

**Findings of Fact**  
**and**  
**Statement of Overriding Considerations**  
**of the**  
**California Department of Food and Agriculture**  
**as a**  
**Lead Agency under the**  
**California Environmental Quality Act**  
**(Pub. Resources Code section 21000 et seq.)**  
**for the**  
**Statewide Plant Pest Prevention and Management Program**  
**as analyzed in the**  
**Final Program EIR**  
**December 24, 2014**

## INTRODUCTION

The California Department of Food and Agriculture (CDFA) has prepared these findings to comply with the California Environmental Quality Act (CEQA) (Pub. Resources Code section 21000 et seq.). CDFA is a “lead agency” under CEQA.

CDFA's current effort under CEQA arises from its plans to update its Statewide Plant Pest Prevention and Management Program (Statewide Program), an ongoing effort by CDFA to protect California's agriculture from damage caused by invasive plant pests. The Statewide Program is implemented in partnership with a number of different entities, including international trading partners, the U.S. Department of Agriculture, County Agricultural Commissioners, other public agencies, industry groups, agricultural commodity groups, and academia.

CDFA has prepared a Program Environmental Impact Report (PEIR) to provide an up-to-date, transparent, and comprehensive evaluation of CDFA's activities. The PEIR will serve as an overarching CEQA framework for efficient and proactive implementation of future Statewide Program activities (referred to in the PEIR as the “Proposed Program”). CDFA considered the PEIR in deciding whether to approve, approve with modifications, or deny the Proposed Program. The PEIR builds on and reflects existing CEQA documents for ongoing Statewide Program activities. It also updates and integrates the various physical, biological, and chemical management activities into a comprehensive program, and provides a consolidated set of Management Practices (MPs) and mitigation measures, using the most current technology and scientific information. These MPs and mitigation measures will replace those identified in prior CEQA documents and will serve as a comprehensive management framework for implementation of Proposed Program activities.

The Proposed Program encompasses a range of prevention, management and regulatory activities, carried out or overseen by CDFA against specific injurious pests, and their vectors, throughout California. Activities that would be conducted under the Proposed Program include: pest rating (evaluation of pest's environmental, agricultural, and biological significance); identification, detection and delimitation of new pest populations; pest management response, which may include rapid eradication and/or control of new and existing pest populations, and prevention of the movement of plant pests into and within California. The Proposed Program includes a set of options to achieve CDFA's goals and objectives, including physical, biological, and chemical management techniques.

Finally, the PEIR includes a CEQA Tiering Strategy that will be used to support CDFA's subsequent CEQA evaluations of project-level pest prevention and management activities and program-level compliance for newly developed management approaches

or other program activities, such as newly identified species of plant pests. The Tiering Strategy is a checklist tool and guide that will enable CDFA to respond consistently with its goals of rapid response and minimizing risk to human health and environmental resources.

## **INITIAL STUDY/NOTICE OF PREPARATION AND PUBLIC REVIEW**

Pursuant to CEQA Guidelines section 15060(d), CDFA determined that an EIR would clearly be required for the Proposed Program, and therefore no initial study was prepared. A Notice of Preparation (NOP) for the Statewide Program was prepared pursuant to the CEQA Guidelines section 15082 and circulated to the Office of Planning and Research's State CEQA Clearinghouse on June 23, 2011. The scoping period concluded on July 25, 2011. An additional scoping period was conducted in Los Angeles County between August 8, 2011 and September 9, 2011. The NOP presented general background information on the Statewide Program, the scoping process, the environmental issues to be addressed in the Draft PEIR, and the anticipated uses of the PEIR. The NOP was posted on the CDFA website, and more than 200 hard copies of the NOP were distributed by certified mail to a broad range of stakeholders including state, federal, and local regulatory agencies and jurisdictions. In addition, between June 23 and June 30, 2011, an announcement of the release of the NOP, including the dates, times, and locations of scoping meetings, was published in 26 newspaper publications statewide. In July 2011, scoping meetings were held in Chico, Sacramento, Irvine, San Francisco, and Fresno. The NOP and additional information regarding the scoping process are included in the PEIR in Appendix D, Scoping Report.

Once the Draft PEIR was complete, a Notice of Availability (NOA) and Notice of Completion (NOC) were prepared pursuant to CEQA Guidelines sections 15085 through 15087 and circulated to the Office of Planning and Research's State Clearinghouse (SCH) on August 25, 2014. The public review period concluded on October 31, 2014. The NOA, NOC and Draft PEIR were posted on the CDFA website, and copies of the NOA were distributed to members of the public, local, state, and federal agencies, county agricultural commissioners, and other interested parties via direct mail. Electronic copies of the Draft PEIR (i.e., CD-ROMs) were distributed to libraries throughout the state and certain individuals and agencies. The NOA was also posted at all 56 County Clerks' offices in the state. Notices advertising the availability of the Draft PEIR and the location and times of the Draft PEIR public meetings were published in the newspapers of five major metropolitan areas around the state. The NOA, NOC, and newspaper advertisements are included in PEIR Volume 5, Attachment 1. The PEIR, discussed herein, includes the Draft PEIR, the Final PEIR, and all appendices.

## SCOPE, PURPOSE, AND EFFECT OF FINDINGS

Findings are required by each "public agency" that approves a "project for which an environmental impact report has been certified which identifies one or more significant effects on the environment[.]" (Pub. Resources Code section 21081, subd. (a); CEQA Guidelines section 15091, subd. (a); see also Pub. Resources Code section 21068 ("significant effect on the environment" defined); CEQA Guidelines section 15382 (same).)

These findings, as a result, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects thereof unless the agency makes one or more of the following findings:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment;
- (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

(Pub. Resources Code section 21081, subd. (a); CEQA Guidelines section 15091, subd. (a).)

These findings are also intended to comply with the requirement that each finding by CDFA be supported by substantial evidence in the administrative record of proceedings, as well as accompanied by a brief explanation of the rationale for each finding. (*Id.*, section 15091, subs. (a), (b);.) To that end, these findings provide the written, specific reasons supporting CDFA's decision under CEQA to implement the Proposed Program described in the PEIR (SCH # 2011062057). These findings are not merely informational, but rather, constitute obligations that become binding upon CDFA's approval of the Proposed Program.



## **ADMINISTRATIVE RECORD OF PROCEEDINGS**

For purposes of these findings, the administrative record of proceedings for CDFA's Proposed Program consists, at a minimum, of the following documents:

- The Notice of Determination;
- All resolutions or ordinances adopted by the Secretary of the Department of Food and Agriculture (Secretary) approving the Proposed Program or required by law (including program approval and PEIR certification and the mitigation reporting program);
- The Draft PEIR, comments on the Draft PEIR and the responses to those comments, including any modification of the environmental documents and Proposed Program made after the comment period (essentially, the Final PEIR, but also expressly including the Draft PEIR);
- The remainder of the Final PEIR, including all appendices and other materials (references);
- The staff reports prepared for the approving bodies of the lead agency;
- Transcripts or minutes of all hearings;
- The remainder of the administrative record, which includes:
  - Internal agency communications (within CDFA and between CDFA or consultants and other agencies, including email)
  - Miscellaneous (press releases, articles)
  - Prior EIR(s) for related project(s) and any other materials related to the prior EIR(s)' certification and project adoption that are still available to CDFA (if not included in the Final PEIR and related documents)

The custodian of the documents comprising the administrative record of proceedings is CDFA, located at 1220 N Street, Sacramento, CA 95814. All related inquiries should be directed to CDFA at (916) 654-0317.

The Secretary has relied on at least all of the documents listed above in exercising her independent judgment and reaching her decision with respect to the Proposed Program.

## **MITIGATION MONITORING PROGRAM**

As noted above, and as consistent with CEQA and the CEQA Guidelines, a mitigation reporting program (MRP), has been prepared by CDFA for the Proposed Program (Exhibit A). (See Pub. Resources Code section 21081.6, subd. (a)(1); CEQA Guidelines section 15097.) CDFA will use the MRP to track compliance with mitigation measures imposed by CDFA and the MRP will remain available for public review during the compliance period.

## **LESS THAN SIGNIFICANT IMPACTS WITH MITIGATION**

The PEIR identified potentially significant environmental impacts that would result with implementation of the Proposed Program, absent mitigation, for the following effects. However, CDFA has required changes to the Proposed Program in order to avoid or substantially lessen the potentially significant effects on the environment, such that the following impacts would be less than significant.

