

**STATE OF CALIFORNIA
DEPARTMENT OF FOOD & AGRICULTURE
MARKETING BRANCH**

CALIFORNIA SALMON COUNCIL LAW



**Chapter 2, Division 22 of the
California Food & Agricultural Code**

Amended:
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CALIFORNIA FOOD AND AGRICULTURAL CODE

California Salmon Council Law

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Article 1. Short Title and Definitions

76501. This chapter shall be known and may be cited as the "California Salmon Marketing and Development Act."

76502. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

76510. "Council" means the California Salmon Council.

76511. "Commercial salmon vessel operator" is a commercial fisherman who operates a commercial salmon vessel for which a valid commercial salmon vessel permit has been issued pursuant to Article 4.5 (commencing with Section 8230) of Chapter 2 of Part 3 of Division 6 of the Fish and Game Code.

76520. "Exporter" means any individual who is, or an individual working for a partnership, corporation, or any other business unit or organization which is, engaged in the export to a foreign nation or nations of salmon which has been landed in California.

76525. "Fiscal year" means from April 1 of a year to March 31 of the next succeeding year.

76530. "Fisherman" means an individual licensed to commercially harvest fish pursuant to Sections 7850 to 7852, inclusive, of the Fish and Game Code.

76535. "Handler" means any of the following:

(a) A processor.

(b) A receiver.

(c) A wholesaler.

(d) An exporter.

(e) An individual licensed or working for a partnership, corporation, or any other business unit or organization licensed pursuant to subdivision (a) of Section 8032 of the Fish and Game Code and engaged in the California commercial salmon fishery.

76537. "Individual" means a person, as defined in Section 64506.

76540. "Marketing association" means any commercial fishermen's organization established on either a local, county, or statewide level, incorporated in this state, to enable fishermen to collectively negotiate and issue orders and agreements with receivers for the purchase of their catches, or to otherwise engage in activities permitted of agricultural cooperatives, and whose members are involved in the salmon fishery.

76550. "Processor" means any individual licensed or working for a partnership, corporation, or any other business unit or organization licensed pursuant to Section 8034 of the Fish and Game Code and engaged in the California commercial salmon fishery.

76560. "Receiver" means any individual licensed or working for a partnership, corporation, or any other business unit or organization licensed pursuant to Section 8033 of the Fish and Game Code and engaged in the California commercial salmon fishery.

76570. "Salmon" means the following species of fish:

- (a) King or chinook salmon (*Oncorhynchus tshawytscha*).
- (b) Silver or coho salmon (*Oncorhynchus kisutch*).
- (c) Pink or humpback salmon (*Oncorhynchus gorbuscha*).

76571. "Salmon fishery" means either of the following:

- (a) One or more species of salmon taken offshore California with troll lines for commercial usage, treated as a unit for the purposes of conservation, restoration, management, marketing, or promotion.
- (b) Any economic activity involving the harvesting, receiving, processing, manufacturing, or distributing of salmon described in subdivision (a) and products therefrom.

76572. "Salmon products" means any item manufactured which contains 50 percent or more of salmon flesh or parts from salmon, including the head, scales, skin, bone, or entrails, and which is intended for human consumption, medicine, animal feed, fertilizer, or other purposes.

76580. "Wholesaler" means any individual licensed or working for a partnership, corporation, or any other business unit or organization licensed pursuant to Section 8035 of the Fish and Game Code and engaged in the California commercial salmon fishery.

Article 2. General Provisions

76600. The Legislature finds and declares that the provisions of this chapter are enacted in the exercise of the power of this state for the purposes of protecting and furthering the public health and welfare.

76601. The Legislature further finds and declares that the salmon fishery of this state is affected with a public interest, in that, among other things:

(a) The harvesting, processing, manufacturing, and distributing of salmon and salmon products constitute a paramount industry of this state, which not only provides substantial and required revenues for the state and its political subdivisions and employment and a means of livelihood for many thousands of its population, but which also furnishes essential foods that are vital to the public health and welfare.

