have average annual sales of live poultry, or average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of $100,000.

(c) Effect of dishonored instruments

Payment shall not be considered to have been made if the cash seller or poultry grower receives a payment instrument which is dishonored.

(d) Preservation of trust benefit by seller or poultry grower

The unpaid cash seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within 30 days of the final date for making payment under section 228b–1 of this title, or within 15 business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the live poultry dealer and by filing such notice with the Secretary.

(e) Definition of cash sale

For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

(Aug. 15, 1921, ch. 64, title II, § 207, as added Pub. L. 100–173, § 4, Nov. 23, 1987, 101 Stat. 918.)

EFFECTIVE DATE

Section effective 90 days after Nov. 23, 1987, see section 12 of Pub. L. 100–173, set out as an Effective Date of 1987 Amendment note under section 182 of this title.

§ 197a. Production contracts

(a) Right of contract producers to cancel production contracts

(1) In general

A poultry grower or swine production contract grower may cancel a poultry growing arrangement or swine production contract by mailing a cancellation notice to the live poultry dealer or swine contractor not later than the later of—

(A) the date that is 3 business days after the date on which the poultry growing arrangement or swine production contract is executed; or

(B) any cancellation date specified in the poultry growing arrangement or swine production contract.

(2) Disclosure

A poultry growing arrangement or swine production contract shall clearly disclose—

(A) the right of the poultry grower or swine production contract grower to cancel the poultry growing arrangement or swine production contract;

(B) the method by which the poultry grower or swine production contract grower may cancel the poultry growing arrangement or swine production contract; and

(C) the deadline for canceling the poultry growing arrangement or swine production contract.

(b) Required disclosure of additional capital investments in production contracts

(1) In general

A poultry growing arrangement or swine production contract shall contain on the first page a statement identified as ''Additional Capital Investments Disclosure Statement'', which shall conspicuously state that additional large capital investments may be required of the poultry grower or swine production contract grower during the term of the poultry growing arrangement or swine production contract.

(2) Application

Paragraph (1) shall apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this section.

(Aug. 15, 1921, ch. 64, title II, § 208, as added Pub. L. 110–234, title XI, § 11005, May 22, 2008, 122 Stat. 1356, and Pub. L. 110–246, § 4(a), title XI, § 11005, June 18, 2008, 122 Stat. 1664, 2118.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b)(2), 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.

§ 197b. Choice of law and venue

(a) Location of forum

The forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract that arises out of the arrangement or contract shall be located in the Federal judicial district in which the principle part of the performance takes place under the arrangement or contract.

(b) Choice of law

A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal part of the performance takes place under the arrangement or contract.

(Aug. 15, 1921, ch. 64, title II, § 209, 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.)

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.