



AGENDA

California Avocado Commission
Board of Directors Meeting

Meeting Information

Date: June 5, 2024

Time: 2:00 p.m.

Location: Hilton Pasadena
168 South Los Robles Ave.
Pasadena, CA 91101

Meeting materials will be posted online at least 24 hours prior to the meeting at:
<https://www.californiaavocadogrowers.com/commission/meeting-agendas-minutes>

Board Member and Alternate Attendance

Board members and alternates, please contact Cristina Wede, cwede@avocado.org or 949-341-1955, to confirm attendance no later than Wednesday, May 29, 2024.

Time	Item
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| 2:00 p.m. | <ol style="list-style-type: none">1. Call to Order<ol style="list-style-type: none">a. Roll Call/Quorumb. Introductions2. Opportunity for Public Comment<p>Any person may address the Board at this time on any subject within the jurisdiction of the California Avocado Commission.</p>3. Industry Strategic Intent 2025<ol style="list-style-type: none">a. What is the purpose of CAC?4. Governance Committee Report<ol style="list-style-type: none">a. CAC assessment rate structureb. Definition of producerc. Board compositiond. Consider approval of Governance Committee recommendations5. Marketing Committee structure |
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Time	Item
	<p>6. Marketing</p> <ul style="list-style-type: none"> a. Where are we today? <ul style="list-style-type: none"> i. Campaign Assets (beyond conceptual) ii. Paid Media Results <ul style="list-style-type: none"> 1. Impact of budget cuts b. Targeted Retailer Penetration c. Looking into next year <ul style="list-style-type: none"> i. Key Strategic Issues ii. In-store Situation Assessment
	<p>7. Strategic Review of Priorities</p> <ul style="list-style-type: none"> a. Marketing b. Industry Affairs c. Production Research
	<p>8. Day 1 Recap and Preview of Day 2</p>
5:30 p.m.	<p>9. Adjourn Meeting</p>

Disclosures

The times listed for each agenda item are estimated and subject to change. It is possible that some of the agenda items may not be able to be discussed prior to adjournment. Consequently, those items will be rescheduled to appear on a subsequent agenda. All meetings of the California Avocado Commission are open to the public and subject to the Bagley-Keene Open Meeting Act.

All agenda items are subject to discussion and possible action. For more information, or to make a request regarding a disability-related modification or accommodation for the meeting, please contact April Aymami at 949-341-1955, California Avocado Commission, 12 Mauchly, Suite L, Irvine, CA 92618, or via email at aaymami@avocado.org. Requests for disability-related modification or accommodation for the meeting should be made at least 48 hours prior to the meeting time. For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette or computer disk. This meeting schedule notice and agenda is available on the internet at <https://www.californiaavocadogrowers.com/commission/meeting-agendas-minutes> and <http://it.cdfa.ca.gov/igov/postings/detail.aspx?type=Notices>.

If you have questions on the above agenda, please contact April Aymami at aaymami@avocado.org or 949-341-1955.

Summary Definition of Conflict of Interest

It is each member's and alternate's responsibility to determine whether they have a conflict of interest and whether they should excuse themselves from a particular discussion or vote during a meeting. To assist you in this evaluation, the following *Summary Definition of Conflict of Interest* may be helpful.

A Commission *member or employee* has a conflict of interest in a decision of the Commission if it is reasonably foreseeable that the decision will have a material effect, financial or otherwise, on the member or employee or a member of his or her immediate family that is distinguishable from its effect on all persons subject to the Commission's jurisdiction.

No Commission member or employee shall make, or participate in making, any decision in which he or she knows or should know he or she has a conflict of interest.

No Commission member or employee shall, in any way, use his or her position to influence any decision in which he or she knows or should know he or she has a conflict of interest.



BOARD INFORMATION

ITEM 3: **INDUSTRY STRATEGIC INTENT 2025**

SUMMARY:

During the June 5-6, 2024 meetings, the Board will engage in a review and discussion of CAC's existing Strategic Intent 2025 and 2023-24 Priorities. The attached strategic intent and priorities documents have been provided to facilitate robust discussion on these topics.

FISCAL ANALYSIS:

- Not applicable

BOARD OPTIONS:

- Discussion item

STAFF RECOMMENDATION:

- Not applicable

EXHIBITS / ATTACHMENTS:

- CAC Strategic Intent 2025
- CAC 2023-24 Priorities



INDUSTRY STRATEGIC INTENT 2025

Industry Strategic Intent 2025

Mission: To maximize grower returns by enhancing premium brand positioning for California Avocados and improving grower sustainability

Vision: To be recognized as the most-desired avocado in the world by fostering a vibrant industry

California Avocados will occupy a premium position in the market.

Key Industry Aspirations

California Avocado growers face a staggering array of challenges – sharply rising input costs, particularly water pricing, labor and costs associated with regulatory compliance; the quality and availability of deliveries through the state’s water infrastructure; produce safety and invasive pest issues; and an ever-expanding volume of foreign fruit that constantly exerts downward pressure on farm-gate prices. At the same time, global consumer demand for avocados continues to grow at a record pace. Over time, consumers are expected to continue to demand and find value in sustainably grown products tailored to meet their lifestyle needs.

