

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKETING BRANCH



CALIFORNIA RICE COMMISSION LAW

CHAPTER 9.5, DIVISION 22 OF THE
CALIFORNIA FOOD AND AGRICULTURAL CODE

JULY 21, 2023

Table of Contents

Article 1. Declaration and General Provisions	1
Article 2. Definitions	3
Article 3. California Rice Commission.....	5
Article 4. Powers and Duties	11
Article 5. Implementation and Voting Procedures	14
Article 6. Assessments and Records	16

Article 1. Declaration and General Provisions

71000. The production, milling and marketing of rice constitutes an important industry of this state that provides substantial and necessary revenues for the state and employment for its citizens.

71001. The maintenance of the rice industry of California is necessary to assure the public of a continuous supply of this vital product and the maintenance of needed levels of income for those engaged in the rice industry.

71002. The production and milling of rice in California 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 consumers aware of the nutritional value of rice, the high quality of the rice produced and milled in the state, the intricacies of rice culture, and the versatility of rice as part of a well-balanced diet. The activities made possible by the establishment of the commission will meet this need and further the interests of the industry and the state.

71003. 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 rice industry, create a more receptive environment for the industry and its products, and increase competitiveness of the California rice industry within the national and international marketplace. In addition, the commission is necessary to carry out the California rice industry's commitment to responsible stewardship and increasingly efficient cultural practices.

71004. The successes that the rice industry of California has enjoyed have come in part through a commitment to industry funded research that has led to significant improvements in the quality of the rice available to consumers and increasingly efficient cultural practices resulting in increased awareness of, and a more receptive environment for, the production and milling of rice in California. It has also led to rice being a better consumer value. The establishment of the commission will continue and enhance this research effort and move the rice industry toward its potential, resulting in increased consumer value and enhanced grower returns.

71005. The production and milling of rice 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 purposes of protecting the health, peace, safety, and general welfare of the people of this state.

71006. No action taken by the commission, or by any individual in accordance with this chapter or with the regulations adopted under this chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or any statutory or common law against monopolies or combinations in restraint of trade. The Legislature intends this program to be among those contemplated by Congress in the enactment of Section 610(i) of Title 7 of the United States Code.

71007. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

71008. It is hereby declared as a matter of legislative determination that commission members and alternates are intended to represent and further the interest of a particular 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 industry concerned is tantamount to and constitutes the public generally within the meaning of Section 87103 of the Government Code.

71009. Opportunity exists for continued growth and expansion of the rice industry by creating new markets. The success of such an 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 rice industry. The expansion of the rice 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.

71010. The commission form of administration created by this chapter is uniquely situated to provide those engaged in the production and milling of rice the opportunity to avail themselves of the benefits of collective action of the broad fields of development, maintenance, and expansion of markets, marketing research, education, advertising and promotion, and production and processing research necessary to achieve the purposes stated herein, and any activity authorized in Chapter 4 (commencing with Section 55000) of Division 20.

Article 2. Definitions

71020. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

71021. "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.

71022. "Commission" means the California Rice Commission.

71023. (a) "Districts" consist of the following:

- (1) District 1 consists of Butte County.
- (2) District 2 consists of Colusa County.
- (3) District 3 consists of Glenn County and Tehama County, and any county north of those counties where rice is produced.
- (4) District 4 consists of Yuba and Sutter Counties.
- (5) District 5 consists of Sacramento, San Joaquin, Placer, and Yolo Counties and any county south of those counties where rice is produced.

(b) The commission, upon a two-thirds vote of the membership of the commission, may change the districts.

71024. "Ex officio member" means a nonvoting member of the commission.

71025. "Handle" means to engage in the business of being a handler. It does not include the drying of rice.

71026. "Handler" means any person who is engaged in this state in the business of marketing rice who handles 100,000 hundredweight or more of rough or "paddy" rice, or the equivalent amount of milled rice during a marketing season. It is the Legislature's intent that this provision be construed so that every person engaged in the handling of 100,000 hundredweight or more of rice produced in California is subject to assessment pursuant to this chapter.

