

ISSUE BRIEF



CALIFORNIA AVOCADO PEST & DISEASE PREVENTION ACT OF 2007

THE BACKGROUND

From the acreage boom of the late 1970s up until 1990, the California avocado industry was relatively free of pests and diseases. That all changed when infestations of *Persea* mite and avocado thrips occurred in the early and mid 1990s, significantly altering the Plant Protection landscape in California. Those epochal infestations are thought to be the result, largely, of three key developments:

1. **POLICIES:** Relaxed phytosanitary policies at the Federal level
2. **TRANSPORTATION:** Increased commercial cargo and passenger traffic
3. **BUDGET CUTS:** Financial constraints at the California (State) level

Fast forward to 2007 and you see a state where exotic pest introductions are a constant threat as the volume of avocado imports increases dramatically and new pest species are identified in exporting countries. The cost is staggering. Infestations cost California avocado growers up to \$17 million annually.

Trying to operate in this new environment, on that changed landscape, is very difficult because the protective curtain has been lifted. As the threat emerged and then increased through the 1990s and into this decade, there was a correlative weakening of the security framework built to protect California avocado growers from dangerous pests. The most compelling evidence of this shift comes from CDFA's Biological Pollution Exclusion and Eradication Network, once the country's finest, but now compromised by inadequate funding.

The news is no better at the Federal level where the National Association of Agriculture Employees says the following three forces could "cripple" American agriculture:

1. Transfer of agricultural inspection responsibilities to the Department of Homeland Security
2. Chronic staffing shortages
3. Subordination of the agriculture mission to terrorism concerns

THE SITUATION

Recent detections in California of the *Diaprepes* root weevil, avocado lace bug, and a new thrips species, *Neohydatothrips burungae*, underscore existing gaps in federal /state regulatory mechanisms designed to prevent pest introductions. But the most alarming event occurred last month when imported Hass avocados from Mexico were permitted entry to California for the first time in history. During the first month of shipping, approximately 13% of the trucks inspected at CDFA checkpoints were found to contain actionable armored scale insects.

The bottom line is that California avocado growers are at an elevated risk in 2007—perhaps the highest ever—from a devastating pest infestation.

THE STRATEGY

CAC's *RadarScan* program spotted the issues described herein early, which prompted us to make Pest Protection a Strategic Imperative for over a decade. The overarching objective of our Phytosanitary Policy has been, and continues to be, a commitment to:

“Do everything possible to protect California avocado groves from increased risk of pest or disease infestation due to adverse regulatory or policy decisions.”

As the threat to our industry mounts, staying true to that commitment in 2007 was never more important. Accordingly, the CAC Board has made a bold, transformative move by voting unanimously at its March Board meeting to take aggressive action against the importation of Mexican avocados with dangerous scale pests coming into California. The authorization, on the recommendation of CAC CEO Mark Affleck and Senior Vice President & Corporate Counsel Tom Bellamore, clears the way to pursue State-level (California) protection against pests and disease infestation by introducing the [CALIFORNIA AVOCADO PEST & DISEASE PREVENTION ACT OF 2007 \(CAPDPA\)](#).

Modeled after the Rice Certification Act of 2000, the [CAPDPA](#) is constructed to reduce the risk of pest and disease infestation in avocados imported into California from countries with known phytosanitary problems. It has already been drafted by CAC staff with support from Sacramento counsel George Soares. State Senator Abel Maldonado, Jr. (R-Santa Maria and Senate Ag Committee Chair) will amend a bill he introduced February 22, 2007 (SB 486) to include the [CAPDPA](#) language (SEE BELOW).

SENATE BILL 486

Introduced by Senator Maldonado

February 22, 2007

An act to amend Section 78581 of the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

SB 486, as introduced, Maldonado. Agriculture. Existing law requires the Secretary of Food and Agriculture to take various actions with respect to agricultural marketing advisory and promotional councils and commissions. This bill would make technical, nonsubstantive changes to those provisions. Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



THE ACT: IMPLEMENTATION

SPECIAL CAPDPA COMMITTEE

The Act authorizes the California Secretary of Agriculture to appoint a SPECIAL CAPDPA COMMITTEE of the Commission to administer the Act's provisions. The Committee and its Chairman--appointed by the Secretary from nominations received from the Commission--would consist of four producers, four handlers and one representative from the University of California. The Commission may appoint ex-officio members deemed reasonably necessary to implement the Act. The SPECIAL CAPDPA COMMITTEE would be charged with:

- ✚ Identifying/designating pests and diseases in avocado growing areas outside California that pose a threat
- ✚ Considering all available scientific information as to likelihood of pest introduction, harm, and eradication
- ✚ Recommending to the Secretary the adoption of regulations establishing terms and conditions for handling avocados, prior to and upon entry of into California, based on generally accepted scientific principles
 - ✓ *Regulations adopted under the Act must be promulgated in compliance with the Administrative Procedures Act (rulemaking)*
- ✚ Recommending enforcement and assessment setting actions

ASSESSMENTS & COMPLIANCE

The Act would be self-funding via an assessment levied on the first "In-State Handler" of avocados originating from outside California, paid to the Commission. The annual cost of administering the activities of the Committee is expected to range from \$40,000-\$75,000.

- ✚ The Commission would be empowered to investigate violations of the Act, with authority to seek injunctive relief or a writ of attachment (to effectively "seize" property).
- ✚ CDFA would be permitted to enter and inspect premises and levy civil penalties.

POSSIBLE NEGATIVE ISSUES/OUTCOMES

- ✚ Could invite litigation and trade disputes
- ✚ Potentially complicates the already-strained CDFA-USDA relationship (Pests)
- ✚ Adds another administrative function to the Commission (after HAB)
- ✚ In a major, politically-charged pest crisis, it's possible the Act could offer no help since the Secretary has the power to decline the Committee's recommendations

PROJECT TIMELINE

- ✚ APR 27 2007: Last day for policy committees (Senate Agriculture) to hear bills
- ✚ JUN 8 2007: Last day to pass bills out of Senate
- ✚ JUL 13 2007: Last day for policy committees to hear and report bills from other house
- ✚ AUG 31 2007: Last day for fiscal committees to meet and report bills from other house to the floor
- ✚ SEP 14 2007: Last day for any bill to be passed (Floor Session)
- ✚ OCT 14 2007: Last day for Governor to take action
- ✚ JAN 1, 2008: Effective date of new law if bill is signed by Governor

