

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA RICE CERTIFICATION ACT OF 2000

CHAPTER 4 of Division 20 of the
California Food and Agricultural Code

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CALIFORNIA RICE CERTIFICATION ACT OF 2000

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Article 1. Declarations and Legislative Intent

55000. The production and processing of rice constitutes an important industry of this state that provides substantial and necessary revenues for the state and employment for its citizens. The California rice industry has the potential to be one of the leading segments of the state's agricultural industry. To realize this potential, there is a need to make domestic and foreign consumers aware of the nutritional value of rice, the high quality of the rice produced and processed in the state, the many varieties of rice produced and processed in the state, the intricacies of rice culture, and the versatility of rice as a part of a well - balanced diet.

55001. The program established pursuant to this chapter is essential to ensuring the consistently high quality of the rice produced, processed, or handled in the state by informing consumers, maintaining consumer confidence, and enhancing and protecting the reputation of California's rice industry throughout the nation and around the world.

55002. This chapter is intended to allow the rice industry to work cooperatively to maintain consumer confidence and the acceptance of rice produced, processed, and handled in the state.

55003. There is a growing need to maintain the identity of various types of rice to satisfy increasing consumer demand for specialty rices. This demand requires providing the industry with the ability to establish the terms and conditions for the production, processing, and handling of rice in order to achieve the goal of preventing the potential for the commingling of various types of rice, and in order to prevent commingling where reconditioning is infeasible or impossible.

Article 2. Definitions

55006. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

55007. "*Records*" means books, records, contracts, documents, memoranda, papers, correspondence, or other data, whether in written, magnetic, or electronic form, that pertain to matters relating to this chapter.

55008. "*Certification*" means certification pursuant to Article 7 (commencing with Section 55070).

55008.5. "*Chapter*" means any provision of the California Rice Certification Act of 2000, and includes any amendments to and regulations adopted pursuant to that act.

55009. "*Characteristics of commercial impact*" means characteristics that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible.

55010. "*Commission*" means the California Rice Commission created pursuant to Chapter 9.5 (commencing with Section 71000) of Part 2 of Division 22.

55010.5. "*Committee*" refers to the committee established under Section 55020.

55010.6. "*Department*" means the Department of Food and Agriculture.

55010.7. "*Handle*" means to engage in the business of being a handler.

55011. "*Handler*" means any person engaged in this state in the business of offering for sale or selling rice.

55012. "*Person*" includes any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in California.

55012.5. "*Process*" means to harvest, dry, mill, transport, or store rice.

55013. "*Producer*" includes any person who produces rice, or causes rice to be produced.

55014. "*Rice*" means all rough or "paddy" rice or milled rice (*Oryza* species) produced in or shipped into California, including mocha rice (sweet rice) and rice produced for seed. It does not include wild rice (*Zizania aquatica*; *Zizania palustris*).

55015. "*Secretary*" means the Secretary of Food and Agriculture.

Article 3. Administration

55020. The secretary shall appoint a committee, from nominations received from the commission, to administer Article 4 (commencing with Section 55040) and Article 5 (commencing with Section 55050), except as otherwise specified. The committee shall consist of four producers, four handlers, and one representative each of the California Crop Improvement Association, the California Warehouse Association, and the California Cooperative Rice Research Foundation. The secretary shall also appoint one member from the University of California who shall not be affiliated with the California Crop Improvement Association. If the secretary finds any of those nominated to be unacceptable, he or she shall notify the commission and request that another person be nominated. The commission shall appoint one ex officio member who shall be involved in the handling or breeding of seed, and may appoint any other ex officio members deemed reasonably necessary to implement this chapter.

55020.5. (a) The committee shall meet periodically for the purposes specified in Article 4 (commencing with Section 55040) and Article 5 (commencing with Section 55050).

(b) A majority of the membership of the committee shall constitute a quorum of the committee. The vote of a majority of the members present at which there is a quorum shall constitute an act of the committee. The committee may continue to transact business at a meeting at which a quorum is initially present, notwithstanding the withdrawal of members, provided any action is approved by the requisite majority of the required quorum.

(c) As a committee of the commission, the committee established pursuant to Section 55020 shall conduct itself according to the bylaws and rules of the commission.