(b) The development of the salmon fishery requires, in addition to the protection and restoration of spawning and nursery habitat in rivers, rearing programs designed to rebuild salmon populations, the full utilization and efficient operation of mitigation fish hatcheries, and existing regulations that assure adequate returns of spawning salmon, an aggressive marketing program, and a program to allow for the purchase, during years of low abundance, of the allocation of fish provided to other salmon users in order to assure that the commercial salmon fishery has the maximum access to healthy salmon populations.

(c) The stabilization, maintenance, and expansion of the salmon fishery of California, and of the state, nationwide, and foreign markets for its products are necessary to assure the consuming public an adequate supply of foods which are indispensable in a proper human diet, to protect, for the state and its political subdivisions, a necessary source of tax revenue, to provide and maintain an adequate standard of living for a segment of the population of this state, to maintain proper wage scales for those engaged in the salmon fishery, and to maintain existing employment.

(d) The essentiality of salmon, low in fat and calories and naturally rich in Omega 3 fatty acids, in proper human nutrition and to the maintenance of a high level of public health is such as to require that the public be made thoroughly aware thereof, and be protected against misrepresentation and deception, by the dissemination of accurate and scientific information relative to the healthful qualities of salmon and salmon products, their various classifications and the food values and industrial and medicinal uses thereof, the methods, care and precautions necessary to their proper harvesting, processing, manufacturing, and distributing, and the necessary costs and expenses thereof, and the necessity and desirability on the part of the public of using and consuming salmon and salmon products of the highest standards of quality.

76602. The Legislature declares that the purposes of this chapter are as follows:

(a) To enable the salmon fishery, with the aid of the state, to develop, maintain, and expand the state, nationwide, and foreign markets for salmon and salmon products harvested, processed, manufactured, sold, or distributed in this state for human consumption, and the use and consumption of salmon and salmon products in those markets.

(b) To enable the salmon fishery to purchase, where there are willing sellers, the allocation rights to harvest salmon, as they may exist, of other salmon user groups to provide fishermen, and thereby the salmon fishery, greater access to salmon stocks than otherwise may have been provided pursuant to a conservation, management, or allocation agreement.

(c) In aid, but not in limitation, of the purpose in subdivision (a), to authorize and enable the director to formulate and effectuate, directly or in cooperation with other agencies, organizations, including the Oregon Salmon Commission, the West Coast Fisheries Development Foundation, and the National Fish and Seafood Promotion Council, and instrumentalities which are specified in this chapter, sales stimulation and consumer, or other educational programs designed to increase the use and consumption of salmon and salmon products for human consumption.

(d) To provide funds for the administration and enforcement of this chapter by mandatory fees to be collected in the manner which is prescribed in this chapter.

76603. This chapter shall be liberally construed.

76604. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

76605. A violation of this chapter is a misdemeanor.

Article 3. Administration

76650. The director shall administer and enforce this chapter, and may exercise any of the administrative powers which are conferred by Sections 11180 to 11191, inclusive, of the Government Code upon a head of a department. In order to effectuate the declared purposes of this chapter, the director may contract to carry out the declared intent and purposes of this chapter.

76651. Upon recommendation by the council, the director may adopt, consistent with this chapter, any regulations which cover the administration and enforcement of this chapter that may be necessary to carry out the purposes and attain the objectives of this chapter, except the director shall not engage in any salmon promotion activity or pursue the purchase of allocation rights to harvest salmon without the approval of a majority of the voting members of the council.

76652. Upon the adoption of any regulations under this chapter, a copy of the regulations shall be posted on a bulletin board which shall be maintained by the director in his or her office. No regulation shall become effective until five days after the date of that posting and mailing. The director shall mail a copy of the notice of the issuance of the regulations to every marketing association and every receiver that is directly affected by the regulations whose name and address may be on file in the office of the director and to every person who files in the office of the director a written request for that notice.

