

§ 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 domesti-

cally), 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.

(7) Order

The term “order” means an order issued under section 7483 of this title.

(8) Person

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

(9) Popcorn

The term “popcorn” means unpopped popcorn (*Zea Mays L*) that is—

- (A) commercially grown;
- (B) processed in the United States by shelling, cleaning, or drying; and
- (C) introduced into a channel of commerce.

(10) Process

The term “process” means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) Processor

The term “processor” means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) Promotion

The term “promotion” means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) Research

The term “research” means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) Secretary

The term “Secretary” means the Secretary of Agriculture.

(15) State

The term “State” means each of the 50 States and the District of Columbia.

(16) United States

The term “United States” means all of the States.

(Pub. L. 104-127, title V, §573, Apr. 4, 1996, 110 Stat. 1075.)

§ 7483. Issuance of orders

(a) In general

To effectuate the policy described in section 7481(b) of this title, the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subchapter at any 1 time.

(b) Procedure

(1) Proposal or request for issuance

The Secretary may propose the issuance of an order, or an association of processors or