

erendum, 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 accord-

ance 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.

#### § 511f. Reinspection and appeal inspection; certificate as evidence

The Secretary shall provide for such reinspection or appeal inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this chapter. Each inspection certificate issued under this chapter, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained.

(Aug. 23, 1935, ch. 623, § 7, 49 Stat. 733.)

#### § 511g. Placing of grade on warehouse tickets, etc.; form

Warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this chapter. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary.

(Aug. 23, 1935, ch. 623, § 8, 49 Stat. 733.)

#### § 511h. Publication of information relating to tobacco

The Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or other-

wise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco.

(Aug. 23, 1935, ch. 623, § 9, 49 Stat. 733.)

#### § 511i. Offenses

It shall be unlawful—

(a) For any person to use the words “United States”, “Government”, or “Federal”, or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this chapter.

(c) For any person, not an authorized inspector under this chapter, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefor which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this chapter, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this chapter: *Provided, however,* That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this chapter, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this chapter; or knowingly to have made any false representation concerning tobacco in-