Consequently, we aspire to the following outcomes:

- An assured place in the market
- A price to growers that is both premium to the competition and fosters industry viability
- Consistently high-quality production
- Highly productive and efficient growers
- Stable production from year-to-year
- Sustainable industry practices
- Socially responsible practices
- Leaders in innovation
- CAC’s target consumers prefer to purchase California Avocados when they are available

Competitive Advantages

- Locally and responsibly grown by California farmers who nurture the avocados and the land every step of the way
- Proximity to market
- Freshest product, picked at the peak of the season
- Consistency in taste and premium eating quality

Brand Positioning/Promise

Overall brand positioning/promise in development with the new Consumer Marketing agency

- California Avocados; Grown Locally, Farmed Responsibly
- Available seasonally in select locations

Target Markets

Strategic partnerships with tier 1 retail customers, foodservice chains and export accounts who are willing to pay a premium for California Avocados (Tiered-Account Approach)

CAC Core Values

Core values clarify and make explicit the principles driving CAC decisions

- Value to the grower comes first
- Leadership is forward thinking, consensus-driven
- Our ethics and integrity are uncompromised
- We're accountable and transparent
- Champion diversity, equity and inclusion in California Avocado marketing practices, programs, partners, targets and communications

Critical Factors for Success

- We're advocates for, and are engaged with, our industry
 - *It's not enough to run a good marketing program...moving the industry forward requires a partnership between the Commission, growers and handlers...each has a role to play and the Commission must be fully engaged with, and supportive of, the industry*
- We know and cultivate a grower profile that will fulfill Strategic Intent 2025
 - *Farmers must meet certain criteria to be viable in the future. It's critical for the industry to have a shared understanding of what that profile looks like and to promote an exchange of information that fosters continual improvement and viability*
- We understand what's driving consumer demand for California Avocados and we utilize that understanding in the development and execution of effective marketing programs
 - *Consumers will ultimately determine our future. It's critical we get into their heads and hearts to understand clearly why they currently value the product enough to pay a premium and what it will take to maintain that position. This will help us enhance our premium positioning through effective marketing and communications*
- We enjoy strategic partnerships in the marketplace
 - *Retailers and foodservice operators are the gatekeepers that give us access to the market. We must establish strategic alliances with key customers to maximize the profitability of California Avocados*
- We invest in research, education and outreach – from grove through supply chain – to advance our industry
 - *A research and grower outreach program is in place that forms the cornerstone for strengthening our position as a premium product, now and in the future*

CAC Strategic Intent

CAC Priority No. 1:

Position California Avocados to be the world's most-valued and desired avocados*

*(for consumers, retailers, foodservice operators, wholesalers, growers)

Rationale

California Avocados already enjoy a coveted market position as the most-recognized and trusted avocado “brand” in the Western U.S. where most California Avocados are sold. This distinction is critical since it creates the foundation for being positioned as the world's most-valued and desired avocados—a “must have” for all California growers who face higher costs of production than are borne by their competitors. Consumers in the West who have an opinion about the origin of their avocados consistently prefer California-grown avocados over those from other origins. This preference usually corresponds with a willingness to pay premium prices when California Avocados are in season, as compared to prices paid at other times of the year. Other target avocado consumers who are not actively concerned with avocado origin must be provided with additional motivation to prefer California Avocados and a willingness to pay a premium for them when in season (The inherent value recognized by consumers ultimately means increased profitability for retailers, foodservice operators, wholesalers and, most importantly, growers.)

Objectives:

1. Aspire to a premium average price per pound that meets or exceeds the target set by the California Avocado Commission Board of Directors
2. Retain or increase California Avocado awareness, perceived value and preference with our consumer targets
3. Build loyalty with existing and target new trade customers

Strategies:

- A. Assess and define the most viable consumer targets for California Avocados
- B. Determine relevant “why California Avocado” messaging that elevates premium brand positioning and motivates consumer purchasing behavior

- C. Consistently drive the brand essence and messaging hierarchy, differentiating California Avocados from other origins
- D. Assess and refine ongoing and new trade customer focus
- E. Develop trade communications creating anticipation for the California Avocado season and ongoing demand for California Avocados
- F. Collaborate and develop trade customer Marketing programs that build consumer awareness and purchases
- G. Ensure the “California” in California Avocados is prominent in store and on menu

Performance Measures:

Measures of Success:

- **Consumer Marketing metrics to be added once the new agency, Curious Plot, is on board and the consumer marketing plan is approved**
- Handler, retailer and foodservice performance results measured by retailer and foodservice promotional agreements
- Improvement in foodservice marketing metrics vs. benchmark 2018-19** (*programs based on handler approval and favorable value to growers*)
 - Secure signed foodservice promotion agreements prior to starting a menu promotion
 - An 85% retention rate among chain partners from 2021-22 and 2022-23
 - Increase new foodservice partnerships (never partnered with or have not partnered within past 2 years) by a minimum of 3
 - California Avocados promoted/featured in approximately 1,300 foodservice units
 - Reach 80% of targeted chains by February 2024
- Achievement of retail marketing metrics
 - A minimum of 80% of target retail customers merchandising California Avocados
 - At least 50 retail promotions with targeted customers
 - A minimum of 1,500 retail display bins placed with targeted customers
 - A minimum of 5 digital shopper marketing programs with heightened California Avocado branding and a call-to-action for purchase
 - Promotions executed in at least 2 new retail customers that meet CAC goals for promotion partnership
- Using “AMRIC data”, measure lug prices and differentials of California Avocados vs. avocados of other origins
 - Meet or exceed budgeted average price for the fiscal year
 - Achieve a premium price for California Avocados during heavy promotional activity for California Avocados compared to the non-California season