71027. "Hundredweight" or "Cwt." are synonymous and mean 100 pounds avoirdupois, excluding tare.

71028. "Market" or "marketing" means to sell rice to a person other than a handler.

71029. "Marketing research" means any research relating to the sale of rice.

71030. "Marketing season" or "fiscal year" are synonymous terms and mean the period beginning September 1 of any year and extending through the last day of August of the following year.

71031. "Person" means any individual, partnership, limited liability partnership, corporation, limited liability corporation, firm, company, or other entity doing business in California.

71032. "Producer" means any person who produces, or causes to be produced, rice.

71033. "Production research" means any research relating to the production, harvest, and postharvest handling of rice.

71034. "Public member" means the person appointed by the commission pursuant to Section 71050. The public member and his or her alternate shall not have any financial interest in the production or handling of rice.

71035. "Rice" means all rough or "paddy" rice or milled rice (*Oryza sativa* L.) from any source handled within the state of California, including mochi rice (sweet rice). It does not include rice produced for seed or wild rice (*Zizania aquatica*; *Zizania palustris*).

71036. "Secretary" means the Secretary of Food and Agriculture.

71037. "Sell" means to transfer or cause the transfer of title to rice for valuable consideration.

Article 3. California Rice Commission

71050. (a) There is in the state government the California Rice Commission. The commission is composed of equal numbers of handler members and producer members as set forth in this section and Section 71050.5. In addition, there may be one public member.

(b) Each eligible handler may appoint one member and one alternate member annually.

(c) Producer members and alternate members in a number equal to the number of appointed handler members shall be elected by district.

(d) The number of producers to be elected from each district shall be determined as follows:

(1) Each district shall have at least one representative.

(2) Except as provided in Section 71050.5, the allocation of any seats remaining after the allocation in paragraph (1) shall be made by dividing the total number of acres in the state planted in rice in the marketing season immediately preceding the determination by the total number of eligible handler members and dividing the acreage planted in rice in each district, starting with the district having the largest acreage planted in rice by the result and rounding to the nearest whole number.

(e) No handler who is more than 90 days delinquent in the payment of assessments or filing of reports required pursuant to this chapter is eligible to serve on the commission. If a handler is made ineligible to serve pursuant to this subdivision, the member representing District 1 who received the lowest vote total among members representing District 1 is also ineligible to serve by operation of law in order to maintain an equal number of eligible handler and producer members. Additional members are ineligible to serve by operation of law as needed in order to maintain an equal number of handler and producer members and shall be selected from the remaining districts in ascending order of the number of the district. No member who is the sole representative of a district is ineligible to serve as a result of the operation of this subdivision. Without regard to whether any ineligible producer member representing a district has been reinstated, no subsequent producer member is ineligible to serve by operation of law from any district until at least one member is ineligible to serve by operation of law from each district except those that have only one representative.

(f) (1) Members who are ineligible to serve by operation of law pursuant to subdivision (e) shall be immediately disqualified from voting on matters before the commission.

(2) The eligibility of handler and producer members shall be reinstated at the first meeting after the handler's payments and reports are made current.

(g) The commission shall annually establish the number of eligible handler members of the commission based on the volume of rice handled in the immediately preceding marketing season, and, if necessary, adjust and reallocate the number of producer members. Any additional producer members shall be elected at the next regularly scheduled election of producer members. Any handler who does not appoint a member and alternate within 15 days of being notified of their eligibility shall be deemed to have waived their right to a seat for the then current marketing season and shall not be counted in the calculation of producer seats.

(h) The public member, if any, shall be appointed to the commission by the secretary from the nominees recommended by the commission.

71050.5. (a) Before the beginning of each marketing season, the commission may review drought conditions in the state and evaluate the impact of these conditions on the production and handling of rice. If the commission determines that the drought conditions had a detrimental impact upon the production and handling of rice, the commission may issue a declaration that requires the following provisions to be operative for the next marketing season:

(1) (A) A person shall be eligible to serve on the commission as a producer member or alternate producer member if either or both of the following conditions are met:

(i) The person meets the eligibility requirements set forth in Sections 71032 and 71057 and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(ii) The person received an indemnity payment from the prevented planting program in the same calendar year that the declaration is issued or in one or more of the four calendar years before the issuance of the declaration and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(B) A person described in clause (ii) of subparagraph (A) shall not be eligible to serve on the commission pursuant to this paragraph if the person voluntarily sells or transfers water during the marketing season, that sale or transfer of water lasts for a period of time longer than one year, and that sale or transfer of water results in the person not producing rice on any portion of the field acreage under the control of that person that is not eligible for the prevented planting program.

