

**DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS**

**TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE
CHAPTER 1. CHEMISTRY
SUBCHAPTER 1. FERTILIZING MATERIALS**

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The Final Statement of Reasons incorporates the Initial Statement of Reasons/Plain English Policy Statement Overview and the Addendum to the Statement of Reasons by reference.

Section 2300(g) - The specific purpose for amending Section 2300(g) is to describe the general provisions of labeling as well as to explain that organic input material registered in accordance to Title 3, Section 2320.2 of the California Code of Regulations may be marketed or offered for sale with the Registered Organic Input Material logo from CDFA and to display the logo itself in the regulation as well.

The proposed amendments specify the statement “State of California Approved” or any other indication of official approval by the Department is absolutely prohibited in labeling or advertising unless allowed for organic input material.

This is necessary to assist with the credibility of the manufacturer to the consumer. The logo signifies the product’s manufacturer(s) is registered with the Department and is upholding National Organic Program standards.

Section 2300(g)(1) - The specific purpose for adding Section 2300(g)(1) is to physically display the Registered Organic Input Material logo in the regulation.

The proposed addition will allow for manufacturers and consumers to reference the physical attributes of the logo for use in marketing and sales.

This is necessary to ensure there is no confusion over the physical appearance of the logo. The Department provided a color version of the logo displayed in brown, green, yellow and blue as well as a black and white version of the logo. Both are appropriate for marketing and sales purposes.

Section 2300(g)(2) - The specific purpose for adding Section 2300(g)(2) is to ensure all appropriately registered product manufacturers replicate the form and design of the logo referenced in Section 2300(g)(1).

The proposed addition will ensure all manufacturers properly utilize the logo so it is legibly printed and displayed conspicuously.

This is necessary for clarity purposes. It is important that the Department emphasize the proper use of the logo.

Section 2320.2(b)(8) - The purpose of amending California Code of Regulations (CCR) Section 2320(b)(8) is to remove unnecessary language.

The proposed amendment allows flexibility for the Secretary to provide additional information if deemed necessary.

The Department believes the removal of the language streamlines the regulation and allows the Secretary to provide any information he/she wants without any restrictions.

Section 2322(b)(18) – The specific purpose for amending Section 2322(b)(18) is to streamline the regulation section with 2300(g) amendments. The language adds clarification as to how the logo may be displayed.

The proposed amendment is technical and allows for the corresponding section in the regulation to be fluid and consistent.

The Department believes this is necessary so that any confusion associated with the CDFA Registered Organic Input Material logo may be negated.

Section 2323(e) - The specific purpose for amending Section 2323(e) regarding the Secretary of CDFA's authority to determine compliance and on-site inspection of organic input materials manufacturers and align regulations with the language of the law so industry will comply with inspection requirements. The intent is to provide the Secretary the flexibility to take samples and make analyses based on circumstances.

Previously, the regulation stated the Secretary shall do all of the following, and the Department determined this language was not appropriate because the nature of the law stated the Secretary shall, to the extent necessary, take samples and make analyses of various products and substances and various stages of production. The language "to the extent necessary" diluted the word "shall" which is why staff determined the intent of the law is to allow for flexibility in determining how compliance is determined; therefore, the regulation has been amended to read the Secretary may conduct these functions as he/she sees fit. The inspections that may be conducted by the Secretary to determine compliance are through sampling processes and procedures as well as analyses and examination of organic input materials.

SUMMARY AND RESPONSE TO WRITTEN COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT PERIOD ENDING MARCH 8, 2011.

COMMENT 1.1: Submitter requested a public hearing.

RESPONSE: The Department of Food and Agriculture (CDFA, Department) held a public hearing in response to this request on March 8, 2011.

COMMENT 2.1: Submitter believes California, e.g., the Department, is not practiced at evaluating farm inputs for compliance to the National Organic Program (NOP).

RESPONSE: AB 856 mandates the Department to evaluate organic input materials for compliance and the Department believes the NOP is the appropriate program to model compliance in California.

COMMENT 2.2: Submitter states AB 856 (Chapter 257, Statutes of 2009) defines its scope for regulating farming inputs as everything that goes on at an organic farm with the only exception being registered pesticides. Submitter stated that if regulations are implemented that attempt to narrow the scope, it will directly contradict the intent of AB 856 and require additional legislation to fix the contradictions.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (Government Code (GC) 11346.9(a)(3)).

COMMENT 2.3: Submitter restates the contradictory language in legislation as it attempts to implement AB 856.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically GC 11346.9(a)(3)).

COMMENT 2.4, 2.5: Submitter believes AB 856 should apply to the high nitrogen liquid fertilizers only.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 2.6: Submitter stated that the scope is too broad regarding what is to be registered with and evaluated by CDFA with respect to organic farming.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 2.7: Submitter stated the new regulations are a disastrous burden on California farmers, certifiers, and input suppliers.

RESPONSE: The Department has done its due diligence to draft the proposed regulations in a manner that bolsters industry and protects consumer in California.

COMMENT 3.1: Submitter is concerned with the additional cost associated with the implementation of AB 856, more specifically that the certification policy will not be widely accepted across the organic industry; the constituent would like to see one certification that could be used by all entities that require certification.

RESPONSE: AB 856 mandates registration by the Department to protect organic growers and consumers in the state. AB 856 expands the current registration provisions of the FAC to include organic input materials. The associated fees will cover the costs to the Department to ensure that products are in compliance; AB 856 requires industry to comply with NOP standards, label guarantees, and label claims, and ensuring products are not adulterated with synthetic fertilizers. The Department will review labeling statements, claims, and other pertinent documents submitted with each organic input material application for registration.

COMMENT 4.1, 4.2: Submitter believes cost of sales will increase due to the proposed regulations and this cost will result in input suppliers discontinuing sales in California.

RESPONSE: Regarding costs, AB 856 mandates registration by the Department to protect organic growers and consumers in the state. AB 856 expands the current registration provisions of the FAC to include organic input materials. The associated fees will cover the costs to the Department to ensure that products are in compliance; AB 856 requires industry to comply with NOP standards, label guarantees, and label claims, and ensuring products are not adulterated with synthetic fertilizers. Regarding discontinued sales in California, the Department is only able to respond to comments specifically addressing the proposed regulations and the impact these regulations may have. This portion of the comment does not specify how sales will be discontinued and therefore the Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 4.3, 4.4: Submitter states since the cost for inspections for compliance will inherently go to the manufacturers; this would create an adverse economic impact on organic input suppliers. Submitter also stated due to products being sold nationally, the increased regulations have a direct relationship to the cost.

RESPONSE: AB 856 mandated that existing laws regarding fertilizing materials distributed in California be expanded to include registration of organic input materials. AB 856 mandated the Department to register organic input materials to ensure that label guarantees and claims are scientifically feasible, in compliance with NOP standards and are not adulterated with synthetic fertilizers. The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

COMMENT 5.1: Submitter stated the Department lacked transparency in the rule making process. The constituent stated informational workshops were held in locations where very few industry people could attend as an example of this issue. Submitter stated the public outreach was lacking and unpublicized and Department staff were hard to reach.

RESPONSE: The Department believes it has been extremely transparent throughout the rulemaking process. AB 856 Subcommittee (comprised of various industry stakeholders) meetings were conducted in accordance of the Bagley-Keene Open Meeting Act by posting meeting agendas on CDFA's Website. Outreach activities on AB 856 were held in different parts of the state. Cumulatively, more than 200 industry representatives attended the workshop.

COMMENT 5.2: Submitter stated there was improper categorization of plant derived Composted Material as a fertilizer; stating Composted Soil Amendments and Composted Mulch are made from plant derived feedstock and are not a source of readily available fertilizer. Submitter notes the use of laboratory tests are not a marketing tool, rather a best management practice tool; the laboratory tests will create confusion in the industry.

RESPONSE: The issues raised in these comments were discussed by the AB 856 Subcommittee and the Compost Working Group came up with a specific set of recommendations. The recommendations were accepted unanimously by the AB 856 Subcommittee and the Fertilizing Materials Inspection Advisory Board.

