1996—Subsec. (a). Pub. L. 104–127 substituted ''1997'' for ''1995''.

1990—Subsec. (a). Pub. L. 101–624, § 1601(e)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''There is authorized to be appropriated to the Secretary of Agriculture $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, $5,000,000 for the fiscal year ending September 30, 1984, $5,500,000 for the fiscal year ending September 30, 1985, $6,500,000 for the fiscal year ending September 30, 1986, $7,500,000 for the fiscal year ending September 30, 1987, and $8,000,000 for the fiscal year ending September 30, 1988, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.''

Subsec. (b). Pub. L. 101–624, § 1601(e)(2)–(4), redesignated subsec. (c) as (b) and substituted ''subsection (a)'' for ''subsections (a) and (b)'', and struck out former subsec. (b) which read as follows: ''There is authorized to be appropriated to the Secretary of Commerce $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, $2,500,000 for the fiscal year ending September 30, 1984, $3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $4,500,000 for the fiscal year ending September 30, 1988, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.''

Subsecs. (c) to (e). Pub. L. 101–624, § 1601(e)(4), redesignated subsecs. (c) to (e) as (b) to (d), respectively.

1984—Subsec. (a). Pub. L. 98–284, § 15(a), inserted ''$5,000,000 for the fiscal year ending September 30, 1984, $5,500,000 for the fiscal year ending September 30, 1985, $6,500,000 for the fiscal year ending September 30, 1986, $7,500,000 for the fiscal year ending September 30, 1987, and $8,000,000 for the fiscal year ending September 30, 1988,'' and struck out ''and'' after ''1981,''.

Subsec. (b). Pub. L. 98–284, § 15(b), inserted ''$2,500,000 for the fiscal year ending September 30, 1984, $3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $4,500,000 for the fiscal year ending September 30, 1988,'' and struck out ''and'' after ''1981,''.

Subsec. (e). Pub. L. 98–284, § 15(c), added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment 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 an Effective Date note under section 8701 of this title.

CHAPTER 9—PACKERS AND STOCKYARDS

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231. Omitted.

TRANSFER OF FUNCTIONS

Functions of Bureau of Animal Industry transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952. See note set out under section 391 of this title.

By order of Secretary of Agriculture, Packers and Stockyards Administration abolished on July 1, 1927, and enforcement of Packers and Stockyards Act of 1921, which is classified to this chapter, was put under control of chief of Bureau of Animal Industry.

SUBCHAPTER I—GENERAL DEFINITIONS

§ 181. Short title

This chapter may be cited as the ''Packers and Stockyards Act, 1921.''

(Aug. 15, 1921, ch. 64, title I, § 1, 42 Stat. 159.)

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–173, § 1, Nov. 23, 1987, 101 Stat. 917, provided that: ''This Act [enacting sections 197 and 228b–1 to 228b–4 of this title, amending sections 182, 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 182 and 227 of this title] may be cited as the 'Poultry Producers Financial Protection Act of 1987'.''

IMPROVED INVESTIGATIVE AND ENFORCEMENT ACTIVITIES UNDER THIS CHAPTER

Pub. L. 106–472, title III, § 312(a)-(d), Nov. 9, 2000, 114 Stat. 2076, 2077, provided that:

''(a) IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE [NOW GOVERNMENT ACCOUNTABILITY OFFICE] RECOMMENDATIONS.—Not later than 1 year after the date of the enactment of this Act [Nov. 9, 2000], the Secretary of Agriculture shall implement the recommendations contained in the report issued by the General Accounting Office [now Government Accountability Office] entitled 'Packers and Stockyards Programs: Actions Needed to Improve Investigations of Competitive Practices', GAO/RCED–00–242, dated September 21, 2000.

''(b) CONSULTATION.—During the implementation period referred to in subsection (a), and for such an additional time period as needed to assure effective implementation of the recommendations contained in the report referred to in such subsection, the Secretary of Agriculture shall consult and work with the Department of Justice and the Federal Trade Commission in order to—

''(1) implement the recommendations in the report regarding investigation management, operations, and case methods development processes; and

''(2) effectively identify and investigate complaints of unfair and anti-competitive practices in violation of the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), and enforce the Act.

''(c) TRAINING.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall develop and implement a training program for staff of the Department of Agriculture engaged in the investigation of complaints of unfair and anti-competitive activity in violation of the Packers and Stockyards Act, 1921. In developing the training program, the Secretary of Agriculture shall draw on existing training materials and programs available at the Department of Justice and the Federal Trade Commission, to the extent practicable.

''(d) IMPLEMENTATION REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report describing the actions taken to comply with this section.''

§ 182. Definitions

When used in this chapter—

(1) The term ''person'' includes individuals, partnerships, corporations, and associations;

(2) The term ''Secretary'' means the Secretary of Agriculture;

(3) The term ''meat food products'' means all products and byproducts of the slaughtering and meat-packing industry—if edible;

(4) The term ''livestock'' means cattle, sheep, swine, horses, mules, or goats—whether live or dead;

(5) The term ''livestock products'' means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from livestock;

(6) The term ''poultry'' means chickens, turkeys, ducks, geese, and other domestic fowl;

(7) The term ''poultry product'' means any product or byproduct of the business of slaughtering poultry and processing poultry after slaughter;

(8) The term ''poultry grower'' means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by such person or by another, but not an employee of the owner of such poultry;

(9) The term ''poultry growing arrangement'' means any growout contract, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another's instructions, for slaughter;

(10) The term ''live poultry dealer'' means any person engaged in the business of obtaining live poultry by purchase or under a poultry growing arrangement for the purpose of either slaughtering it or selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and

(11) The term ''commerce'' means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(12) SWINE CONTRACTOR.—The term ''swine contractor'' means any person engaged in the business of obtaining swine under a swine production contract for the purpose of slaughtering the swine or selling the swine for slaughter, if—

(A) the swine is obtained by the person in commerce; or

(B) the swine (including products from the swine) obtained by the person is sold or shipped in commerce.

