance Foundation.

Comment:

Mr. Schacht is not opposed to clarifying changes necessary for an effective standard, however there was a commitment made in the course of the negotiations with the Governor to support this standard without substantive changes and he urged that the Board not adopt substantive changes. Labor representatives do not agree to grant exemptions to companies just transitioning into organic production. These companies come under subsection (c)(1). In response to the changes to subsection (d)(2) that the growers proposed, Mr. Schacht proposed amending (d)(2) as follows: “Any agricultural commodity grown ~~without pesticides~~ in fields registered with County Agricultural Commissioners as certified organic.”

Response:

For the reasons stated in the response to Comment #3 in the Written Comments, the Board agrees to change the language of proposed subsection (d)(2) to the following: “Any agricultural

or horticultural commodity grown in fields or greenhouses which have been registered with the County Agricultural Commissioner as organic.” The Board concludes that this change is substantially the same as that proposed by Mr. Schacht. The Board thanks Mr. Schacht for his comments and participation in the Board’s rulemaking process.

#10 Vanessa Bogenholm, Owner of VB Farms and Chair of the Board, California Certified Organic Farmers.

Comment:

Ms. Bogenholm supported changing subsection (d)(2) to the following language: “Any agricultural commodity grown in accordance with the standards prescribed by the National Organic Program under the direction of the Agricultural Marketing Service of the United States Department of Agriculture [7 CFR part 205].” The language proposed by Mr. Schacht (Comment #9) would not work because it takes three years to transition. During this transition organic growers still have to weed and are not registered with the County Agricultural Commissioner, so they use the national program to determine the organic status.

Response:

Please refer to Comment #3 in the Written Comments for the Board’s response in regards to amending subsection (d)(2). In regards to growers making a transition to organic farming, the Board concludes subsection (c)(1) and subsection (c)(2) provide relief from the prohibition on hand weeding. Therefore, the Board makes no additional revision as a result of this comment. The Board thanks Ms. Bogenholm for her comments and participation in the Board’s rulemaking process.

#11 Howard Rosenberg, University of California, Berkeley.

Comment:

Mr. Rosenberg summarized that there was hard work and time put into the proposal, and for the most part it was well written, however, a meeting of university scientists and farm advisors raised several questions, which are reflected in the following comments:

1. There is a glaring omission to posture in (c)(1).
2. Replace “or no” in (c)(1) with “and.”
3. The terms “readily available” and “reasonable alternatives” need to be clarified.
4. The employer’s obligation in (c)(5) to provide “gloves and knee pads, as necessary” is not clear.
5. The term “without pesticides” in (d)(2) needs clarification.
6. The term “seedling” in (d)(3) should be defined.

Response:

Issue #1. The Board agrees to add the phrase “in a stooped, kneeling or squatting position” to subsection (c)(1). Please see the Board’s response to Comment #5 – Issue #1a in the Written Comments. The Board concludes that this revision satisfies Mr. Rosenberg’s comment. Therefore, the Board makes no further revisions as a result of this comment.

Issue #2. The Board amends proposed subsection (c)(1) to delete “or no.” Please see the Board’s response to Comment #5 – Issue #1b in the Written Comments. The Board concludes that this revision has the same effect as Mr. Rosenberg’s suggestion. Therefore, the Board makes no further revisions as a result of this comment.

Issue #3. The Board declines to revise subsection (c)(1) to provide more precise language. The proposed amendments to subsection 3456 were carefully crafted to control the practice of hand weeding without having an unduly adverse affect on any segment of agriculture. The Board considered numerous factors related to the utility of various methods, tools and equipment for controlling weeds in a wide range of agricultural operations. The Board also considered specific exemptions that would address each situation where the proposed prohibition on hand weeding would place an unreasonable burden on agriculture; however this prescriptive approach became excessively complex. The performance-based language in subsection (c)(1) accomplishes the same objective as prescriptive language, without discouraging the development of innovative alternatives to hand weeding. The Board disagrees with the comment that subsection (c)(1) needs to be revised to clarify what is meant by “readily available” and “reasonable alternatives.” These terms are commonly used and understood by the affected public. The terms “suitable and appropriate” further qualify the criteria for the exemption. The Board concludes subsection (c)(1) clearly states the criteria for an exemption from the prohibition on hand weeding. For the above reasons, the Board makes no revisions as a result of this comment.

Issue #4. The Board disagrees with the comment that subsection (c)(5) is not clear as to when an employer must provide gloves and/or kneepads. The context of section 3456 makes it clear to the affected public that the objective of the standard is to prevent injury to employees. The performance-based language of subsection (c)(5) clarifies that an employer must provide gloves and/or kneepads when the equipment is necessary to prevent injury. The Board concludes that the proposed performance-based language accomplishes the same objective as a prescriptive approach and is consistent with the provisions of Article 10 of the General Industry Safety Orders that pertain to the employer’s obligation to provide personal protective equipment. For these reasons, the Board makes no revisions as a result of this comment.