(2) A person shall be eligible to serve on the commission as a handler member or alternate handler member if either or both of the following conditions are met:

(A) The person meets the eligibility requirements set forth in Sections 71026 and 71058 and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(B) The person has met the eligibility requirements set forth in Sections 71026 and 71058 in the same calendar year that the declaration is issued or in one or more of the four calendar years before the issuance of the declaration and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(3) For purposes of the calculation set forth in paragraph (2) of subdivision (d) of Section 71050, the “total number of acres in the state planted in rice” and the “acreage planted in rice in each district” shall include both of the following:

(A) The total number of acres planted in rice in the state or district, as applicable, in the immediately preceding marketing season.

(B) The total number of prevented planted acres of rice in the state or district, as applicable, in the immediately preceding marketing season.

(b) Notwithstanding subdivision (a), for the 2022–23 marketing season, the commission may undertake the duties specified in subdivision (a) as soon as possible after the effective date of this section. If the commission issues the declaration for the 2022–23 marketing season, the provisions set forth in paragraphs (1) to (3), inclusive, of subdivision (a) shall be operative for the 2022–23 marketing season immediately upon the issuance of the declaration.

(c) For purposes of this section, the following definitions apply:

(1) “Prevented planted acre” means an acre of land that was not planted in rice for which a person received an indemnity payment as part of the prevented planting coverage program.

(2) “Prevented planting program” means the prevented planting coverage provisions administered by the Risk Management Agency within the United States Department of Agriculture Risk Management Agency pursuant to the Federal Crop Insurance Act (Subchapter I (commencing with Section 1501) of Chapter 36 of Title 7 of the United States Code).

71051. (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 those activities or functions or to make the corrections as 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, his or her reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and recommendations that will make the activities or functions acceptable.

71052. When the secretary is required to concur in a decision of the commission, the secretary shall give his or her response to the commission within 15 working days from notification of the decision. The secretary shall set forth in writing with specificity the reasons for any refusal to concur. The secretary's response may be a requirement that additional information be provided.

71053. 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.

71054. Except for ex officio members, an alternate for each member shall be appointed in the same manner as the member. An alternate shall, in the absence of the member for whom he or she is an alternate, serve in place of the member 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 a member ineligible to serve, or due to death, removal, resignation, or disqualification of a member, the alternate shall act as a member of the commission until a qualified successor is appointed. The ineligibility of any member pursuant to Section 71050 does not create an absence within the meaning of this section.

71055. Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate 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 by another eligible person for the unexpired portion of the term by a majority vote of the remaining members of the commission. The person shall fulfill all the qualifications set forth in this article as required for the person whose office he or she is to occupy. The ineligibility of any handler member and concurrent ineligibility of any producer member pursuant to Section 71050 shall not create a vacancy within the meaning of this section.

71056. Any vacancy on the commission occurring by the failure of the public 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, resignation, or disqualification, may be filled by another eligible person for the unexpired portion of the term by the secretary from nominees recommended by the commission. The person shall fulfill all the qualifications set forth in this article as required for the member whose office he or she is to occupy.

71057. Any producer member and his or her alternate on the commission shall be an individual producer or an employee or representative of a producer who has a financial interest in producing rice or causing rice to be produced. The qualifications of producer members and their alternates shall be maintained during their entire term of office. The absence of both the member and alternate at two consecutive meetings shall be grounds for the commission to declare the seat vacant.

71058. Any handler member and his or her alternate on the commission shall be an individual handler or an employee or representative of a handler who has a financial interest in handling rice. The qualifications of handler members and their alternates shall be maintained during their entire term of office. The absence of both the member and alternate at two consecutive meetings shall be grounds for the commission to declare the seat vacant.