COMMENT 5.3: Submitter believes the Department did not use proper public outreach tools; specifically stated that Cal Recycle's "AB 856 implementation Workshop Power Point" presentations had inaccurate and unclear information. Constituent was also concerned that presenting this type of outreach is not the responsibility of Cal Recycle and the statutorily mandated responsibility to disseminate such information lies within the Department's jurisdiction.

RESPONSE: The Department believes it has been extremely transparent throughout the rulemaking process. AB 856 Subcommittee meetings were conducted in accordance of the Bagley-Keene Open Meeting Act by posting meeting agendas on CDFA's Website. Outreach activities on AB 856 were held in different parts of the state. Cumulatively, more than 200 industry representatives attended the workshop. Please also note the Department utilized Cal Recycle to disseminate accurate information regarding the March 8, 2011 public hearing due to the vast amount of contact Cal Recycle has with composters and the contact lists available through that agency.

COMMENT 5.4: Submitter stated this new regulation is duplicative and places a financial and procedural burden on the organic farming industry.

RESPONSE: AB 856 mandates registration by the Department to protect organic growers and consumers in the state. AB 856 expands the current registration provisions of the FAC to include organic input materials. The associated fees will cover the costs to the Department to ensure that products are in compliance; AB 856 requires industry to comply with NOP standards, label guarantees, and label claims, and ensuring products are not adulterated with synthetic fertilizers. The Department will review labeling statements, claims, and other pertinent documents submitted with each organic input material application for registration.

COMMENT 5.5: Submitter requested a public hearing.

RESPONSE: The Department of Food and Agriculture (CDFA, Department) held a public hearing in response to this request on March 8, 2011.

COMMENT 5.6: Submitter stated that, “The 'zero' reporting is an example of the potential impact on small businesses. Further, the matrix for enforcement stipulates that 'reporting', including 'zero amounts' (section 232 1 (a)), is a serious level violation. At the very least a tier for the level of enforcement should be established for 'zero' reporting.”

RESPONSE: FAC Section 14641 is part of the matrix and states that the Secretary shall impose a penalty in the amount of two hundred dollars (\$200) on any person who does not submit the report on or before January 31 and July 31 of every year. The two hundred dollar (\$200) penalty is in the FAC. The proposed section 2321 was not included in the penalty matrix.

COMMENT 6.1: Submitter strongly opposes the Label Registration Fees associated with the proposed regulations.

RESPONSE: The Department has noted the submitter’s opposition; however, AB 856 mandates registration by the Department to protect organic growers and consumers in the state. AB 856 expands the current registration provisions of the FAC to include organic input materials. The associated fees will cover the costs to the Department to ensure that products are in compliance; AB 856 requires industry to comply with NOP standards, label guarantees, and label claims, and ensuring products are not adulterated with synthetic fertilizers. The Department scientists will review labeling statements, claims, and other pertinent documents submitted with each organic input material application for registration.

COMMENT 7.1: Submitter questioned whether or not the use of walnut shells in the production of mulch would place their compost under the newly proposed regulations creating a mandate in which they must register their product. The constituent does not sell specifically to organic farmers, but to homeowners as well. They are concerned with the commercial availability of compost and this regulatory actions potential impact.

RESPONSE: FAC Section 14550.5 outlines which material will be considered organic input material: any bulk or packaged commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, specialty fertilizer, or soil amendment, excluding pesticides, that is to be used in organic crop and food production and that complies with the requirements of the NOP standards. If submitter labels or packages their product as organic input materials, they will require registration.

COMMENT 8.1: Submitter supports the proposed regulations at face value.

RESPONSE: Department has noted submitter support.

COMMENT 8.2: Submitter would like to recommend that the regulation allow for an exemption for current organizations and government entities that are recognized by the NOP in certifying that fertilizer products are acceptable for organic use – in regards to the Registration Application for Organic Input Material (OIM) Product Label.

RESPONSE: The Department has considered this recommendation; however it would require a change in law because AB 856 mandates the Department to register and review all organic input material product labels distributed within California. It is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 8.3: Submitter suggested, with respect to the on-site inspection of organic input material manufacturers, if animal production facilities are to be inspected regarding manure based products, the Department must implement Bio Security requirements which allows animal facilities where outside visitors are not allowed to be exempted.

RESPONSE: This comment falls outside the scope of this proposed regulatory action. Although the above comment does regard some aspect or aspects of the subject proposed under this regulatory action and must be summarized pursuant to GC Section 11346.9(a)(3), the comment is either insufficiently related to the specific action, or too generalized or personalized to the extent that no meaningful response can be formulated by the Department in refutation of or accommodation to the comment.

COMMENT 8.4, 21.2: Submitters request the Inspection Services Division of CDFA coordinate their regulatory efforts with the USDA to ensure the California program is in compliance with NOP standards. The hope is to avoid duplicative efforts regarding the verification of organic compliance.

RESPONSE: AB 856 mandates that the program register organic input materials in compliance with NOP.

COMMENT 9.1: Submitter believes the registration program is redundant and the fee associated with the program is unnecessary.

RESPONSE: The Department is statutorily mandated, through the enactment of AB 856, to create the Organic Input Material Registration Program; while the submitters opposition to the program is noted, no specific concern besides redundancy is brought up here and the Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 9.2: Submitter is deeply concerned with the privacy of his product and believes the regulations will force him to give up his trade secrets.

RESPONSE: The Department would like to reassure submitter that the privacy of his product is of high concern to it; specifically sections 2300.2 and 2300.3 of the CCR state the procedures for claiming protection of trade secrets and conditions of confidentiality.

COMMENT 10.1: Submitter is pleased with the Departments transparent process in formulating the proposed regulations.

RESPONSE: Department has noted submitter support.

COMMENT 10.2: Submitter believes the regulations will cause harm to commerce and are ignoring the obvious costs to industry with respect to the registration program. The regulations will cause adverse economic impact to small businesses.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year (registration is good for two years). The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the "Small Business Impact Statement," the registration and associated fees would have no significant impact on small businesses.

COMMENT 10.3: Submitter states the scope of the proposed regulations is underfunded; the \$500 per label every other year will not be enough to sustain a capable, efficient and credible program leading to a severe shortage of legal products for use in organic production, due in part, to the Departments inability to review and approve organic input materials at a rate needed to effectively serve the organic community.

RESPONSE: The infrastructure of label and data review has been in place for decades as part of the Department's Fertilizing Materials Inspection Program. The program is

well-funded and has brought on additional qualified review and inspection staff to manage the increased workload.

COMMENT 10.4: Regulations add significant liability to CDFA due to the above mentioned potential for an underfunded and inefficient program. Commenter claims they have liability to their member businesses to ensure understanding of NOP standards.

RESPONSE: The Department has not found evidence to support this comment; the role of government regulation is to mitigate risk and accept both responsibility and the liability that comes with it. The Department's product registration staff, comprised of both environmental scientists and research analysts, has demonstrated decades-long history of comprehensive and thorough label and data review. The Department is confident that the same level of competency will continue.

COMMENT 10.5: Submitter states the definition of organic input material requirement to be registered is too broad; that it is not clear from the proposed regulations whether the scope of the organic input material definition will be narrowed to products intended for use in organic crop production. Constituent states AB 856 allowed for scope to be narrowed via regulation but during the AB 856 subcommittee meetings, the OIM definition remained overly broad: taking the program scope far beyond the original problem area – high nitrogen liquid fertilizers.

RESPONSE: FAC Section 14550.5 clearly and specifically defines organic input material as “any bulk or packaged commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, specialty fertilizer, or soil amendment, excluding pesticides, that is to be used in organic crop and food production and that complies with the requirements of the NOP standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.” The definition of organic input material is an issue the submitter has with the law, not the proposed regulations. The Department is statutorily mandated to implement this program based on the definition outlined in statute, the Department cannot comment further GC Section 11346.9(a)(3).

COMMENT 10.6: Respondent claims the mandatory 100% inspections are unnecessary and will take CDFA's focus away from monitoring high risk OIMs. Submitter requests CDFA eliminate this requirement while maintaining CDFA's authority to conduct 100% inspections if and when necessary.

RESPONSE: FAC Section 14601(f) provides that, “Organic input material manufacturers shall be inspected at least once per year.” The Department currently performs inspections at all licensed manufacturers (both organic and conventional). In doing so, it has not taken emphasis away from monitoring high-risk firms or conducting complex investigations.

