STATE OF CALIFORNIA

DEPARTMENT OF FOOD AND AGRICULTURE

MARKETING BRANCH

CALIFORNIA APPLE COMMISSION LAW

CHAPTER 13.5, PART 2, DIVISION 22 OF THE CALIFORNIA FOOD AND AGRICULTURAL CODE

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CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

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Article 1. Declarations and General Provisions

75501. The production and marketing of apples constitute an important industry of this state which provides substantial and necessary revenues for the state and employment for its residents.

75502. The maintenance of the apple industry of California is necessary to assure the public of a continuous supply of this vital food product and the maintenance of needed levels of income for those persons engaged in the industry.

75503. The production and marketing of apples produced in this state are 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.

75504. 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.

75505. 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.

75506. 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.

75507. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, and production research of apples, and any other activity authorized in this chapter.

Article 2. Definitions

75511. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

75511.5. "Apple" means any variety of apple that is grown in this state and marketed for fresh consumption.

75512. "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.

75513. "Commission" means the California Apple Commission.

75514. **(a)** "Districts" consist of the following:
(1) District 1 consists of the Counties of Imperial, Kern, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Los Angeles, Orange, Riverside, and Ventura.
(2) District 2 consists of the Counties of Alpine, Fresno, Inyo, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, Tulare, and Tuolumne.
(3) District 3 consists of the Counties of Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Yolo, and Yuba.
(b) The boundaries of any district may be changed by a two-thirds vote of the members of the commission, which is concurred in by the secretary, when necessary to maintain similar total production among the districts and to ensure proper representation. These boundaries need not coincide with county lines.

Pursuant to this section, on March 7, 2011, the Commission amended district boundaries as follows:

District 1 – Consists of the Counties of Alameda, Contra Costa, Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Monterey, Orange, Riverside, San Benito, San Bernardino, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Tulare, and Ventura.

District 2 – Consists of the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin (West of Highway 99), Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba.

District 3 – Consists of San Joaquin County (East of Highway 99).

75515. "Ex officio member" means a nonvoting member of the commission.

75516. "Handler" means any person engaged in packing apples for fresh consumption or engaged in marketing apples for fresh consumption that the person has produced or that the person is marketing on behalf of a producer either directly or through an agent, employee, broker, or otherwise, and who, upon request by the commission, provides proof that he or she is engaged in handler activities.

75518. "Market" or "marketing" means to sell apples.

75519. "Marketing research" means any research relating to the sale of apples.

75520. "Marketing year" means the period beginning July 1 of each year and extending through June 30 of the following year.

75520.5. "Member" means a person who serves on the commission's board of directors.

75521. "Pack," "packing," or "packed" means the regular compact arrangement of all or part of the fruit in any container or subcontainer.

75522. "Person" means any individual, firm, corporation, association, or other entity doing business in California.

75523. "Producer" means any person who is engaged in the business of producing, or causing to be produced, apples for market, and who, upon request of the commission, provides proof of commodity sale.

75524. "Production research" means any research related to pest control and to the production, harvest, and postharvest handling of apples, other than marketing research.

75525. "Sale" means the point at which the producer transfers title of apples in exchange for financial compensation or other valuable consideration. A sale may occur even though the purchased apples are not placed in normal marketing channels.

75526. "Secretary" means the Secretary of Food and Agriculture.

Article 3. The California Apple Commission

75531. (a) There is in the state government the California Apple Commission.

(b) Except as provided in subdivision (e), the commission shall consist of 12 producer and handler members as specified in this article, and one public member.

(c) Except as provided in subdivision (e), eligible persons from within the respective districts shall elect three producers and one handler from District 1, three producers and one handler from District 2, and three producers and one handler from District 3.

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

(e) The commission may modify the number of producers who serve on the commission to no less than six members and no more than 15 members, and may modify the number of producers elected from each district. There shall be three handlers on the commission, one from each district.

