

importer resides or has its principal place of business at any time following exhaustion of the administrative remedies available under subsection (i).

(2) Time limits

Administrative remedies shall be deemed exhausted if no decision by the Secretary is made within the time limits established under subsection (i)(4).

(3) Excessive assessments

The court shall restrain collection of the excessive portion of any assessment or order a refund of excessive assessments already paid, along with interest calculated at the rate prescribed in section 3717 of title 31, if it finds that the Secretary's determination is not supported by a preponderance of the information available to the Secretary.

(k) Termination date

The authority provided by this section to impose assessments terminates on September 30, 2014.

(Pub. L. 108-357, title VI, §625, Oct. 22, 2004, 118 Stat. 1529.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(2)(B), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

EFFECTIVE DATE

Section applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as a note under section 518 of this title.

§ 518e. Tobacco Trust Fund

(a) Establishment

There is established in the Commodity Credit Corporation a revolving trust fund, to be known as the "Tobacco Trust Fund", which shall be used in carrying out this subchapter. The Tobacco Trust Fund shall consist of the following:

(1) Assessments collected under section 518d of this title.

(2) Such amounts as are necessary from the Commodity Credit Corporation.

(3) Any interest earned on investment of amounts in the Tobacco Trust Fund under subsection (c).

(b) Expenditures

(1) Authorized expenditures

Subject to paragraph (2), and notwithstanding any other provision of law, the Secretary shall use amounts in the Tobacco Trust Fund, in such amounts as the Secretary determines are necessary—

(A) to make payments under sections 518a and 518b of this title;

(B) to provide reimbursement under section 519(c) of this title;

(C) to reimburse the Commodity Credit Corporation for costs incurred by the Commodity Credit Corporation under paragraph (2); and

(D) to make payments to financial institutions to satisfy contractual obligations under section 518a or 518b of this title.

(2) Expenditures by Commodity Credit Corporation

Notwithstanding any other provision of law, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to make payments described in paragraph (1). Not later than January 1, 2015, the Secretary shall use amounts in the Tobacco Trust Fund to fully reimburse, with interest, the Commodity Credit Corporation for all funds of the Commodity Credit Corporation expended under the authority of this paragraph. Administrative costs incurred by the Secretary or the Commodity Credit Corporation to carry out this title¹ may not be paid using amounts in the Tobacco Trust Fund.

(c) Investment of amounts

(1) In general

The Commodity Credit Corporation shall invest such portion of the amounts in the Tobacco Trust Fund as are not, in the judgment of the Commodity Credit Corporation, required to meet current expenditures.

(2) Interest-bearing obligations

Investments may be made only in interest-bearing obligations of the United States.

(3) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) Sale of obligations

Any obligation acquired by the Tobacco Trust Fund may be sold by the Commodity Credit Corporation at the market price.

(5) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Tobacco Trust Fund shall be credited to and form a part of the Fund.

(Pub. L. 108-357, title VI, §626, Oct. 22, 2004, 118 Stat. 1533.)

REFERENCES IN TEXT

This title, referred to in subsec. (b)(2), means title VI of Pub. L. 108-357, which enacted this chapter, amended sections 609, 1282, 1301, 1303, 1314h, 1361, 1371, 1373, 1375, 1378, 1379, 1428, 1433c-1, and 1441 of this title and section 714c of Title 15, Commerce and Trade, repealed sections 511r, 515 to 515k, 625, 1311 to 1314, 1314-1, 1314b, 1314b-1, 1314b-2, 1314c to 1314j, 1315, 1316, 1445, 1445-1, and 1445-2 of this title, enacted provisions set out as notes under sections 515 and 518 of this title, and repealed provisions set out as a note under section 1314c of this title. For complete classification of title VI to the Code, see Short Title note set out under section 518 of this title and Tables.

EFFECTIVE DATE

Section applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as a note under section 518 of this title.

§ 518f. Limitation on total expenditures

The total amount expended by the Secretary from the Tobacco Trust Fund to make payments

¹ See References in Text note below.

under sections 518a and 518b of this title and for the other authorized purposes of the Fund shall not exceed \$10,140,000,000.