Issue #5. For the reasons stated in the response to Comment #3 in the Written Comments, the Board proposes to revise the language of proposed subsection (d)(2) to the following: “Any agricultural or horticultural commodity grown in fields or greenhouses which have been registered with the County Agricultural Commissioner as organic.” The Board concludes that this revision satisfies Mr. Rosenberg’s comment.

Issue #6. The term “seedling” generally refers to a young plant grown from a seed. Seedling is a term that is commonly used in horticulture and agriculture. The age at which a plant becomes too old to be considered a seedling depends on the species. Therefore, the Board declines to provide

a more precise definition for a seedling and is relying upon the generally accepted meaning of the term as used in the agricultural industry. For the above reasons, the Board makes no revisions as a result of this comment.

The Board thanks Mr. Rosenberg for his comments and participation in the Board's rulemaking process.

MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM  
THE 15-DAY NOTICE OF PROPOSED MODIFICATIONS

No further modifications to the information contained in the Initial Statement of Reasons are proposed as a result of the 15-day Notice of Proposed Modifications mailed on January 27, 2005.

Summary and Response to Written Comments:

#1 Ray Cruz, Ergonica, provided via email dated February 7, 2005.

Comment:

Mr. Cruz asked that Section 3456 be revised by adding a subsection (e) and (e)(1) after (d) as follows:

*“(e) In situations exempt from subsection (c)(1) and (c)(2) as provided in subsection (d), hand tools of any length may be used for the purpose of facilitating precise weeding or thinning.  
(1) The employer shall provide any hand tool that may be used under subsection (e).”*

Mr. Cruz stated that without this added language, employers may be limited to hand weeding with no hand tools in situations where subsection (c)(1) and (c)(2) shall not apply. This prevents the use of small hand tools, knives, trowels, weeders and other ergonomic tools that may have handles less than 48 inches in length. The revision would allow employers to use smaller, more precise tools in situations that would otherwise allow hand weeding without restriction.

Response:

The commenter did not address changes in the standard as proposed in the 15-Day Notice of Modification dated January 27, 2005. Therefore, the Board makes no revisions in response to this comment.

#2 Bill Struble, Avocado Farmer, vided via email dated February 12, 2005.

Comment:

Mr. Struble requested that an exemption be added to the rule to allow growers who have used pesticides but are in the process of transitioning to organic farming, and growers who employ Integrated Pest Management (IPM) practices and do not use herbicides, to continue prudent hand weeding when necessary. Mr. Struble noted that these situations do not qualify for the exemption from the requirements of subsections (c)(1) and (c)(2) that is provided by subsection (d)(2) for commodities grown in fields or greenhouses which have been registered with the County Agricultural Commissioner as organic. The commenter described why it is necessary to hand weed close to the trunks of avocado trees to avoid injuring the roots with a hoe, which permits fungus to enter and damage the tree.

Response:

The proposed amendments to Section 3456 were carefully crafted to control the practice of hand weeding without having an unduly adverse affect on any segment of agriculture. The Board considered numerous factors related to the utility of various methods, tools, and equipment for controlling weeds in a wide range of agricultural operations. The Board also considered specific exemptions that would address each situation where the proposed prohibition on hand weeding would place an unreasonable burden on agriculture; however this prescriptive approach became excessively complex. The performance-based language in subsection (c)(1) accomplishes the same objective as prescriptive language, without discouraging the development of innovative alternatives to hand weeding. In addition to the broad exemption provided by subsection (c)(1), the proposal includes four narrow exemptions under subsection (d) that provide relief from the provisions of subsections (c)(1) and (c)(2). The Board believes the performance-based provisions of subsection (c)(1) and (c)(2) provide sufficient relief from the prohibition on hand weeding in situations not covered by the exemptions provided under subsection (d), including transitional organic growers and other growers who do not use herbicides. Therefore, the Board makes no revisions as a result of this comment. The Board thanks Mr. Struble for his comment.

#3 Mr. Robert Staller, Managing General Partner, Morro Creek Ranch.

Comment:

Mr. Staller requested that an exemption be added to accommodate avocado growers because avocado seedlings, which sprout from the fruit that drops from the tree, must be pulled out by hand.

Response:

The commenter did not address changes in the standard as proposed in the 15-Day Notice of Modification dated January 27, 2005. Therefore, the Board makes no revisions in response to this comment.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

This standard does not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed standard. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.