COMMENT 10.7: Submitter believes CDFA lacked transparency in the decision making process; also stating it is unclear how an applicant would be able to appeal a decision made by CDFA regarding compliance to the NOP standards. Commenter suggests CDFA publish its review, decision making, appeal procedures, and provide an additional public comment period prior to finalizing and amending those procedures.

RESPONSE: The Department believes it has been extremely transparent throughout the rulemaking process. AB 856 Subcommittee meetings were conducted in accordance of the Bagley-Keene Open Meeting Act by posting meeting agendas on CDFA's Website. Outreach activities on AB 856 were held in three different sites including, Southern California. Cumulatively, more than 200 industry representatives attended the workshop.

Also, note the appeal process will be conducted in accordance to the FAC Section 14601(g), which stipulates that the proceedings to determine whether to cancel or refuse registration of fertilizing materials shall be conducted pursuant to Chapter 5 (commencing with Section 11500) part 1 of Division 3 of Title 2 of the Government Code.

COMMENT 10.8: Commenter believes the regulations go beyond the enforcement authority of CDFA and increase government interference in the private sector.

RESPONSE: AB 856 gives CDFA the authority to enforce and implement the regulations set forth.

COMMENT 10.9: Submitter suggested CDFA recognize and accept third-party reviews and inspections of organic input material labels both in California and out-of-state organic input material manufacturers in lieu of conducting its own duplicative review and inspection.

RESPONSE: Because the Department is mandated to review and register OIM product labels in accordance to FAC 14601, submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify this law. However, the law allows for CDFA to accept NOP recognized third-party inspections of out of state organic input material manufacturers. The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 11.1: Submitter expressed extreme concern for the costs and unnecessary redundancy of the requirements for certification of organic input materials created by AB 856.

RESPONSE: The Department has thoroughly evaluated the cost impact the fees associated with the Organic Input Material Registration Program will have on industry, and determined they are justified to properly carry out the duties and authority assigned to the Department. Because of the statutory mandate to implement the proposed regulations, the redundancy of this program is an issue the submitter has with the law;

therefore, submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 11.2: Submitter states the proposed regulations will cause his/her company to invest an additional \$5,400 in fees paid to CDFA and an estimated \$25,000 in employee expense for outside laboratory testing fees to register the same products with CDFA. Submitter believes the above stated figures are an example of how these regulations will have an adverse economic impact on his/her business.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year (registration is good for two years). The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the "Small Business Impact Statement," the registration and associated fees would have no significant impact on small businesses.

COMMENT 12.1: Submitter believes that while it is necessary for CDFA to regulate the organic industry, the increase in fees will have an adverse economic impact on his/her business.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year. The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the "Small Business Impact Statement," the registration and associated fees would have no significant impact on small businesses.

COMMENT 13.1: Submitter believes the proposed regulations for inputs to organic production appear similar to the State of Oregon labeling regulations, as well as the standards set at the Organic Materials Review Institute (OMRI). Submitter asked if they

meet the above mentioned labeling requirements, would they have to still register with CDFA.

RESPONSE: AB 856 mandated that the registration provisions of the California FAC regulating fertilizing materials be expanded to include organic input materials used in California regardless of registration in other states.

COMMENT 14.1: Submitter requests that CDFA seek NOP recognition for CDFA's Organic Input Material Program, this way CDFA's program will have the same validity as other USDA NOP recognized material review programs. Submitter uses OMRI and the Washington State Department of Agriculture (WSDA) as examples.

RESPONSE: The submitter is not commenting on the proposed regulations, please see (GC 11346.9(a)(3)). The Department has the authority and jurisdiction to implement regulations to make specific the law enacted via AB 856. Also note, the Department has aligned its standards at NOP standards and is diligently seeking NOP recognition.

COMMENT 14.2, 22.5: Submitter requests CDFA to allow for recognition of third party [review] of organic input materials, or at least expedite materials with third-party [review] through its registration review process.

RESPONSE: Documents showing registration or listing by material review organizations will support the registration process. Registration is mandated for organic input materials. Please see FAC 14601(a).

COMMENT 14.3: Submitter requested CDFA allow all manufacturers use third party inspectors, not just out-of-state manufacturers.

RESPONSE: FAC Section 14601(f) provides that the secretary has the authority to conduct inspections at least once per year. The department currently performs inspections at all licensed manufacturers (both organic and conventional).

COMMENT 14.4: Submitter believes the \$500 registration cost is too high and that initial fees should be \$100 and subsequent renewal registration fees be \$50.

RESPONSE: Department notes submitter's opposition and suggestions but will maintain the \$500 fee to sustain program costs.

COMMENT 15.1: Submitter believes the proposed regulations will have a negative impact on small businesses due to increased costs.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the

industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year (registration is good for two years). The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the “Small Business Impact Statement,” the registration and associated fees would have no significant impact on small businesses.

COMMENT 15.2: Submitter states the regulations will negatively impact the expansion of organic businesses in California, stating that if California causes input prices to go up, then fewer people will want to sell organic inputs resulting in organic farmers having fewer resources, ultimately driving up the price for the consumer.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year (registration is good for two years). The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the “Small Business Impact Statement,” the registration and associated fees would have no significant impact on small businesses.

COMMENT 15.3: Submitter states CDFA does not have an accurate picture of how much time, money and expertise will be needed to run the program prescribed in the proposed regulations.

RESPONSE: The Department is mandated to implement the proposed regulations; it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 15.4: Submitter believes the proposed regulations are burdensome on impacted businesses and states CDFA should seek alternative solutions to streamlining processes for organic input material manufacturers.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the

industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year (registration is good for two years). The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the “Small Business Impact Statement,” the registration and associated fees would have no significant impact on small businesses.

COMMENT 16.1: Submitter extends its support for the proposed regulations and requests an opportunity to partner in the development of the implementation of the Organic Input Material registration program i.e. joint-inspection program and recognition of approval decisions.

RESPONSE: The Department has noted submitters support; however the Department is solely statutorily mandated to implement the Organic Input Material Registration Program and will not be entering into outside partnerships regarding in-state inspections and recognition of approval decisions at this time.

COMMENT 17.1: Submitter encourages CDFA to closely analyze the regulations while they are being implemented to assure the most cost effective and streamlined regulations are implemented.

RESPONSE: The Department is conducting the implementation of these regulations in a manner that is sensitive to cost effectiveness and efficiency. The Fertilizer Inspection Advisory Board will be the body overseeing the program, please see FAC 14583.

COMMENT 17.2: Submitter believes the lack of accountability in third-party reviews has led to the need for more state oversight and the proposed regulations.

RESPONSE: The Department cannot respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 18.1, 21.1: Submitter states CDFA’s Organic Input Material program is unnecessary and duplicative.

RESPONSE: The provisions of AB 856 expanded the statutory registration of fertilizing materials in the FAC to include organic input material and the mandated inspections are necessary to ensure that fertilizing materials distributed in California have label nutrient guarantees and claims that are scientifically feasible, meet NOP standards and are not adulterated by synthetic fertilizers.

COMMENT 18.2: Submitter states the 100% inspection rate is extremely high.

RESPONSE: The Department has noted submitter opposition; please see FAC 14601(f) regarding inspections.

COMMENT 18.3, 18.4, 18.5, 18.6, and 18.7: Submitter praises CDFA for the transparency of the public process in implementing AB 856. They are appreciative that CDFA has kept the AB 856 Subcommittee active during this implementation phase. They also note the proper way in which the Department has collected and distributed crucial data to industry partners; while showing flexibility and willingness to learn and grow.

RESPONSE: The Department has noted submitter support.

COMMENT 18.8: Submitter states their recognition of material review programs is voluntary, not mandatory, and they believe CDFA's program has led to industry confusion with manufacturers, suppliers, and certifiers.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 18.9: Submitter believes NOP recognized organizations should be seen as being equivalent to the CDFA program.

RESPONSE: Currently, there is no equivalency between Material Review Organizations and CDFA. Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 18.10: Submitter believes the fiscal situation of the state makes it hard for the Department to implement such a duplicative program without significant future costs to themselves, despite the industry funded nature of this program.

