

STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA WALNUT COMMISSION LAW

Chapter 16.5, Part 2, Division 22 of
The California Food and Agricultural Code

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Article 1. Declaration and General Provisions

77001. The production and handling of walnuts constitute an important industry of this state. This industry not only provides substantial and necessary revenues for the state and employment for its citizens, but also furnishes essential food vital to the public health and welfare.

77002. The maintenance and expansion of the walnut industry of California is necessary to ensure the consuming public of a continuous supply of this vital food and the maintenance of needed levels of income for those engaged in the walnut industry of this state.

77003. It is necessary for human nutrition and public benefit that the public be made aware of accurate and scientific information relative to the beneficial qualities of walnuts and of the production and distribution costs necessary to make walnuts available to the consuming public.

77003.5. The establishment of the commission is necessary for the efficient development and management of a national and international advertising and promotion program that will enhance the reputation of the California walnut industry, create a more receptive environment for the industry and its products, and increase competitiveness of the California walnut industry within the national and international marketplace. The commission is necessary to carry out the California walnut industry's commitment to responsible stewardship and increasingly efficient cultural practices.

77003.6. The successes that the walnut industry of California have enjoyed have come about in part through a commitment to industry-funded research that has led to significant improvements in the quality of the walnuts available to consumers and increasingly efficient cultural practices resulting in increased awareness of, and a more receptive environment for, the production and handling of walnuts in domestic and foreign markets. It has also led to walnuts being a better consumer value. The establishment of the commission will maintain and enhance this research effort and make it possible for the walnut industry to realize its potential, resulting in increased consumer value and enhanced producer returns.

77004. The production and handling of walnuts produced in this state is hereby declared to be affected with a public interest. This chapter is 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.

77005. No action taken by the commission, nor by any individual in accordance with this chapter or with the rules and 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 Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 1700) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

77006. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

77007. It is hereby declared as a matter of legislative determination that members of the commission are intended to represent and further the interest of a particular agricultural industry concerned and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are elected or appointed to the commission, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

77007.5. Opportunity exists for continued growth and expansion of the walnut industry by creating new markets. The success of that expansion program is uniquely dependent upon effective advertising, promotion, and research since the creation of new markets is essentially a matter of educating and informing people of the use, nutritional value, and availability of the commodity and enhancing the reputation of the California walnut industry. The expansion of the walnut industry also provides an important source of jobs for many people in this state, a high proportion of whom reside in historically depressed areas of the state, and serves to ensure the preservation of an agrarian society.

77008. The commission form of administration created by this chapter is uniquely situated to provide those engaged in the production of walnuts the opportunity to avail themselves of the benefits of collective action in the broad fields of development, maintenance, and expansion of markets, advertising, promotion, marketing research, public information and education, and production and processing research necessary to achieve the purposes stated in this chapter.

Article 2. Definitions

77021. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

77022. "Walnuts" means only walnuts of the English (*Juglans regia*) varieties grown in California.

77023. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

77024. "Commission" means the California Walnut Commission.

77026. "Handle" or "handling" means to market, pack, sell, consign, transport, or ship, except as a common or contract carrier of walnuts owned by another person, or in any other way place walnuts, inshell or shelled, into commerce either within the area of production or from the area of production to any other point outside thereof, or for a manufacturer or retailer within the area of production to purchase directly from a producer. "Handle" or "handling" does not include sales and deliveries within the area of production by producers to handlers, or between handlers.

77027. (a) The districts consist of the following:

(1) District 1 consists of the counties in the state that lie north of a line drawn on the south boundaries of the Counties of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine.

(2) District 2 consists of all other walnut producing counties in the state south of the boundary line set forth in paragraph (1).

(b) The boundaries of any district may be changed by a two-thirds vote of the full commission, which is concurred in by the secretary, when necessary to maintain similar total production among the districts and to ensure proper representation by producers. These boundaries need not coincide with county lines.

77028. "Handler" means any person who handles inshell or shelled walnuts.

77029. "Pack" means to bleach, clean, grade, shell, or otherwise prepare walnuts for market as inshell or shelled walnuts.

77030. "Marketing research" means any research relating to the marketing of walnuts in domestic or foreign markets.

77031. "Marketing year" or "fiscal year" means the period from August 1 of any year to July 31, inclusive, of the next year. Beginning September 1, 2008, "marketing year" or "fiscal year" means the period from September 1 of any year to August 31, inclusive, of the next year.