### **Impact BIO-CHEM-2:**

Implementation of the Proposed Program could result in scenarios that would result in an elevated risk to special-status species, a potentially significant impact.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

### **Explanation:**

Pesticide applications have the potential to affect special-status animal species through chemical exposure. Potential impacts of the chemical management scenarios that may be used under the Proposed Program on special-status species populations may include chronic or acute effects, which could be potentially significant. Implementation of Mitigation Measure BIO-CHEM-2 would ensure that this impact is less than significant and special-status species are not significantly affected by the Proposed Program's chemical usage. Specifically:

- Mitigation Measure BIO-CHEM-2: CDFA shall identify any suitable habitat for special-status wildlife species identified as having potential to (1) occur in the region and (2) be affected by the treatment scenario in question.

Suitable habitat may consist of aquatic or terrestrial foraging habitat. If such habitat exists, CDFA would prepare treatment plans that will avoid or minimize substantial adverse effects on special-status species and submit them to USFWS, CDFW, and NMFS for review. This may be done on a project-specific basis (for individual applications) or for an entire quarantine area.

Treatment plan measures may include modifications in the timing, locations, and/or methods for chemical treatments on a case-by-case basis, including establishment of site-specific buffers. The technical assistance process has been designed so that no "take" authorization will be needed.

The treatment plan requirements will be provided to those implementing the treatments. In the case of quarantines, the requirements will be incorporated into the compliance agreement between CDFA and those individual growers affected by the requirements (e.g., those who may treat in proximity to suitable habitat for special-status species).

CDFA shall document the results of the USFWS, CDFW, and NMFS coordination, and shall maintain records of compliance with the measures to protect special-status species.

#### **Impact HAZ-GEN-4:**

Implementation of the Proposed Program activities could occur on a site that is included on a list of hazardous materials sites compiled pursuant to section 65962.5 of the Government Code resulting in a potentially significant impact.

#### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

#### **Explanation:**

The possibility exists that specific activities under the Proposed Program could occur on sites included on a list of hazardous materials sites, which could expose workers, the public, or the environment to a significant hazard. Implementation of Mitigation

Measures HAZ-GEN-4a, HAZ-GEN-4b, and HAZGEN-4c will ensure the impact remains less than significant by determining hazardous material exposure potential, performing a hazardous materials records search, and implementing hazardous materials investigations/remediation for contamination health risks. Specifically:

- Mitigation Measure HAZ-GEN-4a: Before conducting any activities under the Proposed Program, CDFA staff (or the entity conducting the activity) shall determine whether the potential exists for the activity, based on its characteristics and location, to result in exposure to existing sites of hazardous materials contamination.
- Mitigation Measure HAZ-GEN-4b: If exposure to hazardous materials contamination is determined to be a possibility, before conducting the activity under the Proposed Program, CDFA staff (or the entity conducting the activity) shall search the EnviroStor database to identify any area that may be on sites containing known hazardous materials. If hazardous sites are encountered, CDFA shall coordinate with the property owners and/or site managers, and regulatory agencies with jurisdiction over these sites for proper protocols to follow to protect worker health and safety. At a minimum, these protocols will ensure that workers are not subjected to unacceptable health risk or hazards, as determined by existing regulations and standards that have been developed to protect human health.
- Mitigation Measure HAZ-GEN-4c: In the event that during the activity, previously unknown hazardous materials not related to the Proposed Program are encountered that may pose a health risk to those implementing Proposed Program activities, all activities will stop and CDFA (or the entity conducting the activity) shall consult the landowner and appropriate agencies to determine the extent the hazardous materials pose a health risk and determine what safety protocols need to be implemented to continue Proposed Program activities. At a minimum, these protocols will ensure that workers are not subjected to unacceptable health risks or hazards, as determined by existing regulations and standards that have been developed to protect human health.

#### **Impact HAZ-CHEM-1:**

Use of pesticides under the Proposed Program could potentially result in pesticide-related accidents and contamination of air, soil, surface water, or groundwater, a potentially significant impact.

**Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

**Explanation:**

Chemical management approaches under the Proposed Program would require the transport and use of pesticides and related chemicals. Accidental pesticide releases have potential to occur, typically from a lack of following the laws, regulations, and practices, or through pesticide drift, which would result in a significant impact. These accidents are often caused by a lack of communication, understanding, and education regarding pesticide application. Implementation of Mitigation Measures HAZ-CHEM-1a and -1b will ensure the impact remains less than significant, by improving communication, understanding, and education regarding pesticide application. Specifically:

- Mitigation Measure HAZ-CHEM-1a: CDFA shall continue to work with CDPR and CACs to conduct public information sessions in the local communities where Proposed Program chemical management activities are proposed to be conducted. The focus will be on educating residents whose properties are being treated or who live in proximity to areas being treated on Management Practices (MPs) for pesticide applications, including an emphasis on notification, signage, reentry periods, potential adverse health effects, and how to seek proper help if an accident is suspected. As necessary, sessions will be conducted or translated in a language understood by the target audience.
- Mitigation Measure HAZ-CHEM-1b: CDFA shall continue training sessions for its staff and contractors regarding safe pesticide handling and application.

In addition, for quarantine areas, CDFA shall include materials in its compliance agreements with regulated entities (e.g., growers) with information for pesticide applicators and agricultural workers regarding MPs for pesticide applications, including an emphasis on notification, signage, re-entry periods, potential adverse health effects, and how to seek proper help if an accident is suspected. A regulated entity is defined as someone who has to comply with the quarantine requirements in order

to move their products outside of the regulated area. This may include but not be limited to growers, nurseries, and commodity shippers. The compliance agreements will require that regulated entities distribute these materials to applicators and workers.

As necessary, all materials will be presented in a language understood by the target audience.

### **Impact HAZ-CHEM-3:**

Use of pesticides could expose some populations to pesticides above the level of human health risk concern if the Proposed Program pesticide use scenarios are not followed, a potentially significant impact.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

### **Explanation:**

The potential impact on physiologically sensitive populations was investigated in the Proposed Program's Human Health and Ecological Risk Assessment (HHRA). The HHRA investigated the potential acute, sub-acute, and chronic exposure of various populations to application of the specific pesticides and related products. The HHRA's initial results indicated that in certain limited instances, some populations may have exposure above the level of concern. This typically was for acute exposure of the mixer/loader/applicator and the post-application worker. The HHRA then evaluated alternative reduced exposure scenarios that included restrictions on the extent of an application area, application equipment type, and frequency of application. Under these alternative scenarios, no health impacts above the level of concern were identified for any of the specific populations investigated. The various scenarios, evaluated in the HHRA and showing risk below the level of concern, would need to be implemented to prevent health risks from becoming significant. Because these scenarios are more restrictive than pesticide label requirements, they may not be widely known to pesticide applicators and post-application workers, and the possibility exists that pesticide applications could therefore be conducted in ways that would result in risk exceeding the level of concern and a potentially significant impact. Implementation of Mitigation Measures HAZ-CHEM-1a, HAZ-CHEM-1b, and HAZ-CHEM-3 would reduce the impact



of pesticide-related human health risks to less than significant through CDFA implementing proper education and training and requiring the use of pesticide application scenarios exhibiting risk which would be below the level of concern for human health. The text of Mitigation Measures HAZ-CHEM-1a and HAZ-CHEM-1b is provided under the explanation to Impact HAZ-CHEM-1. The text for Mitigation Measure HAZ-CHEM-3 is included in this impact explanation. Specifically:

- Mitigation Measure HAZ-CHEM-3: CDFA shall require Proposed Program staff and contractors to conduct chemical applications in a manner consistent with the Proposed Program's authorized chemical application scenarios, resulting in acceptable human health risk as described in Chapter 2, Proposed Program Description and the HHRA (PEIR Appendix B).

Deviations from the authorized chemical application scenarios may be allowed if:

- (1) An evaluation is conducted pursuant to the CEQA Tiering Strategy (Appendix C), which concludes that the alternative scenario will not exceed the level of concern for any receptor; or
- (2) A certified industrial hygienist concludes that the alternative scenario will not result in risk exceeding the level of concern for any potential receptor, and the scenario is implemented by a licensed or certified applicator. This conclusion may be based on site-specific factors that minimize potential for exposure, absence of a particular receptor, use of additional or different PPE, or monitoring of the exposure, such as regular blood tests to ensure blood concentrations in the exposed individuals are below the risk threshold.

When methyl bromide is used, appropriate air sampling and analysis by a qualified professional will be done for the fumigation worker and fumigation downwind bystander to evaluate the effectiveness of BMPs related to subchronic and chronic exposure.

The results of the evaluation or hygienist's conclusions will be documented, along with any monitoring results.

CDFA will conduct training for its staff and contractors on these approaches. CDFA also will require adherence to these scenarios by incorporating requirements in contractual agreements, such as compliance agreements (for quarantines), permits (e.g., for movement of

certain materials outside quarantine areas), contracts (e.g., with CDFA contractors), or other similar means.

