

review under the procedures specified in subsections (c) and (d), of not more than \$5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

**(f) Failure to pay penalties**

If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

**(g) Additional remedies**

The remedies provided in this subchapter shall be in addition to, and not exclusive of, other remedies that may be available.

(Pub. L. 104-127, title V, §539, Apr. 4, 1996, 110 Stat. 1061.)

**§ 7449. Investigations and power to subpoena**

**(a) Investigations**

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

- (1) for the effective administration of this subchapter; and
- (2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subchapter, or an order, rule, or regulation issued under this subchapter.

**(b) Subpoenas, oaths, and affirmations**

**(1) In general**

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

**(2) Administrative hearings**

For the purpose of an administrative hearing held under section 7447 or 7448 of this title, the presiding officer is authorized to administer oaths and affirmations, subpoena and 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 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 issued 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, in order to enforce a subpoena issued by the Sec-

retary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

**(d) Contempt**

A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

**(e) Process**

Process may be served on a person 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 a hearing held under section 7447 or 7448 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, §540, Apr. 4, 1996, 110 Stat. 1062.)

**§ 7450. Suspension or termination**

The Secretary shall, whenever the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the declared policy of this subchapter, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subchapter.

(Pub. L. 104-127, title V, §541, Apr. 4, 1996, 110 Stat. 1063.)

**§ 7451. Regulations**

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

(Pub. L. 104-127, title V, §542, Apr. 4, 1996, 110 Stat. 1063.)

**§ 7452. Authorization of appropriations**

**(a) In general**

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

**(b) Administrative expenses**

Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subchapter.

(Pub. L. 104-127, title V, §543, Apr. 4, 1996, 110 Stat. 1063.)

SUBCHAPTER IV—KIWIFRUIT

**§ 7461. Findings and purposes**

**(a) Findings**

Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in

channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of the markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

#### (b) Purposes

The purposes of this subchapter are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use the program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

(Pub. L. 104-127, title V, §552, Apr. 4, 1996, 110 Stat. 1064.)

### § 7462. Definitions

In this subchapter (unless the context otherwise requires):

#### (1) Board

The term “Board” means the National Kiwifruit Board established under section 7464 of this title.

#### (2) Consumer information

The term “consumer information” means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

#### (3) Exporter

The term “exporter” means any person from outside the United States who exports kiwifruit into the United States.

#### (4) Handler

The term “handler” means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

#### (5) Importer

The term “importer” means any person who imports kiwifruit into the United States.

#### (6) Kiwifruit

The term “kiwifruit” means all varieties of fresh kiwifruit grown in or imported into the United States.

#### (7) Marketing

The term “marketing” means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution, or otherwise placing kiwifruit into commerce.

#### (8) Order

The term “order” means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 7463 of this title.

#### (9) Person

The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

#### (10) Processing

The term “processing” means canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any manner changing the form of kiwifruit for the purpose of preparing the kiwifruit for market or marketing the kiwifruit.

#### (11) Producer

The term “producer” means any person who grows kiwifruit in the United States for sale in commerce.

#### (12) Promotion

The term “promotion” means any action taken under this subchapter (including paid advertising) to present a favorable image of kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

#### (13) Research

The term “research” means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

#### (14) Secretary

The term “Secretary” means the Secretary of Agriculture.

#### (15) United States

The term “United States” means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 104-127, title V, §553, Apr. 4, 1996, 110 Stat. 1064.)

### § 7463. Issuance of orders

#### (a) Issuance

To effectuate the purposes of this subchapter specified in section 7461(b) of this title, the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than 1 order shall be in effect under this subchapter at any 1 time.

#### (b) Procedure

##### (1) Proposal for issuance of order

Any person that will be affected by this subchapter may request the issuance of, and sub-