71059. Except as otherwise provided in this section, 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, respectively, on the commission. The public member and his or her alternate member shall not have a vote on issues regarding the assessments established pursuant to Section 71120.

71060. Producer members shall serve three-year terms and until their successors are qualified, except, that of the first producer members of the commission one-third shall serve one year, one-third shall serve two years, and one-third shall serve three years. The determination of the term of each member shall be made by lot. Members representing the same district shall draw lots among themselves to ensure that terms within a single district are not concurrent.

71061. The commission shall be, and is hereby declared and created, a corporate body. It may sue and be sued regarding any matter related to the purposes of this chapter, contract and be contracted with, and has and possesses 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 therein.

71062. A majority of the membership of the commission appointed or elected shall constitute a quorum of the commission. The vote of a majority of the members present at a meeting at which there is a quorum constitutes the act of the commission. The commission 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.

71063. The secretary or his or her representatives shall be notified and may attend each meeting of the commission and any committee meetings of the commission. However, the secretary or his or her representative is not entitled to attend an executive session of the commission or a committee of the commission called for the purpose of discussing potential or actual litigation against the department.

71064. No member or alternate of the commission or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each member of the commission and each alternate serving in place of a member, except ex officio members who are officers or employees of a public agency, and each member of a committee established by the commission who is a nonmember of the commission, may receive reasonable and necessary traveling expenses and meal allowances as approved 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.

71065. All funds received by any person from the assessments levied under this chapter or otherwise received by the commission shall be deposited in banks that 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 an amount of not less than twenty-five thousand dollars (\$25,000).

71066. 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 or alternate of the commission, or any employee or agent thereof, is personally liable for the contracts of the commission. No member or alternate of the commission, or any employee or agent thereof, is responsible individually in any way to 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 or alternate of the commission, or any employee or agent thereof, is responsible individually for any act or omission of any other member or alternate of the commission, or any employee or agent thereof. No member or alternate of the commission, or any employee or agent thereof, is liable for the default of any other member or alternate of the commission, or any employee or agent thereof.

Article 4. Powers and Duties

71070. The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

71071. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders in accordance with commission procedures for purposes of carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, operating procedure, or order of the commission.

71072. The commission may administer and enforce this chapter and do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary, to promote, maintain, and enhance the rice industry.

71073. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as it deems necessary. The officers have the powers and duties delegated to them by the commission.

71074. (a) 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 of its choice, necessary to carry out this chapter. If any person employed by the commission engages in any conduct that the secretary determines is not in the public interest or that 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.

(b) 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 direction of the commission.

(c) If requested by an advisory board, board of directors, or any authorized agent, the commission may administer any governmental program related to the rice industry.

71075. The commission may fix the compensation for all employees of the commission.

71076. The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

71077. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, develop, own, and control the use of any intellectual property, 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.

71078. 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 persons subject to this chapter, a copy of which shall also be submitted to the department. In addition, the secretary, as he or she determines necessary, may conduct or cause to be conducted a fiscal and compliance audit of the commission.

71079. The commission may present facts to, and negotiate with, local, state, federal, and foreign agencies on matters that affect the rice industry.

71080. The commission may promote the sale of rice by advertising and any other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for rice, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of rice.

71081. The commission may educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling rice, and conduct consumer surveys and analyses.

71082. The commission may conduct, and contract with others to conduct, scientific research, including the study, analysis, dissemination, and accumulation of information obtained from research or elsewhere, respecting cultural, production and postharvest practices, and the marketing and distribution of rice. The results of any research conducted by or on behalf of the commission may be used by the commission in any way it deems appropriate.

71083. The commission may contract to receive and render services in formulating and conducting plans and programs and enter into other contracts or agreements that the commission deems necessary to carry out this chapter.

71084. 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 promoting, enhancing, and maintaining the rice industry.

71085. The commission may collect information, including, but not limited to, industry crop statistics, and publish and distribute without charge, a bulletin or other communication to handlers and producers of rice.