**Impact HAZ-CUM-2:**

Implementation of the Proposed Program has the potential to make a considerable contribution to cumulatively significant human exposure to health hazards.

**Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

**Explanation:**

The Proposed Program may expose humans to hazardous chemicals during implementation of its chemical management activities. The specific health effects were evaluated in the detailed HHRA. The HHRA concluded that implementation of the allowed chemical management activities would not result in risk exceeding the level of concern for human health, including acute, chronic, and carcinogenic effects. Quantitative thresholds were selected for these risk characterizations that are believed to represent acceptable levels of incremental increases for individuals in the context of their overall exposure to chemicals in the environment. Although exposure to other hazards also would occur, including to pesticides used for purposes other than the Proposed Program, or because of exposure of individuals to multiple chemical application scenarios associated with the Proposed Program, this exposure and related health risk could not be quantitatively evaluated in a meaningful manner because too many assumptions would be necessary regarding the frequency, quantity of material used, type of pesticide used, and application mechanisms that would occur in any of the many unique settings within California. However, EPA has recognized the cumulative exposure to pesticides is a concern in particular for those pesticide classes that have been determined to have a common mechanism of action. For these classes of pesticides, EPA has conducted detailed analyses on the potential use of multiple chemical from the same chemical family and the resulting exposure and risk characterization. These studies are detailed in cumulative exposure and risk assessments for organophosphates, N-methyl carbamates, triazines, chloroacetanilides, and pyrethrins/pyrethroids (EPA 2012d). EPA has concluded that by using recommended practices and following existing regulations, their combined use does not exceed EPA's level of concern. Proposed Program activities would follow EPA's recommended practices and existing regulations.

The Proposed Program's estimated risk of adverse health effects would be below established thresholds, and cumulative exposure to multiple pesticides with common mechanisms of actions would be below levels of concern. Therefore, implementation of Mitigation Measures HAZ-GEN-4a, HAZ-GEN-4b, HAZ-GEN-4c, HAZ-CHEM-1a, HAZ-CHEM-1b, and HAZ-CHEM-3, would ensure that the Proposed Program would not make a cumulatively considerable contribution to any impact on humans from exposure to health hazards. The text of Mitigation Measures HAZ-GEN-4a, HAZ-GEN-4b, and HAZ-GEN-4c is provided under the explanation to Impact HAZ-GEN-4. The text of Mitigation Measures HAZ-CHEM-1a and HAZ-CHEM-1b is provided under the explanation to Impact HAZ-CHEM-1. The text for Mitigation Measure HAZ-CHEM-3 is provided under the explanation to Impact HAZ CHEM-3.

#### **Impact NOISE-PHYS-1:**

Implementation of certain Proposed Program physical management activities at night could result in excessive noise for sensitive receptors, and/or result in a substantial temporary or periodic increase in ambient noise from mechanical equipment usage.

#### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

#### **Explanation:**

Trapping and host removal physical management approaches would require the use of mechanical equipment or vehicles and generate the highest expected reference maximum noise levels. Other physical management activities, such as inspection, cleaning, and restricted movement are not expected to generate substantial noise, and therefore were not considered further.

Activity duration and the percentage of that duration when the listed equipment or vehicle would be expected to generate noise was used to determine the hourly equivalent sound level ( $L_{eq}$ ). The predicted hourly noise levels from these activities also were used to calculate the day-night average sound level ( $L_{dn}$ ) and determine the minimum activity-to-receiver distances to comply with the applicable noise criteria. Predicted noise levels from trapping and host removal activities would not exceed the daytime criterion (U.S. Department of Housing and Urban Development (HUD))

Guidelines) and would have a less than significant impact on receptors during the daytime (6am-10pm).

However, trapping and host removal activities would require respective activity-to-receiver distances of 415 and 375 feet to comply with the nighttime criterion (World Health Organization (WHO) criterion). Although these activities could occur at night at these distances or greater from sensitive receptors, it is possible that sensitive receptors are closer than these distances and these nighttime activities would result in a potentially significant impact. Implementation of Mitigation Measure NOISE-PHYS-1 would reduce the impact on sensitive receptors to less than significant by restricting activity to daytime hours.

- Mitigation Measure NOISE-PHYS-1: For activities that exceed the applicable nighttime noise criteria at the nearest sensitive receptor, activity operations will be scheduled to occur during the day (between 6 a.m. and 10 p.m.).

#### **Impact NOISE-BIO-1:**

Implementation of certain Proposed Program biological management activities could significantly result in excessive noise for sensitive receptors and/or result in a substantial temporary or periodic increase in ambient noise levels.

#### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

#### **Explanation:**

The primary noise-generating activity associated with biological management activities would be the use of airplanes for the sterile male release program and also light duty trucks for biological control release programs. During the daytime, no potential would exist for aircraft to exceed the criterion. For biological control agents (BCAs), noise exposure associated with the daytime minimum activity-to-receiver distances are considered negligible because these distances are closer than the distance that anyone typically would be from motorized equipment. However, if sensitive receptors (including those in proximity to airstrips) are closer than a distance of 6,900 feet at night (e.g., if the use of aircrafts occurs less than 6,900 feet from sensitive receptors), the Proposed Project activity could exceed the established noise levels and result in a significant impact. Implementation of Mitigation Measure NOISE-PHYS-1 would reduce this impact

to less than significant by restricting biological management activities to the daytime. Text for Mitigation Measure NOISE-PHYS-1 is provided under the explanation to Impact NOISE-PHYS-1.

**Impact NOISE-CHEM-1:**

Implementation of certain Proposed Program chemical management activities could significantly result in excessive noise for sensitive receptors and/or result in a substantial temporary or periodic increase in ambient noise levels.

**Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

**Explanation:**

Chemical management activities would generate noise through the use of mechanical equipment. Specific chemical management activities that would use mechanical equipment include: chemical trapping, male attractant technique/bait stations, fumigation, soil injection, tablet soil injection, airblast, aerial spray, boom spray, and chemigation. The use of airblasts would result in the highest noise levels. Aerial spray is the only chemical management activity requiring aircraft. Aerial applications of chemicals would not occur over residential areas under the Proposed Program.

Because airblast, aerial spraying, boom spraying, and chemigation would occur only in agricultural settings and not in residential areas, the existence of any receptors located closer than the distances identified as consistent with the applicable HUD guidance for daytime operation is unlikely. All other chemical management activity daytime distances are considered negligible because these distances would be closer than anyone typically would be near motorized equipment. Therefore, the impact of daytime activities would be less than significant.

At night, if sensitive receptors are closer to the relevant chemical management activity than the distances provided in the PEIR (220 to 9,500 feet, depending upon the activity), the impact would be potentially significant. Implementation of Mitigation Measure NOISE-PHYS-1 would reduce this impact to less than significant by restricting chemical management activities to the daytime. Text for Mitigation Measure NOISE-PHYS-1 is provided under the explanation to Impact NOISE-PHYS-1.



### **Impact NOISE-CUM-1:**

Implementation of the Proposed Program could result in the use of mechanical equipment, in combination with other noise generating projects, which generates excessive noise levels or groundborne vibration for sensitive receptors.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

### **Explanation:**

Noise- or vibration-generating activities under the Proposed Program could occur in locations where ambient noise or vibration levels are high. Other future projects also could generate noise or vibration in proximity to Proposed Program activities. When the existing sound environment already is at an elevated level, the allowable increase is correspondingly narrow. Conversely, when the existing ambient sound level is quieter, the allowable increase (expressed as added dBA) widens considerably.

Although noise and/or vibration associated with these various factors may be individually below the applicable criteria, in combination, they could exceed noise and vibration criteria. In more extreme cases, ambient conditions or other projects already may exceed the criteria, with Proposed Program activities exacerbating this situation. The cumulative impact from any of these circumstances would be potentially significant.

Implementation by CDFA of Mitigation Measure NOISE-PHYS-1 in the event that Proposed Program activities exceeded applicable criteria would reduce the Proposed Program's contribution to the cumulative noise impact by minimizing nighttime noise-generating activities. It is also anticipated to be rare that noise generated under the Proposed Program would combine with other noise sources to create substantial noise effects. The contribution of the Proposed Program to the cumulative noise impact would not be considerable, and the cumulative impact would be less than significant. Text for Mitigation Measure NOISE-PHYS-1 is provided under the explanation to Impact NOISE-PHYS-1.



### **Impact WQ-CHEM-2:**

Implementation of the Proposed Program could significantly violate narrative standards or future numeric water quality standards by applying chemicals with no current numeric water quality standard.