(f) The secretary and other persons, as determined by the commission, shall be ex officio members of the commission.

Pursuant to this section, on May 22, 2015, the Commission modified the number of producer members who serve on the commission from nine members to six members. Two producer members shall be elected from each district.

75532. (a) The secretary may require the commission to correct or cease any activity or function of the commission 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 the specified activities or functions or to make corrections required by the secretary, the secretary, upon written notice, may suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of the activities or functions, as required by the secretary, has been accomplished by the commission.

(c) Any action of the commission in violation of the written notice is 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) At the same time the written notice is provided to the commission, 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, the secretary's reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and the secretary's recommendations with respect to any action that will make the activities or functions acceptable.

75533. 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 appropriate relief.

75534. If 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 the date the secretary receives the notification of the decision.

75535. 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, if it finds that the secretary acted arbitrarily or capriciously in restricting the activities or functions of the commission, may relieve the commission of the responsibility for payment of the secretary's legal costs with regard to that action.

75536. **(a)** Three alternative members, one from each district, shall be selected pursuant to procedures adopted by the commission.
(b) Under procedures established by the commission, any alternate member may serve in place of any absent member on the commission in the alternate's district and shall have all of the rights, privileges, and powers of the member when serving on the commission.
(c) In the event of the death, removal, resignation, or disqualification of a member, the alternate member shall act as a member of the commission until a qualified successor is elected.

75537. Any vacancy on the commission occurring by the failure of any person elected to or serving on the commission as a member or alternate member to continue in his or her position due to a change in his or her status, thereby making the person ineligible to serve, or due to death, removal, resignation, or disqualification, shall be filled for the unexpired portion of the term by a majority vote of all of the remaining members of the commission. The appointee shall meet all of the qualifications set forth in this article as required for the member or alternate whose office he or she is to occupy.

75538. **(a)** Any producer member shall be a producer or an employee representing a producer who has a financial interest in producing, or causing to be produced, apples for market. Qualifications of producer members shall be maintained during their entire term of office.
(b) Any handler member, or employee representing that person, shall have a financial interest in marketing or packing apples for market. Qualifications of handler members shall be maintained during their entire term of office.
Section 75538 continued on next page.

(c) The public member and alternate on the commission, if appointed, shall have all of the powers, rights, and privileges of any other member or alternate member, respectively, on the commission. The public member and alternate, if appointed, shall not have any financial interest in the apple industry.

(d) Not more than one member and one alternate member shall be persons employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization. Any alternate serving on the commission who is employed by, or connected in a proprietary capacity with, a person serving as a member on the commission from the same company, firm, partnership, or business organization shall serve as an alternate to the member.

75539. The term of office of each member, except ex officio members, is four years, commencing with the beginning of the marketing year following his or her election and until a qualified successor is elected or appointed, unless the term is earlier terminated pursuant to subdivision (e) of Section 75531 in accordance with procedures established by the commission.

[Section 75540 repealed - AB 1795, Chapter365, Legislative Session 2009-10, effective January 1, 2011.]

75541. The commission is hereby declared and created a corporate body. It may sue and be sued, enter into contracts, adopt a seal, and has all of the powers of a corporation. Copies of its proceedings, records, and acts, when authenticated, shall be prima facie evidence of the truth of all statements therein.

75542. A quorum of the commission is a majority of the voting members. Except as otherwise provided in this chapter, the vote of a majority of the members present at a meeting at which there is a quorum constitutes the act of the commission.

75543. 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. However, the secretary may not attend an executive session of the commission called for the purpose of discussing potential or actual litigation against the secretary.

75544. No member or alternate member of the commission, or member of a committee established by the commission who is a nonmember of the commission, shall receive any compensation. Each member of the commission or each alternate member serving in place of a member, except ex officio members, and each member of a committee established by the commission who is a nonmember of the commission, may receive necessary traveling expenses and meal allowances as approved by the commission.

75545. All funds received by any person from the assessments levied under the authority of 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 designated by the commission 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).