Article 4. California Salmon Council

76700. There is in the state government the California Salmon Council. The council shall be composed of nine voting members and their alternates, and five nonvoting members.

76701. The voting members of the council shall be appointed by the director, after consultation with the Director of Fish and Game, giving due consideration to proper geographic distribution. The nine members shall include:

(a) Five commercial salmon vessel operators or their representatives, and their alternates.

(b) Two handlers who are receivers or processors or their representatives, and their alternates.

(c) One representative of a handler who is an exporter or a wholesaler, and an alternate.

(d) One public member, and an alternate.

76702. (a) The commercial salmon vessel operators and their alternates shall be selected from lists of nominees submitted by marketing associations and any organization deemed to represent the majority of organized commercial salmon vessel operators, and from nominations by individual commercial salmon vessel operators.

(b) The receivers, processors, wholesalers, or exporters and their alternates shall be selected from lists of nominees submitted by an organization deemed to represent the majority of those organized groups in the state, and from individual receivers, processors, wholesalers, and exporters.

(c) The public member and alternate shall be selected by the director from a list submitted by the commercial salmon vessel operators and handler members of the council.

76703. The voting members of the council shall each be appointed to a three-year term, except that in the first year of the council, three members shall be appointed to one-year terms; three members shall be appointed to two-year terms; and three shall be appointed to three-year terms.

76704. The term of office of a member of the council shall begin on April 1 and expire on March 31.

76705. Any vacancy in the membership of the council which occurs during the unexpired term shall be filled by the director for the unexpired term from the eligible nominees. No council member or alternate shall serve more than two consecutive three-year terms. Service as an alternate does not disqualify a person to then serve two additional terms as a member, and a member who was appointed for a one-year or a two-year term may serve two additional three-year terms.

76706. The director may remove any member of the council or alternate for cause, and, upon that removal, there is a vacancy which shall be filled in the manner as provided for the unexpired term in Section 76705.

76707. The director shall give notice, not later than January 31 of each year, of the vacancies that will exist upon the expiration of terms on March 31, in writing, to all marketing associations and organizations deemed to represent the majority of organized fishermen, or receivers, processors, wholesalers, and exporters, and shall issue any press releases and public statements that the director deems appropriate requesting nominations.

76708. (a) The notice requesting nominations shall indicate that nominations shall be mailed to the director at his or her office in Sacramento and that the director will consider nominations received by mail postmarked not later than March 1.

(b) Nominations shall set forth all of the following:

(1) The name and address of each nominee.

(2) Whether each nominee is being nominated as a member or alternate member.

(3) The type of category for which the nominee is being nominated.

(4) The list of qualifications and supporters, if any, for the nominee.

(5) The name and address of the nominating marketing association, organization, or individual.

76709. The nonvoting members of the council shall be representatives of the following agencies, as selected by the director:

(a) The department.

(b) The Department of Fish and Game.

(c) The California Sea Grant Program.

(d) The West Coast Fisheries Development Foundation or the Coastal Fisheries Foundation.

(e) The California State World Trade Commission.

76710. There is no fixed term for nonvoting members of the council. The agencies may, but are not required to, select an alternate for their representative.

76711. A majority of the voting members of the council shall constitute a quorum for the transaction of all business, including the election of officers.

76712. (a) The council shall select annually from its voting members, to serve at its pleasure, a chair and vice chair.

(b) The chair and vice chair, together with four other voting members, selected annually by the council, shall constitute the executive committee of the council. The executive committee shall have and exercise any powers of the council that the council may delegate to it.

76713. The council shall hold two regular meetings in each year at times and places which are fixed by the council. The times for regular meetings shall be fixed so that there is an interval of at least four calendar months between the meetings. Consideration shall be given for the commercial fishing season and no regular meeting shall be held during the commercial salmon season. The council may meet in special meetings at any time and place at the call of the chair or upon the written request of five members of the council. The executive committee shall have two regular meetings each year at times and places which are fixed by it, and may meet in special meetings at any time and place at the call of the chair or on call of a majority of the members of the executive committee.