(d) Sections 71051, 71053, 71063, and 71066 shall apply to the committee.

55021. All funds received from the assessments levied pursuant to this chapter shall be deposited in banks that the commission may designate and be accounted for in a manner prescribed by the commission, and shall be disbursed by order of the commission through an agent or agents as it may designate for that purpose.

55022. (a) Upon receipt of a recommendation from the committee for the promulgation, amendment, or repeal of regulations, the secretary shall within 30 working days do one of the following:

(1) Initiate the rulemaking process with the regulation as recommended by the committee.

(2) Decline to initiate the rulemaking process and provide the committee with a written statement of reasons for the decision.

(3) Request that the committee provide additional information regarding the recommended regulations.

(b) All regulations adopted pursuant to this chapter shall be adopted in compliance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code and may be subsequently repealed or amended as provided for in that chapter.

Article 4. Duties and Powers

55040. The powers and duties of the committee shall include, but not be limited to, all of the following:

- (a)** Identifying rices that have characteristics of commercial impact.
- (b)** Recommending to the secretary proposed regulations establishing terms and conditions for planting, producing, processing, or handling rice identified pursuant to subdivision (a), including, but not limited to, seed application requirements, field buffer zones, handling requirements, seed testing, and identity preservation requirements. All rice identified pursuant to subdivision (a) shall be subject to an identity preservation program.
- (c)** Reviewing the efficacy of terms, conditions, and identity preservation programs imposed on the planting, producing, processing, or handling of rice identified pursuant to subdivision (a) using the most current industry standards and generally accepted scientific principles.
- (d)** Recommending to the secretary on all matters pertaining to this chapter, including, but not limited to, the amendment or repeal of regulations adopted pursuant to this chapter, enforcement of this chapter, and setting the assessment rates.
- (e)** The committee shall review each rice identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from a handler of rice. A handler of rice identified as having characteristics of commercial impact may not file more than one petition on a particular variety of rice in any two-year period.
- (f)** Neither the recommendations of the committee nor any regulation adopted pursuant to this chapter shall be construed as establishing any production, processing, or market tolerance.

55047. The committee shall recommend to the secretary that regulations be adopted, amended, or repealed by the secretary to accomplish all of the following purposes:

- (a)** Maintain the integrity and prevent the contamination of rice which has not been identified pursuant to subdivision (a) of Section 55040.
- (b)** Prevent the introduction of diseases, weeds, or other pests.
- (c)** Ensure that persons handling seed for the production of rice identified pursuant to subdivision (a) of Section 55040, or that persons bringing rice identified pursuant to subdivision (a) of Section 55040 into the state for processing, notify the commission of the location of planting sites and of the dates and procedures for planting, producing, processing, or handling of rice identified pursuant to subdivision (a) of Section 55040.
- (d)** Ensure that persons receiving rice having been identified pursuant to subdivision (a) of Section 55040 produced outside the state for processing notify the commission of the location of the receipt and of the procedures for processing or handling the rice to prevent commercial impact to other rice and the spread of weeds, diseases, or other pests.
- (e)** Ensure enforcement of terms and conditions imposed on the planting, processing, or handling of rice identified pursuant to subdivision (a) of Section 55040.
- (f)** Encourage research and development of new types of rice.

Article 5. Commercial Impact Rice

55050. Except as provided for in Section 55052, no person may plant, produce, process, or handle rice identified pursuant to subdivision (a) of Section 55040, except in compliance with this chapter. Regulations shall be adopted by the secretary, in accordance with Section 55022, to accomplish all of the following purposes:

(a) Maintain the integrity and prevent contamination of rice which has not been identified pursuant to subdivision (a) of Section 55040.

(b) Prevent the introduction of disease, weeds, or other pests.

(c) Ensure that persons handling seed for the production of rice identified pursuant to subdivision (a) of Section 55040 or bringing rice identified pursuant to subdivision (a) of Section 55040 into the state for processing notify the commission of the location of planting sites and of the dates and procedures for planting, producing, processing, or handling of rice identified pursuant to subdivision (a) of Section 55040.

(d) Ensure that persons receiving rice having been identified pursuant to subdivision (a) of Section 55040 produced outside the state for processing notify the commission of the location of the receipt and of the procedures for processing or handling the rice to prevent commercial impact to other rice and the spread of weeds, diseases, or other pests.