CAC Priority No.2:

Advocate for, and engage with, the industry

Rationale

An effective marketing program, by itself, is not enough to ensure the success of the California Avocado industry. Farming continues to become more difficult as growers operate in an increasingly complex web of competition, regulation, market preferences and shifting costs. Often, collective action is necessary to affect a positive outcome on a pressing issue that is impacting the industry. The Commission gives growers a mechanism to act in concert and speak with one voice. Through CAC, resources can be brought to bear on common issues like trade access, pesticide registrations, regulatory issues, water availability and food safety concerns to the benefit of all growers. It's imperative that issues affecting the avocado industry are proactively anticipated, prioritized and managed to shape outcomes that are compatible with the industry's future. CAC must have an issues management program that is ever-vigilant and focused on the future, to ensure that everything possible is being done to safeguard the industry's economic investment. CAC also can serve as a reservoir and conduit for information needed to enable growers to be successful at the business of growing avocados. Informed decision-making is essential to this success, and with a robust outreach program, CAC can deliver relevant information uniquely tailored to California Avocado growers in a way that no other organization can, equipping them to leverage opportunities, redirect threats and adapt to change.

Objectives:

1. Proactively shape avocado industry issue outcomes that are compatible with the industry's key aspirations and CAC's values
2. Build consensus on the strategic direction to be taken to achieve the industry's key aspirations
3. Enhance California Avocado grower productivity and success
4. Ensure a full understanding and consideration of how government agency decisions will impact California avocado producers

Strategies:

- A. Anticipate and prioritize issues; use informed decision-making when executing plans that shape issue outcomes and respond immediately to crisis issues
- B. Collect and compile information vital to understanding global avocado market forces

- C. Execute an industry communications program that promotes discussion, consensus, action and feedback
- D. Maintain and develop relationships with other avocado industry and agricultural organizations that leverage strengths on issues of common interest
- E. Establish, maintain and strengthen relationships with influential governmental agency personnel (e.g., United States Department of Agriculture, Food and Drug Administration and others)

Performance Measures:

- Timely response to emerging issues leading to successful outcomes
- Successful, timely Board elections and orientation
- Successful vote in industry referenda
- Grower seminars, workshops, annual meetings and field days on current issues of importance
- Industry communications via semi-monthly GreenSheet and quarterly From the Grove publications

CAC Priority No. 3:

Support industry strategy through research and outreach

Rationale

The long-term success of the California Avocado industry hinges on grower profitability. To ensure its viability, the industry needs to invest wisely in research and outreach activities that address the most pressing needs of growers. CAC has made substantial progress toward focusing the research effort, aligning it with the Commission's broader marketing strategies and improving communication with and between growers.

Continual improvement—in terms of productivity, quality and operating efficiency—is an imperative if the industry is to thrive. It also acknowledges that advances through research are of little value to the industry if they are not communicated to, and adopted by, growers. With limited resources, it's critical that research and outreach programs be industry-driven based on needs identified through the CAC strategic planning process. Objectives must be well-defined, scientists must be recruited and matched to specific industry challenges and all programs must operate with full accountability to justify the investment by California Avocado growers.

Objectives:

1. Enhance California Avocado grower productivity and success
2. Ensure consistently safe, high-quality production that supports CAC's market development efforts

Strategies:

- A. Design and implement a Production Research Program focused on practical solutions to grower-defined priorities
- B. Develop a research-based outreach and education program for California Avocado growers and other industry stakeholders

Performance Measures:

- Maintain average annual California production volume of 350 million pounds over 5 years
- California avocado growers recognize CAC as a leader in grower education, communication and outreach

CAC Priority No. 4:***Cultivate organizational excellence / Demonstrate effective use of resources*****Rationale**

CAC can only assist the industry to realize its strategic intent if it has the support of its constituents. Grower perception of the value of CAC is directly related to leadership the organization provides, its stewardship of assessment funds collected and the efficacy of its efforts. Principles of transparency, accountability and integrity must guide every Commission action. CAC must monitor its performance and continuously challenge itself to deliver value for every assessment dollar spent. This is the heart of the Board-management partnership. In addition, maintaining a competent team of professionals also requires continual recruitment of talent, with an emphasis on diversity and inclusiveness, investment in Board and employee development and creation of an organizational culture where openness, creativity and innovation are encouraged and rewarded.

Objectives:

1. Ensure that the Commission has the proper leadership, organizational structure and resources necessary to provide value to all assessment-paying growers
2. Maximize California Avocado grower return on investment while minimizing risk and maintaining proper stewardship of grower funds

3. Achieve continual improvement in the operation of the Commission and execution of its programs
4. Achieve financial sustainability

Strategies:

- A. Conduct outreach efforts that continually identify and recruit new Board members and provide for their proper orientation
- B. Recruit for diversity and inclusivity when seeking board members, staff and vendors
- C. Ensure that the assessment rate, revenue and expenditures are appropriate to meet the industry's needs and expectations
- C. Allocate financial resources against industry priorities
- D. Implement comprehensive risk management procedures
- E. Create staff development programs that enhance competencies, maintain productivity and improve effectiveness and job satisfaction
- F. Maintain a balanced budget

Performance Measures:

- Favorable, unmodified Independent Auditor's opinion on CAC's basic financial statements
- Favorable United States Department of Agriculture (USDA) and California Department of Food and Agriculture (CDFA) Fiscal and Compliance Audit
- Staff development as measured by annual performance reviews
- Annual orientation, training and evaluation programs that improve the effectiveness of the seated CAC Board of Directors and encourage recruitment of prospective members
- Diversity among the board, staff and vendors
- Positive evaluation of financial sustainability by California Avocado Commission Finance Committee
- Balanced budget confirmed by year-end financial statement



BOARD ACTION

ITEM 4.d: CONSIDER APPROVAL OF GOVERNANCE COMMITTEE RECOMMENDATIONS

SUMMARY:

As directed by CAC Board Chair Jason Cole, the Governance Committee met on four occasions to discuss the CAC assessment rate structure, definition of producer and board composition. The attached redlined document represents the results of the Committee's discussion and corresponding changes to the CAC law as presented by the Governance Committee.

FISCAL ANALYSIS:

- Not applicable

BOARD OPTIONS:

- Approve proposed changes to the CAC law as presented by the Governance Committee
- Modify recommended changes to the CAC law, and approve with modifications
- Take no action

STAFF RECOMMENDATION:

- None

EXHIBITS / ATTACHMENTS:

- CAC law with draft redline edits

CALIFORNIA AVOCADO COMMISSION LAW
(Current as of 1/1/2018)

Article 1. Declaration and General Provisions

67001. Avocados produced in this state constitute one of the state's principal tree fruit crops. The avocado industry in this state is expanding. The industry constitutes an important source of jobs for many people in the state, a high proportion of whom are from underprivileged and historically deprived segments of the population.

67002. Opportunity exists for continued growth and expansion of the industry, by creating new markets. The success of an expansion program is uniquely dependent upon effective advertising, promotion, and collection and dissemination of public information, since the creation of new markets is essentially a matter of educating and informing people of the use, nutritional value, and availability of avocados.
(Amended by Stats. 2015, Ch. 307, Sec. 1. Effective January 1, 2016.)

67003. The establishment of a commission is imperative for the efficient development and management of a national and international advertising program which will ensure that the California avocado industry can compete successfully in the marketplace and increase revenues to avocado producers.

67004. The production and marketing of avocados produced in this state is hereby declared to be affected with public interest. The provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

67005. The commission form of administration created by this chapter is uniquely situated to provide those engaged in the production of avocados the opportunity to avail themselves of the benefits of collective action in the broad fields of advertising; promotion; production, nutrition, and marketing research; quality and maturity standards; the collection and dissemination of crop volume and related statistics; and public education.

67006. No action taken by the commission, or by any person in accordance with this chapter or with rules or regulations adopted under this chapter, is a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

Article 2. Definitions

67021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

67022. "Avocado" means any variety of avocado produced in the state, including any avocado delivered to a processor for processing into any avocado product.

67023. "Books and records" mean books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to the provisions of this chapter.

67025. "Commission" means the California Avocado Commission or the commission board of directors as the context requires.

67026. "Ex officio members" means non-voting members of the commission.

67028. (a) (1) "Handler" means any person who engages, in this state, in the operation of selling, marketing, or distributing avocados which ~~he or she has~~ they have produced or purchased or acquired from a producer, or which ~~he or she is~~ they are marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise.

(2) "Handler" also includes any person engaged as a processor in the business of processing avocados.

(b) When the handler is a corporation or a limited liability company, all of the directors, officers, managers, and members of the corporation or limited liability company in their capacity as individuals shall be included, and any liability for failure to collect or make payment of assessments to which a corporate handler or a handler that is a limited liability company may be subject pursuant to this chapter shall include identical liability upon each individual director, officer, manager, or member of the corporation or limited liability company.

(c) (1) "Handler" does not include a cooperative bargaining association that recommends that its members market their avocados through specified handlers and which otherwise is not involved in the sale of avocados.

(2) "Handler" also does not include a retailer, except for a retailer who purchases or acquires from any producer, or handles on behalf of any producer, avocados which were not previously subjected to regulation by the commission.

67030. "Handle" means to engage in the business of a handler.

67034. "Marketing research" means any research relating to the sale or inventory of avocados.

67035. "Marketing season" or "fiscal year" means the period beginning November 1 of any year and extending through the last day of October of the following year.

67036.5. "Person" means an individual, partnership, corporation, limited liability company, or other business entity.

67037. "Processor" means any person engaged, within this state, in any of the activities with respect to avocados as set forth in Section 58619.

67038. "Process" means to engage in the business of a processor.

67039. "Producer" ~~or "grower"~~ means any person who is engaged within this state in the business of producing, or causing to be produced, avocados for market. "Producer" ~~or "grower"~~ does not include any person who has an average annual production of less than 10,000 pounds of avocados in the three preceding marketing years or a greater amount as may be established by a two-thirds vote of the commission.

(Amended by Stats. 2016, Ch. 451, Sec. 4. Effective January 1, 2017)

67040. "Production research" means any research related to the production of avocados other than marketing research.

67040.5. "Secretary" means the Secretary of the Department of Food and Agriculture.

Article 2.5. Districts

67041. The commission shall establish no fewer than three districts and no more than five districts within the state, each representing approximately the same percentage of avocado production in California.

(Amended by Stats. 2015, Ch. 307, Sec. 2. Effective January 1, 2016.)