76714. The voting members of the council shall receive forty dollars (\$40) per day per diem for each day spent in actual attendance at the meetings or on the business of the council and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their official duties, except, during the first year of council operations, when members shall serve at their own expense. Nonvoting members shall be reimbursed at the same rate as voting members when their agencies do not pay their expenses. Alternates shall only be paid expenses and per diem for meetings at which they serve as the replacement for the regular member.

76715. No member of the council, except a member of the executive committee, shall receive compensation for more than three days' service per month, except the chair, who may receive compensation for not more than seven days per month.

76716. The director may require any employee or agent of the council to give a fidelity bond, executed by a surety company which is authorized to do business in this state, in favor of the director, in the sum, and containing any terms and conditions, that the director may prescribe. The cost of the fidelity bonds of employees or agents of the council shall be paid from the funds which are collected pursuant to this chapter.

76717. No member or employee of the council shall be held responsible individually to any person for liability on any contract or agreement of the council. All salaries, expenses, costs, obligations, and liabilities which arise out of the administration and enforcement of this chapter are payable only from funds which are collected pursuant to the provisions of this chapter.

76718. An alternate member of the council shall sit as a regular member of the council if the member for whom he or she is an alternate fails for any reason to attend any meeting of the council. The alternate member shall be compensated and reimbursed in the same manner and to the same extent as a regular member when so serving. When so serving, the alternate member has all of the powers, duties, liabilities, and immunities of the member in whose place he or she is serving, except that the alternate to the chair or vice chair shall not succeed to the functions of these offices.

76719. The Legislature finds and declares that commercial salmon vessel operators, receivers, processors, wholesalers, or exporters appointed to the council pursuant to this article 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 and declares that, with respect to persons who are appointed to the council, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

Article 5. Powers and Duties

76750. The duties of the council shall be advisory, except as to those duties which may be delegated to it by the secretary or as otherwise designated in this chapter. The council may, subject to the approval of the secretary, exercise any of the following powers which may be delegated to the council by the secretary:

(a) To recommend to the secretary administrative regulations which relate to the administration and enforcement of this chapter.

(b) To investigate all matters which affect the administration of this chapter, and to report violations of it to the secretary.

(c) To employ and, at its pleasure, discharge a manager and such clerical help and other employees as it deems necessary, and to prescribe their duties and powers and fix their compensation.

(d) To contract with, or employ, and at its pleasure, discharge any other persons that it deems necessary, and in the cases of such of them as it shall employ, to outline their powers and duties and fix their compensation.

(e) To establish offices and incur expenses incidental thereto.

(f) To make contracts and other agreements that may be proper to promote the sale of salmon and salmon products on either a local, state, national, or international basis.

(g) (1) To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created by state or federal law, including, but not limited to, the Oregon Salmon Commission, the West Coast Fisheries Development Foundation, the Coastal Fisheries Foundation, and the National Fish and Seafood Promotion Council, which is engaged in work or activities similar to the work and activities of the council, and to recommend to the secretary the making of contracts and agreements with those organizations or agencies for carrying on joint programs of education, research, publicity, and advertising.

(2) To recommend to the secretary the making of contracts and agreements with other councils, commodity commissions, or producer organizations for joint programs of publicity and advertising where those products are compatible with the promotion of salmon and salmon products.

(3) In matters of research, to cooperate with organizations of recognized professional standing which are adequately equipped with facilities for the research which is contemplated.

(h) To recommend to the secretary the institution and promotion of scientific research to develop or discover, or both, the health, food, therapeutic, dietetic, and other uses of salmon.

(i) (1) To receive, invest, and disburse funds pursuant to Article 8 (commencing with Section 76900).

(2) To allocate funds to agencies not specifically or solely engaged in carrying on research or promotion for salmon, if the council and the secretary are satisfied that those allocations will be beneficial to the California salmon fishery and will tend to effectuate the declared purposes of this chapter.