(e) Enforce the restrictions and conditions imposed on the planting, producing, processing, or handling of rice identified pursuant to subdivision (a) of Section 55040.

(f) Encourage research and development of new types of rice.

55051. Except as specified in Section 55052, rice shall not be planted, produced, processed, or handled unless it has been reviewed by the committee for the purposes of making the findings set forth in Section 55040, and if necessary, the establishment of regulations pursuant to Section 55047.

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55052. (a) Except as set forth in this section, this chapter shall not apply to 50 acres or less of rice of any type planted for research purposes. No one type may be planted on more than 50 acres in the state and be considered research within the meaning of this section. Any person conducting research on 50 acres or less shall notify the committee of the location of the acreage involved, and the proposed procedures for planting, producing, processing, or handling the rice. The committee shall review and approve, modify, or reject the proposed procedures to ensure that the research will not result in commercial impacts to other rice. The committee shall accept any procedures that have been previously approved or accepted by an agency of state or federal government unless the committee provides written justification for modifying or rejecting the procedures.

(b) In addition to the information required pursuant to subdivision (a), the committee may require any person proposing to conduct research using rice brought into the state from another state or country to provide the committee with proposed procedures to ensure that the introduced rice is free of diseases, weeds, or other pests. The committee shall review and approve, modify, or reject the proposed procedures. The committee shall accept any procedures that have been previously approved or accepted by an agency of state or federal government unless the committee provides written justification for modifying or rejecting the procedures.

(c) The notice required pursuant to this section shall not require specific information regarding the attributes of the rice that is the subject of the research.

(d) The notice required by this section shall be provided in the time and manner specified by the committee.

(e) This chapter shall not apply to research conducted by the University of California except for rice produced directly from the research that enters the channels of trade.

Article 6. Assessments

55060. (a) Handlers of seed for the production of rice identified pursuant to subdivision (a) of Section 55040, shall annually pay to the commission an assessment in an amount not to exceed five dollars (\$5) per hundredweight (cwt.).

(b) The first in-state handler of paddy or brown rice identified pursuant to subdivision (a) of Section 55040, or of seed for the production of rice identified pursuant to subdivision (a) of Section 55040, brought into the state from outside California, shall report to the commission prior to the receipt of the rice or seed and pay an assessment to the Commission in an amount not to exceed ten cents (\$0.10) per hundredweight (cwt.). The report and payment shall be made in the time and manner specified by the commission.

55061. The assessment shall be paid in the time and manner specified by the commission. No assessment shall be paid by any person for any rice seed for which the assessment has been previously paid. Assessments not paid when due shall be subject to a penalty of 10 percent of the assessment and interest at the rate of 1 percent per month.

55062. The commission shall use all funds received pursuant to this chapter for the purposes of this chapter.

55063. The commission shall publish an annual report of its activities including an accounting of the use of assessments collected pursuant to this chapter. The report, in aggregate form, shall be made available to any person upon request.

Article 7. Certification of Rice

55070. The commission may establish a program allowing for the certification of any verifiable attribute of rice. The commission may operate the program or contract with qualified entities to implement all or any aspect of the program. No organization shall be considered qualified for the purposes of this article unless it can provide accurate, verifiable certification of identified attributes of seed, rough or paddy rice, or milled rice, as determined by the commission. This article does not authorize the certification of any rice as organic. Certification pursuant to this article shall not be construed as establishing any production, processing, or market tolerance.

55071. (a) The commission shall require any organization seeking to certify rice pursuant to this article to file the procedures and standards of an internationally recognized identity preservation program or a certification plan, including, but not limited to, the following:

(1) Minimum information to be required from seed producers, producers and handlers regarding production, growing, conditioning, or processing practices, and methods for verifying the information received.

(2) Qualifications of, and training requirements for, all inspectors.

(3) Procedures for inspection and testing methods, including a complete description of the sampling methodologies.

(4) Criteria for certification and attributes to be certified.

(5) Processes for decision-making relative to certification procedures, criteria, and methods.

(b) The certification plan shall be kept by the commission and made available for public inspection upon request.

