

Lawmakers clash over farmworker outbreaks and shaming companies

Partisan tensions reached a tipping in the final night of the legislative session on Monday. While tempers flared in the Senate, an argument quickly escalated over a farmworker bill during a labor committee hearing in the Assembly.

Lawmakers were considering Assembly Bill 685, a measure that would require employers to immediately notify employees and the state of COVID-19 outbreaks in workplaces. The bill specifically focused on clusters of infections among farmworkers.

The tipping point followed testimony by Cailin Vega, a policy advocate for United Food and Commercial Workers Western States Council, which sponsored the bill.



Asm. Lorena Gonzalez of San Diego

“Latino immigrants are overrepresented in industries like agriculture, meatpacking plants and poultry plants, like Foster Farms, which we saw over the weekend had almost 400 workers who had COVID. Eight have already passed away,” she said.

An outbreak in June led the Merced County Department of Public Health to advise Foster Farms to conduct widespread testing of its employees, along with other safety measures. Health officials reported in August the testing remained incomplete and the outbreak uncontained, which led to the spike in cases and eventual fatalities, according to a department statement.

Foster Farmers maintained it had promptly implemented public health guidance at the start of the outbreak and performed “a strategic testing program” that ramped up in August following a county directive. The company also claimed the outbreak was driven by the county’s dramatic increase in infection numbers.

According to Sarah Flocks, a policy advocate for the California Labor Federation, AB 685 would enable local health departments to shut down places like Foster Farms before an outbreak gets out of control.

In opposing the bill, Rob Moultrie, a policy advocate for the California Chamber of Commerce, said making this information public is a form of shaming, which would last long after the infections.

“There will be hanging information online about prior cases, which will potentially result in no one coming in,” he said. “That will kill those businesses.”

Republican Asm. Heath Flora of Ripon defended Foster Farms, calling it one the best and largest employers in his district.

“This is a business that has done pretty much everything they've been asked to do and has far exceeded what the state has mandated,” he said. “This is a failure of the Merced County [Public Health Department] and their inability to get the resources that our businesses need to do the testing that is required for facilities that are this large.”



Lawmakers were holding the business community to a higher standard than the Legislature has held them, he said. Flora was rooming with Sen. Brian Jones when the San Diego County lawmaker tested positive for COVID-19 last week. Flora said he then tried to join other senators in getting tested but was denied.

“This is a huge frustration,” he said. “There is no consistency at the state and local levels.”

Asm. Lorena Gonzalez of San Diego countered that the bill was in the works before the Foster Farms outbreak came to light. Gonzalez, a former labor leader, then gave a fiery rebuttal to Flora about the struggles of Latino workers.

“There were state regulators there in June. They gave them specific instructions on things that could be done. Those were ignored. Eight people are dead—dead—because of that,” she said. “Whether it's a processing facility, or whether it's a family farm, or whether it's a large industrial farm, we are losing our community members because rules are not followed.”

Foster Farms, she argued, ignored the county health department’s request to shut down the plant.

“They did not do so for two days, because they needed to get the harvest out,” she said. “When harvest is more important than the lives of workers that we don't see or hear, something is wrong.”

Gonzalez said companies like this have been putting at risk employees who are unaware of their right to stay home when sick. She added that AB 685 was a priority bill because these outbreaks have been disproportionately affecting the Latino community.

“We as a state have been able to accept death after death after death in the workplace of Latino, primarily immigrant, workers because we don't know them,” she said. “They're not real to us.”

Flora said he largely agreed with Gonzalez over concerns for workers but maintained that the state needs more accountability as well.

“It all drops back onto the business community,” he said. “When things implode, or things go wrong, they are really in a tough spot.”

Gonzalez, recognizing that Flora does care about workers, asked him to join the Latino Caucus in a letter to the governor demanding more testing for agricultural workers.

The committee went on to pass the bill. It is currently on the governor's desk.

Critical water fixes go another year without state funding

As the Legislature gaveled the 2020 session to a close early Tuesday morning, it left a long trail of bills on the floor, stretching from the beginning of the pandemic to the session's final minutes. Among those, several measures aimed to repair and maintain critical water infrastructure across the state, with the most notable being a crippled section of the Friant-Kern Canal in the San Joaquin Valley.

In 2018 the failed Proposition 3 water bond for nearly \$9 billion had promised \$700 million to the Friant Water Authority for fixing canals, which would restore conveyance capacity and improve groundwater recharge. Yet on Sunday, lawmakers sidelined a last-ditch effort to bring just \$50 million for the effort.

This came after a two-year endeavor to pass Senate Bill 559. First-year Senator Melissa Hurtado, a moderate Democrat representing about half the counties in the San Joaquin Valley, was proposing \$400 million for the Friant-Kern Canal.



The bill had already suffered a quiet defeat in 2019 at the hands of Assembly Appropriations Committee Chair Lorena Gonzalez of San Diego. This year the committee passed SB 559, but only after removing the funding and amending the bill. It instead proposed the Department of Water Resources simply study and report on the costs for fixing the canal and how much funding the federal government would contribute. Both houses approved the new bill on Monday.

“The Legislature’s passage of SB 559 with nearly unanimous support will keep a path open for California to join local and federal agencies in funding the Friant-Kern Canal’s critical repairs,” said Friant Water Authority CEO Jason Phillips in a statement to *Agri-Pulse*. “We are disappointed, though, that the specific funding authorization was stripped out of the bill and additional hurdles were added to the process at a time when we’re expending substantial effort to assemble a funding package before next year.”

