Finding of Emergency
Addendum

In the finding of emergency filed with the Office of Administrative Law on May 6, 2010, The Department made the following statements on page 4:

"Additionally, citrus nursery stock producers held a series of meetings amongst themselves to develop a mandatory program."

The Department wishes to add:

The disease-testing program proposed by the citrus nursery industry included mandatory testing for citrus tristeza virus, viroids and psorosis. Since the current citrus disease testing program is a voluntary one, the citrus nurserymen were unfortunately unaware that the Department lacked statutory authority to implement a program where the participants were required to both participate and to pay for the costs of the program. Upon being apprised of this fact by CDFA, they approached Senator Corbett, requesting that she author a bill to provide for a mandatory citrus-disease testing program. In SB 140 the Legislature found and declared that active enforcement of mandatory phytosanitary regulations and procedures with the objective of eradication or containment of quarantine pests (tristeza and Huanlongbing) or for the management of regulated nonquarantine pests (viroids and psorosis) constitutes official control. They further found that participation in governmentally administered official control programs for pest cleanliness must be mandatory to ensure the effective management and mitigation of risks associated with citrus pathogens, citrus disorders and other citrus pests. The intent of the citrus nurserymen and the intent of Senator Corbett was to develop a comprehensive nursery stock pest cleanliness program that would include testing for all the diseases of concern for citrus nursery stock. Tristeza testing currently is mandatory because of the citrus tristeza virus interior quarantine, while testing for viroids and psorosis is currently voluntary. If tristeza, viroid and psorosis testing are not included in the proposed regulations, citrus nursery stock producers will be governed by three sets of regulations – the new Citrus Nursery Stock Pest Cleanliness Program (Section 3701, et seq.), the Citrus Tristeza Virus Interior Quarantine (Section 3407) and the regulations governing the Registration and Certification of Citrus Trees (Section 3000-3006).

“The second meeting was held in Tulare on May 12, 2009. At these two meetings, Department staff discussed the current citrus nursery disease testing program and received input from the industry and scientists on diseases, testing methods and frequency of testing to be included in the new program.”

The Department wishes to add:

In 2009, at the request of the nursery industry, the Department moved the tristeza sample collection from fall to spring since the tristeza titer levels are more reliable at that time of year. This meant that Department staff would be required to make a second collection in fall for viroid and psorosis sampling and would have resulted in increased costs to the industry had the old program remained in place. These two collection periods are the same as those in the proposed program.

The Department made the following statements on page 6:

“During the summer of 2009 Department staff began drafting proposed regulations under the assumption that SB 140 would take affect without substantial alteration. However, the bill was significantly amended prior to passage, necessitating discussions both internally with Departmental legal staff and externally with the author of the bill to determine the exact scope and authority of the bill.”

The Department wishes to add:

The major changes to the bill included removing trees produced by the Citrus Clonal Protection Program from the provisions of the bill, limiting the scope of the bill to “citrus nursery propagative trees” instead of an all-inclusive citrus nursery stock protection program and deleting the requirement that participants “comply with all agricultural practices”. The regulations were revised to reflect the altered status of the CCPP and to delete the sections on nursery stock. Since the bill defined citrus nursery propagative trees as being “planted, grown, or maintained to serve as a source of material for the propagation of citrus trees, including seeds, cutting, buds, budsticks, tissue-culture materials, or graft sticks” the Department made the determination that increase trees met this criteria and would be included in the program as registered trees. Since the Department was uncertain if the intended affect of deleting the “all agricultural practices”

language meant that screenhouses should not be included in the program, staff contacted the bill's author, Senator Corbett, and confirmed that it was her intent to include screenhouses as part of the mandatory program.

The Department wishes to add the following documents to the "Information Relied Upon":

List of attendees at the April 23, 2009 meeting (nursery representatives highlighted).

List of attendees at the May 12, 2009 meeting (nursery representatives highlighted).

HLB Task Force – Steering Committee Members.

HLB/ACP Task Force – Science & Technology Committee, Summary of Recommendations 2006-2009.

Senate Bill 140, Chapter 639, filed with Secretary of State November 2, 2009.