



ARMORED SCALE INSECTS ISSUE SUMMARY



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BACKGROUND/CONTEXT

Since the inception of the Mexican avocado issue, the Commission has warned the federal government about the risks associated with NEW, UNDESCRIBED INVASIVE SPECIES that could potentially follow commercial pathways and infest California avocado groves. We did so repeatedly with the submission of official comments to USDA during promulgation of Proposed and Final Rules governing importation of Mexican avocados between 1994 and 2004.

At the same time, CAC funded foreign exploration efforts by University of California research entomologists in Central America and Mexico to search for new pests that potentially could follow commercial pathways and enter California. USDA reluctantly expanded its pest list for Mexican avocados under pressure from CAC during the rulemaking process, but even its latest list, developed in 2004, does not contain some of the armored scale insects presently being detected on Mexican avocados by the California Department of Food and Agriculture.

Prior to the commencement of Mexican avocado shipments to California on February 1st, CAC was invited to participate in a meeting that Mexico's industry association, APEAM, had arranged with federal, state, and county agriculture officials. Mexican avocado industry leaders wanted to ensure that they were in compliance with all applicable regulations. During the meeting, CAC raised the issue of the possible detection of insects considered "actionable" by CDFA but not USDA, specifically mentioning armored scale. CDFA confirmed that this could occur. Mexican industry leaders said ABSOLUTELY NOTHING in response.

FEBRUARY 1, 2007:

ARMORED SCALE IN MEXICAN AVOCADO SHIPMENTS:

The first report of a scale-infested load of Mexican avocados triggered the following action steps, taken to mitigate this latest pest threat to the California avocado industry:

- ✚ Channels of communication opened with CDFA, USDA, and the Governor's Office to gather factual information about specific pest incidents and share information
- ✚ Further discussions with USDA and CDFA regarding appropriate steps to evaluate the scope of the problem, including an emergency import program review in Mexico
- ✚ Initiated contact with 10 prominent federal/state/private entomologists to evaluate the risks presented, share scientific information on armored scale insects, and discuss species identifications

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- ✚ Funded University of California research proposal designed to improve scale identification and early detection capability using genetic/molecular analysis
- ✚ Collaborative development of a proposal to modify the State-Federal Cooperative Agreement to allow federal inspectors to turn scale-infested shipments over to CDFA for disposition
- ✚ Developed and circulated draft California Congressional delegation letter to APHIS urging the agency to modify the Cooperative Agreement
- ✚ Developed and implemented CAC's Legislative Action Center to enable grassroots support from growers
- ✚ Constant communication with CDFA to reinforce the industry position and express support for the enforcement actions
- ✚ Behind-the-scenes legislative work to modify introduced federal legislation to include language mandating that USDA-CDFA Cooperative Agreement be modified to allow federal inspectors to "notify" CDFA of pest-infested shipments
- ✚ Development of the California Pest and Disease Prevention Act of 2007, including supporting Issue Brief and White Paper, to add a layer of state-level protection from pest threats
- ✚ Secured legislative sponsor for the Pest and Disease Act
- ✚ Communicated with Los Angeles and San Diego County Agriculture Commissioners regarding market inspections of Mexican avocados
- ✚ Communicated with Arizona, Florida, and Hawaii Departments of Agriculture to gather information on the regulatory response to scale insects by those states
- ✚ Submitted names to CDFA for participation in a planned Science Advisory Panel meeting to evaluate scale insect risk
- ✚ Communicated with citrus and landscape industry leaders to explore coalition opportunities
- ✚ Conducted numerous interviews with trade and consumer media
- ✚ Supported legislation to transfer responsibility for conducting agricultural inspections from the Department of Homeland Security back to the USDA
- ✚ Development of legal strategy aimed at suspending shipments of Mexican avocado into California
- ✚ Preparation of legal complaint against USDA and associated motion for injunctive relief; coordinate witnesses and expert testimony and prepare for evidentiary hearing

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The California Avocado Commission votes unanimously at its March 2007 Board meeting to take aggressive action against the importation of Mexican avocados with dangerous scale pests coming into California. After a 90-minute presentation and recommendation by President Mark Affleck and Senior Vice President & Corporate Counsel Tom Bellamore, Commissioners agreed to the following three actions:

1. CDFA—USDA COOPERATIVE AGREEMENT: CONTINUED PRESSURE

- ✚ Since the jurisdictional issue between CDFA and USDA has NOT been resolved and USDA still has not officially responded to CDFA's request for modification of a Cooperative Agreement that would allow federal inspectors to turn scale-infested shipments over to CDFA for disposition, the Commission commits to continue application of extreme pressure on all fronts to this end.
- ✚ The Commission stays in close communication with CDFA, urging state regulators to stand firm in their resolve to reject shipments of Mexican avocados found to contain invasive species of armored scale
- ✚ CDFA tells CAC that it is seeking to "reopen the discussion on USDA's 1985 Risk Assessment pertaining to armored scale." CDFA sources say if USDA is unwilling to do so, the state agency will "remain at loggerheads with USDA for awhile" as it continues to enforce state phytosanitary policy by rejecting shipments found to contain quarantine pests
- ✚ CDFA offers to convene a Science Advisory Panel consisting of independent, non-regulatory entomologists, to review all available information on the risks presented to agriculture by armored scale insects. USDA agrees to the scientific review, likely to occur in late March 2007
- ✚ CAC submits the names of several leading scientific experts for possible participation on the Science Advisory Panel. State and federal regulators agree that once the outcome of the Science Advisory Panel meeting is known, a decision on modification of the existing USDA-CDFA Cooperative Agreement will be forthcoming

2. CALIFORNIA AVOCADO PEST & DISEASE PREVENTION ACT OF 2007 (CAPDPA)

- ✚ CAC commits to pursuing 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.
- ✚ CAC staff, with support from Sacramento counsel George Soares, drafts legislation and State Senator Abel Maldonado, Jr. (R-Santa Maria and Senate Ag Committee Chair) agrees to amend a bill he introduced February 22, 2007 (SB 486) to include the CAPDPA language.

3. LAWSUIT AGAINST USDA TO SUSPEND IMPORTS

- ✚ During February and early March (2007) CAC gathers the necessary facts to support a legal challenge against the U.S. Department of Agriculture. Fully armed with compelling evidence, in the form of expert testimony and specific details of pest detections by CDFA and County officials on incoming loads of Mexican avocados, CAC clears all hurdles necessary to file a legal complaint asserting that the government's import protocol for Mexican avocados is defective. The complaint will be accompanied by a Motion for a Preliminary Injunction--essentially, a request to the Court that all shipments of Mexican avocados into California be halted because of the threat of imminent irreparable injury to California growers. The critical nature of this type of proceeding ensures that CAC's case will be placed on a fast track, with a hearing expected by early April.

AS OF MARCH 23, 2007