### **Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

### **Explanation:**

As part of the Proposed Program, CDFA may apply chemicals that are not necessarily considered environmentally safe but for which no applicable numeric water quality standards exist. These chemicals are listed in PEIR Volume 1, Table 6.8-2 under the section, "Classification: No Numerical Threshold Exists." Based on available research, these chemicals generally break down quickly in the environment and do not last in the environment long enough for harmful concentrations to build up.

Some of these chemicals may have the potential to degrade water quality if the chemical reaches surface water through runoff or drift. Implementation of MP-SPRAY 1 through 7, MP-AERIAL-1, and MP-GROUND 1 through 5 would minimize the likelihood of these chemicals reaching surface water through runoff or drift. With implementation of these MPs, and because of the relatively small amount of these chemicals that may be used under the Proposed Program in any given location, these chemicals are not expected to cause a violation of narrative standards, such as visible oil sheens or impairments of taste and odor. Therefore, the impact would be less than significant.

However, numeric standards for some of these chemicals may be developed in the future (some are already in development). Implementation of Mitigation Measures WQ-CHEM-2 and, when applicable, WQ-CHEM-5, would ensure future water quality standards would not be exceeded. Mitigation Measure WQ-CHEM-2 requires tracking of water quality standards to determine whether any of these chemicals in the future have had numerical standards established. If numerical standards have been established, CDFA would evaluate whether the concentrations modeled in the Ecological Risk Assessment exceed the adopted standard. In such cases, Impact WQ-CHEM-5 would apply, and Mitigation Measure WQ-CHEM-5 would be implemented. With implementation of these mitigation measures, the impact would be less than significant. The text of Mitigation Measure WQ-CHEM-5 is provided under the explanation to

Impact WQ-CHEM-5. The text for Mitigation Measure WQ-CHEM-2 is included in this impact explanation. Specifically:

- Mitigation Measure WQ-CHEM-2: CDFA will track whether new applicable numerical water quality standards have been adopted. If new numerical thresholds are established, CDFA will evaluate whether the estimated concentrations modeled in the Ecological Risk Assessment exceed the adopted standard. In these cases, Impact WQ-CHEM-4<sup>1</sup> or WQ-CHEM-5 would apply (including implementation of appropriate MPs as described in those impacts), and Mitigation Measure WQ-CHEM-5 would be implemented related to quarantine activities.

**Impact WQ-CHEM-5:**

Implementation of the Proposed Program could significantly exceed numeric water quality standards by applying chemicals modeled to exceed these numeric standards.

**Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

**Explanation:**

CDFA would apply chemicals for which applicable numerical water quality standards exist, and the modeled surface water concentrations from the Ecological Risk Assessment exceeded those standards. These chemicals are listed in PEIR Volume 1, Table 6.8-2 under the section "Classification: Concentration above Threshold." Fate and transport mechanisms of these applied chemicals from Proposed Program activities would be expected to result in chemical concentrations in waterbodies that are substantially lower than the estimated concentrations modeled in the Ecological Risk Assessment. Implementation of Proposed Program MP-SPRAY 1 through 7, MP-AERIAL-1, and MP-GROUND 1 through 5 would minimize the likelihood of these chemicals reaching surface water through runoff or drift. Therefore, the Proposed Program is not expected to exceed water quality standards.

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<sup>1</sup> Note that because Impact WQ-CHEM-4 was found to be less than significant, it has not been included in these findings. The text of this impact can be reviewed in the PEIR.

As an additional safeguard, CDFA would implement Mitigation Measure WQ-CHEM-5, requiring that compliance agreements with regulated entities incorporate a requirement that such parties implement the MPs. Specifically:

- Mitigation Measure WQ-CHEM-5: For quarantine areas where chemicals may be used that were modeled to exceed standards, or where impaired waterbodies exist which could be affected by Proposed Program chemical use, CDFA shall incorporate a requirement in compliance agreements that regulated entities are to implement relevant Proposed Program MPs, or shall show proof that participation in the Ag Waivers Program or another program to protect water quality contains measures which are equivalent to or more protective than the Proposed Program MPs.

**Impact WQ-CUM-1:**

Implementation of the Proposed Program could apply chemicals modeled to significantly exceed applicable numeric water quality standards or otherwise degrade water quality in impaired/303(d) listed waterbodies.

**Finding:**

Changes or alterations have been required in, or incorporated into, the Proposed Program which avoid or substantially lessen the significant effects on the environment. (Pub. Resources Code section 21081, subd. (a)(1); CEQA Guidelines section 15091, subd. (a)(1).)

**Explanation:**

Over 288 listed impairments exist for pesticide contamination, and another 223 listed impairments exist for toxicity (which may be partially the result of pesticide contamination). Of the listed pesticide impairments, approximately 172 are listed as impaired for specific pesticides that may be used under the Proposed Program. Another 15 impairments are designated for pesticides in general and may be related to pesticides that may be used under the Proposed Program. Since these waterbodies would have no additional assimilative capacity for any sort of toxic substance, a specific pesticide(s), or pesticides in general that may be used under the Proposed Program, any additional contribution by the Proposed Program to an impairment would be a considerable contribution to a cumulatively significant impact.

Proposed Program activities in locations where relevant pesticides could reach an impaired waterbody would be required to implement Proposed Program MPs so that discharges to these waterbodies would not occur or would be minimized. To ensure that

this occurs, CDFA would implement Mitigation Measure WQ-CUM-1, requiring CDFA to identify whether a treatment location or quarantine area contains or is in proximity to any waterbodies impaired for relevant pesticides, pesticides in general, or toxicity, and to implement Proposed Program MPs during treatments. For quarantine areas where impaired waterbodies are present, CDFA would implement Mitigation Measure WQ-CHEM-5 so that those parties required to comply with the quarantine would implement Proposed Program MPs appropriately. Implementation of Mitigation Measures WQ-CUM-1 and WQ-CHEM-5 would ensure the Proposed Program's contribution to the cumulatively significant impact would not be considerable, and the impact would be less than significant. Text for Mitigation Measure WQ-CHEM-5 is provided under the explanation to Impact WQ-CHEM-5. Text for Mitigation Measure WQ-CUM-1 is as follows:

- Mitigation Measure WQ-CUM-1: Before conducting a treatment or implementing a quarantine, CDFA shall identify whether a treatment location or quarantine area contains or is in proximity to any waterbodies impaired for relevant pesticides, pesticides in general, or toxicity. For those treatments where impaired waterbodies are present, CDFA shall implement relevant Proposed Program MPs. For quarantines where impaired waterbodies exist, CDFA shall implement Mitigation Measure WQ-CHEM-5.

## **SIGNIFICANT AND UNAVOIDABLE IMPACTS**

The PEIR identified that several significant and unavoidable environmental impacts could result from implementation of the Proposed Program. Implementation of the Proposed Program may result in significant and unavoidable impacts to air quality and global climate change via criteria air pollutant and greenhouse gas emissions. However, CDFA has determined that overriding economic, legal, social, and other benefits of the Proposed Program outweigh the resulting unavoidable impacts.

### **Impact AQ-2:**

Implementation of the Proposed Program could result in emissions of criteria air pollutants above an air basin mass emission threshold.

### **Finding:**

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the PEIR. In

addition, changes or alterations have not been required or incorporated into the Proposed Program to avoid or substantially lessen the significant environmental effect as identified in the PEIR, because such changes or alterations are within the responsibility and jurisdiction of another public agency and not CDFA. Such changes should be adopted by such other agency. (Pub. Resources Code section 21081, subd. (a); CEQA Guidelines section 15091, subd. (a).)

**Explanation:**

The Proposed Program requires the use of fossil-fueled equipment, such as trucks and aircraft, to implement many of its activities. Such equipment emits criteria air pollutants during operation. Assuming the same level of activity as under the baseline, the mass emissions of the Proposed Program in a given air basin in the future would decrease because of existing regulations that would reduce emissions in future equipment fleets. The Proposed Program's percentage increase in emissions, compared to baseline, that could occur before a mass emissions threshold would be reached would vary based on the baseline emissions relative to the threshold. The lower the baseline emissions compared to the mass emissions threshold, the higher the percentage increase would need to be to exceed the threshold. In general, higher percentages are associated with air basins where little Proposed Program activity occurred under the baseline.

The extent to which Proposed Program activities may result in increased emissions in the future compared to baseline Proposed Program activities is unknown. New pest infestations may occur in air basins where few infestations and related pest management activities have occurred in the past, or may occur in areas that traditionally have been the location of more pest infestations. In addition, shifts in the types of activities within an air basin could lead to shifts in emissions, when the activities have different emissions intensities (e.g., use of aircraft as opposed to trucks).

