

7 U.S. Code § 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 chapter 10 of title 5, 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.

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