

not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

(Aug. 23, 1935, ch. 623, § 1, 49 Stat. 731.)

§ 511a. Declaration of purpose

Transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; the classification of tobacco according to type, grade, and other characteristics affect the prices received therefor by producers; without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

(Aug. 23, 1935, ch. 623, § 2, 49 Stat. 731.)

§ 511b. Official standards for classification; tentative standards; modification

The Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this chapter whenever, in his judgment, such action is advisable.

(Aug. 23, 1935, ch. 623, § 3, 49 Stat. 732.)

§ 511c. Demonstration of official standards; samples; cost

The Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefor: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered.

(Aug. 23, 1935, ch. 623, § 4, 49 Stat. 732.)

§ 511d. Designation of markets; manner; inspection and related services; fees and charges

The Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this chapter, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. The Secretary shall by regulation fix and collect fees and charges for inspection and certification, the establishment of standards, and other services under this section at designated auction markets. The fees and charges authorized by this section shall, as nearly as practicable, cover the costs of the services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The fees and charges, late payment penalties, and interest earned from the investment of such funds, when collected, shall be credited to the

current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under this chapter. Any funds realized from the collection of fees or charges authorized under this section and section 511e of this title and credited to the current appropriation account incurring the cost of services provided under this section and section 511e of this title, late payment penalties, and interest earned from the investment of such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this chapter or reinvested in the manner authorized in the preceding sentence. The fees and charges authorized in this section shall be assessed against the warehouse operator, irrespective of ownership or interest in the tobacco, and shall be collected by the warehouse operator from the sellers of the tobacco. The inspection and related services under this section shall be suspended or denied if the warehouse operator fails to collect or otherwise pay the fees and charges imposed under this section. Tobacco inspection or certification services provided to designated auction markets shall take precedence over such services, other than reinspection, requested under the authority contained in section 511e of this title or any other provision of law. In accordance with the Federal Advisory Committee Act, the Secretary shall establish a national advisory committee of tobacco producers, and advisory subcommittees for each major kind of tobacco, to advise the Secretary with regard to the level of inspection and related services and the fees and charges therefor. The advisory committee and subcommittees established under this section shall be of permanent duration. The committees shall meet at the call of the Secretary. (Aug. 23, 1935, ch. 623, § 5, 49 Stat. 732; Pub. L. 97-35, title I, § 157(a)(1), Aug. 13, 1981, 95 Stat. 374; Pub. L. 99-272, title I, § 1111, Apr. 7, 1986, 100 Stat. 99.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1986—Pub. L. 99-272 inserted “late payment penalties, and interest earned from the investment of such funds,” in ninth sentence, substituted “The fees and charges authorized in this section shall be assessed” for “Such fees and charges shall be assessed”, and inserted provision relating to the investment of any funds realized from collection of fees or charges in insured or fully collateralized, interest-bearing accounts or in United States Government debt instruments, the income therefrom to be used to pay expenses incident to providing services under this chapter or reinvested.

1981—Pub. L. 97-35 substituted provisions requiring the Secretary to fix and collect fees and charges for inspection, certification, establishment of standards, and other services at designated auction markets, for provisions prohibiting imposition or collection of fees or charges for inspection or certification at markets.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title I, § 157(b), Aug. 13, 1981, 95 Stat. 375, provided that: “The provisions of this section [amending this section and section 511e of this title] shall become effective October 1, 1981.”

ABOLITION OF OFFICES AND TRANSFER OF FUNCTIONS

Offices of Internal Revenue Collector and Deputy Collector abolished by 1952 Reorg. Plan No. 1, § 1, eff. Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823, set out in the Appendix to Title 5, Government Organization and Employees, and by section 2 thereof a new office of district commissioner of internal revenue established. Section 4 of the Plan transferred all functions, that had been vested by statute in any officer or employee of Bureau of Internal Revenue since effective date of 1950 Reorg. Plan No. 26, §§ 1, 2, 15 F.R. 4935, 64 Stat. 1280, 1281, to Secretary of the Treasury.

§ 511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose

The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary shall fix and collect such fees or charges in the administration of this section as will cover, as nearly as practicable, the costs of the services provided, including administrative and supervisory costs. Such fees and charges shall be credited to the account referred to in section 511d of this title. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weigh or sample tobacco under this chapter, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this chapter from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise.

(Aug. 23, 1935, ch. 623, § 6, 49 Stat. 732; Pub. L. 97-35, title I, § 157(a)(2), Aug. 13, 1981, 95 Stat. 375.)

AMENDMENTS

1981—Pub. L. 97-35 substituted provisions requiring the Secretary to fix and collect fees and charges to cover cost of services, for provisions authorizing the Secretary to fix and collect fees and charges as he deems reasonable and provisions respecting fees or charges collected under an agreement with a State, etc.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 157(b) of Pub. L. 97-35, set out as a note under section 511d of this title.