RESPONSE: AB 856 mandates that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material; the Department will implement this program based on the revenues it will take in from product and label registration and the mill assessment on sales of fertilizing materials, FAC 14611(a).

COMMENT 18.11: Submitter would like clarification on language they find vague – specifically the statement – “application of any organic input material.” Submitter is concerned this will apply to any producer who uses any Organic Input Material (OIM) could be freely inspected and prosecuted under this law.

RESPONSE: The definition of which can be found in statute FAC 14450.5, outlining material that will be considered organic input material: any bulk or packaged commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, specialty

fertilizer, or soil amendment, excluding pesticides, that is to be used in organic crop and food production and that complies with the requirements of the NOP standards. If submitter labels their product as organic input material, they will require registration. The term “application” of fertilizing material (organic input material) is stipulated in FAC Section 14541.

COMMENT 18.12: Submitter states the 100% inspection program will cost more than CDFA will be able to afford; while also causing many manufacturers and suppliers to stop manufacturing and supplying organic input materials.

RESPONSE: AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year. The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the “Small Business Impact Statement,” the registration and associated fees would have no significant impact on small businesses.

COMMENT 18.13: Submitter states the definition of organic input materials is overly broad and leads to confusion and concern regarding how the law will be implemented.

RESPONSE: The definition of organic input materials is properly outlined in code; please note the purpose of the proposed regulations is to properly implement and make specific the law. Therefore, the regulations being proposed fully explain how the law will be implemented. The submitter is making a general statement here and the Department cannot comment further without a specific issue being raised with the proposed regulations (GC 11346.9(a)(3)).

COMMENT 18.14: Submitter is opposed to creating an organic input material label review and registration program.

RESPONSE: Department has noted submitters opposition.

COMMENT 18.15: Submitter restates how confusing language in the proposed regulation is regarding who will be prosecuted under the new law. They stated the phrase “or application of any fertilizing material” could be interpreted to apply to a producer using an organic input material and therefore could face undue prosecution.

RESPONSE: The regulations apply to organic input material manufacturers and distributors. The Department believes the language regarding the application of any fertilizing material is clearly stipulated in FAC Section 14641, which states the secretary shall have free access to all records and procedures used in manufacturing and distributing any fertilizing material.

COMMENT 18.16: Submitter rejects there will be no adverse impact on small businesses.

RESPONSE: The Department has noted submitter's rejection; however, the Department has not identified any alternatives, within statute, that would lessen any adverse impact on small businesses.

COMMENT 19.1: Submitter believes there is ample ability for the private sector to provide certification services.

RESPONSE: AB 856 mandated that existing laws regarding fertilizing materials distributed in California be expanded to include registration of organic input materials. AB 856 mandated the Department to register organic input materials to ensure that label guarantees and claims are scientifically feasible, in compliance with NOP standards and are not adulterated with synthetic fertilizers.

COMMENT 19.2: Submitter believes CDFA's program will be duplicative and unnecessary.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. Therefore, submitter is taking issue with the law and the Department cannot comment further (GC 11346.9(a)(3)).

COMMENT 20.1: Submitter supports the proposed regulations as an appropriate response to rapidly evolving organic farming and gardening practices.

RESPONSE: The Department has noted submitter's support.

COMMENT 20.2: Submitter is concerned that the labeling program is not based on sound science, objective standards, and test methods. More specifically, they are concerned their company will not meet the Department's criteria for Auxiliary Soil and Plant Substances and that the testing and certification of biotics currently being implemented under Section 2304 of the Department's regulations are not consistent with effective and fair regulatory procedures and does not establish the objective criteria for the product and the test methodology that demonstrates the criteria is met.

RESPONSE: Commenter is requesting that CCR Section 2304 on biotics be amended. This Section is not part of the current rulemaking. Since this comment does not address the regulations specifically; the Department cannot comment further (GC 11346.9(a)(3)).

COMMENT 20.3: Submitter is concerned that the Department has not approved a methodology for taxonomy and total mycorrhizae counts and that Department accepts results based on recognition of the testing and certifying organization, which can be a manufacturer or supplier of such biotics.

RESPONSE: Currently, regulations are in place to evaluate the label of each product which contains organisms such as mycorrhizae. As expressed in CCR 2304, the label of each product which contains organisms, enzymes and other biologically active by-products of organisms for which claims are made shall state:

(a) Name of each species and strains as part of the statement of composition and name of each product, if claimed.

(b) (1) the percentage or number of viable units of microorganisms per cubic centimeters. The concentration in percentage of enzymes or other organism by-products claimed.

(c) The expiration date for use.

(d) Storage conditions. A generally accepted laboratory method for assaying the viable and attenuated units and the by-products claimed must be submitted with the registration application. When used for the purpose intended, the product must not be pathogenic to plants or pathogenic to animals which may consume the treated plant. Biotic products such as *Rhizobium* spp., *Gingaspora* spp., *Glomus* spp. and *Pisolithus* spp., are acceptable for registration.

Other biotic products are acceptable based on efficacy data.

The Department will monitor this issue in order to evaluate whether future rulemaking to amend CCR Section 2304 is necessary.

COMMENT 21.2: Submitter recommends that CDFA develop an appeal process regarding whether an organic input material is compliant with NOP standards.

RESPONSE: The appeal process will be conducted in accordance to the FAC Section 14601(g), which stipulates that the proceedings to determine whether to cancel or refuse registration of fertilizing materials shall be conducted pursuant to Chapter 5 (commencing with Section 11500) part 1 of Division 3 of Title 2 of the Government Code. Also note, the Department has aligned its standards to NOP standards and is diligently seeking NOP recognition.

COMMENT 21.3: Submitter would like to state the importance of allowing farmers the ability to continue using organic input materials during the registration process.

RESPONSE: The Department is currently allowing farmers to continue to use organic input materials that are listed by NOP recognized material review organizations during the regulation process and is planning to implement the program January 1, 2012.

COMMENT 21.4: Submitter would like to make sure CDFA does not apply these standards to any other manufacturers as long as they are not marketing their products as organic.

RESPONSE: AB 856 mandated the Department expand the registration provision to include the registration of organic input materials distributed in California; therefore the provisions apply to manufacturers claiming/marketing their products as organic input materials.

COMMENT 21.5: Submitter recommends that CDFA treat trade secret information as propriety and that CDFA include mention of its regulations regarding trade secrets in outreach to manufacturers of organic input materials.

RESPONSE: Current Fertilizing Materials Inspection Program regulations in the CCR provide ways to protect confidential information. CCR Section 2300.1 defines terms pertaining to trade secrets, CCR 2300.2 provides procedures for claiming protection of trade secrets, and CCR 2300.3 establishes the conditions of confidentiality.

COMMENT 22.1: Submitter supports the ways in which AB 856 and its proposed regulations address the need for inspections of facilities manufacturing inputs for organic production.

RESPONSE: Department has noted submitters support.

COMMENT 22.2: Submitter supports the ways in which AB 856 and its proposed regulations give CDFA enforcement authority, including the ability to prosecute and fine suppliers making fraudulent inputs which do not comply with the NOP standards.

RESPONSE: Department has noted submitters support.

COMMENT 22.3: Submitter commends the Fertilizing Materials Inspection Program for establishing a transparent process for obtaining feedback on regulations as they are drafted, for developing a phase-in period of the law that allows for continued industry recommendations as the law is implemented, and for further researching blended input materials before making a determination on how best to regulate these products.

RESPONSE: Department has noted submitters support.

COMMENT 22.4: Submitter would like CDFA to add language to its regulations to clarify the scope of the definition of organic input materials to apply only to products that make claims of compliance to the NOP rule.

RESPONSE: FAC Section 14550.5 clearly and specifically defines organic input material as “any bulk or packaged commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, specialty fertilizer, or soil amendment, excluding pesticides, that is to be used in organic crop and food production and that complies with the requirements of the NOP standards, as specified in Part 205 (commencing with Section 205.1) of Subchapter M of Chapter I of Subtitle B of Title 7 of the Code of Federal Regulations.”

