

§ 7469. Investigations and power to subpoena**(a) In general**

The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subchapter; or

(2) to determine whether a person subject to this subchapter has engaged or is engaging in any act that constitutes a violation of this subchapter, or any order, rule, or regulation issued under this subchapter.

(b) Power to subpoena**(1) Investigations**

For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and may issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) Administrative hearings

For the purpose of an administrative hearing held under section 7467 or 7468 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of courts

In the case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) Contempt

Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) Process

Process in any such case may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) Hearing site

The site of any hearing held under section 7467 or 7468 of this title shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

(Pub. L. 104-127, title V, § 560, Apr. 4, 1996, 110 Stat. 1072.)

§ 7470. Referenda**(a) Initial referendum****(1) Referendum required**

During the 60-day period immediately preceding the proposed effective date of an order

issued under section 7463 of this title, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve the implementation of the order.

(2) Approval of order

The order shall become effective, as provided in section 7463 of this title, if the Secretary determines that—

(A) the order has been approved by a majority of the producers and importers voting in the referendum; and

(B) the producers and importers favoring approval produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) Subsequent referenda

The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 7463 of this title that is in effect at the time of the referendum.

(c) Required referenda

The Secretary shall hold a referendum under subsection (b)—

(1) at the end of the 6-year period beginning on the effective date of the order and at the end of each subsequent 6-year period;

(2) at the request of the Board; or

(3) if not less than 30 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting the referendum.

(d) Vote

On completion of a referendum under subsection (b), the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) the producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) Confidentiality

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this subchapter and the voting list shall be held strictly confidential and shall not be disclosed.

(Pub. L. 104-127, title V, § 561, Apr. 4, 1996, 110 Stat. 1073.)

§ 7471. Suspension or termination**(a) In general**

If the Secretary finds that an order issued under section 7463 of this title, or a provision of the order, obstructs or does not tend to effectuate the purposes of this subchapter, the Secretary shall suspend or terminate the operation of the order or provision.

(b) Limitation

The suspension or termination of any order, or any provision of an order, shall not be considered an order under this subchapter.

(Pub. L. 104-127, title V, §562, Apr. 4, 1996, 110 Stat. 1074.)

§ 7472. Regulations

The Secretary may issue such regulations as are necessary to carry out this subchapter.

(Pub. L. 104-127, title V, §563, Apr. 4, 1996, 110 Stat. 1074.)

§ 7473. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subchapter.

(Pub. L. 104-127, title V, §564, Apr. 4, 1996, 110 Stat. 1074.)

SUBCHAPTER V—POPCORN

§ 7481. Findings and declaration of policy**(a) Findings**

Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) Policy

It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subchapter, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) Purposes

The purposes of this subchapter are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) Statutory construction

This subchapter treats processors equitably. Nothing in this subchapter—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

(Pub. L. 104-127, title V, §572, Apr. 4, 1996, 110 Stat. 1074.)

§ 7482. Definitions

In this subchapter (unless the context otherwise requires):

(1) Board

The term “Board” means the Popcorn Board established under section 7484(b) of this title.

(2) Commerce

The term “commerce” means interstate, foreign, or intrastate commerce.

(3) Consumer information

The term “consumer information” means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) Department

The term “Department” means the Department of Agriculture.

(5) Industry information

The term “industry information” means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) Marketing

The term “marketing” means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.