77031.5. "Person" means any individual, partnership, limited liability partnership, corporation, limited liability company, or other association or entity doing business in California.

77032. "Producer" means any person in this state who grows walnuts for market and who, upon request, provides proof of commodity sale. "Producer" does not include any person who handles 2,000 pounds or less of walnuts during a market year.

77033. "Ex officio member" means a nonvoting member of the commission.

77034. "Advertising and sales promotion" means, in addition to its ordinarily accepted meaning, any plan directed toward increasing the sale of walnuts in domestic or foreign markets. No advertising or sales promotion plan shall make use of false or unwarranted claims on behalf of any product, or disparage the quality, value, sales, or use of any other commodity.

Article 3. The California Walnut Commission

77051. (a) There is in state government the California Walnut Commission. The commission shall be composed of eight walnut producers who are not handlers, four walnut handlers, and one public member.

(b) Eight producer members, four from each district, shall be elected by producers. In accordance with procedures adopted by the commission, no more than two producers from each district who ship the largest percentage of their walnuts in the preceding marketing year to the same handler may be elected to the commission as members. Producers who ship to two or more handlers in equal percentages shall declare which handler they are affiliated with, for purposes of this section. No producer member shall be connected in a proprietary capacity with a handler.

(c) In accordance with procedures adopted by the commission, four handler members shall be elected on a weighted basis by all handlers to serve on the commission. No handler member shall be connected in a proprietary capacity or in any other manner with any other handler member serving on the commission.

(d) The public member shall be appointed to the commission by the secretary from nominees recommended by the commission.

(e) The secretary and other appropriate individuals as determined by the commission shall be ex officio members of the commission.

77052. (a) The secretary may require the commission to correct or cease any existing activity or function that is determined by the secretary not to be in the public interest or that is in violation of this chapter.

(b) If the commission refuses or fails to cease these activities or functions or to make corrections required by the secretary, the secretary may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions as required by the secretary has been accomplished by the commission.

(c) Actions of the commission in violation of the written notice are without legal force or effect. The secretary, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions that are the subject of the written notice.

(d) Upon service of the written notice, the secretary shall notify the commission in writing of the specific acts that the secretary determines are not in the public interest or are in violation of this chapter and the secretary's reasons for requiring a cessation or correction of specific existing or proposed activities or functions. The secretary may make recommendations that will make the activities or functions acceptable.

77053. The commission or the secretary may bring an action for judicial relief from the secretary's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

77054. When the secretary is required to concur in a decision of the commission, the secretary shall concur, refuse to concur, or request additional information from the commission within 15 working days from notification of the decision.

77055. The commission shall reimburse the secretary for all expenditures incurred by the secretary in carrying out his or her duties and responsibilities pursuant to this chapter. However, a court may, if it finds that the secretary acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the secretary's legal costs with regard to that action.

77056. Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same manner as the member. An alternate member shall, in the absence of the member for whom he or she is an alternate, serve in place of the member on the commission and shall have and be able to exercise all the rights, privileges, and powers of the member when serving on the commission. In the event of a change in status making him or her ineligible to serve, or due to death, removal, resignation, or disqualification of a member, the alternate member shall act as a member on the commission until a qualified successor is elected or appointed.

77057. Any vacancy on the commission occurring by the failure of any person elected to the commission as a producer member or alternate producer member to continue in his or her position due to a change in status making him or her ineligible to serve, or due to death, removal, or resignation, shall be filled for the unexpired portion of the term by a majority vote of the remaining producer members of the commission. Any person filling a vacant producer member or alternate producer member position shall meet all the qualifications set forth in this article as required for the member whose office he or she is to fill.

77058. Any vacancy on the commission occurring by the failure of any person elected to the commission as a handler member or alternate handler member to continue in his or her position due to a change in status making him or her ineligible to serve, or due to death, removal, or resignation, shall be filled for the unexpired portion of the term by a majority vote of the remaining handler members of the commission. Any person filling a vacant handler member or alternate handler member position shall meet all the qualifications set forth in this article as required for the member whose office he or she is to fill.