67042. Beginning in the 2000-01 marketing season, districts shall be reapportioned every fifth year in accordance with redistricting procedures adopted by a two-thirds vote of the commission and concurred in by the secretary.

(Amended by Stats. 2015, Ch. 307, Sec. 3. Effective January 1, 2016.)

Article 3. The California Avocado Commission

67051. (a) There is in the state government the California Avocado Commission.

(b) The commission shall be composed of the following members:

(1) (A) If the commission consists of three districts, nine producers who are not handlers, three elected from each district.

(B) If the commission consists of four districts, eight producers who are not handlers, two elected from each district.

(C) If the commission consists of five districts, 10 producers who are not handlers, two elected from each district.

~~(2) Two avocado handlers elected on a statewide basis.~~

~~(3)~~(2) One public member who shall be appointed to the commission by the secretary from nominees recommended by the commission.

~~(4)~~(3) The secretary who shall be an ~~nonvoting~~ ex officio member of the commission.

(4) The commission may appoint one or more handlers as ex officio members. A handler shall handle no less than 1 percent of the total industry volume of avocados in the preceding marketing year.

(Amended by Stats. 2016, Ch. 451, Sec. 5. Effective January 1, 2017)

67051.5. The secretary may require the commission to correct or cease any activity or function which is determined by the secretary not to be in the public interest or is in violation of this chapter.

If the commission refuses or fails to cease the activities or functions or to make corrections as required by the secretary, the secretary may, upon written notice, suspend all or a portion of the activities of the commission until the time that the

cessation or correction of activities or functions as required by the secretary have been accomplished.

Any written notice, to cease any activity which is the subject of a contract of the commission entered into by the commission prior to the notice, shall not be effective until after the period of notice for termination provided in the contract or 120 days, whichever is shorter.

Upon service of the written notice, the secretary shall notify the commission in writing, of the specific acts which ~~he or she~~ they determines are not in the public interest or are in violation of this chapter.

67051.6. Either the commission or the secretary may bring an action for judicial relief in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

67052. (a) Each district shall have one alternate producer member, to be elected in the same manner as producer members.

(b) The alternate producer member shall, in the absence of a producer member from the same district, sit-serve in place of the absent producer member on the commission and shall have, and be able to exercise, all the rights, privileges, and powers of the producer member when sitting-serving on the commission.

(Amended by Stats. 2016, Ch. 451, Sec. 7. Effective January 1, 2017)

~~67052.3. (a) There shall be one alternate handler member to be elected in the same manner as the handler members.~~

~~—(b) The alternate handler member shall, in the absence of a handler member, sit in place of the absent handler member on the commission and shall have, and be able to exercise, all the rights, privileges, and powers of the handler member when sitting on the commission.~~

~~*(Amended by Stats. 2016, Ch. 451, Sec. 8. Effective January 1, 2017)*~~

67052.5. (a) There shall be one alternate public member who shall be appointed by the secretary from nominees recommended by the commission.

(b) The alternate public member shall, in the absence of the public member, sit-serve in place of the absent public member on the commission and shall have, and be able to exercise, all the rights, privileges, and powers of the public member when sitting-serving on the commission.

67053. (a) Any vacancy on the commission (a) occurring by the failure of any person elected to the commission as a member or alternate member to continue in ~~his or her~~ their position due to a change in status making ~~him or her~~ them

ineligible to serve, or through death, removal, or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission.

(b) Any person filling a vacant member or alternate member position shall meet all the qualifications set forth in this article as required for the member whose office ~~he or she is~~ they are to fill.

(Amended by Stats. 2016, Ch. 451, Sec. 9. Effective January 1, 2017)

67054. (a) Producer members and alternate producer members on the commission shall have a financial interest in producing, or causing to be produced, avocados for market. In order to be elected a member or alternate member, a producer shall, at the time of the election, have a financial interest in the production of avocados within the district in which the producer stands for election.

(b) A producer may stand for election in any district in which the producer has a financial interest in the production of avocados.

~~(c) Handler members and the alternate handler members shall have a financial interest in handling avocados for markets. To be nominated and elected, a handler or alternate handler shall handle no less than 1 percent of the total industry volume of avocados in the preceding marketing year. Any handler elected to the commission pursuant to this section shall be required to maintain his or her eligibility under this section during his or her entire term of office.~~

~~(d)~~(c) The public member and alternate member shall not have any financial interest in the avocado industry. Except for the nomination of another public member, the public member and ~~his or her~~ their alternate member on the commission shall have all the powers, rights, and privileges of any other member on the commission.

(Amended by Stats. 2016, Ch. 451, Sec. 10. Effective January 1, 2017)

67055. (a) Except as specified in subdivision (b), the term of office of all members and alternate members, except ~~the~~ ex officio members, shall be for two years from the date of their election or appointment and until their successors are qualified.

(b) Of the first members of the commission from each district, one shall serve for one year, and the remaining member or members shall serve for two years, with the determination of the term of each member to be made by lot. Subsequent to the election of the first members from each district, the terms of the members shall continue to be staggered, as provided in this subdivision.

(c) Terms of office of each member and alternate member shall be limited to four consecutive terms.

(Amended by Stats. 2015, Ch. 307, Sec. 12. Effective January 1, 2016.)

67056. The commission shall have the power to sue and be sued and to contract and be contracted with. Copies of its proceedings, records, and acts,

when certified by an officer, are admissible in evidence in all courts of the state, and are prima facie evidence of the truth of all statements therein.
(Amended by Stats. 2015, Ch. 307, Sec. 13. Effective January 1, 2016.)