71086. The commission shall establish an assessment rate to defray operating costs of the commission.

71087. The commission shall establish an annual budget according to generally accepted accounting practices. The budget shall be concurred in by the secretary prior to disbursement of funds, except for disbursements made pursuant to Section 71075.

71088. The commission shall submit to the secretary for his or her concurrence an annual statement of contemplated activities authorized pursuant to this chapter.

71089. (a) The commission and the secretary shall keep confidential and shall not disclose, except when required by court order after a hearing in a judicial proceeding, all lists in their possession of persons subject to this chapter. However, the commission shall establish procedures to provide access to communication with other producers and handlers regarding noncommercial matters affecting the commission and persons subject to its jurisdiction. The access shall not include the actual release of the list of the names and addresses of producers and handlers in the possession of the commission or the secretary. In addition, notwithstanding any other provision of law, all proprietary or trade secret information developed or gathered pursuant to this chapter, including, but not limited to, names and addresses of handlers, producers, processors, wholesalers, retailers, brokers and shippers, individual quantities produced, handled, shipped, bought or sold, prices paid, and the products of research obtained by the commission, or by the department on behalf of the commission, from any source is confidential and shall not be considered a public record as that term is defined in Section 6252 of the Government Code.

(b) Upon receipt of a request for information from a person establishing cause for the request, the department shall direct the commission to provide the requesting person any record in the commission's possession, except that any proprietary information shall be removed before disclosure.

71090. 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.

71091. The commission may appoint any person to serve as an ex officio member.

Article 5. Implementation and Voting Procedures

71100. (a) Within 15 days of a request from any handler or producer, the secretary shall establish a list of handlers and producers eligible to vote on implementation of this chapter. The secretary may require handlers and producers to submit the names and mailing addresses of all producers and handlers. The secretary also may require that the information provided include information on the volume of rice handled by each handler, or 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 71101. The request for the information shall be in writing and shall be filed within 10 days following receipt of the request.

(b) Any handler or producer eligible to vote whose name does not appear on the appropriate 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 person eligible to vote. Failure to be on the list does not exempt the person from paying assessments and does not invalidate any industry votes conducted pursuant to this article.

(c) Any handler or producer eligible to vote may contact those on the list regarding the referendum in a form and manner prescribed by the secretary if all expenses associated with those contacts are paid in advance.

71101. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds the following in a referendum vote conducted by the secretary:

(a) At least 40 percent of the total number of handlers from the list established by the secretary pursuant to this article participate, and that either of the following occurs:

(1) Sixty-five percent of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting handled a majority of the total quantity of rice handled in the preceding marketing season by all of the handlers voting in the referendum.

(2) A majority of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting handled 65 percent or more of the total quantity of rice handled in the preceding marketing season by all of the handlers voting in the referendum.

(b) At least 40 percent of the total number of producers from the list established by the secretary pursuant to this article participate, and that either of the following occurs:

(1) Sixty-five percent of the producers voting in the referendum voted in favor of this chapter, and the producers so voting produced a majority of the total quantity of rice produced in the preceding marketing season by all of the producers voting in the referendum.

(2) A majority of the producers voting in the referendum voted in favor of this chapter, and the producers so voting produced 65 percent or more of the total quantity of rice produced by all of the producers voting in the referendum.

71102. The secretary shall establish a period in which to conduct the referendum, which 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.

71103. Nonreceipt of a ballot by an eligible handler or producer shall not invalidate a referendum.

71104. If the secretary finds that a favorable vote has been given as provided in Section 71101, the secretary shall certify and give notice of the favorable vote to all affected handlers and producers whose names and addresses are on file with the secretary.

71105. If the secretary finds that a favorable vote has not been given as provided in Section 71101, the secretary shall certify and declare all provisions of this chapter inoperative. The secretary may conduct other implementation referendum votes one year or more after the previous vote has been taken.

71106. Upon certification of the commission, the secretary shall terminate, effective at the end of the marketing season then current, consistent with the terms of the marketing order and Section 59088, any entity operating pursuant to an existing state marketing order affecting the same subject matter as this chapter. Notwithstanding the terms of the marketing order, or any provision of Chapter 1 (commencing with Section 58601) of Part 2 of Division 21, the secretary shall immediately upon certification of the commission, order the transfer of the marketing order's assets to the commission, except for those assets necessary to the proper winding up of the marketing orders affairs. This section shall not affect the continued operation of any existing rice research marketing order directly affecting producers of rice.