(j) To present facts to, and negotiate with, state, federal, and foreign agencies on matters that affect this chapter. *[Subsection j added by AB 1795, Chapter 365, 2009-10 Legislative Session. Effective January 1, 2011]*

76751. The council shall keep books, records, and accounts of all its transactions, dealings, contracts, agreements, funds, and expenditures that it deems necessary. The books, records, and accounts shall at all times be open to inspection and audit by the secretary.

76752. A member, alternate, agent, or employee of the council shall not do any of the following:

(a) Appear before any legislative committee of the state or federal government as a representative of the council unless requested to do so by that committee.

(b) Lobby in any manner as a representative of the council.

76753. Funds which are collected pursuant to this chapter shall not be used for political contributions.

76754. The council shall prepare, annually, summarized statements of the activities in which it has been engaged in the previous annual period, and of the activities in which it proposes to engage in the ensuing annual period. The statements shall be made available to all marketing associations, organizations of fishermen and receivers, processors, wholesalers, and exporters, and individuals that request them in writing.

Article 6. Education, Research, and Public Information Programs

76800. The director shall conduct, or may cause the council to conduct, programs of education, research, or public information, which are designed to accomplish the following purposes, among others:

(a) Increase the consumption of salmon and salmon products.

(b) Gather, publicize, and diffuse accurate and scientific information which shows the importance of the use and consumption of salmon and salmon products in relation to the public health, economy, and diet, and proper nutrition of children and adults.

(c) Study means and methods which are employed in harvesting, processing, manufacturing, marketing, and distributing salmon and salmon products in order to comply with the sanitary and other regulations which are imposed by municipalities, this state, and the United States.

(d) Gather and disseminate information regarding the high standards which are observed and imposed to insure pure and wholesome salmon and salmon products.

(e) Gather and disseminate information regarding the harmful effects on the public health resulting from the breakdown or instability of the salmon fishery, the factors and conditions peculiar to the salmon fishery which tend to cause an unbalanced production, and the price of salmon and salmon products in relation to the cost of other items of food in a balanced diet.

(f) Gather and disseminate information regarding the factors which tend to promote increased consumption of salmon and salmon products, stabilize the fishery, and foster a better understanding and more efficient cooperation among fishermen, receivers, processors, and the consuming public.

76801. No program or activity which is conducted or sponsored pursuant to this chapter shall make false or unwarranted claims, or disparage the quality, value, use, or sale of any commodity authorized by law to be marketed in this state, nor shall any program be conducted with reference to a private brand or trade name which refers to salmon or salmon products.

76802. The council shall not expend council funds for the advertising of brand name salmon products. The council may expend council funds to conduct cost-sharing advertising with nonbrand name salmon products.

Article 7. Purchase of Allocation Shares

76850. The Attorney General shall annually review all applicable state and federal laws, regulations, and procedures used to set salmon fishing seasons and shall determine whether allocations of rights to harvest salmon held by users, including tribal interests, may lawfully exist for purchase, trade, or exchange or under what conditions that purchase, trade, or exchange may lawfully be made.

76851. If the Attorney General determines under Section 76850 that selling allocation rights to harvest salmon would be binding and consistent with California public policy and if an agreement for purchase of allocation rights of harvest is determined to be lawful and binding, the Director of Fish and Game may, in consultation with the director, develop a program to authorize the transfer of the allocation rights consistent with all other state or federal laws and regulations. Upon authorization by the Director of Fish and Game, the director may, at a price and quantity agreed to by the council, and with funds available from the council, enter into an agreement for the purchase of the allocation rights to harvest from another user holding bona fide rights to harvest stocks of salmon.

76852. The council, in any negotiations for the purchase of tribal allocations of rights to harvest, if any, however they may exist, may, with the director, seek federal or other funds as may be available to match the council funds for the purchase of allocation rights to harvest in recognition of the federal government's responsibility to the Indian people and their resources.