New pest infestations or quarantines in a particular air basin could result in a substantial increase in pest management activities in that basin. It is reasonably foreseeable that such an increase in Proposed Program activities could lead to emissions for a particular criteria air pollutant(s) which would exceed the mass emissions threshold(s) in that basin. This would be a significant impact.

CDFA currently implements all feasible measures to minimize criteria air pollutant emissions. These include the following:

- CDFA requires its staff and contractors to use energy-efficient fossil-fueled equipment. This equipment uses the most fuel-efficient or alternative fuel equipment that is available to conduct the activity. CDFA also considers



the use of after-market control devices to reduce emissions to the extent feasible.

- CDFA investigates the feasibility of and opportunities to electrify or use alternative fuel for automobiles and other equipment when making purchasing decisions.
- CDFA requires its staff and contractors to properly maintain and tune all its equipment in accordance with manufacturer's specifications.
- CDFA requires its staff and contractors to minimize idling times by shutting off equipment when not in use or by reducing the maximum idling time to 3 minutes. Clear instructional signage is provided in all CDFA vehicles and equipment.
- CDFA encourages the use of local staff and/or contractors to the extent feasible to minimize the amount of vehicle miles traveled to conduct Proposed Program activities.

In the event that a mass emissions threshold was exceeded, no additional feasible measures exist beyond those outlined above for CDFA to implement to further reduce criteria air pollutant emissions below the threshold. In particular, CDFA lacks the authority to mandate emission reductions on the equipment used by individual growers and applicators in response to CDFA quarantines; this is the responsibility of other agencies, such as the California Air Resources Board. Therefore, the impact would be significant and unavoidable.

#### **Impact AQ-CUM-1:**

Implementation of the Proposed Program could make a considerable contribution to cumulatively significant air quality impacts.

#### **Finding:**

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the PEIR. In addition, changes or alterations have not been required or incorporated into the Proposed Program to avoid or substantially lessen the significant environmental effect as identified in the PEIR, because such changes or alterations are within the responsibility and jurisdiction of another public agency and not CDFA. Such changes should be adopted by such other agency. (Pub. Resources Code section 21081, subd. (a); CEQA Guidelines section 15091, subd. (a).)



**Explanation:**

Air pollution is largely a cumulative impact. Ambient air quality standards are violated and approach or reach non-attainment levels because of an accumulation of various emission generating activities, and attainment of standards could be jeopardized by increasing emission-generating activities in an air basin. Because of the current non-attainment status of certain criteria air pollutants in some of these air basins as a result of past and present projects, and the potential for additional emissions resulting from future population growth within the various air basins, air quality impacts are considered to be cumulatively significant.

Because the mass emission thresholds used in this impact analysis are considered by air districts to be applicable to cumulative impacts, and because the Proposed Program's emissions were determined to be significant, the Proposed Program's contribution to this cumulative impact would be considerable. As described under Impact AQ-2, no feasible mitigation would exist to reduce the contribution to a level that would not be considerable. Therefore, the impact would be significant and unavoidable.

**Impact GHG-2:**

Implementation of the Proposed Program results in greenhouse gas emissions from the use of off-road equipment, aircraft, and motor vehicles for Proposed Program activities.

**Finding:**

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the PEIR. In addition, changes or alterations have not been required or incorporated into the Proposed Program to avoid or substantially lessen the significant environmental effect as identified in the PEIR, because such changes or alterations are within the responsibility and jurisdiction of another public agency and not CDFA. Such changes should be adopted by such other agency. (Pub. Resources Code section 21081, subd. (a); CEQA Guidelines section 15091, subd. (a).)

**Explanation:**

The Proposed Program requires the use of equipment that releases GHGs, such as trucks and aircraft. If the level of Proposed Program activities remains the same in the future, GHG emissions will decrease compared to the baseline because of regulated emission reduction requirements for vehicles and equipment. The extent to which Proposed Program activities may result in changed emissions in the future compared to

baseline Statewide Program activities is difficult to predict. A greater extent of pest infestations may occur in the future, in particular because of global climate change, which is anticipated to lead to increased pest infestations in California. This could result in an increased intensity of pest management activities and shifts in the types of activities that may affect emissions, such as when activities have different emissions intensities (e.g., use of aircraft as opposed to trucks). Thus, Proposed Program emissions may not be able to achieve the AB32 goals of reaching 1990 levels by 2020, and 80 percent below 1990 levels by 2050. This would be a potentially significant impact.

CDFA currently implements all feasible measures to minimize GHG emissions. These include the following:

- CDFA requires its staff and contractors to use energy-efficient fossil-fueled equipment. This equipment uses the most fuel-efficient or alternative fuel equipment that is available to conduct the activity. CDFA also considers the use of after-market control devices to reduce emissions to the extent feasible.
- CDFA investigates the feasibility of and opportunities to electrify or use alternative fuel for automobiles and other equipment when making purchasing decisions.
- CDFA requires its staff and contractors to properly maintain and tune all its equipment in accordance with manufacturer's specifications.
- CDFA requires its staff and contractors to minimize idling times by shutting off equipment when not in use or by reducing the maximum idling time to 3 minutes. Clear instructional signage is provided in all CDFA vehicles and equipment.
- CDFA encourages the use of local staff and/or contractors to the extent feasible to minimize the amount of vehicle miles traveled to conduct Proposed Program activities.

No additional feasible measures exist beyond those outlined above that CDFA could implement to further reduce GHG emissions. In particular, CDFA lacks the authority to mandate emission reductions on the equipment used by individual growers and applicators in response to CDFA quarantines; this is the responsibility of other agencies, such as CARB. Therefore, the impact would be significant and unavoidable.

## **ALTERNATIVES**

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant

environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. (See, e.g., *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433, 445.) Specific economic, legal, social, technological, or other considerations may make infeasible the mitigation measures or alternatives identified in the PEIR. (Pub. Resources Code section 21081, subd. (a)(3); CEQA Guidelines section 15091, subd. (a)(3).) Bases for infeasibility may include, but are not limited to, inconsistency with agency goals or policies and failure to satisfy project objectives. (See, e.g., *California Native Plant Soc'y v. City of Santa Cruz* (1009) 177 Cal.App. 4<sup>th</sup> 957, 1001; *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4<sup>th</sup> 899,947.)

The PEIR examines four alternatives to the Proposed Program. These alternatives were determined to be potentially feasible and would generally meet the Program objectives. These alternatives are described in detail in Chapter 7 of PEIR Volume 1. Chapter 7 of the PEIR Volume 1 also describes that the Proposed Program is considered to best meet the Program objectives and is environmentally superior overall compared to any of the alternatives; as such, none of the alternatives evaluated in the EIR were selected in favor of the Proposed Program. A brief description of each alternative is provided below.

#### **No Program Alternative:**

The No Program Alternative would occur if the Proposed Program is not authorized through this PEIR process. Under the No Program Alternative, CDFA would continue to establish and enforce interior quarantines to prevent the spread of invasive pests, would continue to carry out statewide detection and survey programs, and would continue pest exclusion management activities. Rapid response/eradication activities would continue to be conducted, often on an emergency basis. Past and present plant pest prevention and management activities under CDFA's authority would continue into the future using an Integrated Pest Management (IPM) approach. CDFA would consider appropriate CEQA review and documentation for any new plant pest programs that are proposed in the future. Coordination of CEQA compliance across multiple interrelated pest prevention and management programs would not be achieved.

The No Program Alternative generally would have impacts that would be similar to the Proposed Program, although it would not benefit from the impact minimization and avoidance offered by the Proposed Program's coordinated approach to managing Statewide Program activities, including PEIR mitigation and other protective measures.

**Finding:**

Specific economic, legal, social, technological, or other considerations make infeasible the No Program Alternative identified in the EIR. (Pub. Resources Code section 21081, subd. (a)(3); CEQA Guidelines section 15091, subd. (a)(3).)

**Explanation:**

This alternative is not feasible because it would not accomplish fundamental Statewide Program objectives; most importantly, it would not coordinate CEQA compliance for the multiple, interrelated pest prevention and management programs under the Proposed Program. In addition, this alternative would not meet the Program objective to develop a checklist evaluation tool to assess the potential environmental impacts of proposed activities that can be understood and reviewed by the public.

In addition, activities under this alternative may not substantially increase or decrease criteria pollutant or GHG emissions, depending on the extent to which specific activities change compared to baseline conditions. Thus, this alternative would not avoid or substantially lessen any of the Proposed Program's significant and unavoidable impacts.