COMMENT 22.6: Submitter would like CDFA to recognize in-state and out-of-state material reviews by ACAs or NOP-recognized third party reviewers including language allowing for this in regulations.

RESPONSE: Statute mandates the Department solely review and register organic input material product labels; therefore submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 22.7: Submitter would like CDFA to consider the Organic System Plan as a model for input producers to maintain their records.

RESPONSE: Submitter is recommending the Department create a new law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)). Please also note, this recommendation is not acceptable because the Department's jurisdiction does not reach into the business practices of how producers maintain their records. We require certain documentation and information; however how companies maintain this information is completely up to them.

COMMENT 22.8: Submitter would like to recommend that CDFA not implement the regulation faster than staff capacity allows for uninterrupted business in compliant inputs.

RESPONSE: The Department has implemented processes and increased resources so that business activity is not interrupted. Due to the comments not being directed at the proposed regulations, the department will not respond further (GC 11346.9(a)(3)).

COMMENT 22.9: Submitter would like CDFA to revise the fee structure so that it is based on a fee per formula, not per label.

RESPONSE: The purpose of creating the fee structure based on the established per label structure is due to the registration program goal to properly label products and verify compliance with NOP standards. The proposed fee structure is provided within the proposed change in regulations document.

COMMENT 22.10: Submitter recommends that CDFA consider other definitions, terms, and clarifications regarding some of the processes for implementing AB 856; submitter is concerned that the proposed regulations will have adverse economic impacts on small businesses.

RESPONSE: The Department will not comment on this because it does not address any particular definitions and terms they wish clarified. Regarding the economic impact, AB 856 mandated that the Department expand its fertilizing materials registration

program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year. The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the “Small Business Impact Statement,” the registration and associated fees would have no significant impact on small businesses.

COMMENT 22.11: Submitter encourages CDFA and the Fertilizer Inspection Advisory Board to maintain close dialogue with the USDA’s NOP.

RESPONSE: It is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department cannot respond to comments that do not address the regulations specifically (Government Code (GC) 11346.9(a)(3)); however please note the Department does engage in regular dialogue with the NOP.

COMMENT 22.12: Submitter recommends the Department carefully consider alternatives that were raised during the Fertilizer Inspection Advisory Board meetings (June 9, 2010, July 13, 2010, August 3, 2010, September 15, 2010, October 21, 2010 and November 12, 2010).

RESPONSE: The Department has considered all alternatives raised during the above mentioned meetings, however this comment does not take issue with any particular portion of the proposed regulations; therefore the Department cannot comment further (GC 11346.9(a)(3)).

COMMENT 22.13: Submitter requests that CDFA only recognize materials approved by the NOP during the registration review process.

RESPONSE: The submitter is not commenting on the proposed regulations, please see GC 11346.9(a)(3). The Department has the authority and jurisdiction to implement regulations to make specific the law enacted via AB 856. Also note, the Department has aligned its standards at NOP standards and is diligently seeking NOP recognition.

COMMENT 22.14: Submitter requests that CDFA allow for third party inspections in California.

RESPONSE: FAC 14601(f) provides that, “Organic input material manufacturers shall be inspected at least once per year.” The Department currently performs inspections at all licensed manufacturers (both organic and conventional).

COMMENT 22.15: Submitter states the regulation should only require registration by those engaged in the manufacture or sale of commercial organic input materials that are to be used in organic crop and food production meaning that the product is intended for use and makes a claim of NOP compliance; submitter believes the scope of organic input materials has not been clarified.

RESPONSE: The Department believes the scope and clarity of the definition of organic input materials is clearly depicted in the FAC; the provisions of AB 856 expanded the statutory registration of fertilizing materials in the FAC to include organic input material and the mandated inspections are necessary to ensure that fertilizing materials distributed in California have label nutrient guarantees and claims that are scientifically feasible, meet NOP standards and are not adulterated by synthetic fertilizers.

COMMENT 22.16: The submitter states there is an economic burden surrounding the fee structure being based on a per label basis.

RESPONSE: The purpose of creating the fee structure based on the established per label structure is due to the registration program goal to properly label products and verify compliance with NOP standards. The proposed fee structure is provided within the proposed change in regulations document.

COMMENT 22.17: Submitter believes the regulations will likely limit sales of organic input materials in California, including fertilizers, soil amendments, and compost used in organic production, and their availability to organic producers.

RESPONSE: Department has not identified any alternatives that would lessen any adverse impact on small businesses.

COMMENT 22.18: Submitter recommends the inclusion of the definitions and terms from the NOP, the National Organic Standards Board, the Organic Materials Review Institute's generic materials list, and the American Association of Feed Control Officials to provide applicants and the Department with additional flexibility so that the organic input material labels contain terms and definitions that are widely used and easily understood by the trade and the public.

RESPONSE: The current definition of organic input materials is sufficient to allow for the appropriate registration of organic input material product for California.

COMMENT 22.19: Submitter recommends that the Department provide a standard name for the form and identify where the most current edition can be found.

RESPONSE: The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 22.20: Submitter requests the Department only review products that are recognized by NOP.

RESPONSE: The Department will review all organic input material product labels to ensure they are compliant with NOP standards.

COMMENT 22.21: Submitter recommends the Department provide an application process that provides the necessary information for the registration of organic input materials but also provide for confidentiality of business information.

RESPONSE: Please refer to CCR Section 2300.3, which will provide all of the necessary information for the registration of organic input materials as it pertains to the procedures for claiming protection of trade secrets.

COMMENT 22.22: The submitter requests that the Department identify its authority to charge fees for the inspection of in-state and out-of-state facilities and establish a fee schedule based on an hourly charge.

RESPONSE: The submitter is requesting a change in law and is not specifically commenting on the regulations, therefore the Department will not respond further (GC 11346.9(a)(3)).

COMMENT 22.23: Submitter is requesting the Department – in regulation – establish the standards by which a manufacturer will be inspected for compliance with NOP standards and nutrient guarantee and/or claim.

RESPONSE: The Department has established protocols in which manufacturers will be inspected for compliance. Please see FAC 2313-2317 which outlines official samples, subsamples, sampling procedure, identification of official samples, and description of samples.

COMMENT 22.24: Submitter requests the Department consult with USDA NOP and interested parties to produce a uniform and consistent set of inspection standards especially as it relates to compliance with Department's program.

RESPONSE: The submitter is not commenting on the proposed regulations, please see GC 11346.9(a)(3). The Department has the authority and jurisdiction to implement regulations to make specific the law enacted via AB 856. Also note, the Department has aligned its standards at NOP standards and is diligently seeking NOP recognition.

COMMENT 22.25: Submitter requests the Department to require manufacturers submit a compliance plan with their application and that Department consult with USDA NOP to develop standards for an Input Compliance Plan.

RESPONSE: Submitter has not commented specifically about the regulation; please also note the Department is diligently seeking NOP recognition and has created regulations that uphold NOP standards.

COMMENT 22.26: Commenter suggests changing the word “shall” to “may,” regarding samples to be taken by the Secretary of CDFA.

RESPONSE: The Department agrees with commenter and has made that specific change in the code, per commenter’s suggestion.

COMMENT 22.27: Submitter recommends that Department indicate their intent to conduct mandatory sampling during annual site visits, provide sampling procedures, provide requirements for laboratory certification, provide for direct reference to federal law, provide for disposition of organic input materials that are considered adulterated for no other reason other than non-compliance with NOP standards.

RESPONSE: Please see CCR Title 3 Section 2315 which provides all of the above requested information for the submitter. This section is solely dedicated to sampling procedures for fertilizing materials.

COMMENT 22.28: Commenter requests the Department provide for sampling procedures and provide for split sampling whenever official samples are taken, for retention by the manufacturer.

RESPONSE: Please see CCR Title 3 Section 2314 & 2315 which provides all of the above requested information for the submitter. This section is solely dedicated to sampling procedures for dry fertilizer and liquid fertilizing materials.

COMMENT 22.29: Commenter requests the Department provide for requirements for laboratory certification, standards and testing methods/protocols for testing official samples.

RESPONSE: Testing methods and protocols for testing official samples are based on the Association of Official Analytical Chemists Laboratory method. The Department’s Center for Analytical Chemistry’s ISO Accreditation Number is A2LA, Certificate #2181.01.