55072. Organizations certifying rice shall keep accurate books, accounts, and records of all activities relating to certification. The records shall be preserved for a period of three years and shall be submitted for inspection at any reasonable time upon written demand of the commission.

55074. At the end of each rice producing season, as established by the commission, each organization certifying rice for the commission shall prepare a list of all persons whose rice has been certified or is pending certification. This list shall be filed with the commission and shall be available for public inspection.

55075. (a) Notwithstanding any other provision of law, any producer or handler of rice sold as a certified rice and any organization certifying rice for the commission shall immediately make available for inspection by, and shall within 72 hours of a request provide to, the commission a copy of any record required to be kept under this chapter. Records acquired pursuant to this section and any information marked trade secret or confidential acquired by the commission in carrying out its duties under this chapter shall not be public records as that term is defined in Section 6252 of the Government Code and shall not be subject to Chapter 3.5 (commencing with Section 6250) of the Government Code.

(b) The commission shall not be required to obtain records not in its possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the commission shall delete any financial information about any operation or transaction, information regarding the identity of suppliers or customers, the quantity or price of supplies purchased or products sold and any information marked trade secret or confidential.

(c) Except for those records subject to public inspection pursuant to Sections 55071 and 55074, this section shall be the exclusive means of public access to records required to be kept or obtained by the commission pursuant to this chapter.

55076. Upon receipt of a petition from any person providing adequate evidence of good cause to do so, the commission may declare all rice produced within a specified area to be certified as to any attribute. If the commission makes this declaration, all rice produced within the area shall be deemed certified, and may be labeled as provided in Section 55082 if the rice is handled to preserve its identity.

Article 8. Sale of Certified Rice

55080. Every person engaged in this state in the production or handling of rice to be identified as certified pursuant to this chapter, shall register with the commission or its designate prior to the first sale of rice so identified, and shall thereafter annually renew the registration unless the person is no longer engaged in the activities requiring registration.

55081. Registration shall be on a form developed by the commission, or developed by its designate and approved by the commission, and shall be valid for one rice producing season.

55082. Rice certified pursuant to this chapter shall be labeled as follows or with substantially similar language:

"THIS LOT OF RICE CERTIFIED (accurate identification of specified attribute) IN ACCORDANCE WITH THE CALIFORNIA RICE CERTIFICATION ACT OF 2000."

The label shall also include the name of any organization that provided the certification as the commission's designate. The commission may revise the label language with the concurrence of the secretary.

55083. This chapter shall apply to all rice sold as certified pursuant to this chapter within the state, wherever produced or handled, and to all rice produced or handled in the state, wherever sold as certified, pursuant to this chapter; except that in lieu of registration under this chapter, the commission may recognize a certification program operating outside the state that certifies rice sold as certified, provided that program meets minimum standards substantially similar to those contained in this chapter. The commission may establish a procedure whereby certification organizations operating outside the state may apply for and receive recognition.

Article 9. Violations

55100. (a) It is unlawful for any person to handle, advertise, or label rice in violation of this chapter.

(b) Notwithstanding subdivision (a), a person engaged in business as a retailer of rice who in good faith handles, labels, or advertises any rice in reliance on the representations of a producer or handler that the rice may be sold as certified, shall not be found to violate this chapter, except under any of the following circumstances:

(1) The retailer knew or should have known that the rice could not be sold as certified.

(2) The retailer was engaged in producing or handling the rice.

(3) The retailer prescribed or specified the manner in which the rice was produced or handled.

55101. (a) It is unlawful for any person to certify rice in violation of this chapter.

(b) It is unlawful for any person to certify rice unless designated by the commission.

(c) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed pursuant to Article 7 (commencing with Section 55070).

55102. (a) It is unlawful for any person to produce or handle rice sold as certified unless duly registered pursuant to Section 55080.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, during registration pursuant to Section 55080.

55103. It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records as required by this chapter.

55104. It is unlawful for any person to fail or refuse to pay any assessments levied pursuant to this chapter.

55105. It is unlawful for any person to plant, produce, process, or handle rice, except in compliance with this chapter.

55106. All remedies provided by this chapter are cumulative and not exclusive of any other remedy, whether initiated by the commission or the department.