71107. (a) Prior to the referendum vote conducted by the secretary pursuant to this article, 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 71101 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 this article, and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

71120. (a) The commission shall establish the assessment for the marketing season not later than September 1 of each year or as soon thereafter as is possible. The assessment shall not exceed ten cents (\$0.10) per hundredweight for rice delivered to handlers by producers. Of the assessment, not more than five cents (\$0.05) per hundredweight shall be assessed against handlers, and not more than five cents (\$0.05) per hundredweight shall be assessed against producers. The assessment rate shall be the same for handlers and producers.

(b) An assessment greater than the amount specified in subdivision (a) may not be charged unless approved by a majority of the commission and by handlers and producers pursuant to procedures specified in Section 71101.

[Note: By referendum vote, as certified by the Department of Food and Agriculture on April 22, 2011, the maximum allowable assessment rate was increased to fifteen cents (\$0.15) per hundredweight split evenly between producers and handlers.]

[Note: By referendum vote, as certified by the Department of Food and Agriculture on September 1, 2020, the maximum allowable assessment rate was increased to twenty cents (\$0.20) per hundredweight split evenly between producers and handlers.]

71121. (a) This chapter does not apply to handlers of less than 100,000 hundredweight in any marketing season or to rice produced only for a producer's home use or rice that is used only for ornamental purposes.

(b) If at any time during a marketing season the volume handled by a handler reaches 100,000 hundredweight or more, the handler shall be assessed for the initial 100,000 hundredweight and any additional volume handled during the marketing season. If the assessments on the initial 100,000 hundredweight are paid in the time and manner specified by the commission, the assessments shall not be considered past due.

(c) Notwithstanding Section 71026, the 100,000 hundredweight threshold established pursuant to this chapter shall remain in effect unless a higher threshold is approved by a majority of the commission and by those handlers remaining eligible under the proposed threshold and producers pursuant to procedures specified in Section 71101.

71122. Any person requesting an exemption from this chapter shall file an affidavit with the commission attesting that he or she is not a handler, as defined in Section 71026, or produces rice only for his or her own home use or for ornamental purposes. The affidavit shall contain all the information required by the commission. The commission shall review the affidavit, conduct any additional investigation it deems appropriate, and approve or deny the affidavit.

71123. Every person who handles rice in any quantity shall keep a complete and accurate record of all transactions involving the purchase or sale of rice and shall submit the record to the commission in the time and manner specified by the commission. The records shall be in a simple form and contain the information that the commission prescribes. The records shall be preserved by the handler for a period of three years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

71124. (a) All proprietary information obtained or developed pursuant to this article by the commission or the secretary from any source, including, but not limited to, the names and addresses of producers, is confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding.

(b) Information on volume shipments, crop value, and any other related information that is required for reports to governmental agencies, financial reports to the commission, or aggregate sales and inventory information, and any other information that gives only totals, but excludes individual information, may be disclosed by the commission.

71125. Any assessment that is levied as provided for in this chapter is a personal debt of every person assessed.

71126. (a) Only the first handler of rice is subject to the handler assessment and shall deduct the producer assessment from amounts paid by him or her to the producer and shall be a trustee of these assessments and assessments required to be paid by the handler until they are paid to the commission at the time and in the manner prescribed by the commission. Title to the assessments shall pass immediately to the commission and handlers shall hold the assessments in trust for the benefit of the commission and shall remit them, with assessment reports, in the time and manner specified by the commission. All first handlers, without regard to the volume handled, shall deduct and remit the producer assessment. Failure to collect the assessment from any producer shall not exempt the handler from liability. In addition, failure of a handler to remit the collected producer assessments to the commission shall not relieve the producer of this obligation.