77059. Any vacancy on the commission occurring by the failure of the public member or alternate member to continue in his or her position due to a change in status making him or her ineligible to serve, or due to death, removal, or resignation, shall be filled for the unexpired portion of the term by the secretary from nominees recommended by the commission. That person shall meet all the qualifications set forth in this article as required for the member whose office he or she is to fill.

77060. Any producer member and his or her alternate member on the commission shall be an individual or an employee representing a producer who has a financial interest in producing, or causing to be produced, walnuts for market. The qualifications of producer members and their alternate members shall be maintained during the entire term of office.

77061. Any handler member and his or her alternate member on the commission shall have a financial interest in handling walnuts for market.

77062. The public member and his or her alternate member on the commission shall have all the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The public member and his or her alternate member shall not have any financial interest in the walnut industry.

77063. For the 2006 marketing year, the term of office of all members of the commission, except ex officio members, shall be from the beginning of the marketing year that commences in the year of their election and until qualified successors are elected for the 2009 marketing year. Thereafter, the term of office of all members of the commission, except ex officio members, shall be two years from the beginning of the marketing year in which they are elected and until qualified successors are elected. The same selection procedure shall apply to handler members. Terms of office of each member and alternate member of the commission shall be limited to four consecutive two-year terms.

77064. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be prima facie evidence of the truth of all statements herein.

77065. A quorum of the commission shall be eight voting members of the commission. Except as provided in Section 77027, a vote in favor of a motion by nine members present at a meeting shall constitute the act of the commission.

77066. The secretary or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

77067. No member of the commission or of any committee established by the commission that may include nonmembers of the commission shall receive a salary. Except for ex officio government members, the members may receive an amount not to exceed reasonable and necessary traveling expenses and meal allowances, 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 special assignment for the commission, as approved by the commission.

77068. All funds received by any person from the assessments levied pursuant this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than twenty-five thousand dollars (\$25,000).

77069. The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission. No member of the commission, alternate member, or any employee or agent thereof, is personally liable for the contracts of the commission. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually in any way to any producer, processor, handler, or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent or employee, except for his or her own individual acts of dishonesty or crime. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually for any act or omission of any other member of the commission, alternate member, or any employee or agent thereof. Liability is several and not joint, and no member of the commission, alternate member, or any employee or agent thereof, is liable for the default of any other member of the commission, alternate member, or any employee or agent thereof.

Article 4. Powers and Duties of the Commission

77081. The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

77082. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, operating procedure, or order of the commission. The commission is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code when acting pursuant to this section.

77083. The commission may administer and enforce this chapter and do and perform all acts and exercise all powers incidental to, or in connection with, deemed reasonably necessary for the proper or advisable implementation of this chapter.

77084. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and any other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

77085. The commission may employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, necessary to carry out this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state or federal government to perform the functions prescribed by this section under the control of the commission.

If the person engages in any conduct which the secretary determines is not in the public interest or which is in violation of this chapter, the secretary shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person.

77086. The commission may fix the compensation for all employees of the commission.

77087. The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

77088. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

77089. The commission shall keep accurate books, records, and accounts of all of its dealings which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the secretary. A summary of the audit shall be reported to all producers, copies of which shall also be submitted to the department. In addition, the secretary may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

77090. The commission may promote the sale of walnuts by brand and generic advertising and other promotional means, including tie-in advertising, for the purpose of creating, maintaining, and expanding domestic and foreign markets.

77091. The commission may educate and instruct the wholesale and retail trade in domestic and foreign markets with respect to proper methods of handling walnuts.

77092. The commission may make market surveys and analyses.

77093. The commission may present facts to, and negotiate with, local, state, federal, and foreign agencies on matters that affect the walnut industry pursuant to this chapter.

77094. The commission may make, in its name, contracts to receive or render services in formulating and conducting plans and programs and any other contracts or agreements that the commission deems necessary for carrying out this chapter.

77095. The commission may conduct, and contract with others to conduct, research, including the study, analysis, accumulation, and dissemination of information obtained from the research or elsewhere, respecting this chapter.

77096. The commission may accept contributions of, or match, private, state, or federal funds and employ or make contributions of funds to other persons or state or federal agencies for purposes of maintaining, promoting, and enhancing the walnut industry pursuant to this chapter.

77097. The commission may collect information, including, but not limited to, industry crop statistics, and may publish and distribute without charge a bulletin or other communication for dissemination of information to persons subject to this chapter.