Phillips thanked Hurtado and the valley’s lawmakers for sticking with the issue over the last year.

The bill has long faced criticism from the more liberal Democrats in the Capitol. In 2019 Assemblymember Laura Friedman of Glendale said SB 559 was letting the federal government “off the hook” and “using taxpayer money to bail out these very large farms.”

In its opposition letter, the Sierra Club claimed the bill would subsidize agricultural profits.

“Over-allocation and over-pumping of the canal from agricultural interests is what caused the subsidence that the proponents of this bill seek to rectify,” argued the group.

In defense of the bill, Alexandra Biering, a government affairs manager for the Friant Water Authority, explained to Friedman the complex background to the issue. She said that while the 70-year-old canal was owned by the federal government, it would soon be a locally owned facility. The surface water that delivered through the canal does go mostly to the agricultural users who have senior rights. The 40% decrease in capacity for the canal, however, would have been water used entirely for discharge, according to Biering. During high-flow periods, the lost water would have been used to recharge groundwater aquifers that supply drinking water to disadvantaged communities.

Biering said the water authority had tried to acquire a loan from the federal government, but the government “doesn’t loan money to itself to fix its own facilities.”

“We can’t keep kicking this can down the road,” said Asm. Joaquin Arambula of Fresno, a coauthor on the bill.

Arambula said local municipalities and agricultural groups have paid “up to a billion dollars” to help repair the canal over the years, and it hasn’t been enough.

Bakersfield Asm. Rudy Salas told [Agri-Pulse](#) a bill like SB 559 requires a lot of work in building trust and earning votes among lawmakers.

“A lot of it is also educating the governor, the administration and some of my more urban colleagues on what this actually means,” he said. “For my colleagues down in Los Angeles, I tell them we need to fix the pipes so that the water gets down to their constituents as well. This is something we need to prioritize.”

The fact that SB 559 stalled in Appropriations in 2019 was likely due to its large price tag, according to California Citrus Mutual.

Republican Asm. Devon Mathis of Visalia, a coauthor on the bill, [told Agri-Pulse](#) the move was simply “freshman hazing.”

Days after the new version of the bill passed the committee and less than a week before the close of the 2020 session, [a new measure](#), AB 1659, appeared, proposing \$3 billion for wildfire prevention, with \$50 million attached for the canal—along with Hurtado as a coauthor. The provision required at least a 50% cost share for the funding to be approved.



Rep. Jim Costa, with Rep. Cox (in blue), announcing water infrastructure bills at Friant Dam

The bill was “a slimmed-down version” of SB 45, according to Sen. Ben Allen of Santa Monica, who led the proposal for a \$5.5-billion climate resilience bond, which had eventually stalled amid the sudden budget shortfall created by the coronavirus crisis.

AB 1659 immediately faced heavy opposition from agricultural and business groups, since it would derive revenue by extending a fee on ratepayers. While the fee was just half a cent, it could add up to as much as \$20,000 each year for some food processors, argued Western Agricultural Processors Association CEO Roger Isom.

Adding this cost to California businesses, “who already pay the highest electricity rates in the country, is simply unacceptable,” said Isom.

He also took issue with the \$600 million that would go toward projects for ecosystem restoration, air quality improvement and backup solar power.

“The ratepayer money is to be utilized only in ratepayers’ areas,” explained Senate Majority Leader Robert Hertzberg of Van Nuys during a committee hearing on the bill last week. “This just simply extends this time for it to be able to get a revenue stream.”

Staci Heaton, a policy advocate for Rural County Representatives of California, added that extreme wildfires impact everyone in the state, including “some of California’s largest agricultural industries whose crops are impacted by the taint of wildfire smoke.”

Yet the state’s top business groups and about a dozen leading agricultural groups opposed the measure.

“It is simply unfair to take by force ratepayer money for wildfire mitigation unrelated to utilities,” said Rob Moultrie, a policy advocate for the California Chamber of Commerce.

Sen. Steven Bradford of Gardena raised concerns that the bill “undermines all the great work that this Legislature and the governor did last year through AB 1054 to help stabilize the utility industry.”



Friant Water CEO Jason Phillips

Before the pandemic, the governor’s administration was also developing a plan to invest in repairing the state’s water conveyance infrastructure. It was a top priority for the Water Resilience Portfolio as well as the governor’s proposed \$1-billion “climate budget,” which looked to put a climate resilience bond similar to SB 45 on the November ballot to fund the goals.

As a broad coalition formed to tackle water issues in the San Joaquin Valley, California’s members of Congress joined the effort as well. The House passed a measure to allocate \$200 million for

repairing the Friant-Kern Canal, the Delta-Mendota Canal and other key conveyance infrastructure in the valley.

California Sen. Dianne Feinstein then proposed a similar bill in the Senate. Yet both measures still have far to go. Any funding sent to the U.S. Bureau of Reclamation for infrastructure would need state or local agencies to provide matching support. This is why Hurtado had amended SB 559 earlier this year to establish a joint powers authority that would come up with a funding match of at least 35% from local or federal resources.

Now that the Legislature has stifled efforts to fund the canal repairs, steeper hurdles await valley lawmakers next year.

The budget passed by the Legislature in July was based on revenues before the pandemic. The next state budget will have far less tax revenue to work with due to widespread unemployment and shuttered businesses. Federal support remains in limbo as well, while Congress struggles to agree on the next aid package.