COMMENT 22.30: Commenter requests the Department provide direct reference to federal law, regulation and policy in regards to the NOP and the sampling, testing, and actions due to findings of prohibited substance in organic material.

RESPONSE: The program standards model NOP standards. To find information on sampling, please see Title 3 of CCR Section 2313-2317. For information on testing, please see Title 3 of CCR Section 2300(c), regarding actions that will be taken if prohibited substances are found in organic material: there are various penalties and

quarantine procedures depending on severity. Since the question is not specific to the issue, we cannot comment further (GC 11346.9(a)(3)).

COMMENT 22.31: Commenter requests the Department provide for disposition of organic input materials that are considered adulterated for no other reason other than non-compliance with NOP standards.

RESPONSE: Resolution of quarantined OIM products would include relabeling the product as a conventional fertilizer. For more information regarding the disposition of fertilizing materials found to be adulterated, please see FAC 14533, 14655-14658.

COMMENT 23.1: Submitter is confused as to what triggers a product to be subject to the new rules; they question whether the word “organic” is enough to require registration.

RESPONSE: Claims that the product is for organic crop and food production and imply directly or indirectly that the fertilizing material complies with requirements of the NOP standards would require registration as an organic input material.

COMMENT 23.2: Submitter questions what CDFA will accept to demonstrate their organic input materials are compliant with NOP, basically stating this new program is duplicative.

RESPONSE: The proposed regulation Section 2320.2 Registration for Organic Input Material Product Label Review, applicant must submit for registration the following:

- (1) A copy of the label and labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use.
- (2) The complete formula of the material including the active, inert ingredients, the name, source, and function of every substance that is added in creation of the final product. This includes primary ingredients and feedstocks, growth media, substrates, extractants, solvents, emulsifiers, precursors, reactants and stabilizers, as well as any chelating, complexing, crystallizing, granulating, hydrolyzing, flowing, or floating agents, or any other additives.
- (3) A complete description of the manufacturing process for the Organic Input Materials and as appropriate for each ingredient, including ingredient amounts, sequence and duration of events, temperature changes, reactions, and all steps taken to assure that OIM are not contaminated with USDA-NOP prohibited substances as well as a description of any composting, digestion, fermentation, extraction, or other processes and any methods used for removing extractants or growth media from the final product.
- (4) The intended uses of the product.

- (5) The source or supplier of all ingredients.
- (6) Alternate formulation.
- (7) Third party formulated ingredients.
- (8) Any additional information deemed necessary by the Secretary.

COMMENT 23.3: Submitter believes this new regulation places their trade secrets at risk and wants to know what procedures will be in place to ensure that confidential and proprietary formulations and components are not disclosed to the public.

RESPONSE: Current Fertilizing Materials Inspection Program regulations in the CCR provide ways to protect confidential information. CCR Section 2300.1 defines terms pertaining to trade secrets, CCR 2300.2 provides procedures for claiming protection of trade secrets, and CCR 2300.3 establishes the conditions of confidentiality.

COMMENT 24.1: Commenter suggests that all labeling of biotics products consist of at least one statement of spores per unit present within the product and that CDFA consider establishing their own laboratory for analysis or use independent labs which generally charge less than \$50 per sample.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 24.2: Commenter states that current services offered by commercial laboratories are limited to the determination as to whether the mycorrhizal fungi appears to be a member of the Glomus family. His recommendation is that labels restrict claims such as, "This product contains one or more species of Glomus" or a statement similar in nature.

RESPONSE: Currently, regulations are in place to evaluate the label of each product which contains organisms such as mycorrhizae. Please see CCR 2304, regarding the label of each product which contains organisms, enzymes and other biologically active by-products of organisms for which claims are made, for specifications.

The Department will monitor this issue in order to evaluate whether future rulemaking to amend CCR Section 2304 is necessary.

COMMENT 24.3: Commenter suggests for labeling purposes, the addition of a statement when ecto-mycorrhizal inoculums are claimed as follows, or of similar wording: "Ecto-mycorrhizal fungi is limited to providing benefits to the following plants; Pines, Oaks, Spruce, Fir, Pecans, Hazelnuts and a few other hardwood trees.

RESPONSE: Currently, regulations are in place to evaluate the label of each product

which contains organisms such as mycorrhizae. Please see CCR 2304, regarding the label of each product which contains organisms, enzymes and other biologically active by-products of organisms for which claims are made, for specifications.

The Department will monitor this issue in order to evaluate whether future rulemaking to amend CCR Section 2304 is necessary.

COMMENT 24.4: Commenter suggests that CDFA consider using of the following laboratories for their analysis or consider implementing procedures within their own lab: Western Laboratories, U of Florida, Soil & Water, or MycoRoots.

RESPONSE: Currently, regulations are in place to evaluate the label of each product which contains organisms such as mycorrhizae. Please see CCR 2304, regarding the label of each product which contains organisms, enzymes and other biologically active by-products of organisms for which claims are made, for specifications.

The Department will monitor this issue in order to evaluate whether future rulemaking to amend CCR Section 2304 is necessary.

COMMENT 24.5: Commenter suggests that if “Casper” type spores are the dominating spores in any product, that the supplier be seriously scrutinized as to the source of his inoculum.

RESPONSE: Currently, regulations are in place to evaluate the label of each product which contains organisms such as mycorrhizae. Please see CCR 2304, regarding the label of each product which contains organisms, enzymes and other biologically active by-products of organisms for which claims are made, for specifications.

The Department will monitor this issue in order to evaluate whether future rulemaking to amend CCR Section 2304 is necessary.

COMMENT 25.1: Submitter writes, with CDFA’s current inability to effectively review product labels in a timely fashion, submitter is deeply concerned with how it is going to manage this new workload, especially for out-of-state companies as submitter states they are.

RESPONSE: Submitter is commenting on the process; it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 25.2: Submitter stated they will not supply CDFA with any proprietary information. They also note the manufacturing methods that set them apart from the competition are extremely confidential. They request that Department outline steps it will take to protect private company information.

RESPONSE: Section 2300.2 and 2300.3 of the CCR specifically state the procedures for claiming protection of trade secrets and conditions of confidentiality.

SUMMARY AND RESPONSE TO ORAL COMMENTS RECEIVED DURING THE AB 856 HEARING ON MARCH 8, 2011

COMMENT 26.1: Commenter would like to be on the record stating that California must consider inoculums that are produced artificially.

RESPONSE: The Department notes commenter's statement.

COMMENT 27.1: Commenter states AB 856 creates a duplicative program that replicates what private businesses already do while adding a layer of confusion in the materials review and inspection program that puts California businesses at a disadvantage over the rest of the country.

RESPONSE: The provisions of AB 856 expanded the registration and review of fertilizing materials in the FAC to include organic input material and the mandated inspections are necessary to ensure that fertilizing materials distributed in California have label nutrient guarantees and claims that are scientifically feasible, meet NOP standards and are not adulterated by synthetic fertilizers. Please note the Department, through the enactment of AB 856, has a legislative mandate to create this program and has done so by utilizing similar programs throughout the country as a means for standards and application.

COMMENT 27.2: Commenter states these proposed regulations will cause some manufacturers to stop doing business within the state.

RESPONSE: This response does not cite a specific issue with the regulations on how harm will be caused and will not comment further. Please see GC 11346.9(a)(3).

COMMENT 27.3: Commenter recommends that CDFA allow for third party inspections both in-state and out-of-state.

RESPONSE: FAC 14601(f) provides guidelines for in-state and out-of-state inspections.

COMMENT 28.1: Commenter's client is concerned the proposed regulations do not go far enough in the area of biotics and states there is currently no agreed upon method for counting species and other aspects of determining the amount of these biotic materials are in blended fertilizer.

RESPONSE: This comment is directed at regulations already in place. The Department will monitor this issue in order to evaluate whether future rulemaking to amend CCR Section 2304 is necessary; and for more information regarding Biotics, please see Title 3 of CCR Section 2304. This comment does not address a specific

issue with the proposed regulations and the Department will not comment further (GC 11346.9(a)(3)).