77098. The commission shall establish an assessment rate to defray operating costs of the commission.

77099. The commission shall establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the secretary prior to disbursement of funds, except for disbursements made pursuant to Section 77086.

77100. The commission shall submit to the secretary, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

77101. All lists of producers in the possession of the commission or the secretary are confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding involving this chapter.

77102. The commission may 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.

77103. (a) Notwithstanding any other provision of this chapter, the following duties are imposed upon the executive committee of the commission, established in the commission's bylaws, for the 2006 marketing year:

(1) Continue any and all existing contracts and agreements necessary for the operation of the commission.

(2) Establish the annual budget according to accepted accounting practices.

(3) Establish the assessment rate not later than the first day of the marketing year or as soon thereafter as possible. The assessment rate shall not exceed the 2005 marketing year assessment rate.

(b) In fulfilling the duties of this section, except for the disbursements made pursuant to Section 77086, the executive committee shall obtain concurrence by the secretary.

(c) This section shall become inoperative on July 1, 2007.

Article 5. Implementation and Voting Procedures

77121. (a) The secretary shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the secretary shall require that handlers, producers, and others submit the names and mailing addresses of all producers. The secretary also may require that the information provided include the quantity of walnuts produced by each producer or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in Section 77123. The request for the information shall be in writing. The information shall be filed within 30 days following receipt of the written request.

(b) Any producer whose name does not appear on the secretary's list may have his or her name placed on the list by filing with the secretary a signed statement identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments.

(c) Proponents and opponents of the commission may contact producers on the list in a form and manner prescribed by the secretary so long as all expenses associated with the contacts are paid in advance.

77123. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds in a referendum vote conducted by the secretary that at least 40 percent of the total number of producers from the list established by the secretary pursuant to this article participate, and that a majority of the producers voting in the referendum voted in favor of this chapter, and the producers so voting handled a majority of the total quantity of walnuts handled in the preceding marketing year by all those producers who voted in the referendum.

77124. The secretary shall establish a period in which to conduct the referendum that shall not be less than 10 days or more than 60 days in duration and may prescribe additional procedures necessary to conduct the referendum. If the initial period established is less than 60 days, the secretary may extend the period; however, the total referendum period may not exceed 60 days.

77125. Nonreceipt of a ballot shall not invalidate a referendum.

77126. If the secretary finds that a favorable vote has been given as provided in Section 77123, the secretary shall so certify and give notice of the favorable vote to all affected producers whose names and addresses are on file with the secretary.

77127. If the secretary finds that a favorable vote has not been given as provided in Section 77123, the secretary shall so certify and declare this chapter inoperative. The secretary may conduct another implementation referendum vote one year or more after the previous vote has been taken.

77130. Subsequent to the first election of members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to nomination and election procedures which shall be established by the commission with the concurrence of the secretary.

77130.5. Subsequent to the initial implementation referendum vote and the first election of commissioners, the commission shall establish procedures for the purpose of providing persons subject to this chapter with access to producers on the commission's list of producers for purposes related to an election or referendum or an act or determination of the commission. Access to producers shall not include actual release or disclosure of the commission's confidential list of producers.

77131. (a) Prior to the referendum vote conducted by the secretary pursuant to Section 77123, the proponents of the commission shall deposit with the secretary the amount that the secretary deems necessary to defray the expenses of preparing the necessary lists and information and conducting the vote.

(b) Any funds not used in carrying out Section 77123 shall be returned to the proponents of the commission who deposited the funds with the secretary.

(c) Upon establishment of the commission, the commission may reimburse the proponents of the commission for any funds deposited with the secretary that were used in carrying out Section 77123 and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

77151. (a) The commission shall establish the assessment for the following marketing year not later than the first day of each marketing year or as soon thereafter as is possible.

(b) The assessment shall not exceed one cent (\$0.01) per inshell pound on all walnuts shipped by producers to handlers or handled by producers.

(c) Assessments provided for in this section shall be levied on the producer. The handler shall deduct the assessment from amounts paid by him or her to the producer and shall be a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission.

(d) A fee greater than the amount provided for in subdivision (b) may not be charged unless and until a greater fee is approved by producers pursuant to the procedures specified in Section 77123.