Article 8. Financial Provisions

76900. In order to carry out the programs and administer the activities which are conducted pursuant to this chapter, every fisherman who sells salmon to any person, shall pay a fee, as specified in Sections 76902 and 76903, for each pound or fraction thereof, of salmon taken and sold by the fisherman. The fee shall be collected from the fisherman and remitted to the director, by any person licensed to receive fish to whom the salmon are sold. If the salmon are sold to any other person the fee shall be remitted to the director by the fisherman.

76901. Consistent with Section 8041 of the Fish and Game Code, the following persons shall remit the fees required by Section 76902 to the director:

(a) Any person who is required to be licensed as a fish receiver by Section 8033 of the Fish and Game Code, and receives salmon in this state from persons conducting the activities of a commercial fisherman.

(b) Any commercial fisherman who sells salmon to any person who is not a licensed fish receiver.

76901.5. (a) Each person who is required by this chapter to collect a fee from fishermen shall maintain a complete and accurate record of all transactions subject to the fee. These records shall contain any information required by the director relating to the collection of fees, shall be preserved for a period of three years, and shall be available for review immediately upon demand by the director or the director's duly authorized agent.

(b) Any information obtained by the director or the director's duly authorized agent from inspection or audit of records shall be confidential and shall not be disclosed except when required in a judicial proceeding.

76902. Except as specified in Section 76905, the amount of fees due under this article shall be determined by multiplying the weight in the round of salmon by two cents (\$0.02). For the purposes of establishing the weight in the round of salmon brought ashore, a conversion factor of 10 percent shall be applied to the weight of salmon brought ashore in a dressed condition.

76903. The fees imposed under this article shall be paid monthly to the director within 60 days after the last day of each month. If fees are not paid within 60 days after the month for which they are due, the director shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department and "the date of which the tax became due and payable," means that date 60 days after the month for which it is due.

76904. Sections 8058 to 8070, inclusive, of the Fish and Game Code apply to claims for overpayment of fees to the director. For purposes of this section, "department," as used in those sections, means the Department of Food and Agriculture, and "landing tax" means the fees imposed pursuant to this article.

76904.5. The director may consult with and enter into agreements with the Director of Fish and Game where necessary and reasonable, to assist in the administration of this chapter and in enforcing compliance with this chapter. If an agreement is established, the director shall reimburse the Department of Fish and Game for administrative costs associated with this chapter.

76905. After one year after the establishment of the council, and not before the commercial salmon season of 1990, the council may recommend to the director an increase over and above the two cents (\$0.02) per pound fee required by Section 76902 for the council to carry out its duties under this chapter. The council shall consider the budget for the council, funding for activities conducted pursuant to Article 6 (commencing with Section 76800) and Article 7 (commencing with Section 76850), as well as the market price of salmon, landing taxes imposed by the Department of Fish and Game, assessments charged by marketing associations, and any other relevant factor affecting the economics of the salmon fishery. The council shall, in making any determination to increase fees, consult with marketing associations and, if the recommended increase would exceed seven cents (\$0.07) per pound of salmon sold, shall conduct a ballot poll of the commercial salmon vessel operators on the director's list established pursuant to Article 9 (commencing with Section 76950). After an initial ballot poll on a recommended increase exceeding seven cents (\$0.07) per pound of salmon sold, the council shall consult with marketing associations and, if the recommended increase would exceed five cents (\$0.05) per pound of salmon sold, shall conduct a ballot poll of the commercial salmon vessel operators on the director's list. The director may not increase any fee without a majority approval of the voting members of the council.

76906. (a) All money that is collected by the director pursuant to this chapter shall be deposited in any bank, or other depository that is approved by the Director of Finance, allocated to the purposes of this chapter only, and disbursed by the director or the council only for the necessary expenses that are incurred by the council and the director in carrying out the purposes and provisions of this chapter, including expenses generated by the auditing requirement contained in this section. Money that is so collected shall be deposited and disbursed in conformity with appropriate auditing regulations which are prescribed by the director. The expenditure of the money is exempt from Section 925.6 and 16304 of the Government Code.