67057. The commission may appoint its own officers, including a chair~~man~~, one or more vice chair~~men~~, and such other officers as it deems necessary. The officers shall have the powers and duties as may be delegated to them by the commission.

67058. The commission shall have the power to appoint committees composed of both members and nonmembers of the commission including avocado producers not subject to the provisions of this chapter to advise the commission in carrying out this chapter.

67059. Unless otherwise specified, a quorum of the commission shall be any nine-seven voting members if the commission consists of three or four districts and any 10-eight voting members if the commission consists of five districts. The vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.
(Amended by Stats. 2016, Ch. 451, Sec. 11. Effective January 1, 2017)

67059.5. The secretary or his or her the secretary's representatives shall be notified and may attend each meeting of the commission.

67060. A member, alternate member, or member of a committee who is a nonmember of the commission shall not receive a salary, but may receive a sum of not to exceed one hundred dollars (\$100) per day, as established by the commission, for each day spent in actual attendance at or in traveling to and from meetings of the commission or committees of the commission, or on authorized assignment for the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.
(Amended by Stats. 2015, Ch. 307, Sec. 15. Effective January 1, 2016.)

67061. All moneys received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission, shall be deposited in such financial institutions as the commission may designate and shall be disbursed by order of the commission through a member, officer, or employee designated for that purpose. Any such person shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the commission, conditioned upon the

strict accounting of all funds of the commission in the penal sum of not less than five hundred thousand dollars (\$500,000).

67062. The state is not liable for the acts of the commission or its contracts, except for state-directed supervision of the avocado inspection program, as specified in Chapter 9 (commencing with Section 44971) of Division 17, which is performed under an agreement that specifies that each of the parties shall be responsible and liable for that party's decisions made pursuant to the agreement, and that each of the parties shall not be held liable by the other party for the decisions made pursuant to the agreement. Payment of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member of the commission or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the commission nor shall a member, alternate member, or employee of the commission be responsible individually in any way to any producer or handler or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for ~~his or her~~ their own individual acts of dishonesty or crime. No member or alternate member shall be held responsible individually for any act or omission of any member of the commission. The liability of the members and alternate members shall be several and not joint, and no member or alternate member shall be liable for the default of any other members or alternate members.

Article 4. Voting Procedures

67081. (a) The secretary shall establish a list of producers in each district. In establishing the lists, the secretary shall require that handlers in the state submit the names, mailing addresses, grove location, and handled volume of each producer from whom they purchased or handled avocados in the preceding marketing season. The request for information from handlers shall be in writing and shall be filed by the handlers within 60 days following receipt of the written request.

(b) Any producer of avocados whose name does not appear upon the secretary's list of producers may have ~~his or her~~ their name established on the list by filing with the commission a signed statement, identifying ~~himself or herself~~ themselves as a producer. Failure to be on the list does not exempt the producer from paying assessments under this chapter.

(Amended by Stats. 2016, Ch. 451, Sec. 12. Effective January 1, 2017)

67082. ~~Subsequent to the first election of members under this chapter,~~ Persons to be elected to the commission shall be selected pursuant to nomination and election procedures adopted by the commission and concurred in by the secretary.

Article 5. Duties and Powers of the Commission

67091. The powers and duties of the commission include, but are not limited to, all of the following:

(a) Adopt and, from time to time, alter, rescind, modify, and amend all proper and necessary ~~rules, procedures, and orders~~ to carry out this chapter and in the exercise of its powers and the performance of its duties, including the adoption of ~~rules-procedures~~ to regulate appeals from any ~~action rule, procedure, or order~~ of the commission.

(b) Administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to or in connection with or deemed reasonably necessary, proper, or advisable to effectuate the purposes of this chapter.

(c) Employ a person, to serve, at the pleasure of the commission, as president and chief executive officer of the commission, ~~or a person or persons to serve as executive officers of the commission~~, and other personnel, including legal counsel.

(d) Establish offices, incur expenses, enter into any and all contracts and agreements, and create liabilities and borrow funds in advance of receipt of assessments that may be necessary, at the discretion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(e) Keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are subject to an annual independent audit by an auditing firm approved by the secretary. The independent audit shall be made a part of an annual report to all producers and handlers of avocados, copies of which shall also be submitted to the Legislature. In addition, the secretary may, as ~~he or shethey~~ determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(f) Promote the sale of avocados by advertising and other promotional means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for avocados and to educate and instruct the public with respect to avocados and the uses of the several varieties and the healthful properties and nutritional value of avocados.

(g) Enter into cost-sharing advertising with other products considered, by the commission, to be fair and equitable to both parties.

(h) Educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling avocados; arrange for the performance of dealer service work providing display and other promotional materials; make market and inventory surveys and analyses; present facts to and negotiate with state, federal, and foreign agencies on matters which affect the avocado industry; and undertake any other activities which the commission may determine appropriate for the maintenance and expansion of present markets and the creation of new markets for avocados.

(i) Make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of avocados.

(j) Conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere respecting the inventory, marketing, and distribution of avocados. The results of any research conducted by or on behalf of the commission may be used by the commission in any way it deems appropriate, and notwithstanding any other provision of law, may be maintained in confidence by the commission and not disseminated to any person not subject to this chapter.