**No Pesticide Alternative:**

Under the No Pesticide Alternative, CDFA would continue to use the IPM approach in developing a management strategy for each pest infestation, generate a list of high priority pests, implement its biological control program, release sterile insects, and develop and enforce State quarantine regulations and require that they do not result in use of pesticides. CDFA would no longer conduct rapid response/eradication activities involving pesticides and would not use pesticide products in detection and delimitation surveys. Eradication and control of many pests would not be anticipated to be achievable. For growers to comply with interior quarantine regulations, a substantial increase in removal of host material in quarantine areas would be expected, resulting in a large amount of produce, nursery stock, soil, and entire orchard trees removal and disposal.

This alternative would avoid potential impacts associated with Proposed Program pesticide use but could result in other adverse environmental impacts because alternative management methods are not anticipated to be as effective in controlling or managing pests. Pesticide use outside the framework of the Proposed Program and CDFA's authority may increase in response without the benefit of a coordinated program for management of such activities, including PEIR mitigation and other protective measures. The overall adverse effects of a potential increase in resource

degradation and increase in non-Proposed Program pesticide use would render this alternative less environmentally desirable than the Proposed Program, the No Program Alternative, or the USDA Organic Pesticide Alternative.

**Finding:**

Specific economic, legal, social, technological, or other considerations make infeasible the No Pesticide Alternative identified in the EIR. (Pub. Resources Code section 21081, subd. (a)(3); CEQA Guidelines section 15091, subd. (a)(3).)

**Explanation:**

Because the development of effective BCAs and sterile insects requires a long lead time for research and development, some pest populations could be expected to increase during the development phase under the No Pesticide Alternative. In the event that effective BCAs are released, the expected outcome would be control of the target pest, rather than eradication. Therefore, on-farm cultural practices may change, and on-farm pesticide use could increase over the short term and may be sustained in the long term. In addition, exotic pests would be expected to become more established in California and could have a substantial enough effect on agricultural productivity to either result in growers raising alternative crops that could be grown economically despite these pests, or in a worst-case scenario, could lead to conversion of farmland to non-agricultural uses. For these reasons, this alternative would be infeasible because, as compared to the Proposed Program, it would fail to meet the objective of supporting CDFA's goal of rapid response by streamlining project-level implementation activities, addressing new pests as they are detected, and integrating new pest management approaches as they are developed. In addition, the No Pesticide Alternative would be less likely to achieve the following Program objectives than the Proposed Program:

- Exclude invasive or harmful plant pests from California and prevent or limit the spread of newly discovered pests within the state,
- Promote the production of a safe, healthy, secure food supply, and
- Protect California from damage caused by the introduction or spread of harmful plant pests.

Activities used as alternatives to pesticides under this alternative may increase or decrease criteria pollutant or GHG emissions, depending on the extent to which specific activities change compared to baseline conditions. Thus, this alternative would not avoid or substantially lessen any of the Proposed Program's significant and unavoidable impacts.



### **USDA Organic Pesticide Alternative:**

Under the USDA Organic Pesticide Alternative, CDFA would continue to generate a list of high priority pests, continue pest detection surveys, implement the Biological Control program, release sterile insects, and develop and enforce State quarantine regulations. However, Proposed Program activities would only employ natural pesticide products or synthetic pesticide products that are specifically allowed under Title 7, Part 205.601 (Synthetic Substances Allowed for Use in Organic Crop Production) of the Code of Federal Regulations. Under the USDA Organic Pesticide Alternative, eradication and control of certain priority pests, including the Asian citrus psyllid (ACP), Japanese beetle, exotic fruit flies, and glassy-winged sharpshooter (GWSS), would not be expected to be achievable and their populations would be expected to grow and spread within the state. Eradication and control of the remaining priority pests are expected to be achievable with only the use of physical, biological, and USDA Organic-approved chemical management approaches. Individual growers may choose to use conventional pesticides for these four priority pests, outside the framework of the Proposed Program. Because conventional pesticide use under the Proposed Program only includes a very small amount of conventional pesticide use for agricultural and other purposes throughout the state, this alternative would not be anticipated to lead to widespread conversion of conventional farms to organic practices.

This alternative would avoid any potential impacts associated with use of conventional pesticides, but could result in some offsetting adverse effects, such as impacts associated with greater reliance on organic pesticides. The alternative also could result in other adverse environmental impacts because of the inability to achieve effective eradication and control of certain priority pests.

### **Finding:**

Specific economic, legal, social, technological, or other considerations make infeasible the USDA Organic Alternative identified in the EIR. (Pub. Resources Code section 21081, subd. (a)(3); CEQA Guidelines section 15091, subd. (a)(3).)

### **Explanation:**

The USDA Organic Pesticide Alternative would be less likely to meet multiple Statewide Program objectives than the Proposed Program because the organic pesticides are less effective at eradicating and controlling certain priority pests. Further, this alternative may require activities that are more air quality criteria pollutant intense than conventional pesticides or those that require increased effort to achieve the same result. The USDA Organic Pesticide Alternative would be less likely to achieve the following Program objectives than the Proposed Program:



- Exclude invasive or harmful plant pests from California and prevent or limit the spread of newly discovered pests within the state,
- Promote the production of a safe, healthy, secure food supply, and
- Protect California from damage caused by the introduction or spread of harmful plant pests.

In addition, use of conventional pesticides outside the framework of the Statewide Program and CDFA's authority may increase to address the priority pests, which would have impacts similar to those potential impacts associated with the Proposed Program but without the benefit of a coordinated program for management of such activities, including PEIR mitigation and other protective measures. Therefore, this alternative is not considered necessary to avoid or substantially lessen any of the Proposed Program's significant and unavoidable impacts.

#### **No Eradication Alternative:**

Under the No Eradication Alternative, CDFA would establish a goal of managed pest population control rather than eradication for all high-priority pests. CDFA would continue to conduct activities to manage pest populations at the established population thresholds. Eradication efforts may continue outside CDFA's jurisdiction. As with the Proposed Program, under this alternative, CDFA also would develop a tiering strategy for future CEQA compliance. CDFA's control of priority pest populations at an acceptable level would be expected to increase use of pesticides overall (both under the Statewide Program and otherwise), because pesticide use would occur over a larger geographic area and over a longer duration (into the foreseeable future) compared to more targeted pesticide use for eradication activities at their anticipated frequency under the Proposed Program.

This alternative would avoid impacts associated with eradication activities; however, the overall intensity of pest management activities and related pesticide use would be anticipated to increase because pests would become established and would require more effort to manage at a level that would avoid unacceptable economic and environmental damage.

#### **Finding:**

Specific economic, legal, social, technological, or other considerations make infeasible the No Eradication Alternative identified in the EIR. (Pub. Resources Code section 21081, subd. (a)(3); CEQA Guidelines section 15091, subd. (a)(3).)

### **Explanation:**

The No Eradication Alternative would have the potential to increase the amount of chemical pesticides, expand the geographic area of pesticide use, and increase the frequency of pesticide application in a particular area to maintain pests at established population thresholds. Without pest eradication, the potential would exist for pests to become established to a point where it would be prohibitively expensive or infeasible to manage them at a level to avoid substantial economic damage. Therefore, this alternative could have a substantial enough effect on agricultural productivity to lead to conversion of farmland to non-agricultural uses. For these reasons, the No Eradication Alternative would be infeasible because it would not efficiently meet many of the Statewide Program objectives. Specific objectives that would not be met as efficiently by this alternative:

- Exclude invasive or harmful plant pests from California and prevent or limit the spread of newly discovered pests within the state,
- Protect California from damage caused by the introduction or spread of harmful plant pests,
- Minimize the impacts of pest management approaches on human health and urban and natural environments, and
- Promote the production of a safe, healthy, secure food supply.

Impacts resulting from the No Eradication Alternative would be similar or more substantial than the Proposed Program. The expanded or more frequent use of pesticides under this alternative would likely have greater or additional adverse effects on protected biological resources, water quality, or human health than the Proposed Program and would not avoid or substantially lessen any of the Proposed Program's significant and unavoidable impacts. Therefore the No Eradication Alternative is not considered to be environmentally superior to the Proposed Program and would be anticipated to have greater impacts overall compared to the Proposed Program or any of the other alternatives.

### **STATEMENT OF OVERRIDING CONSIDERATIONS**

This section addresses CDFA's obligations under Public Resources Code section 21081, subdivisions (a)(3) and (b). (See also CEQA Guidelines section 15091, subd. (a)(3), 15093.) Under these provisions, CEQA requires CDFA to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the Proposed Program against the backdrop of unavoidable significant environmental impacts. For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a Proposed Program

outweigh the unavoidable significant environmental effects, those effects may be considered acceptable and the decision making agency may still approve the underlying project.