(b) All expenditures by the council and the director shall be audited at least once every two years by one of the following means:

(1) By contract with a certified public accountant.

(2) By contract with a public accountant holding a valid permit issued by the California Board of Accountancy.

(3) By contract with a public accounting firm.

(4) By agreement with the Department of Finance.

76907. Money which is deposited pursuant to Section 76906 may be invested and reinvested by the Treasurer or the council in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, the money may also be combined with funds which are determined by the director to be available for investment pursuant to Section 58939. Any increment which is received from investment, reinvestment, or deposit made by the Treasurer shall be remitted to the council. The Treasurer may deduct from the remittance an amount equal to the reasonable cost incurred in carrying out this section or may bill the council for the costs and the council shall pay the costs from money which is collected for it pursuant to this chapter.

76908. The director, after consultation with the council, shall prepare an annual budget which sets forth in reasonable detail the proposed expenditures which the director deems necessary for the performance by him or her and by the department of the duties which are imposed upon them by this chapter. The director shall also prepare and submit to the council an annual statement, in reasonable detail, of the director's expenditures pursuant to this chapter.

76909. The director may receive funds in amounts that may be reasonable and necessary to defray the initial expenses in making effective this chapter. The director shall reimburse those persons from whom those funds are received in the amounts received from any funds which are received by the director pursuant to this article.

76910. The director may accept contributions to advance the purposes of this chapter. If requested by the donor, the contributions shall be segregated and separately maintained for the use of the council.

Article 9. Implementation, Voting Procedure, and Termination

76950. On or before August 15, 1989, the director shall establish a list of commercial salmon vessel operators eligible to vote on implementation of this chapter. In establishing the list, the director may require that handlers and commercial salmon vessel operators submit the names and mailing addresses of all commercial salmon vessel operators who harvested salmon during the previous season, as evidenced by receipts prepared under Section 8043 of the Fish and Game Code, together with the volume of salmon landed. The director may also request the assistance of the Director of Fish and Game for the names of all commercial salmon vessel operators who landed salmon the previous season and the volume of landings for each vessel. The request for the information shall be in writing and shall be subject to the confidentiality provisions of Section 8022 of the Fish and Game Code. The list shall be filed within 30 days following receipt of the written notice.

76951. Any commercial salmon vessel operator whose name does not appear upon the director's list of commercial salmon vessel operators affected may have his or her name established on the list by filing with the director a signed statement, identifying himself or herself as a commercial salmon vessel operator and furnishing evidence of having made landings the previous year through the submission of receipts prepared under Section 8043 of the Fish and Game Code. Failure to be on the list does not exempt a commercial salmon vessel operator from paying assessments under this chapter.

76952. This chapter, except as necessary to conduct an implementation referendum vote under this article or as provided in subdivision (b) of Section 76953, shall not become operative until the director finds in an implementation referendum conducted by the director under this article, that at least 40 percent of the total number of commercial salmon vessel operators from the list, established by the director pursuant to Section 76950, have participated by voting in the referendum, and the director finds either of the following:

(a) Sixty-five percent or more of the commercial salmon vessel operators who voted in the referendum voted in favor of implementing this chapter, and the commercial salmon vessel operators who voted in the referendum marketed 51 percent or more of the total quantity of salmon landed in the preceding fiscal year by all the commercial salmon vessel operators who voted in the referendum.

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(b) Fifty-one percent of the commercial salmon vessel operators who voted in the referendum voted in favor of implementing this chapter, and the commercial salmon vessel operators who voted in the referendum marketed 65 percent or more of the total quantity of salmon landed in the preceding fiscal year by all of the commercial salmon vessel operators who voted in the referendum.

76953. The director shall establish a period in which to conduct the implementation referendum which shall not be less than 30 days nor more than 60 days in duration, and may prescribe additional procedures as may be necessary to conduct the referendum. If the initial period established is less than 30 days, the director may extend that period. However, the total referendum period may not exceed 60 days.