(k) Accept and match contributions of private, local, state, or federal funds and make contributions of commission funds to other persons or to local, state, or federal agencies for purposes of promoting, and enhancing, ~~and maintaining~~ the California avocado industry.

(l) Publish and distribute without charge, a bulletin or other communication for dissemination of information relating to inventory, marketing, and other information of value to the commission and the avocado industry to producers, handlers, and the public.

(m) Establish an assessment rate to defray operating costs of the commission.

(n) Establish an annual budget.

(o) Investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

(p) Carry out the requirements prescribed in Chapter 9 (commencing with Section 44971) of Division 17.

(q) To provide to the secretary, on a quarterly basis, a summary of the programs, activities, and costs under review for the next marketing season.

(r) Require producers to provide information as determined by the commission pertaining to the locations at which avocados are produced and the annual volume of avocados produced at each location. The information shall be provided in a time and manner prescribed by the commission and shall be subject to the confidentiality provisions of Section 67104.

(s) Utilize information provided to the commission for the purposes of food safety, communications, reapportionment of districts, and the conduct of elections and referenda and any other matters related to activities of the commission.

67094. (a) To prevent unfair trade practices which are detrimental to California's avocado industry, including, but not limited to, deception and misinformation, the commission shall collect and disseminate to any and all interested persons, handler f.o.b., market price information based on sales which have occurred.

(b) The identity of each handler reporting information and the information reported under this section shall be kept confidential and not made public under

any circumstances. Information that gives industry totals, averages, and other similar data may be disclosed by the commission.

(c) The procedure for the collection and dissemination of the information pursuant to this section shall be approved by the secretary.

67095. In order to avoid excessive administrative charges which adversely impact avocado producers, handlers, and consumers, the commission may decide, not later than February 1 of any year, to exercise its authority prescribed in Chapter 9 (commencing with Section 44971) of Division 17 during the next succeeding marketing season.

Article 6. Assessments and Records

67101. The commission shall, not later than November 1 of each year, establish the assessment as a fixed rate or percentage of value for the following marketing season beginning November 1st and ending October 31st. In no event shall the assessment exceed 6 1/2 percent of the gross dollar value of the year's sales of avocados by all producers to handlers, or which are sold by handlers on behalf of producers. Expenditures for administrative purposes within the maximum assessment shall not exceed 2 1/2 percent of the gross dollar value of sales of avocados by all producers to handlers, or which are sold by handlers on behalf of producers. Assessments provided for in this section shall be upon the producer. The handler shall deduct that assessment from either amounts paid ~~by him or her~~ to the producer or amounts retained by ~~him or her~~ the handler if the handler is also the producer, and the handler shall be a trustee of those funds until they are paid to the commission at the time and in the manner prescribed by the commission.

In no event shall the combined assessment of the commission and any state marketing order exceed 6 1/2 percent of the gross value of the year's sales of avocados by all producers to handlers, or which are sold by handlers on behalf of producers.

~~67102. This chapter does not apply to producers who produce avocados on a noncommercial basis for the producer's home use or where the avocado trees are used only for ornamental purposes. Producers from whom assessments are collected may apply for the refund of assessment payments following the close of any marketing season in which payments have been made, and the commission shall refund assessment payments if the producer demonstrates to the satisfaction of the commission that the avocados were produced for noncommercial purposes.~~

67103. Handlers shall keep a complete and accurate record of all avocados ~~which they~~ shipped ~~by him or her~~ and the names s of the producers s whose avocados were shipped. The records shall be in simple form and contain such information as the commission shall prescribe. The records shall be preserved by ~~the handlers~~ s for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

67104. All the proprietary information obtained by the commission or the secretary from handlers, including, but not limited to, the names and addresses of producers, is confidential and shall not be disclosed except when required by a court order in a judicial proceeding involving this chapter. Information on volume shipments, inventory, crop value, and any other information which is required for reports to governmental agencies and the commission, and other information which the handlers request from the commission that gives only totals, excluding individual handler information, may be disclosed by the commission so long as the information excludes individual handler data which shall be kept confidential as provided in this section.

67105. All assessments shall be paid to the commission by the handler first handling ~~the~~ avocados who shall be primarily and personally liable for the payment of the assessment. Failure of the handler to collect the assessment from any producer shall not exempt the handler from ~~that~~ primary liability. Any producer or handler subject to this section who fails to file a return or pay any assessment within the time required shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due, and, in addition, 1 1/2-percent interest per month on the unpaid balance.

67107. The commission shall reimburse the secretary for all expenditures incurred by the secretary carrying out ~~his or her~~ their duties and responsibilities ~~under pursuant to~~ this chapter, except for the expenses incurred for any action ~~under pursuant to~~ Section 67051.6.

Article 7. Actions and Penalties

67111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission.

(b) Willfully fail to render or furnish a report, statement, or record required by the commission.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

67112. The commission shall establish procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission or before a committee of the commission designated for that purpose. Appeals from decisions of the commission may be made to the secretary. The determination of the secretary shall be subject to judicial review upon a petition filed with the appropriate superior court.

67112.5. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and to obtain injunctive relief or specific performance, with respect to this chapter and the rules and regulations adopted under this chapter.

(b) A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

(c) A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

(d) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding avocados until there is full compliance with and satisfaction of the judgment.