The PEIR analyzes and discusses the significant and unavoidable environmental effects CDFA expects could occur. (See, e.g., PEIR Volume 1, section 6.2, pp. 6.2-23 to 6.2-24 and 6.2-25; and section 6.4 pp. 6.4-9 to 6.4-10.) As the sections previously mentioned discuss in detail, implementation of the Proposed Program may result in significant and unavoidable effects to air quality and global climate change from criteria air pollutant and greenhouse gas emissions due to the lack of feasible mitigation that can ensure that impacts would be less than significant.

#### Balancing the Benefits of Final Action by CDFA with the Significant and Unavoidable Environmental Effects.

As noted above, CDFA is charged by CEQA to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of the Proposed Program against the backdrop of significant unavoidable environmental impacts. This section describes those benefits. In addition, CDFA finds that, after weighing the benefits of the Proposed Program against related potential unavoidable significant environmental impacts, the benefits of the Proposed Program outweigh these potentially unavoidable adverse environmental effects so that the adverse environmental effects may be considered "acceptable" (CEQA Guidelines section 15093, subd. (a).)

CDFA has determined that the Proposed Program should be approved and that any remaining unmitigated environmental impacts attributable to the Proposed Program are outweighed by the following specific overriding considerations, each one being a separate and independent basis upon which to approve the Proposed Program. In other words, any single benefit described below is adequate to support the approval of the Proposed Program in spite of its unavoidable environmental impacts. Substantial evidence in the record demonstrates the following benefits that would occur as a result of approving the Proposed Program:

- First, the Proposed Program may not in fact result in all of the significant and unavoidable impacts identified above. The extent to which the Proposed Program activities may result in increased criteria air pollutant or GHG emissions in the future compared to baseline Statewide Program activities is unknown. It is uncertain if the extent of future pest infestations would require increased intensity of pest management activities, shifts in the types of activities that may affect emissions, or shifts in the location of pest management activities. Thus, it is reasonably foreseeable that such

an increase in Proposed Program activities could lead to emissions for a particular criteria air pollutant(s) which would exceed the mass emissions threshold(s) in that basin or not meet the AB32 GHG reduction goals. However, such impacts are not assured, and air emissions in excess of thresholds may only occur in particular air basins for certain criteria pollutants for discrete periods of time during a pest infestation.

- Second, CDFA's inclusion of aspects of the Pierce's Disease Control Program (PDCP) in the PEIR stems from a legal challenge to the 2003 PDCP EIR (*Californians for Alternatives to Toxics et al. v. California Department of Food and Agriculture* [San Francisco County Super. Ct., 2004, No. CPF03503249; First District Court of Appeal, 2005, Case No. A107088]). The Californians for Alternatives to Toxics complaint contended that the 2003 PEIR did not adequately comply with CEQA in certain respects. In December 2005, the Court of Appeal agreed with several aspects of the complaint.

CDFA has prepared the PEIR in part to rectify the deficiencies in the 2003 PDCP EIR identified by the Court of Appeal and in compliance with the requirements of that court decision. Thus, the Draft PEIR also serves as a recirculated EIR, prepared pursuant to CEQA Guidelines Section 15088.5. Activities conducted under the PDCP, and all other activities under the scope of the Proposed Program have been evaluated following the requirements mandated by the court decision. Furthermore, certain PDCP activities have been modified in this PEIR to avoid significant impacts. As such, the PEIR provides a benefit by bringing the PDCP into compliance with CEQA, and resulting in improved environmental outcomes for the PDCP.

- Third, the PEIR updates and integrates the various Proposed Program activities into a comprehensive program, and provides a consolidated set of updated MPs and mitigation measures using the most current technology and scientific information. CDFA's approval of the Proposed Program would allow these MPs and mitigation measures to serve as a comprehensive framework for Proposed Program activities, replacing those identified in the previous CEQA documents. This represents an improvement in environmental outcomes compared to existing Statewide Program activities because Proposed Program activities would have the benefit of being conducted in compliance with these MPs, mitigation measures, and other PEIR requirements.

- Fourth, the Proposed Program includes a number of activities which in the past have been conducted as emergency actions. To the extent that such activities are needed in the future and have been fully evaluated in the PEIR and/or through tiered CEQA documentation, there would be no need to invoke an emergency exemption, even if the criteria for an emergency have been met. Rather, the activities could be implemented as part of the Proposed Program, using the MPs, mitigation measures, and other requirements identified in the PEIR. As such, the PEIR and its Tiering Strategy is expected to allow for certain activities, which may have been considered an emergency in the past, to be conducted as part of the Proposed Program, reducing the extent to which emergency exemptions would be invoked. This represents an improvement in environmental outcomes because the activities would have the benefit of being conducted in compliance with a comprehensive and coordinated set of MPs, mitigation measures, and other PEIR requirements, and any additional requirements arising from tiered CEQA, as applicable.
- Fifth, the PEIR will provide a foundation for subsequent, more detailed analyses associated with individual activities conducted under the Proposed Program.

One of CDFA's intentions in preparing the PEIR is to minimize the amount of duplicate information that may be required in the future at a project-level environmental review by dealing as comprehensively as possible at the program level with cumulative impacts, regional considerations, and similar overarching issues. Substantial efforts have been made to provide project-level detail for these activities where it is feasible to do so. To the extent that the potential impacts of the activities have been addressed in the PEIR, no additional CEQA compliance would be necessary. To determine whether activities proposed as part of a future individual project have been sufficiently described in the Proposed Program and adequately addressed in the PEIR, a CEQA Tiering Strategy and checklist have been developed. Future activities would be evaluated for CEQA compliance using the checklist. Activities which may have new impacts not described in the PEIR would be subject to future CEQA evaluation. However, use of the PEIR should lessen the extent to which duplicative CEQA evaluation would be needed, resulting in increased government efficiency.

- Finally, the following impacts that would occur as a result of implementation of the Proposed Program would have a beneficial impact on the surrounding area (refer to PEIR Volume, Sections 6.1, Agriculture



Resources and Economics, and 6.3, Biological Resources, pp. 6.1-27 to 6.1-28, 6.1-32, and 6.3-15 to 6.3-16):

- Impact AG-GEN-1: Proposed Program activities would reduce pest infestations and would help prevent conversion of farmland to non-agricultural use
- Impact AG-CUM-3: Potential for Statewide Program activities as a whole to contribute to conversion of farmland to a non-agricultural use
- Impact BIO-CUM-1: Proposed Program activities would minimize natural area invasions.

Taken as a whole and individually, weighing the above economic, legal, social, technological, and other benefits, including region-wide and statewide environmental benefits, of the Proposed Program against the Program's unavoidable significant environmental impacts, CDFA has found that the benefits of the Proposed Program individually and collectively outweigh its unavoidable adverse environmental effects and its adverse environmental effects are therefore considered acceptable.

#### **CERTIFICATION OF PEIR**

The Secretary hereby finds and declares that she has reviewed and considered the PEIR in evaluating the Proposed Program, that the PEIR is an accurate and objective statement that fully complies with CEQA and the State CEQA Guidelines and that the PEIR reflects the independent judgment of CDFA. The Secretary further finds and declares that no new significant impacts as defined by State CEQA Guidelines section 15088.5 have been identified after circulation of the Draft PEIR and that recirculation of the PEIR is therefore not required. On behalf of CDFA, the Secretary certifies the Environmental Impact Report.

#### **ADOPTION OF FINDINGS OF FACT, STATEMENT OF OVERRIDING CONSIDERATIONS, AND MITIGATION REPORTING PLAN**

The Secretary adopts these findings of fact and the Statement of Overriding Considerations set forth above. In addition, pursuant to Public Resources Code section 21081.6, CDFA hereby adopts the MRP attached to this Resolution as Exhibit A. In the event of any inconsistencies between the mitigation measures as set forth herein and the MRP, the MRP shall control.

## APPROVAL OF PROGRAM

The Secretary finds that the approval and implementation of the Proposed Program is necessary to fulfill the mandates and duties of CDFA to promote and protect the agricultural industry of the state and protect the public health, safety and welfare. Based on the entire record before CDFA, including the above findings and all written and oral evidence presented to CDFA, the Secretary hereby approves the Statewide Pest Prevention and Management Program, with all the mitigation measures and the MRP as set forth in this document.

## DIRECTION TO STAFF

The Secretary directs CDFA staff to prepare and file a Notice of Determination with the Office of Planning and Research as soon as practicable and no later than five (5) working days after the date of Proposed Program approval as set forth immediately below.

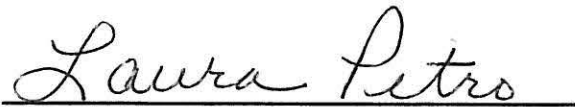
ADOPTED this 24<sup>nd</sup> day of December, 2014.