75546. 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, alternate member, employee, or agent of the commission is personally liable for the contracts of the commission nor is any such person responsible individually in any way to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as a principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member, alternate member, employee, or agent of the commission, is responsible individually for any act or omission of any other member, alternate member, employee, or agent of the commission. Liability is several and not joint, and no member, alternate member, employee, or agent of the commission is liable for the default of any other member, alternate member, employee, or agent of the commission.

Article 4. Powers and Duties of the Commission

75581. The powers and duties of the commission shall include, but are not limited to, all of those specified in this article.

75582. The commission may adopt, amend, and repeal regulations and operating procedures necessary to carry out this chapter, including regulations governing appeals from actions taken by the commission pursuant to any of its regulations or operating procedures.

75583. The commission may administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper or advisable implementation of this chapter.

75584. 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.

75585. 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 agency of the state or federal government to perform the functions prescribed by this section under the control of the commission. 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.

75586. The commission may fix the compensation for all employees of the commission.

75587. The commission may appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out this chapter.

75588. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, create liabilities, borrow funds in advance of receipt of assessments, and repay producers for costs incurred during the initial formation of the commission, 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.

75589. The commission shall keep accurate books, records, and accounts of all its dealings that 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 and a copy of the summary shall also be submitted to the secretary. 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.

75590. The commission may present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect this chapter.

75591. 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.

75592. The commission may conduct, and contract with others to conduct, production research, including the study, analysis, accumulation, and dissemination of information obtained from that research or otherwise, regarding this chapter.

75593. The commission may accept contributions of private, state, or federal funds, and make contributions of funds to other persons or state or federal agencies, for purposes of this chapter.

75594. The commission may promote the sale of apples by advertising and 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 apples, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of apples.

75595. The commission may collect information, and publish and distribute without charge, bulletins and other communications for dissemination of information.

75595.5. The commission may establish an annual assessment rate to defray the operating costs of the commission.

75596. The commission shall adopt an annual budget according to accepted practices. The secretary shall concur in the adoption of the budget prior to the encumbrance of funds, except for encumbrances necessary to pay the compensation of employees of the commission.

75597. The commission shall annually prepare and submit to the secretary, for his or her concurrence, a statement of contemplated activities authorized pursuant to this chapter.

75598. The commission and the secretary shall keep confidential and shall not disclose, except when required by court order in a judicial proceeding, all lists of persons subject to this chapter in their possession.

75599. 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.

75601. **(a)** The commission may recommend to the secretary the adoption of maturity standards authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21) that are in accordance with the procedures specified in that act, unless otherwise specified in this article.

(b) Any standards that are adopted shall be implemented by the secretary at the beginning of the marketing year next succeeding the date in which they were approved by the secretary.

(c) Any standards recommended by the commission and approved by the secretary shall not be operative until approved by the vote specified in Section 75612.

(d) The commission shall serve as the advisory body to the secretary on all matters pertaining to this section.

75602. **(a)** In order to prevent unfair trade practices, which are detrimental to California's apple industry, including, but not limited to, deception and misinformation, the commission may collect and disseminate to any and all interested persons, handler F.O.B. market price information based on sales that have occurred.

(b) The identity of each handler reporting information and the information reported pursuant to this section shall be kept confidential and not made public by the commission under any circumstances. Information that gives industry totals, averages, and other similar data may be disclosed by the commission.

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

Article 5. Implementation and Voting Procedures

75611. **(a)** Within 90 days of the effective date of the amendments made to this section during the 1994 portion of the 1993-94 Regular Session of the Legislature, the secretary shall establish a list of producers eligible to vote. In establishing the list, the secretary may require that producers, handlers, and agricultural commissioners submit the names and mailing addresses of all known producers who are subject to this chapter. The secretary also may require that the information provided include the quantity of apples produced by each producer or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in this article. The request for the information shall be in writing, and the requested information shall be filed within 30 days following receipt of the request.