COMMENT 28.2, 28.3, and 28.4: Commenter claims there are no agreed upon method for counting species and other aspects of determining the amount of bionic materials are blended in fertilizer. They believe the Department should set these standards in a transparent manner.

RESPONSE: Please see RESPONSE to COMMENT 28.1.

COMMENT 29.1: Commenter states the proposed regulations create another layer of inspections and costs associated with the proposed program.

RESPONSE: The provisions of AB 856 expanded the statutory registration of fertilizing materials in the FAC to include organic input material and the mandated inspections are necessary to ensure that fertilizing materials distributed in California have label nutrient guarantees and claims that are scientifically feasible, meet NOP standards and are not adulterated by synthetic fertilizers.

COMMENT 30.1: Commenter states the Department should consider other registrations and listings instead of creating a duplicative program.

RESPONSE: The provisions of AB 856 expanded the registration and review of fertilizing materials in the FAC to include organic input material and the mandated inspections are necessary to ensure that fertilizing materials distributed in California have label nutrient guarantees and claims that are scientifically feasible, meet NOP standards and are not adulterated by synthetic fertilizers.

COMMENT 30.2: Commenter states CDFA should develop a method to reduce the registration fee for the registration of similar products from the same registered ingredients.

RESPONSE: Submitter is commenting on law, it is within the Departments authority to take the scope of AB 856 and create regulations that specify and make specific this law. The Department will not respond to comments that do not address the regulations specifically (GC 11346.9(a)(3)).

COMMENT 30.3: Commenter requests the Department ensure a timely registration of products.

RESPONSE: Submitter's request does not specifically address a concern with the proposed regulations; therefore the Department cannot comment further (GC 11346.9(a)(3)).

COMMENT 30.4: Commenter states that bio-security must be taken into consideration when inspecting facilities in which live animals are present.

RESPONSE: Submitter's request does not specifically address a concern with the proposed regulations; therefore the Department cannot comment further (GC 11346.9(a)(3)).

COMMENT 30.5: Commenter suggest CDFA work with the NOP to ensure the registration program is recognized by the NOP.

RESPONSE: Currently CDFA staff is working diligently to obtain NOP recognition.

COMMENT 31.1: Commenter is frustrated with the continuing burdensome regulatory climate and states this regulation adds to that climate, specifically all small businesses in California.

RESPONSE: AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year. The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the "Small Business Impact Statement," the registration and associated fees would have no significant impact on small businesses.

COMMENT 31.2: Commenter states there's still some confusion over the definition of organic input material regarding blended fertilizing materials.

RESPONSE: The Department directs submitter to FAC 14550.5 which clarifies and defines organic input materials as it pertains to any bulk or packaged commercial fertilizer, agricultural mineral, auxiliary soil and plant substance, specialty fertilizer, or soil amendment to be used in organic crop or food production and must comply with the requirements of the NOP standards.

COMMENT 31.3: Commenter states the regulations go too far in some areas.

RESPONSE: This comment does not take issue with a specific part of the proposed regulation, per GC 11346.9(a)(3), the Department cannot comment on this further.

COMMENT 31.4: Commenter stated a manufacturer of an input made out of mustard seed plants is concerned about how this law would affect them, it is a secondary product based on a biodiesel process. Currently they register their products through

this program and have been doing so for 13 months. They've had to pay multiple fees and believe Department is to blame for the delays.

RESPONSE: The law applies to them if the manufacturer is claiming its product is an organic input material. AB 856 mandated that the Department expand its fertilizing materials registration program to require the registration of each label of organic input material distributed in the State to ensure that nutrient guarantees and claims are scientifically feasible and meet NOP standards. AB 856 requires that the registration fee not exceed \$500 per label; the Fertilizer Inspection Advisory Board, composed of members of the industry and the public, recommended an initial registration fee in the proposed regulation of \$500 for each label of organic input materials with a valid registration period from January of an even-numbered year until December 31 of the following odd-numbered year (registration is good for two years). The Department may accept inspections performed by a third-party organization recognized by NOP for out-of-state organic input material manufacturers. The Department has determined that based on the above and the fact stated in the "Small Business Impact Statement," the registration and associated fees would have no significant impact on small businesses.

COMMENT 31.5: Commenter is concerned about what kind of administrative detail is causing a huge lag in time for their registration.

RESPONSE: This comment does not take issue with a specific part of the proposed regulation, per GC 11346.9(a)(3), the Department cannot comment on this further.

COMMENT 31.6: Commenter asked if their product – which is 100% biodegradable and OMRI listed – would have to register under this law because it does contain some organic approved fertilizer in the paper product.

RESPONSE: The commenter would need to register their product.

COMMENT 32.1: Commenter is concerned that due to the proposed regulations, he will not be able to share their analytical data with CDFA or the crop production industry. He stated a lot of times they have to do a nutrient calculation without knowing what it is. He understands the regulations require a guarantee, but more of a "rule of thumb."

RESPONSE: This comment does not take issue with a specific part of the proposed regulation, per GC 11346.9(a)(3), the Department cannot comment on this further.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY NOTICE OF MODIFICATIONS TO THE TEXT OF PROPOSED REGULATIONS, ENDING JULY 8, 2011.

COMMENT 33.1: Commenter asked if her company has an NOP allowed material that is OMRI listed and wants to sell her product in California, do they have to pass this certification.

RESPONSE: This comment does not address modifications to the text of the proposed regulations; therefore the Department will not comment further (GC 11346.9(a)(3)).

COMMENT 33.2: Commenter asked what the timeframe is to get certified and if her company will have to cease all sales in California until passing certification; commenter believes this law is “over-kill” and it took the company four years for NOP allowance.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.1: Commenter stated that they are “disappointed that none of the changes that we recommended to the regulations for AB856 have been incorporated into CDFA’s latest draft. We appreciate the opportunity to be represented in the discussions on promulgating regulations for this important law and submit the comments below for your consideration. “

RESPONSE: Please see RESPONSE to COMMENT 33.1

COMMENT 34.2: Commenter states they are pleased with the ways in which AB 856 and its proposed regulations addressed the need for inspections of facilities manufacturing inputs for organic production and further gives CDFA authority to regulate and prosecute fraudulent inputs.

RESPONSE: The Department has noted submitters support.

COMMENT 34.3: Commenter commends the Fertilizing Materials Inspection Program for establishing a transparent process for obtaining feedback on regulations as they are drafted, for developing a phase-in period of the law that allows for continued industry recommendations as the law is implemented, and for further researching blended input materials before making a determination on how best to regulate these products.

RESPONSE: The Department has noted submitter support.

COMMENT 34.4: Commenter recommends that CDFA add language to its regulations, as agreed to at AB 856 Subcommittee meetings, to clarify the scope of the definition of organic input materials to apply only to products that make claims of compliance to the NOP rule.

RESPONSE: Please see RESPONSE to COMMENT 33.1

COMMENT 34.5: Commenter recommends that CDFA recognize inspections from ACAs and other NOP-recognized third parties.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.6: Commenter recommends that CDFA recognize in-state and out-of-

state material reviews by ACAs or NOP-recognized third party reviewers by including language allowing for this in the regulations.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.7: Commenter recommends that CDFA consider the Organic System Plan as a model for input producers to maintain their records.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.8: Commenter recommends that CDFA not implement the regulation faster than staff capacity allows for uninterrupted business in compliant inputs.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.9: Commenter recommends that CDFA revise the fee structure so that it is based on a fee per formula, not per label.

RESPONSE: The Department has found the fee per label, as stipulated in FAC 14601(a), is the most adequate way registering product labels.