Administration takes new step in reforming biotech oversight

The Trump administration is acting to remove another regulatory barrier to agricultural biotechnology by proposing to streamline EPA’s oversight of pest-resistant plants. But so far, there is little sign of progress on reforms to FDA’s regulation of gene-edited animals, a major priority for livestock groups.

The EPA on Tuesday released a 142-page proposed rule for easing the regulatory process for plants that are engineered to kill pests such as insect larvae. Such plants would be exempt from EPA regulation if they could have been produced through conventional breeding and pose no greater risk than crops that meet the agency's safety requirements.

The agency's proposal follows implementation of a broader rule finalized by the Agriculture Department in May to streamline its oversight of biotech plants.

If President Donald Trump isn't re-elected, EPA will face a tight timeline to implement its proposed rule before he leaves office in January, and regulations issued in an administration's waning days are often delayed or withdrawn.

Before finalizing the rule, the agency will first have to take public comments on the rule for 60 days and then evaluate the feedback.

In a statement welcoming the release of the proposal, the Biotechnology Innovation Organization, which represents biotech companies, noted the Obama-Biden administration spent years working on an overhaul of the biotech regulatory process.

"We have worked with administrations of all parties to promote innovation through science, trust, and transparency, and BIO will continue to do that," BIO spokesperson Karen Batra said.

The time is even shorter for the administration to do anything about the process for regulating gene-edited animals.

The National Pork Producers Council and other livestock groups have been pushing the administration to move oversight of animal biotechnology from FDA to USDA. FDA regulates gene-altered animals under its animal drug authority, which has blocked new traits from getting to market, according to livestock groups.

Pork producers continue to push the administration to "ensure USDA is in the driver's seat of this promising new technology," said Dan Kovich, NPPC's director of science and technology. "We are eager for a resolution shortly, as America can't afford to cede its lead in agriculture to other nations."

He said USDA and the FDA "have been locked in a regulatory tug of war over authority on genetic editing in livestock" for more than two years. "Unfortunately, U.S. livestock farmers are caught in the middle, allowing China, Brazil, Canada and other global competitors to move ahead in the race to utilize this new technology, which will allow us to produce animals that are disease-resistant, require fewer antibiotics and have a better environmental footprint."

Batra said that there are continuing discussions in the administration over the issue. "What that ultimately looks like, remains to be seen. We were hopeful there might be some kind of announcement this summer, but obviously there are competing priorities right now," she said.



Karen Batra, BIO

FDA also has a voluntary process for reviewing the safety of biotech crops for use in human food.

EPA, which shares regulation of agricultural biotechnology with USDA and FDA, must approve the commercialization of plants that are engineered to have pesticidal properties, formally known as “plant-incorporated pesticides,” or PIPs. EPA-approved varieties of corn, cotton and other crops that contain an insect-killing Bt toxin have been in wide use in the United States for more than two decades.

Under the EPA proposal, plant developers that believe their products meet the exemption criteria would be required to notify the agency in a self-determination or ask the EPA to confirm that the exemption applies.

The new USDA rule, which applies to all biotech crops, regardless of whether they are altered to be pest-resistant, doesn’t require companies to notify the department of new products that the developers consider exempt from its regulatory process.

EPA ruled out food safety risks from exempting some pest-protected plants from regulation. Humans are “familiar with and have been exposed to many plant-produced pesticidal substances and their residues, such as those that could be developed for use as PIPs based on sexually compatible plants created through biotechnology, in their diet and otherwise for millennia,” the proposed rule says.

Andy LaVigne, president and CEO of the American Seed Trade Association, said the EPA proposal marked an “important step to provide clarity and work towards cross-agency alignment around plant breeding innovation policies.”

“Today, we face unprecedented challenges that threaten the future of our planet and food supply; and it’s more critical than ever that U.S. farmers have access to the latest innovations, like gene editing, to keep pace with the challenges of today and the future,” he said.

The group said it would need to study the rule before knowing what types of plant modifications would qualify for exemption from EPA regulation.

George Kimbrell, legal director for the Center for Food Safety, an advocacy group that has long pushed for tougher regulation of biotechnology, said it “looks like some GE crops under EPA’s jurisdiction are now proposed to be exempted entirely from any oversight, without regard for the potential environmental or health consequences.”

Texas Rep. Mike Conaway, the top Republican on the House Agriculture Committee, said the EPA proposal was “another major victory for American agriculture. This administration has made regulatory reform and modernization a high priority, and EPA’s proposal will provide farmers, ranchers, consumers, and the research community with the certainty and predictability they need to continue innovating.”

US unveils plan to address complaints over Mexican produce exports

The Trump administration on Tuesday released a multilayered plan to address complaints by Southeastern U.S. fruit and vegetable farmers that Mexican produce is flooding the market at unfair prices.

The plan, which involves the Office of the U.S. Trade Representative, the Commerce Department and USDA, elevates the threat of Mexican blueberries to primarily Florida and Georgia farmers, but also pledges to look into concern voiced in two recent hearings by producers of strawberries, bell peppers, and other seasonal and perishable products.

Most of the farmers and political leaders who testified at the USTR hearings asked the Trump administration to consider using its broad authority to hit Mexican produce with Section 301 tariffs, which are applied at the discretion of the president. Instead, the plan announced by the USTR relies on Section 201 of the Trade Act of 1974, which requires industries to petition the International Trade Commission to investigate the harm of imports.