76953.5. (a) Before the referendum vote is conducted by the director, the proponents of the council shall deposit with the director the amount that the director determines is necessary to defray the expenses of preparing the necessary lists and information and conducting the referendum vote.

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

(c) Upon establishment of the council, the council may reimburse the proponents of the council for any funds deposited with the director which were used in carrying out this article, and for any legal expenses and costs incurred in establishing the council.

(d) After approval by the Commercial Salmon Trollers Advisory Committee created pursuant to Section 7862 of the Fish and Game Code, the Department of Fish and Game may expend funds collected pursuant to Section 7861 of the Fish and Game Code, for payment to the Director of Food and Agriculture to pay necessary costs incurred in conducting the implementation referendum vote. If a majority of the commercial salmon vessel operators who voted at the implementation referendum voted in favor of implementing this article, as provided in Section 76952, the council shall reimburse the Commercial Salmon Stamp Account in the Fish and Game Preservation Fund all amounts received from that fund.

76954. Nonreceipt of a ballot shall not invalidate a referendum.

76955. (a) If the director finds that a favorable vote has been given, the director shall certify and give notice of the favorable vote to all commercial salmon vessel operators whose names and addresses may be on file with the director.

Section 76955 continued on next page.

(b) If the director finds that a favorable vote has not been given, the director shall so certify and declare all provisions of this chapter inoperative.

76957. (a) Between January 1, 1994, and February 28, 1994, and in the same period each five years thereafter, or pursuant to subdivision (b) of Section 76953, the director shall, by the public hearing procedure, and if appropriate, the review referendum procedure provided for in Sections 76958 and 76959, determine whether the council program provided for in this chapter shall continue in effect.

(b) If the director finds from evidence received at the hearing that a substantial question exists as to whether the council program is contrary to or does not effectuate the declared purposes or provisions of this chapter or receives in writing a referendum petition with the signatures of 25 percent or more of the number of commercial salmon vessel operators who made landings in the previous year, as evidenced by receipts prepared under Section 8043 of the Fish and Game Code, the council program shall be submitted to referendum as provided in Section 76958.

76958. If the director determines that a review referendum procedure is appropriate or, pursuant to subdivision (b) of Section 76953, required, the director shall establish a referendum period of not to exceed 30 days during which period ballots shall be submitted to every commercial salmon vessel operator on a statewide basis. If the director determines that the referendum period does not provide sufficient time for the balloting, the director may extend the referendum for an additional period not to exceed 30 days. The ballots shall provide a "yes" or "no" voting alternative to the following question:

"Shall the Salmon Council of California be continued for the next five fiscal years commencing April 1, following this referendum?"

76959. If the council program is submitted to a review referendum under Section 76958, the director shall find that commercial salmon vessel operators statewide have approved the council program if the director finds either of the following:

(1) Sixty-five percent or more of the total number of commercial salmon vessel operators, who voted in the review referendum and who harvested 51 percent or more of the total amount of salmon landed during the previous fiscal year by all commercial salmon vessel operators who voted in the review referendum, approve the program.

(2) Fifty-one percent or more of the total number of commercial salmon vessel operators, who voted in the review referendum and who harvested 65 percent or more of the total amount of salmon landed during the previous fiscal year by all commercial salmon vessel operators who voted in the review referendum, approve the program.

76960. This chapter shall be operative indefinitely, except as provided in this article.

76961. On the termination of the council pursuant to this article, the council shall remain in existence for the purpose of furnishing the director with a complete record of its outstanding financial obligations, accrued and to accrue. The director shall pay from the money deposited and disbursed any outstanding obligations and any obligations incurred by the director and the department under the terms and provisions of this section. Any money which remains shall be retained by the director to defray the expenses of formulation, issuance, administration, or enforcement of any subsequent program for salmon promotion. If no such program is undertaken within a period of three years from the date of termination of the council, that money shall be withdrawn from the approved depository and paid into the special account for enhancement and restoration programs established pursuant to Section 7861 of the Fish and Game Code.