(e) The commission is entitled, upon a favorable judgment for the commission, to receive reimbursement for any reasonable attorney's fees and other actual related costs incurred in any action commenced by the commission for the enforcement of this chapter. Venue for actions commenced by the commission may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

67113. It is not necessary for the commission to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

67114. This chapter shall be liberally construed. If any section, clause, or part of this chapter is for any reason held to be unconstitutional or invalid as applied to any person or as applied under certain circumstances, that decision shall not affect the remaining portions of this chapter or the application of this chapter to any other persons or under any other circumstance.

Article 8. Implementation, Continuation, or Suspension and Termination

67121. This chapter, except as necessary to conduct such vote, shall not become operative until the secretary finds, in a referendum conducted by the secretary in which at least 40 percent of the total number of producers, from the list established by the secretary, producing at least 40 percent of the total volume of avocados marketed during the last completed marketing season participate, either one of the following:

(a) Sixty-five percent or more of the producers certified by the secretary who voted in the referendum, voted in favor of this chapter, and the producers so voting marketed 51-percent-a majority or more of the total quantity-volume of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) ~~Fifty-one percent~~ A majority or more of the producers who voted in the referendum voted in favor of this chapter and the producers so voting marketed 65 percent or more of the total quantity-volume of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

67122. The secretary shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe any additional procedure as may be necessary to conduct the referendum.

67123. Nonreceipt of a ballot shall not invalidate the referendum.

67124. If the secretary finds that a favorable vote has been given as provided in Section 67122, ~~he or she the secretary~~ shall certify and give notice of that favorable vote to all producers and handlers whose names and addresses may be on file with the secretary. This chapter shall become operative on the 15th day after certification by the secretary and publication to producers and handlers.

67125. If the secretary finds that assent has not been given as provided in Section 67121, ~~he or she the secretary~~ shall so certify and declare all provisions of this chapter inoperative.

67126. Prior to holding the referendum, sureties shall post a bond or security, acceptable to the secretary, in an amount which the secretary shall determine to be sufficient to pay the cost of the referendum should the election determine that the operation of this chapter is to be suspended.

Article 9. Continuation ~~and or~~ Suspension and Termination

67131. Between November 1, 1980, and October 31, 1981, and every fifth year thereafter, the secretary shall cause a referendum to be conducted by the commission among producers to determine whether this chapter shall be reapproved and continued in effect. The operations of this chapter shall be reapproved and continued in effect if the secretary finds that a majority of the eligible ~~growers-producers~~ voting in the referendum voted in favor of continuing the operations of this chapter. If the secretary finds that a favorable vote has been given, ~~he or she the secretary~~ shall so certify and this chapter shall remain effective. If the secretary finds that a favorable vote has not been given, ~~he or she the secretary~~ shall so certify and declare this chapter and the commission suspended upon the expiration of the ~~then~~-current marketing season. Thereupon, the operations of the commission shall be wound up and funds distributed in the manner provided in Section 67133. No bond or security shall be required for the referendum.

67132. Upon the finding of ~~nine seven~~ voting members of the commission if the commission consists of three or four districts, or of ~~10 eight~~ voting members of the commission if the commission consists of five districts, that this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operations of the commission shall be suspended, provided that the suspension shall not become effective until the expiration of the current marketing season. The secretary shall, upon receipt of the recommendation, or upon a petition filed with ~~him or her the secretary~~ requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding year, cause a referendum to be conducted among the listed producers to determine if the operation of this chapter and the operations of the commission shall be suspended, and shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The secretary is authorized to prescribe any additional procedure necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers, on a list established by the secretary marketing 40 percent of the total volume marketed by all producers during the ~~last completed immediately preceding~~ marketing season, participate in the referendum, the secretary shall

suspend this chapter upon the expiration of the current marketing season, if ~~he or she~~ the secretary finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the suspension, and the producers so voting marketed ~~54 percent~~ a majority or more of the total quantity-volume of avocados marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) ~~Fifty-one percent~~ A majority or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity-volume of avocados marketed in the preceding season by all of the producers who voted in the referendum.

(Amended by Stats. 2017, Ch. 561, Sec. 66. Effective January 1, 2018)

67133. After the effective date of suspension of this chapter and of the commission, the operations of the commission shall be wound up, and any asset of the commission shall be liquidated and the proceeds, along with any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of winding up and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding ~~current~~ marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of a pro rata refund to those persons, any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate state or federal program or used to fund activities related to the subject matter of this chapter. ~~to any existing state or federally authorized avocado program. If no program exists, the moneys shall be paid into the State Treasury as unclaimed trust moneys.~~

67134. Upon suspension of this chapter and the commission, a notice shall be issued by the secretary, and a copy of the notice shall be published in a newspaper of general circulation in each district. The commission shall provide a copy of the notice of suspension to all producers and handlers affected by the suspension whose names and addresses are on file.

(Amended by Stats. 2015, Ch. 307, Sec. 17. Effective January 1, 2016.)

Article 10. Quality Standards

67140. The commission may recommend to the secretary the adoption of avocado quality standards or engage in any other activity authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21) that is in accordance with the procedures specified in that act, unless otherwise specified in this article.

67141. Any standards or activities adopted pursuant to this article shall be implemented by the secretary at the beginning of the marketing season next succeeding the date in which they were approved by the secretary.

67142. Any standards or activities recommended by the commission and concurred in by the secretary, shall not be operative until approved in the manner specified in Section 67121.

67143. The commission shall serve as the advisory body to the secretary on all matters pertaining to this article.

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