“President Trump recognizes the challenges faced by American farmers and is committed to promoting and securing fair trade and a level playing field for all American producers,” USTR Robert Lighthizer said in a statement. “(Agriculture) Secretary (Sonny) Perdue, (Commerce) Secretary (Wilbur) Ross, and I are fully engaged in this effort.”

Trump hit a broad array of Chinese goods with Section 301 tariffs in 2018, and that was the model that many Southeastern farmers advocated for in dealing with Mexico’s produce exports.

In the case of blueberries, the USTR says it will directly ask the ITC to begin a Section 201 investigation. For strawberries, bell peppers and other produce, the USTR says it will “pursue senior-level government-to-government discussions with Mexico” as well as work with farmers in efforts “which could enable an expedited Section 201 global safeguard investigation later this year.”

But it’s unclear if that will satisfy farmers.

“As a result of the unfair trade advantages ... fresh strawberry imports from Mexico have increased 417% between the years 2000 and 2019, and, while Florida’s strawberry growers lost 36% in market share, in that same timeframe Mexico increased 264% in market share,” Kenneth Parker, executive director of the Florida Strawberry Growers Association, told USTR in a recent hearing. “I therefore respectfully ask USTR to launch a section 301 investigation to redress these concerns.”

Corn Refiners Association President and CEO John Bode reacted very favorably to the USTR’s new plan for Mexico, but he was one of the few witnesses in the hearings who urged the Trump administration to use caution in dealing with Mexico. Witnesses like Bode and Jaime Castaneda, senior vice president for trade policy at the U.S. Dairy Export Council, warned that new tariffs on Mexico could result in costly retaliation.



John Bode, Corn Refiners Association

“As the administration weighs potential next steps on measures related to the topic of seasonal produce, it is critically important that you fully consider the potential for unintended consequences for other U.S. agricultural sectors, including the U.S. dairy sector,” Castaneda said in an Aug. 20 hearing. “In particular we urge you to avoid steps that would once again put dairy producers and processors in the crosshairs of a trade dispute with Mexico.”

Bode warned of the potential for “great collateral damage” in the August hearing. On Tuesday, he said: **“This evening’s announcement by U.S. government agencies outlining rigorous trade compliance and trade enhancing activities are in the best interest of all of American agriculture and American consumers.”**

Under the plan unveiled Tuesday, the Commerce Department promises to “establish an outreach program to connect with Southeastern and other growers of seasonal and perishable fruits and vegetables” and create “a formal channel for stakeholders to provide information related to unfair subsidies for foreign producers and exporters.”

USDA pledges to devise new ways for Southeastern farmers to market their fruits and vegetables and look into any “criminal activity” associated with produce trade. And the USTR will put together an interagency working group to monitor Mexican exports and provide support to lawmakers who may want to develop new legislation.

Ag sector adapting on the fly to school lunch changes

As students return to classrooms — or return to distance learning — the school lunch program is operating under unprecedented uncertainty, which is set to trickle down to commodities such as dairy and produce that rely on the lunch trays to carry a good portion of their demand.

Lots of commodities have been hurt financially by COVID-19 shutting down restaurants and schools, but dairy and fresh produce growers are hopeful demand from schools will stay high.

Some 19% of milk produced in the U.S. goes to fluid consumption. Of that number, roughly 7% is provided for school lunches. The uncertainty surrounding how many days a week schools will be open has a dairy economist questioning what fluid milk demand looks like this year.

University of Minnesota Assistant Professor Marin Bozic told *Agri-Pulse* traders are already factoring in reduced consumption at schools.

“If half of the time kids are at home instead of at school, we are looking at on a weekly basis, about 40 million pounds of milk that will have to go elsewhere,” he said.

Bozic noted 40 million pounds of fluid milk translates to 4 million pounds of powder or just over 4 million pounds of cheese. He said if the U.S. price drops below the world benchmark because of higher powder availability, the U.S. will export more. But it will mean the powder price will be lower than it otherwise would be if schools were open the entire week.

He said the price spread between Class III (mostly cheeses) and 4 (butter and dry products such as powders) milk is double its normal range, and future price swings may be limited as traders have already taken lower school demand into account.

“Certainly, if we see massive school closures, I expect some additional downward pressure on the Class IV milk price,” he said. He also stated it would depend on how much retail milk sales could make up for lost consumption of school milk if schools stay closed. Class IV milk is used to make butter and dry products such as non-fat dry milk.



Marin Bozic, University of Minnesota

On the fresh produce side, schools are moving away from the salad bar and packaging vegetables individually.



Lisa McNeece, Grimmway Farms

Lisa McNeece is vice president of food service and industrial sales for Grimmway Farms, a Bakersfield, Calif., operation that grows 60,000 carrots a year.

School demand for carrots may have slowed during summer break, but McNeece told *Agri-Pulse* it never fully stopped.

“It’s been consistent because a lot of these schools are doing Meals on Wheels feeding kids; they did the summer programs making sure these kids had fresh fruits and vegetables available to them,” she said.

McNeece said most of Grimmway's business for schools is sending small, packaged carrots to distributors. In the early days of the COVID-19 pandemic, the company had issues getting the packaging products it needed from manufacturers. The packaging allows for increased food safety and less contact with the food no matter how it is distributed, she noted.