(Pub. L. 108-357, title VI, §627, Oct. 22, 2004, 118 Stat. 1534.)

EFFECTIVE DATE

Section applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as a note under section 518 of this title.

SUBCHAPTER II—IMPLEMENTATION AND TRANSITION

§ 519. Treatment of tobacco loan pool stocks and outstanding loan costs

(a) Disposal of stocks

To provide for the orderly disposition of quota tobacco held by an association that has entered into a loan agreement with the Commodity Credit Corporation under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) (referred to in this section as an “association”), loan pool stocks for each kind of tobacco held by the association shall be disposed of in accordance with this section.

(b) Disposal by associations

For each kind of tobacco held by an association, the association shall be responsible for the disposal of a specific quantity of the loan pool stocks for that kind of tobacco held by the association. The quantity transferred to the association for disposal shall be equal to the quantity determined by dividing—

- (1) the amount of funds held by the association in the No Net Cost Tobacco Fund and the No Net Cost Tobacco Account established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) for the kind of tobacco; by
- (2) the average list price per pound for the kind of tobacco, as determined by the Secretary.

(c) Disposal of remainder by Commodity Credit Corporation

(1) Disposal

Any loan pool stocks of a kind of tobacco of an association that are not transferred to the association under subsection (b) for disposal shall be disposed of by Commodity Credit Corporation in a manner determined by the Secretary.

(2) Reimbursement

As required by section 518e(b)(1)(B) of this title, the Secretary shall transfer from the Tobacco Trust Fund to the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an association established under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) such amounts as the Secretary determines will be adequate to reimburse the Commodity Credit Corporation for any net losses that the Corporation may sustain under its loan agreements with the association.

(d) Transfer of remaining no net cost funds

Any funds in the No Net Cost Tobacco Fund or the No Net Cost Tobacco Account of an associa-

tion established under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) that remain after the application of subsections (b) and (c) shall be transferred to the association for distribution to producers of quota tobacco in accordance with a plan approved by the Secretary.

(Pub. L. 108-357, title VI, §641, Oct. 22, 2004, 118 Stat. 1534.)

REFERENCES IN TEXT

Sections 106A and 106B of the Agricultural Act of 1949, referred to in text, were classified to sections 1445-1 and 1445-2, respectively, of this title prior to repeal by Pub. L. 108-357, title VI, §612(a), Oct. 22, 2004, 118 Stat. 1523.

EFFECTIVE DATE

Section applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as a note under section 518 of this title.

§ 519a. Regulations

(a) In general

The Secretary may promulgate such regulations as are necessary to implement this title¹ and the amendments made by this title.¹

(b) Procedure

The promulgation of the regulations and administration of this title¹ and the amendments made by this title¹ shall be made without regard to—

- (1) the notice and comment provisions of section 553 of title 5;
- (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and
- (3) chapter 35 of title 44 (commonly known as the “Paperwork Reduction Act”).

(c) Congressional review of agency rulemaking

In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5.

(Pub. L. 108-357, title VI, §642, Oct. 22, 2004, 118 Stat. 1535.)

REFERENCES IN TEXT

This title, referred to in subssecs. (a) and (b), means title VI of Pub. L. 108-357, which enacted this chapter, amended sections 609, 1282, 1301, 1303, 1314h, 1361, 1371, 1373, 1375, 1378, 1379, 1428, 1433c-1, and 1441 of this title and section 714c of Title 15, Commerce and Trade, repealed sections 511r, 515 to 515k, 625, 1311 to 1314, 1314-1, 1314b, 1314b-1, 1314b-2, 1314c to 1314j, 1315, 1316, 1445, 1445-1, and 1445-2 of this title, enacted provisions set out as notes under sections 515 and 518 of this title, and repealed provisions set out as a note under section 1314c of this title. For complete classification of title VI to the Code, see Short Title note set out under section 518 of this title and Tables.

EFFECTIVE DATE

Section applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as a note under section 518 of this title.

¹ See References in Text note below.