(b) Any person whose name does not appear upon 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. The absence of a person's name from the list shall not exempt the person from paying assessments and shall not invalidate any industry votes conducted pursuant to this article.

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

75612. 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 have participated and that either one of the following has occurred:

(a) Sixty-five percent of the eligible producers who voted in the referendum voted in favor of this chapter, and the eligible producers so voting produced and marketed a majority of the total quantity of apples in the current marketing year by all of the eligible producers who voted in the referendum.

(b) A majority of the eligible producers who voted in the referendum voted in favor of this chapter, and the eligible producers so voting produced and marketed 65 percent or more of the total quantity of apples in the current marketing year by all of the eligible producers who voted in the referendum.

75613. The secretary shall establish a period to conduct the referendum that shall not be less than 10 days or more than 60 days in duration, and may prescribe additional procedures that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the secretary may extend the period to not more than 60 days.

75614. The failure of an eligible producer to receive a ballot shall not invalidate a referendum.

75615. If the secretary finds that a favorable vote has been given as provided in this article, the secretary shall certify and give notice of the favorable vote to all persons whose names and addresses are on file with the secretary.

75616. If the secretary finds that a favorable vote has not been given as provided in this article, the secretary shall certify and declare this chapter inoperative. The secretary may conduct another implementation referendum vote one or more years after the previous vote has been taken.

75617. Upon certification of the commission, the secretary shall appoint the producer and handler members of the initial commission's board of directors from a list of eligible persons submitted to the secretary, or shall contact all eligible producers and handlers in each district by mail, or shall call meetings in each district for the purpose of nominating and electing persons to the commission. To be eligible for election, nominees, who may be producers or handlers, shall present to the secretary a nomination petition with the signatures of at least five eligible persons from the district from which the nominee is seeking election. Eligible persons may be nominated and elected from any district in which they produce or handle apples. Only eligible producers may vote for nominees, and each eligible producer may cast one vote in each district in which he or she produces apples. The volume of apples marketed by eligible producers who vote shall not be considered when tabulating the votes to elect members and alternate members to the commission.

75618. 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 that are adopted by the commission with the concurrence of the secretary.

75619. **(a)** Prior to the secretary holding the referendum pursuant to this article, the proponents of the commission shall deposit with the secretary the amount that the secretary determines necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum.

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

(c) Upon the 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 other costs incurred in establishing the commission.

Article 6. Assessments and Records

75630. **(a)** The commission shall establish the assessment for the marketing year by July 1 of each year or as soon thereafter as is possible.

(b) The assessment shall be one-fourth cent ($0.0025) per pound of apples marketed for fresh consumption during the 1994-95 marketing year. Thereafter, the assessment shall not exceed three-fourth cent ($0.0075) per pound of apples marketed for fresh consumption, except as provided in subdivision (d).

(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 is a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission.

(d) An assessment greater than the amount provided for in subdivision (b) may not be charged unless a greater fee is approved by a majority of the commission and by eligible producers pursuant to procedures specified in Section 75612.

75631. This chapter shall not apply to producers who produce no more than 40,000 pounds of apples per year and to production on a noncommercial basis for the producer's home use, or where the trees are used only for ornamental purposes. Producers from whom assessments are collected may apply for the refund of the payments following the close of any marketing season in which the payments have been made, and the commission shall refund the payments if the producer can demonstrate, to the satisfaction of the commission, that he or she is not subject to this chapter.

75632. Every handler shall keep a complete and accurate record of all apples handled. The records shall be in simple form and contain information as the commission shall prescribe including, but not limited to, market price information and the names and addresses of the producers whose apples were packed or marketed. The records shall be retained by the handler for 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.

75633. **(a)** 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 court order in a judicial proceeding.

(b) Information on volume shipments, product 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 the commission requires that gives only totals, but excludes producer or handler information, may be disclosed by the commission.