While there are a wide variety of fruits and vegetables that can be packaged, Mollie Van Lieu, senior director for nutrition policy at the United Fresh Produce Association, said lettuce will be different.

“I think salads will continue to be popular but the idea that lettuce is just from the salad bar every day, we won’t see that as much,” she told *Agri-Pulse*. She said schools that are distributing meals via curbside pickup or some other form of non-immediate service will focus on fresh produce that has a longer shelf life.

Van Lieu said there was about a 30% or more reduction in school meal participation in the spring, but she expects more schools to be serving meals throughout this school year. She said the biggest challenge will be ensuring participation rates stay high and schools can afford fresh fruits and vegetables in the packaging.

Anti-hunger advocates were initially worried what the new school schedule meant for hungry children who rely on school meals, but received welcome news Monday when USDA extended summer food service waivers to all children at no charge through the end of the calendar year, depending on funding availability.

Nutrition advocates like the School Nutrition Association, which supports school feeding programs, said the “waivers ensure schools can continue to safely meet students’ nutritional needs this fall,” but encouraged waivers to be extended through the end of the school year.



Sen. Debbie Stabenow, D-Mich.

“In the midst of a pandemic, no family should have to worry about their child missing out on healthy school breakfast or lunch,” SNA President Reggie Ross said. “School meal programs face unprecedented challenges and need the assurance that these critical waivers will be available through the entire school year.”

Sen. Debbie Stabenow, the top Democrat on the Senate Ag Committee, and Ag Secretary Sonny Perdue got into a recent war of words over if USDA had the authority to extend the waivers. Perdue and USDA claimed the department did not have the authority to extend the previously issued summer waivers, but Stabenow argued that wasn't the case. On Monday, Stabenow said she was pleased with USDA's action but urged the department to extend the flexibilities for the rest of the school year.

DEA rule on hemp extracts has industry worried

Many in the hemp industry are worried a new Drug Enforcement Administration rule will make processors vulnerable to enforcement under the Controlled Substances Act, and some are looking at filing a lawsuit to challenge it.

The Aug. 21 Interim Final Rule, which was effective upon publication, says “cannabis-derived material” must not have more than 0.3% of delta-9-tetrahydrocannabinol (THC) by dry weight, citing the 2018 farm bill as its authority. Delta-9 THC is the psychoactive chemical found in marijuana in much higher concentrations than hemp.

Specifically, the rule says “a cannabis derivative, extract, or product that exceeds the 0.3% D9-THC limit is a schedule I controlled substance, even if the plant from which it was derived contained 0.3% or less D9-THC on a dry weight basis.”

The farm bill defines hemp as containing “not more than” 0.3% of D9-THC by dry weight. Anything over that limit is considered a controlled substance.

DEA says in the rule it's simply updating its regulations to conform to the changes made in the farm bill, but some in the hemp industry say DEA is making new law, pointing to the farm bill language.

“They’re creating stuff that’s not in the farm bill at all,” says Eric Steenstra, president of the advocacy group Vote Hemp. “Even more offensive is that they did this without notice and comment rulemaking,” making the new regs effective immediately (although DEA does ask for comments). The farm bill defines hemp as including derivatives and extracts.

Steenstra says he's been working since late last week with a group of hemp industry attorneys to coordinate a lawsuit.

“Things are moving fairly quickly” on the lawsuit, he says. “We’re not going to take this one lying down.”

Steenstra says a lawsuit must be filed within 30 days of the Aug. 21 rule, but “the sooner [it’s filed], the better, as far as I’m concerned.”

The concern in the industry is that DEA could come into hemp processing operations and test materials that have not been turned into a final, market-ready product.

“There’s a fear they could show up in middle of the process,” Steenstra says. And Daniel Shortt, an attorney specializing in cannabis policy with Harris Bricken in Seattle, tells *Agri-Pulse* “I do think there’s a risk” that DEA could come into shops and charge processors with violating the Controlled Substances Act.

“If DEA goes unchecked, I do think it’s reasonable to expect enforcement action,” Shortt says.

One hemp group, the National Industrial Hemp Council, says it is “continuing to look at this and take a thoughtful approach. We remain committed to engaging with the DEA and our members to develop the best policy outcomes for the CBD industry.”

But the problem, Shortt and others in the industry say, is that THC levels can change during processing of hemp or even when the plant is impacted by heat or temperature.



Daniel Shortt

DEA’s defining of a “a cannabis derivative, extract, or product” as a controlled substance if it exceeds the 0.3% limit **“may appear to make sense on the first reading, [but] it is actually a radical and unsupported interpretation of the farm bill,” cannabis attorney Rod Kight said in an online commentary on the rule, which he said “threatens to destroy the hemp/CBD industry.”**

He says the rule targets “work in progress hemp extract (WIPHE)” that contains THC above the 0.3% legal threshold. “WIPHE means extract of hemp in a partially processed state that is not intended for consumer use or consumption,” Kight says.

“Under almost any normal hemp extraction and manufacturing process it is impossible to avoid a stage in which the extract is both ‘wet’ and within the 0.3% THC limitation,” Kight wrote. Processing hemp for its oil “necessarily renders the hemp plant and its parts ‘wet,’” he explains.

Merely separating the THC-rich parts of the plant — leaves and flowers — from those parts with much lower levels — seeds, stems, and stalks — “increases the concentrations of THC despite not increasing the actual amount of THC,” Kight says.