COMMENT 34.10: Commenter recommends that CDFA consider other definitions and terms, and requests clarifications regarding some of the processes for implementing AB 856. Further, Organic Trade Association (OTA) is concerned that the proposed regulations will have adverse economic impacts on small businesses, and we recommend that the economic impacts be further evaluated.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.11: Commenter encourages CDFA and Fertilizer Inspection Advisory Board to maintain close dialog with USDA-NOP. The organic sector is accountable to a federal program for demonstrating compliance with organic standards and ultimately OTA seeks a nationally uniform solution to materials review, verification and enforcement of compliance to national organic standards.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.12: Commenter goes into great detail regarding uniform standards and requirements with minimum requirements for accreditation, minimum requirements for Material Review Organization (MRO) Review Personnel, Transparent MRO Review Process, Formal Public Communication of Decision Making, MRO Decision Appeal, and finally Audit Standards.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.13: Commenter goes into great detail regarding Accreditation of Third

Party Entities.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.14: Commenter goes into detail regarding Equivalency amongst accredited MROs and ACAs.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.15: Commenter goes into great detail regarding Published Approved Generic Input Materials List.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.16: Commenter goes into great detail regarding why the Department should take careful consideration of alternatives and provides some recommendations regarding recognition with NOP, allowing for Third Party Inspections, clarifying the scope of the AB 856 Sub-Committee and its Task Force, and finally provides recommendations regarding Inputs vs. Labels.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.17: Commenter recommends that the Department provide an economic impact analysis to all parties of this proposed regulation due to financial hardships deemed by the commenter.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.18: Commenter recommends “the inclusion of the definitions and terms from the NOP, the National Organic Standards Board, the Organic Materials Review Institute’s generic materials list, and the American Association of Feed Control Officials. These definitions and terms will provide applicants and the Department with additional flexibility so that the organic input material labels contain terms and definitions that are widely used and easily understood by the trade and the public. In addition, we would recommend that the Department not specify the year or volume number of a document. Instead, identify it by the latest policy position or publication of the authoritative organization.” This is in regards to labeling requirements accepted definitions and other official terms being listed in the 2010 American Association of Plant Food Control Officials Publication (AAPFCO), volume 63,

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.19: Commenter recommends the Department provide a standard name for the form and identity where the most current edition can be found on the form.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.20: Commenter makes various recommendations regarding compliance with the NOP standards.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.21: Commenter makes a recommendation regarding source and/or suppliers of ingredients.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.22, 34.23, 34.24, and 34.25: Commenter makes various recommendations regarding costs of inspections, third-party organizations, and audit standards.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.26: Commenter makes various recommendations regarding Records of Section 2323(d).

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 34.27, 34.28, 34.29, 34.30, 34.31, and 34.32: Commenter makes various recommendations regarding Samples.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 35.1: Commenter states they are pleased to see language that is permissive regarding the label that may be used by California registrants but have concerns about the logo. They believe the logo will confuse certified organic operations because they believe the logo implies that a material is allowed in the absence of formal recognition at the CCOF or NOP level. The commenter states this will cause growers to believe that they can use any material with the logo and it will be automatically approved by their certifier. They suggest adding a cautionary statement that states: Caution: the State of California logo on this organic input material does not automatically qualify this material to be approved for use in your certified organic operation by your certifier or by the NOP. Please check with your certifier regarding the use of this material.

RESPONSE: The Department is authorized by law to administer the Organic Input Material Program. The logo associated with the program may be used once a manufacturer is registered with CDFA as a marketing tool that the material is qualified to be used in California and labeled as certified organic in California. The regulation has nothing to do with other certifying programs that do not have the ability to regulate or bring to justice any operations that are fraudulently claiming to be organic input

material. The Department will not use the cautionary statement recommended by the commenter because it is not accurate in its language for California use.

COMMENT 35.2: Commenter makes various statements regarding concerns with the Registration Application.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 35.3: Commenter thanks CDFA for including the Civil Penalty Guidelines.

RESPONSE: Department has noted submitter support.

COMMENT 35.4: Commenter states they approve changing “shall” to “may” in Section 2323(e).

RESPONSE: The Department notes commenter’s approval.

COMMENT 36.1: Commenter makes a statement regarding California’s link to food for the United States and the World.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.2: Commenter makes a statement that productive land is now barren from chemical toxicity and bad farming practices which, the commenter believes, has led to a fat Nation dying of starvation and the World is no longer looking to California for leadership.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.3 Commenter declares that California can either remain a leader or fall behind the developed and developing Nations who have taken note of the United State’s errors.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.4: Commenter says that California is an economic mess and makes other references to why they believe this is so.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.5: Commenter states people need food and would prefer “Grown in the USA” as well as grown in California; commenter questions whether California will still be a leader and that CDFA has the ability to determine this.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.6: Commenter states that California has stood up to great pressures in the past and lead in many peace movements. Commenter talks about California being the first state to stand up to tobacco and wants it to now stand up to chemical fertilizers. Commenter wants CDFA to replace chemical salt fertilizers, herbicides and pesticides with safe, effective and efficient agriculture input product alternatives.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.7: Commenter requests people that think organic costs more to “consider your source.” They list various reasons why, as an input product manufacturer, organic costs less.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.8: Commenter states that use of toxic and hazardous chemicals decrease the productivity of soil, plants and even animals. They believe it is up to California to promote organic solely.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.9: Commenter believes, based on past history regarding alternative agriculture practices outside commercial, chemical dependency, CDFA is not trustworthy. Commenter states that businesses hesitate to register their products in California and are tempted to “cheat” just to get their products registered without having “to tell-it-all or pay higher fees.” Commenter is concerned that CDFA keeps things confidential. They believe the new registration program is “5-times higher” and the renewal fee is “10-times higher.” Commenter states CDFA is trying to stop the progress of organic and sustainable agriculture in California and is a detriment to the environment as a whole.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.10: Commenter suggest CDFA form a solid alliance with existing input examiners.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.11: Commenter makes statements about DOFA [*sic*], OMRI and how CCOF supports organics.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.12: Commenter says CDFA should form agreements with OMRI so that DOFA accepts OMRI Listings. Various other statements are made as to how the commenter wishes CDFA to work with OMRI and says this will make taxpayers happy.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.13: Commenter says “As an organic materials input formulator and manufacturer, we have worked very hard to be sure that all of our products have been examined, scrutinized, approved and Listed with OMRI since their formulation – either under the original name and formula, or the most current name and formula. There is a tried and true history her of excellence: If our products were not safe, they would not meet the stringent requirements of OMRI. And if they were not effective in crop production, we would not still be in business.”

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.14: Commenter says they do not object to paying a flat fee plus reasonable costs for inspections by OMRI, and then refocus their statement towards CDFA.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.15: Commenter suggests all agriculture input products have an equal playing field. They go into great detail as to how CDFA can facilitate this without killing the industry with higher costs.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.16: Commenter states “A friend of ours with several generations of ‘growing’ in his family said it this way, ‘Feeding chemical fertilizers to the soil and plants is liking putting them on crack! They go like crazy at first; then they die!’ So far nothing has proven him wrong.”

RESPONSE: Please see RESPONSE to COMMENT 33.1.

COMMENT 36.17: Commenter thanks CDFA for reading and considering their comments and demand CDFA see its fiduciary responsibility to those who look to it for leadership to promote only organic.

RESPONSE: Please see RESPONSE to COMMENT 33.1.

AUTHORITY

Notice is hereby given that the California Department of Food and Agriculture, pursuant to the authority vested by Sections 14, 401, 407, 14502, 14591, 14601, 14621, 14622, 14623, 14628, 14631, 14641, 14642, 14651.5, 14655, 14681, 14682 of the Food and Agricultural Code (FAC), and to implement, interpret, or make specific Sections 14528, 14532, 14533, 14550.5, 14557, 14558, 14583.5, 14591, 14601, 14611, 14523, 14631, 14641, 14642, 14651, 14651.5, 14652, 14655, 14661, 14681, and 14682 of the FAC.

ESTIMATED COSTS OR SAVINGS TO PUBLIC AGENCIES OR AFFECTED

PRIVATE INDIVIDUALS OR ENTITIES

The Department has determined that no savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the state will result from these proposed regulations. The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that the proposed changes in the regulations would result in no significant added costs to small businesses affected by these proposed changes.

ECONOMIC IMPACT ON AFFECTED BUSINESSES

The Department has determined that these proposed regulations would result in no costs to private businesses or individuals affected by these proposed regulations. This is based on the fact stated in the "SMALL BUSINESSES IMPACT STATEMENT."

ALTERNATIVES DETERMINATION

The Department has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

[Pursuant to Government Code section 11346.9(a)(5), if anyone proposes an alternative that would lessen the adverse economic impact on small businesses, the final statement of reasons must include an explanation setting forth the Department's reasons for rejecting any proposed alternatives.]

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.