CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section 11005 of Pub. L. 110–246, which directed amendment of title II of the Packers and Stockyards Act, 1921, by adding sections 208 to 210 at the end, was executed by adding the sections at the end of this part, which is subtitle A of title II of the Act, to reflect the probable intent of Congress.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

§ 197c. Arbitration

(a) In general

Any livestock or poultry contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a producer or grower, prior to entering the contract[1] to decline to be bound by the arbitration provision.

(b) Disclosure

Any livestock or poultry contract that contains a provision requiring the use of arbitration shall contain terms that conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract.

(c) Dispute resolution

Any contract producer or grower that declines a requirement of arbitration pursuant to subsection (b) has the right,[2] to nonetheless seek to resolve any controversy that may arise under the livestock or poultry contract, if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

(d) Application

Subsections (a)[1] (b) and (c) shall apply to any contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of the Food, Conservation, and Energy Act of 2008.

(e) Unlawful practice

Any action by or on behalf of a packer, swine contractor, or live poultry dealer that violates this section (including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice described in subsection (b)) is an unlawful practice under this chapter.

(f) Regulations

The Secretary shall promulgate regulations to—

(1) carry out this section; and

(2) establish criteria that the Secretary will consider in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process.

(Aug. 15, 1921, ch. 64, title II, § 210, as added Pub. L. 110–234, title XI, § 11005, May 22, 2008, 122 Stat. 1357, and Pub. L. 110–246, § 4(a), title XI, § 11005, June 18, 2008, 122 Stat. 1664, 2119.)

REFERENCES IN TEXT

The date of the enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (d), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section 11005 of Pub. L. 110–246, which directed amendment of title II of the Packers and Stockyards Act, 1921, by adding sections 208 to 210 at the end, was executed by adding the sections at the end of this part, which is subtitle A of title II of the Act, to reflect the probable intent of Congress.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

PART B—SWINE PACKER MARKETING CONTRACTS

TERMINATION OF PART

For termination of part by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 198. Definitions

Except as provided in section 198b(a) of this title, in this part:

(1) Market

The term ''market'' means the sale or disposition of swine, pork, or pork products in commerce.

(2) Packer

The term ''packer'' has the meaning given the term in section 1635i of this title.

(3) Pork

The term ''pork'' means the meat of a porcine animal.

(4) Pork product

The term ''pork product'' means a product or byproduct produced or processed in whole or in part from pork.

(5) State

The term ''State'' means each of the 50 States.

(6) Swine

The term ''swine'' means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

(7) Type of contract

The term ''type of contract'' means the classification of contracts or risk management agreements for the purchase of swine by—

(A) the mechanism used to determine the base price for swine committed to a packer,

[1] So in original. A comma probably should appear.

[2] So in original. The comma probably should not appear.

grouped into practicable classifications by the Secretary (including swine or pork market formula purchases, other market formula purchases, and other purchase arrangements); and

(B) the presence or absence of an accrual account or ledger that must be repaid by the producer or packer that receives the benefit of the contract pricing mechanism in relation to negotiated prices.

(8) Other terms

Except as provided in this part, a term has the meaning given the term in section 1635a or 1635i of this title.

(Aug. 15, 1921, ch. 64, title II, § 221, as added Pub. L. 106–78, title IX, § 934(2), Oct. 22, 1999, 113 Stat. 1208.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

TERMINATION DATE

Part to terminate Sept. 30, 2010, see section 942 of Pub. L. 106–78, as amended, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

§ 198a. Swine packer marketing contracts offered to producers

(a) In general

Subject to the availability of appropriations to carry out this section, the Secretary shall establish and maintain a library or catalog of each type of contract offered by packers to swine producers for the purchase of all or part of the producers' production of swine (including swine that are purchased or committed for delivery), including all available noncarcass merit premiums.

(b) Availability

The Secretary shall make available to swine producers and other interested persons information on the types of contracts described in subsection (a) of this section, including notice (on a real-time basis if practicable) of the types of contracts that are being offered by each individual packer to, and are open to acceptance by, producers for the purchase of swine.

(c) Confidentiality

The reporting requirements under subsections (a) and (b) of this section shall be subject to the confidentiality protections provided under section 1636 of this title.

(d) Information collection

(1) In general

The Secretary shall—

(A) obtain (by a filing or other procedure required of each individual packer) information indicating what types of contracts for the purchase of swine are available from each packer; and

(B) make the information available in a monthly report to swine producers and other interested persons.

(2) Contracted swine numbers

Each packer shall provide, and the Secretary shall collect and publish in the monthly report required under paragraph (1)(B), information specifying—

(A) the types of existing contracts for each packer;

(B) the provisions contained in each contract that provide for expansion in the numbers of swine to be delivered under the contract for the following 6-month and 12-month periods;

(C) an estimate of the total number of swine committed by contract for delivery to all packers within the 6-month and 12-month periods following the date of the report, reported by reporting region and by type of contract; and

(D) an estimate of the maximum total number of swine that potentially could be delivered within the 6-month and 12-month periods following the date of the report under the provisions described in subparagraph (B) that are included in existing contracts, reported by reporting region and by type of contract.

(e) Violations

It shall be unlawful and a violation of this subchapter for any packer to willfully fail or refuse to provide to the Secretary accurate information required under, or to willfully fail or refuse to comply with any requirement of, this section.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as necessary to carry out this section.

(Aug. 15, 1921, ch. 64, title II, § 222, as added Pub. L. 106–78, title IX, § 934(2), Oct. 22, 1999, 113 Stat. 1208.)

TERMINATION OF SECTION

For termination of section by section 942 of Pub. L. 106–78, see Livestock Mandatory Reporting note set out under section 1635 of this title.

§ 198b. Report on the Secretary's jurisdiction, power, duties, and authorities

(a) Definition of packer

In this section, the term ''packer'' has the meaning given the term in section 191 of this title.

(b) Report

Not later than 90 days after October 22, 1999, the Comptroller General of the United States shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the jurisdiction, powers, duties, and authorities of the Secretary that relate to packers and other persons involved in procuring, slaughtering, or processing swine, pork, or pork products that are covered by this Act and other laws, including—

(1) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), especially sections 6, 8, 9, and 10 of that Act (15 U.S.C. 46, 48, 49, and 50); and

(2) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(c) Contents

The Comptroller General shall include in the report an analysis of—