Karen Ross

Secretary, California Department of Food and Agriculture

ATTEST:



## **Exhibit A**

### **Mitigation Reporting Program**

## Introduction

The Proposed Program would involve implementation of a number of mitigation measures to reduce potentially significant environmental effects identified in the environmental analysis (see Volume 1, Chapter 6). These mitigation measures are listed in Tables C-2 through C-4 in Appendix C, CEQA Tiering Strategy, as they apply to physical, biological, and chemical management activities under the Proposed Program. The mitigation measures are also summarized in Attachment 2 to Appendix C.

As many of the activities proposed under the Proposed Program would be carried out by entities besides CDFA, CDFA would not monitor implementation of mitigation measures itself. Rather, CDFA would establish a mitigation reporting program and rely on reporting from those entities implementing mitigation measures on the ground (including CDFA, as applicable). Section 15097 (a) of the State CEQA Guidelines states: "A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program." Section 15097 (c) states: "The public agency may choose whether its program will monitor mitigation, report on mitigation, or both."

This appendix describes the mitigation reporting program for the Proposed Program. Two key components of the overall mitigation reporting program would be the application of the CEQA Tiering Strategy and the development and execution of compliance agreements, contracts, permits and other agreements.

## CEQA Tiering Strategy

As described in Appendix C, the CEQA Tiering Strategy is a tool designed to assist CDFA staff in determining (1) the extent to which a specific activity has been evaluated in the PEIR; (2) the management practices (MPs), mitigation measures, and other requirements from the PEIR to apply to each activity; and (3) the level and focus of any additional CEQA analysis (and related documentation) that may be necessary before beginning the activity. The Tiering Strategy includes a series of questions and steps to enable CDFA staff to determine if proposed activities have been evaluated in the PEIR, and, if so, what the applicable PEIR requirements are for those activities (see Tables C-2 through C-4 in Appendix C).

With respect to mitigation reporting, CDFA would use the CEQA Tiering Strategy and the Tiering Strategy Checklist (see Attachment 1) to identify MPs and mitigation measures for inclusion in compliance agreements, permits, contracts, grants, or other similar means. MPs and mitigation measures identified through the tiering strategy would be written into such agreements and would thus be binding conditions. Compliance agreements, contracts and other contractual agreements are discussed in more detail below. The Tiering Strategy Checklist also includes a section where CDFA staff can verify that mitigation measures have been complied with, documenting CDFA's completion of its obligation to ensure that implementation of the mitigation measures has occurred in accordance with the program.

## Contractual Agreements

As described in Volume 1, Chapter 2, Proposed Program Description, CDFA may enter into agreements with growers or other public or private entities to carry out Proposed Program activities. These agreements may include compliance agreements with regulated entities within quarantine areas (e.g., to treat commodities to standards described in quarantine regulations before moving them outside the quarantine area); contracts with city and county government, non-profit organizations, or other entities (e.g., to conduct detection, eradication or other management activities), or permits (e.g., to move certain materials outside of quarantine areas). In addition to listing the applicable PEIR requirements (i.e., MPs and mitigation measures) for the subject activities, contractual agreements would clearly describe the contractee's responsibilities for implementing and reporting those requirements.

Any grower, city or county government, or other entity that entered into such an agreement with CDFA would have to sign the document to indicate that they intend to implement all PEIR requirements included in the agreement. Upon completion of the activities authorized under the agreement, the same party would have to sign an additional document indicating that they have implemented all PEIR requirements included in the agreement. Submission of the signed documents to CDFA would constitute mitigation reporting for the purposes of CEQA, allowing CDFA to sign off on the Tiering Strategy Checklist.

## Mitigation Reporting Program

The mitigation reporting program for the Proposed Program would encompass the processes described above for identifying applicable PEIR requirements through use of the CEQA Tiering Strategy, inclusion of applicable requirements into contractual agreements, and obtaining signed copies of agreements indicating requirements were adhered to/implemented. This program would be in compliance with Section 21081.6 of the CEQA Statute and Section 15097 of the CEQA Guidelines.



## Attachment 1 – CEQA Tiering Checklist

Start Date:	
Project Leader:	
Description of Activity:	
Activity Surroundings (Residential, agriculture, mixed use, other regulated entities):	

### Part A

	Response	Justification/Rationale
Is the proposed activity under CDFA's discretion?		
Is the activity described in the PEIR?		(If the Response is "Partially" or "No" skip to Part C)

### Part B

			Check Applicable Requirements
<b>General Requirements</b>			
Conduct activity as described in Chapters 2 and 3 of PEIR			
Include applicable PEIR requirements in Compliance Agreements with regulated entities, based on the activities the regulated entities may conduct in response to quarantine			
<b>Activity Site Specific Review</b>			
<b>Database</b>	<b>Date Reviewed</b>	<b>Mitigation If Any</b>	
California Natural Diversity Database			
303(d) List of Impaired Waters			
EnviroStor Hazardous Site			
<b>Management Practices</b>			
MP-SPRAY-1: Conduct a Site Assessment			
MP-SPRAY-2: Properly clean and calibrate all equipment to apply chemicals uniformly and in the correct quantities			
MP-SPRAY-3: Follow pesticide application laws and regulations, and label directions			
MP-SPRAY-4: Apply chemicals only under favorable weather conditions			
MP-SPRAY-5: Follow integrated pest management and drift reduction techniques			
MP-SPRAY-6: Clean equipment and dispose of rinse water per label directions			

	Check Applicable Requirements
<b>Management Practices</b>	
MP-SPRAY-7: Follow appropriate product storage procedures	
MP-AERIAL-1: Use appropriate aerial spray treatment procedures	
MP-GROUND-1: Follow appropriate ground-rig foliar treatment procedures	
MP-GROUND-2: Follow appropriate low-pressure backpack treatment procedures	
MP-GROUND-3: Train personnel in proper use of pesticides	
MP-GROUND-4: Enforce runoff and drift prevention	
MP-HAZ-1: Implement a Spill Contingency Plan	
MP-HAZ-2: Use safety and cleanup materials checklist	
MP-HAZ-3: Implement decontamination	
MP-HAZ-4: Follow appropriate disposal procedures	
<b>Mitigation Measures</b>	
Mitigation Measure BIO-CHEM-2: CDFA will obtain technical assistance from USFWS, CDFW and NMFS to identify site-specific buffers and other measures to protect habitats utilized by special-status species	
Mitigation Measure HAZ-GEN-4a: Determine Potential for Hazardous Materials Exposure	
Mitigation Measure HAZ-GEN-4b: Conduct a Hazardous Materials Records Search before Beginning Proposed Program Activities at a Given Site	
Mitigation Measure HAZ-GEN-4c: Stop work and implement hazardous materials investigations/remediation for contamination health risks	
Mitigation Measure HAZ-CHEM-1a: Conduct Public Information Sessions Regarding Pesticide Safety Practices	
Mitigation Measure HAZ-CHEM-1b: Conduct Training Sessions and Prepare Educational Materials Regarding Safe Handling and Application of Pesticides	
Mitigation Measure HAZ-CHEM-3: Require Compliance with the Proposed Program's Authorized Chemical Application Scenarios	
Mitigation Measure NOISE-PHYS-1: Conduct Activities during the Daytime	
Mitigation Measure WQ-CHEM-2: Track Emerging Water Quality Standards and Implement Additional Mitigation as Appropriate	
Mitigation Measure WQ-CHEM-5: Require Implementation of Proposed Program MPs as Part of Compliance Agreements	
Mitigation Measure WQ-CUM-1: Identify whether Proposed Program Pesticide Applications May Occur in Proximity to Impaired Waterbodies, and Implement Appropriate MPs	

**Part C**

	Y/N	Justification/Rationale
<b>Step 1</b>		
Is the Activity substantially similar to that considered in the PEIR?		(If yes go to Step 2, if no move to the next question)
If a management practice that was not included in the PEIR is being considered, would it be equivalent or more effective to the management practice originally considered in the PEIR?		(If yes go to Step 2, if no move to the next question)
If a mitigation measure that was not included in the PEIR is being considered, would it be equivalent		(If yes go to Step 2, if no move to the next question)



or more effective to the mitigation measure originally considered in the PEIR?		
Would the activity result in potentially significant impacts which were not considered in the PEIR, not considered to be significant in the PEIR, or would be substantially more significant than disclosed in the PEIR?		(If yes go to Step 3, if no go to Step 2)
Step 2	Attach supporting documentation for determination, and CEQA Addendum, as applicable	
Step 3	Attach tiered CEQA document, and identify additional requirements from that document	

<b>Confirmation of Implementation (following completion of activity)</b>	
Project Leader Name:	
Signature*:	
End Date:	

\*This signature confirms that all applicable requirements identified on this checklist and related documentation has been properly implemented.

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