55108. Penalties received pursuant to this article shall be handled as specified in Section 55062.

Article 10. Investigations and Actions by the Commission

55110. The commission may receive and investigate complaints regarding alleged violations of this chapter. The commission may refer cases to the department for action.

55111. (a) The commission shall provide notice to the person or persons, and to the secretary, alleged to have violated the provisions of this chapter informing him or her of the commission's decision to take further action pursuant to this article. The person may seek a review of the commission's decision by the secretary and thereafter may seek judicial relief.

(b) Notwithstanding subdivision (a) and Section 55111.5, the commission may immediately seek injunctive relief, as specified in Section 55112. Any injunction obtained by the commission shall remain in full force and effect pending any review by the secretary.

55111.5. The commission may enter into a written agreement with any person alleged to have violated this chapter that will cause the cessation of any alleged violation and avoidance of future violations.

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55112. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and for obtaining a writ of attachment, specific performance, or injunctive relief regarding this chapter. The commission may seek a writ of attachment or injunctive relief, including, but not limited to, a temporary restraining order, preliminary injunction, or a permanent injunction, in order to prevent any violation or threatened violation of this chapter.

(b) The commission shall provide notice to the person alleged to have violated this chapter prior to commencing a civil action.

(c) 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, or has threatened to violate, this chapter. No bond shall be required to be posted by the commission as a condition for the issuance of the requested writ of attachment or injunctive relief.

(d) 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 in Section 485.010 of the Code of Civil Procedure shall not be 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 inadequate remedy at law specified in Sections 526 and 527 of the Code of Civil Procedure shall not be required.

(e) 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 rice until there is full compliance and satisfaction of the judgment. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal place of business of the commission. The commission may be sued only in the county of its principal office.

(f) Prior to bringing an action for injunctive relief pursuant to this section, the commission shall review all available information, recommend specific enforcement action to the secretary, and allow the secretary the opportunity to respond. Notwithstanding the secretary's response, nothing in this section shall be construed as preventing the commission from bringing the action.

55113. The commission shall be entitled to receive reimbursement for any reasonable attorney's fees and other related costs, including, but not limited to, investigative costs, involved in enforcement of this chapter.

Article 11. Investigations and Actions by the Department

55120. The department may investigate complaints referred to it by the commission regarding alleged violations of this chapter. The department may enter and inspect the premises of any person subject to this chapter for the purpose of inspecting rice, rice processing, or handling activities governed by this chapter. If the department determines that violations have occurred, the department may take action authorized by this chapter, including, but not limited to, seizing and destroying rice. Rice may not be destroyed by the department without due notice to the person whose rice was seized and an informal hearing before the secretary pursuant to procedures adopted by the department.

55121. The department may commence civil actions and utilize all remedies provided in law or equity for obtaining a writ of attachment, specific performance, or injunctive relief for violations of this chapter.

55122. (a) The department may levy a civil penalty against any person who is grossly negligent or willfully violates this chapter in an amount of not more than fifteen thousand dollars (\$15,000) for each violation. Each day a grossly negligent or willful violation of this chapter continues, for a period that shall not exceed 10 days, may be a separate violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter, and the impact of the penalty on the violator, including the deterrent effect on future violations. If the secretary determines, based on evidence submitted, that the grossly negligent or willful violation has the potential to seriously impact the ability of California rice producers to produce or market rice without characteristics of commercial impact, each day shall be considered a separate violation and the period of time shall not exceed a total of 20 days.

(b) Upon a finding that a violation was negligent or unintentional, the secretary may levy a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation.

(c) For a first offense, and upon a finding that the violation is minor and negligent or unintentional, in lieu of a civil penalty as prescribed in subdivision (b), the secretary may issue a notice of violation.

(d) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the secretary, upon a request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(e) If a hearing is held, review of the decision of the secretary may be sought by the person against whom the civil penalty is levied within 30 days of the date of the final order of the secretary pursuant to Section 1094.5 of the Code of Civil Procedure.

(f) A civil penalty levied by the department pursuant to this section may be recovered in a civil action brought in the name of the state.

55123. (a) The department shall be entitled to receive reimbursement for any reasonable attorney's fees and other related costs, including, but not limited to, investigative costs, involved in enforcement of this chapter.

(b) The department shall use all funds received pursuant to this chapter for the purposes of this chapter.