The issue with THC levels, he says, “is compounded with contemporary extraction techniques, which use highly technical methods to separate and refine” the “desired” parts, such as cannabinoids, from the less valuable parts such as fibers and waxes.

It is “reasonable to assume that Congress intended for extracts to be produced and that such production will necessarily result in a stage during the processing phase when the extract contains THC concentrations in excess of 0.3%,” Kight says.

But the rule, says Shortt, “doesn’t take into account the possibility that delta-9-THC would be increased.”

Asked for comment, **DEA spokesperson Sean Mitchell said it “understands the concerns of industry and we are looking at policy options in this space.”**

While not willing to comment on its enforcement intentions as they relate to the rule, Mitchell also said, “In the midst of an opioid epidemic and the expansion of meth across the nation, DEA is focusing on disrupting and dismantling the Mexican cartels that produce and traffic these deadly substances in our communities.”

Hemp industry representatives are urging interested parties to [submit comments](#) on the IFR by the Oct. 20 deadline.

News Briefs:

Housing for the Harvest launches. The California Department of Food and Agriculture announced that the counties of Fresno and San Joaquin are the first local partners to participate in [Housing for the Harvest](#). The new program provides temporary hotel housing options for farm and food processing employees to self-isolate if they are COVID-19 positive and do not require hospitalization, or have been exposed and cannot properly self-isolate at home.

The state is securing hotel rooms in participating counties like Fresno and San Joaquin, with local governments identifying administrators to manage the program and local community organizations to provide additional services, like meals, wellness checks and in-language assistance. Local administrators will serve as a point of contact for eligible workers. Local administrators of the program can include a county or city agency, a Native American tribe, a non-profit organization, or a philanthropic organization.

“Agricultural workers play an essential role in ensuring the continuity of our food supply, and they work on the front lines of the pandemic so that Californians can continue to put food on the table,” said CDFG Secretary Karen Ross. “Housing for the Harvest adds to the action the state is taking to safeguard workers, their families and public health.”

Housing for the Harvest will ultimately be made available statewide and provide opt-in housing support for any counties or regions that are interested. California has received FEMA approval for this program during the COVID-19 pandemic and will seek federal reimbursement for 75 percent of hotel costs.

Farmworkers and food processing workers in Fresno County who are in need of these services are urged to visit www.thehealthyharvest.org or www.cosechasana.org or call 559-710-2000. For agricultural business on-site testing scheduling, please visit www.thehealthyharvest.org.

Farmworkers or food processing workers in San Joaquin County who are in need of these services are urged to call Catholic Charities at 209-469-1120.

New risk assessments, interim decisions on pesticides. EPA is releasing a slew of documents today related to pesticide registrations, including 14 draft risk assessments on human health and/or ecological risks, as well as nearly two dozen proposed interim registration review decisions.

The proposed interim decisions include some popular chemicals, including metolachlor/S-metolachlor, which is used on a variety of crops, propanil (rice), and triclopyr (soybeans and rice).

See [today's Federal Register](#) for more information.

Report provides updates on markets for nuts, fruits and vegetables. “Exceptional growing conditions” for almonds will allow the 2020/21 crop to reach 3 billion pounds this year, which will drop prices to historical lows, according to a new [report](#) from RaboResearch Food & Agribusiness. “Industry information shows that almond prices may have put in a bottom, but given the rate of growth in bearing acreage in California and existing market conditions, prices are likely to remain under pressure during the next few harvest cycles,” the report says.

Walnut shipments for the 2019/20 season were down about 5% year-over-year through July, with 85% of marketable supplies sold, which lags last year’s pace. Export shipments, which accounted for nearly-two-thirds of all shipments, were down 5%.

“U.S. retail vegetable dollar sales have grown by double digits year-over-year every single week since late April,” the report says. Peppers, potatoes, tomatoes, and corn are among the veggies with the highest year-over-year increases.

Strawberry prices in July “were unseasonably high” due to lower shipments from California, the report says. Prices are returning to more “normal” levels now, “due to temporarily improved volumes, but the current heatwave may impact yields and quality.”

In the second week of August, prices for Valencia 88 oranges were up 58% year-over-year and prices for imported Navel 56s were up 44% and larger-sized lemons were priced over 20% higher, the report says. “Strong citrus demand is expected to continue during the next few months, as consumers look for high-vitamin C fruits.”

Weather conditions, heavy smoke complicate almond harvest. As almond harvest advanced at a feverish pace in the Central Valley during August, high heat, humidity, along with heavy smoke from neighboring wildfires, created some unique challenges, according to a crop

progress report from Mel Machado, Director of Member Relations for Blue Diamond Growers. Here are some highlights:

- High heat and humidity have created perfect conditions for the growth of fungal infections on the splitting hulls. Bread Mold infections on hulls, which produces wood killing toxins are running rampant in many orchards. Swatches of dead leaves can be observed to varying degrees in nearly all orchards.
- The high humidity has slowed the drying of hulls on previously shaken almonds as they lay on the orchard floor. Further, the heavy smoke covering the valley has reduced radiant heat from the sun, compounding the problem, resulting in almonds laying on the orchard floor for an extended period. Some growers have commented that the drying was progressing so slowly, it seemed as though the hulls were wicking the moisture from the air.
- The hot conditions have pushed web-spinning mite populations to damaging levels in all areas. Pre-harvest intervals for available controls prevent growers from effectively managing the populations and orchards with the most significant infestations are starting to defoliate. The heavy covering of leaves on the orchard floor further compounds the problem of drying the crop.
- While the reduced sunlight and humidity have slowed the drying process, the high temperatures continue drive orchard water requirements. Thus, orchards with crop on the ground need to be irrigated. But, most cannot irrigate until the crop has been picked up, unless the irrigation system has been designed to provide water during the harvest without wetting the almonds on the ground. Adding to the problem, water stressed orchards are more susceptible to web-spinning mites.
- Huller/sheller operators are reporting that while kernel moistures are running below 5.0%, hull moisture levels are running in the upper teens resulting in hulls that are soft and pliable. This reduces the efficiency of the hulling process as well as the flow of product through the machinery. Additionally, high moisture hulls cannot be safely stored due to the danger of spontaneous combustion and high moisture product in stockpiles must be managed specifically to prevent damage to the kernels. Observers in the Sacramento Valley have reported that some hullers there are sending field-run product to dryers to reduce moisture levels in the hulls and improve hulling efficiency.
- Finally, while observers have noted that the hull split on early harvesting varieties appeared to stall, or at least slow down, possibly due to the smoke induced lower sunlight levels, the progression of the mid and later harvesting types has continued. Observers have noted that a number of Butte, Padre and Wood Colony plantings have already been shaken and some product has been picked up. Hull split has also been observed in the late harvesting Monterey and Fritz varieties.
- Reject levels in the crop received thus far have been quite good, with very little evidence of Navel Orange Worm, NOW. Pest Control Advisors are reporting that egg laying by the third flight of NOW moths has begun Pinhole damage has been observed.

Farm Hands West: Goltz joins Sunkist

Sunkist Growers has brought on **Anne Goltz** as senior manager of business development. Most recently, Goltz was in charge of the Wonderful Citrus foodservice program, a position she has been in for the last 14 years. Before that, she was in sales at Bee Sweet Citrus and was a buyer at Kroger.

Ippolito International recently added **Ty Schurman** and **Kyle Narciso** to its sales team, located in Salinas, Calif. Schurman brings 30 years of experience in the produce industry and most recently was with Ocean Mist in Castroville, Calif. Narciso began his produce career on the shipping dock at Mann Packing, and worked his way into a role within the sales department. In that position, he managed an array of retail and foodservice customers, and worked as a commodity manager.



Eric Kalasz

Eric Kalasz has joined the FMC North America leadership team as the U.S. marketing director. He will also lead product strategy, product planning and pricing stewardship for the company. Kalasz previously worked for the BASF Corporation as the brand manager for the BASF U.S. crop division. He focused heavily on market introductions for new products, strategic planning for active ingredients and establishing brand awareness. He has also held positions in marketing, strategic account management and sales for companies such as Dow AgroSciences and Bayer.

AC Brands hired **Evan Pence** to serve as the new vice president of international procurement. Pence previously worked for Dole Diversified as the director of sourcing and before that was the director of purchasing for Berry Fresh Produce LLC and North American blueberry operations manager for California Giant.

Mission Produce promoted **Stephen Fink** to vice president of North American Sales. Fink most recently served as senior director of sales and brings over eight years of experience in avocado sales.

Brian Fasel has joined the sales team at Legend Produce as a sales associate. He joins the company after working 12 years at Custom Pak, a Lipman Family Farms division. Brian Fasel returns to Legend Produce in sales.

The Fresh Produce Association of the Americas has elevated **Georgina Felix** to director of operations and foreign affairs and **Emmis Yubeta** to director of membership and events. Felix has been with the association for more than 14 years and Emmis joined the group in 2015.

At the virtual annual meeting of the National Association of State Departments of Agriculture, Dr. **Annette Jones**, California State Veterinarian at the California Department of Food and Agriculture, was awarded the 2020 NASDA James A. Graham Award. The award recognizes an individual for outstanding work in providing service to agricultural producers. Jones was chosen for her leadership and contributions to the eradication efforts in the 2018-2020 virulent Newcastle Disease (VND) Incident in Southern California, and the management of additional animal diseases.



Annette Jones

Agricultural economist **Spiro Stefanou** has been selected to serve as the new administrator of USDA's Economic Research Service. For the past five years, Stefanou has taught economics at the University of Florida's Institute of Food and Agriculture. Before that, he served 30 years as

an agricultural economics professor at Penn State University. To read more on Stefanou's appointment, click [here](#).

USDA has appointed 10 new members to the National Advisory Committee on Meat and Poultry Inspection (NACMPI) and one new member to the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). The new NACMPI members appointed to serve two-year terms are as follows: **Jimmy Avery**, Mississippi State University; **William Battle**, Pride of the Pond and Battle Fish North; **Tina Conklin**, Michigan State University; **Patricia Ann Curtis**, North Carolina State University; **Jennifer Eberly**, Maine Department of Agriculture, Conservation and Forestry; **Casey Lynn Gallimore**, North American Meat Institute; **Joseph Jay Harris**, Southwest Meat Association; **Curtis Lynn Knipe**, Ohio State University; **Byron Williams**, Mississippi State University; and **Sherri Williams**, JBS USA, LLC. **Shannara Lynn** with the National Oceanic and Atmospheric Administration has been added to NACMCF.



Spiro Stefanou

Debora Hamernik has joined the National Institute of Food and Agriculture to serve as the division director of the Division of Animal Systems of the Institute of Food Production and Sustainability. Hamernik previously worked at the University of Nebraska, where she served for two years as associate vice chancellor for research in the Office of Research and Economic Development and nine years as associate dean of agricultural research and associate director of the Nebraska Agricultural Experiment station.