77152. This chapter does not apply to the walnuts produced only for the producer's home use and to producers who handle 2,000 pounds or less of walnuts in the preceding marketing year. However, the producer shall file an affidavit with the commission establishing that he or she has not handled walnuts. The commission shall then determine whether the affidavit should be approved.

77153. Every handler shall keep a complete and accurate record of all walnuts handled with the name of the producer whose walnuts were handled. The records shall be in simple form and contain information prescribed by the commission. The records shall be preserved by the handler 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.

77154. All proprietary information obtained by the commission or the secretary from producers or handlers is confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding involving this chapter.

77155. Every handler shall be personally liable for the payment of collected assessments to the commission, and the failure of a handler to collect the assessment from any producer does not exempt any handler from liability.

77156. Any assessment which is levied as provided for in this chapter is a personal debt of every producer so assessed. Failure of a handler to collect the assessment does not relieve the producer of the obligation to pay the assessment.

77157. Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, pay 11/2 percent interest per month on the unpaid balance.

77158. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failing to collect or make payment of assessments, of which a corporate handler may be subject to under this chapter, shall also include identical liability upon each director and each officer of the corporation.

Article 7. Actions and Penalties

77171. It is unlawful for any person to do any of the following:

- (a)** Refuse to render a report, statement, or record required by the commission.
- (b)** Furnish a false report, statement, or record required by the commission.
- (c)** When engaged in the handling of walnuts, fail or refuse to furnish the commission, or its duly authorized agents, information concerning the names and addresses of persons from whom walnuts have been received and the quantity so received.
- (d)** Secrete, destroy, or alter records required to be kept under this chapter.

77172. 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 this 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 petition filed with the appropriate superior court.

77173. (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 for the obtaining of injunctive relief or specific performance regarding this chapter and the rules and regulations adopted pursuant to this chapter. 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 injunction relief.

(b) A writ of attachment shall be issued pursuant to Chapter 4 (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 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 inadequate remedy at law specified in Sections 526 and 527 of the Code of Civil Procedure is not required.

(c) 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 walnuts until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions 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.

77174. Termination of this chapter shall not affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with this chapter, release or extinguish any violation of this chapter, or affect or impair any right or remedies of the commission with respect to any violation.

Article 8. Continuation or Suspension and Termination

77191. This chapter shall become inoperative at the end of any marketing year in which targeted export assistance funds provided by the federal government have been permanently terminated, unless, pursuant to the procedures described in Section 77193, the producers approve the continuation of the commission. Funds are permanently terminated within the meaning of the previous sentence when the federal government does not provide targeted export assistance funds in three consecutive budget years. (*Statutes of 2012, Chapter 323, AB 2682, Effective January 1, 2013*)

77192. (a) Notwithstanding Section 77191, the secretary shall terminate the commission at the end of the then current marketing year in accordance with Sections 77194 and 77195 if the secretary finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that produce at least 51 percent of the total volume of walnuts.

(b) The person or persons originating the request shall file a written notice with the secretary in a manner that establishes the date the request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the secretary.

(c) The signatures on the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall specify his or her place of business in a manner that will enable the location to be readily ascertained.

(d) The petition shall bear a copy of the notice of intention to terminate. Signatures shall be secured within the time limit specified in this section.

77193. (a) Every six years, beginning in the 1992-93 marketing year, the secretary shall hold a hearing to determine whether operation of this chapter should be continued. If the secretary finds after the hearing that a substantial question exists among the producers assessed under this chapter regarding whether operation of this chapter should be continued, the secretary shall cause a referendum vote to be conducted among producers. If a referendum is required, the operation of this chapter shall continue if the secretary finds that a majority of producers voting in the referendum voted in favor of the continuation of this chapter, and those so voting handled a majority of the total quantity of walnuts handled in the preceding marketing years by all such producers voting in the referendum.

(b) If the secretary finds that a favorable vote has been given, the secretary shall so certify and this chapter shall remain in operation. If the secretary finds that a favorable vote has not been given, the secretary shall so certify and declare the operation of this chapter suspended upon expiration of the then current marketing year.

77194. After the effective date of suspension of the operation of this chapter, the operation of the commission shall be concluded and any and all funds remaining held by the commission and not required to defray the expenses of concluding 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 marketing year. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the prorated refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate program conducted by the University of California or the California State University, another state agency, or a federal agency which deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

77195. Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.