75634. Any assessment which is imposed on the producer as provided for in this chapter is a personal debt of that producer.

75635. Every handler is personally liable for the payment of the assessments to the commission. The failure of a handler to collect the assessment shall not exempt the handler from liability and shall not relieve any producer subject to this chapter from the obligation to pay the assessment.

75636. Any producer or handler who fails to file a return or pay the 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 1.5 percent interest per month on the unpaid balance. In addition to any other penalty imposed, the commission may require any person who fails to pay any 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.

75637. If the producer or 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 violating this chapter, including, but not limited to, failing to pay the assessments or to collect the assessments, shall also include identical liability upon each director or officer of the corporation.

Article 7. Actions and Penalties

75641. It is a misdemeanor 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) Fail or refuse to furnish the commission or its duly authorized agents, information concerning the names and addresses of persons from whom apples have been received and the quantity so received.
(d) Secrete, destroy, or alter records required to be kept under this chapter.

75642. The commission shall adopt procedures to grant 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 is subject to judicial review upon petition filed with the appropriate superior court.

75643. **(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 obtaining 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 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 that code 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 involving apples until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it is 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.

75643.1. Any action by the commission to recover any penalty or obtain any other remedy that is prescribed under this chapter shall be commenced within two years from the date of the alleged violation.

Any action against the commission by any person shall be commenced by the commission within two years from the date of the act of which the person complains.

75643.2. It is not necessary for the commission to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

75644. The suspension or termination of this chapter shall not affect or waive any right, duty, obligation, or liability which has 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

75651. Every five years after the implementation of this chapter, or every fifth year after an industry-petitioned referendum pursuant to Section 75654, the secretary shall hold a hearing to determine whether the operation of this chapter should be continued. If the secretary finds after the hearing that a substantial question exists among eligible producers regarding whether the operation of this chapter should be continued, the secretary shall submit the chapter to a reapproval referendum. If a reapproval referendum is required, the operation of this chapter shall be continued in effect if the secretary finds that a majority of the eligible producers voting in the referendum voted in favor of continuing this chapter. No bond or security shall be required for the referendum.

75652. If the secretary finds after conducting a hearing that no substantial question exists regarding whether the operation of this chapter should be continued or that a favorable vote has been given in a referendum, the secretary shall so certify and this chapter shall remain operative. If the secretary finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the then current marketing year. Thereupon, the operations of the commission shall be concluded and the funds distributed in the manner provided in Section 75655.

75653. **(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 current marketing year.

(b) The secretary shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the secretary requesting a suspension signed by not less than 20 percent of the eligible producers by number who produced not less than 20 percent of the total volume of apples in the immediately preceding marketing year, hold a referendum to determine if the operations of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows, by a preponderance of evidence, in a manner prescribed by the secretary, that the operation of this chapter has not tended to effectuate its declared purposes.

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(c) 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 the secretary finds that at least 40 percent of the total number of persons from the list established by the secretary have participated in the referendum and that either one of the following has occurred:

(1) Sixty-five percent or more of the eligible producers who voted in the referendum voted in favor of suspension, and the eligible producers so voting produced and marketed a majority of the total quantity of apples in the preceding marketing year by all of the eligible producers who voted in the referendum.

(2) A majority of the eligible producers who voted in the referendum voted in favor of suspension, and the eligible producers so voting produced and marketed 65 percent or more of the total quantity of apples in the preceding marketing year by all of the eligible producers who voted in the referendum.

75654. **(a)** The secretary shall terminate the commission at the end of the then current marketing year 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 and market at least 51 percent of the total volume of apples.

(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 the commission. Signatures shall be secured within the time limit specified in this section.

75655. After the effective date of the suspension, 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 the 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 pro rata refund to these persons, any funds remaining, after the 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, or another state agency that deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

75656. Upon suspension of this chapter, the commission shall mail a copy of the notice of suspension to all producers and handlers whose names and addresses are on file with the commission.