Kevin Kramp has been selected to be the Farm Credit Administration's deputy general counsel, a position he was actively serving in since March 1. Kramp joined FCA in 2015 as executive assistant to board member **Jeff Hall** and served in that capacity until he was appointed acting deputy general counsel. Before coming to the agency, Kramp worked for many years on Capitol Hill, including serving on the staff of Reps. **Jim Nussle**, R-Iowa, and **Bob Goodlatte**, R-Va. In 1996, Kramp joined the staff of the House Agriculture Committee and was named chief counsel in 2003.

Bayer has tapped **Sara Boettiger** to lead its global Crop Science Public Affairs, Science and Sustainability organization effective Sept. 1. She is responsible for driving the divisional strategy for sustainability, stakeholder engagement and public affairs. Boettiger joins Bayer from McKinsey & Company, where she was a senior adviser and co-leader of the McKinsey Center for Agricultural Transformation. In this role, she focused on issues in agriculture, climate change, food security and nutrition to help advise companies and governments around the world. Before that, she served as the deputy director at the Bill & Melinda Gates Foundation.

Paul Schlegel, vice president of public policy for the American Farm Bureau Federation, will be retiring at the end of October. Schlegel joined AFBF in 2005 as director of public policy and has handled a variety of issues. Before joining AFBF, Schlegel served for more than 20 years in senior staff positions in the House of Representatives for several members of Congress. In

retirement, Schlegel hopes to volunteer in his community, pursue personal interests and travel internationally when conditions allow.

Jared Henderson has been promoted to deputy chief of staff for Rep. **TJ Cox**, D-Calif. Henderson was the legislative director for Cox and handled the portfolio for agriculture and food, labor and employment, foreign trade, and international affairs.

PepsiCo, Inc. has hired **Roberto Azevêdo**, formerly the director-general of the World Trade Organization, for the newly created position of executive vice president and chief corporate affairs officer. Azevêdo has been director-general of the WTO since September 2013. From 2008 to 2013 he was Brazil's ambassador to the WTO, and from 2006 to 2008, he was vice minister for economic and technological affairs at the Foreign Ministry in Brasilia, where he was Brazil's chief trade negotiator for the Doha Round and represented Brazil in Mercosur negotiations. PepsiCo has also elevated **Jim Andrew** to chief sustainability officer, effective Sept. 1. He will succeed **Simon Lowden**, who has decided to retire after 24 years with the company.

The Cotton Board elected new officers at its 2020 annual meeting. Outgoing Chairman **Jeff Posey** handed the gavel to newly elected chairman **Jimmy Webb**, a cotton producer from Leary, Ga. Webb is a past recipient of the Georgia Farmer of the Year award, former chairman of Cotton Council International, and has served as a member on The Cotton Board since 2011. Other elected members include: **Sonja Chapman**, importer from Boonton, N.J., vice chairman; **Mark Nichols**, producer from Altus, Okla., secretary; and **Akiko Inui**, importer from New York City, treasurer.

Todd Hubbs is leaving the University of Illinois and has taken a new role in a senior outlook position at USDA's Economic Research Service. At the U of I, Hubbs performed outlook analysis and research for commodities of importance to Illinois farmers and wrote the weekly grain price outlook on *farmdoc daily*.

Larry Schnell, co-owner of Stockmen's Livestock Exchange, has been installed as president of the Livestock Marketing Association, serving a two-year term. Schnell has been involved in a variety of other organizations including serving as chairman of the North Dakota Beef Council, regional vice president for the Federation of State Beef Councils, president of the North Dakota Auctioneers Association and president of the North Dakota Livestock Marketing Associations.

Nooley Reinhardt, a USDA rural development staffer during the Carter Administration and later a consultant who specialized in rural housing programs, died Aug. 18 at Beaufort Memorial Hospital in Beaufort, S.C., after a brief illness. He was 73. Before becoming assistant to the undersecretary of agriculture for rural development, Reinhardt was assistant vice president for regional and community development at the University of New Mexico, a member of the Bernalillo County Commission in Albuquerque, and associate editor of *Golf World* magazine. He was a member of the National Democratic Club in Washington. His Nooley Reinhardt & Associates consulting operation was based in Hilton Head Island, S.C.



Paul Schlegel

David Sandretti, director of legislative and public affairs for USDA's undersecretary for rural development during the Obama Administration, died June 23 at his home in Washington of congestive heart failure. He was 59. He earlier was communications director for the Senate Committee on Environment and Natural Resources and served on the staffs of Senators Russell Feingold of Wisconsin, Ron Wyden of Oregon and Barbara Boxer of California.

Former California Senator **Tom Berryhill** died on Aug. 29 at the age of 67. Berryhill was a farmer and small business owner, representing the 25th Assembly District from 2006-2010 and the 8th Senate District from 2010-2018.

On Aug. 26, **Albert Garnica** passed away in his home in Yuma, Ariz., after fighting a courageous battle with cancer. He was 57 years old. Garnica was the vice president of agricultural operations at Taylor Farms. He started out as a lettuce cutter and loader and worked in field operations at Taylor Farms before being promoted to iceberg harvest manager. Before joining Taylor Farms in 2004, he worked for Church Brothers, Fresh Co., and Fresh Express.

Best regards,

Sara Wyant
Editor

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