(b) If rice is forfeited under a loan from the Commodity Credit Corporation, the handler shall pay both the producer and handler assessments if the rice is contracted to the handler. If the handler's total volume for the marketing season is less than 100,000 hundredweight, only the producer assessment shall apply. If the rice forfeited under a loan from the Commodity Credit Corporation is not contracted to a handler, the producer shall pay both the handler and producer assessments. If the total volume handled by the producer during the marketing season is less than 100,000 hundredweight, only the producer assessment shall apply.

71127. When the handler or producer is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for violating this chapter, including, but not limited to, failing to pay assessments or file required reports, shall also include identical liability upon each director or officer of the corporation.

71128. Any person 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, shall pay 12 percent interest per month on the unpaid balance.

71129. In addition to any other penalty imposed, the commission may require any person who fails to pay an assessment or related charge pursuant to this article to furnish and maintain a surety bond in a form and amount, and for a period of time, specified by the commission as assurance that all payments to the commission will be made when due.

71130. It is a violation of state law for any person to do any of the following:

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

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

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

71131. The commission shall establish procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission or before a committee of the commission designated for that purpose. Appeals from decisions of the commission may be made to the secretary. The determination of the secretary shall be subject to judicial review upon petition filed with the appropriate superior court.

71132. (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 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 regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

(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 rice 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.

71133. Any action by the commission for any violation of this chapter shall be commenced within two years from the date of discovery of the alleged violation. Any action against the commission by any person shall be commenced within two years from the date of the act of which the person complains.

71134. The termination of this chapter shall not affect or waive any right, duty, obligation, or liability that has arisen or that 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.

71135. (a) (1) Every five years, commencing with the fifth marketing season following the certification pursuant to Section 71104, the secretary shall conduct a referendum among handlers and producers. The operations of the commission shall continue unless the secretary determines from the referendum that a majority of the eligible handlers and a majority of the eligible producers voting in the referendum voted in favor of terminating the operations of this chapter.

(2) Notwithstanding paragraph (1), if the commission issues a declaration pursuant to Section 71050.5 and that declaration is in effect at the time that the secretary conducts a referendum pursuant to this section, a person shall be eligible to vote in the referendum conducted pursuant to this section if either of the following apply:

(A) The person is a producer or handler.

(B) The person is eligible to serve on the commission as a producer or handler member pursuant to clause (ii) of subparagraph (A) of paragraph (1) of, or subparagraph (B) of paragraph (2) of, subdivision (a) of Section 71050.5.

(b) If the secretary finds that the vote favors continuation, the secretary shall so certify and this chapter shall remain operative. If the secretary finds that the vote favors termination, the secretary shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the then current marketing season. Thereupon, the operations of the commission shall be concluded and funds distributed as provided in Section 71137.

71136. (a) Upon a finding by a two-thirds vote of the membership of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the then current marketing season.

(b) Upon the vote of the members of the commission specified in subdivision (a), the secretary shall establish a referendum period, which shall not be less than 10 days or more than 60 days in duration. The secretary may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. The secretary shall suspend the operation of this chapter if he or she finds any of the following has occurred:

(1) Sixty-five percent or more of the handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled a majority of the total quantity of rice handled in the preceding marketing season by all of the handlers voting in the referendum.

(2) A majority of the handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled 65 percent or more of the total quantity of rice handled in the preceding marketing season by all of the handlers voting in the referendum.

(3) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting produced a majority of the total quantity of rice produced in the preceding marketing season by all of the producers voting in the referendum.

(4) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting produced 65 percent or more of the total quantity of rice produced in the preceding marketing season by all of the producers voting in the referendum.

71137. After the effective date of suspension of this chapter, the operation of the commission shall be concluded and all moneys held by the commission not required to defray the expenses of concluding and terminating operations of the commission shall be returned on a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season. However, if the commission finds that the amounts 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 state or federal program conducted or used to fund activities related to the subject matter of this chapter. Upon suspension, any intellectual property owned by the commission shall be transferred without charge to the secretary who shall hold the property in trust for the benefit of the California rice industry. The property shall be transferred without charge to any successor program serving purposes similar to the purposes of this chapter.

71138. Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all eligible persons affected by the suspension whose names and addresses are on file.