(13) SWINE PRODUCTION CONTRACT.—The term ''swine production contract'' means any

growout contract or other arrangement under which a swine production contract grower raises and cares for the swine in accordance with the instructions of another person.

(14) SWINE PRODUCTION CONTRACT GROWER.—The term ''swine production contract grower'' means any person engaged in the business of raising and caring for swine in accordance with the instructions of another person.

(Aug. 15, 1921, ch. 64, title I, § 2(a), 42 Stat. 159; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 100–173, § 2, Nov. 23, 1987, 101 Stat. 917; Pub. L. 107–171, title X, § 10502(a), May 13, 2002, 116 Stat. 509.)

CODIFICATION

Section is composed of subsec. (a) of section 2 of act Aug. 15, 1921. Subsec. (b) of section 2 is classified to section 183 of this title.

AMENDMENTS

2002—Pars. (12) to (14). Pub. L. 107–171 added pars. (12) to (14).

1987—Pars. (6) to (11). Pub. L. 100–173 added pars. (6) to (10) and redesignated former par. (6) as (11).

1976—Pars. (4), (5). Pub. L. 94–410 substituted ''livestock'' for ''live stock'' in par. (4) and for ''live-stock'' in par. (5).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 12 of Pub. L. 100–173 provided that: ''This Act and the amendments made by this Act [enacting sections 197 and 228b–1 to 228b–4 of this title, amending this section and sections 192, 209, 221, 223, 227, and 228a of this title, repealing sections 218 to 218d of this title, and enacting provisions set out as notes under sections 181 and 227 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov. 23, 1987].''

SAVINGS PROVISION

Section 10 of Pub. L. 94–410 provided that: ''Pending proceedings shall not be abated by reason of any provision of this Act [enacting sections 196 and 228a to 228c of this title and amending this section and sections 183, 191–193, 201, 204, 207, 209, 210, 212, 213, 228, and 229 of this title], but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended [this chapter], and the Act of July 12, 1943 [section 204 of this title], in effect immediately prior to the effective date of this Act [Sept. 13, 1976].''

§ 183. When transaction deemed in commerce; "State" defined

For the purpose of this chapter (but not in anywise limiting the definition in section 182 of this title) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the purpose of this section the word ''State'' includes Territory, the District of Columbia, possession of the United States, and foreign nation.

(Aug. 15, 1921, ch. 64, title I, § 2(b), 42 Stat. 160; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

CODIFICATION

Section is composed of subsec. (b) of section 2 of act Aug. 15, 1921. Subsec. (a) of section 2 is classified to section 182 of this title.

AMENDMENTS

1976—Pub. L. 94–410 substituted ''livestock'' for ''live stock'' and ''live-stock'' wherever appearing.

SUBCHAPTER II—PACKERS GENERALLY

PART A—GENERAL PROVISIONS

§ 191. "Packer" defined

When used in this chapter the term ''packer'' means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

(Aug. 15, 1921, ch. 64, title II, § 201, 42 Stat. 160; Pub. L. 94–410, § 2, Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94–410 substituted definition of ''packer'' for former definition which included provisions dealing with direct or indirect control of specified businesses through stock ownership or otherwise.

§ 192. Unlawful practices enumerated

It shall be unlawful for any packer or swine contractor with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or

(b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect; or

(c) Sell or otherwise transfer to or for any other packer, swine contractor, or any live poultry dealer, or buy or otherwise receive from or for any other packer, swine contractor, or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipu-

lating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales of any article, or (3) to manipulate or control prices; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivisions (a), (b), (c), (d), or (e) of this section.

(Aug. 15, 1921, ch. 64, title II, § 202, 42 Stat. 161; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Pub. L. 85–909, § 1(1), Sept. 2, 1958, 72 Stat. 1749; Pub. L. 94–410, § 3(a), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 100–173, § 3, Nov. 23, 1987, 101 Stat. 917; Pub. L. 102–237, title X, § 1008(1), Dec. 13, 1991, 105 Stat. 1898; Pub. L. 106–78, title IX, § 912, Oct. 22, 1999, 113 Stat. 1205; Pub. L. 107–171, title X, § 10502(b)(1), (2)(A), May 13, 2002, 116 Stat. 509, 510.)

AMENDMENT OF SECTION

For termination of amendment by section 942 of Pub. L. 106–78, see Termination Date of 1999 Amendment note below.

AMENDMENTS

2002—Pub. L. 107–171, § 10502(b)(1), substituted ''packer or swine contractor'' for ''packer'' in introductory provisions.

Subsec. (c). Pub. L. 107–171, § 10502(b)(2)(A), inserted '', swine contractor,'' after ''other packer'' in two places.

1999—Subsec. (b). Pub. L. 106–78, §§ 912, 942, temporarily struck out ''whatsoever'' after ''locality in any respect'' and after ''disadvantage in any respect''. See Termination Date of 1999 Amendment note below.

1991—Subsec. (c). Pub. L. 102–237 substituted a comma for period after second reference to ''dealer''.

1987—Pub. L. 100–173, § 3(1), substituted ''for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to'' for ''with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products for any packer or any live poultry dealer or handler to'' in introductory provisions.

Par. (c). Pub. L. 100–173, § 3(2), struck out reference to poultry handlers wherever appearing and substituted ''such persons'' for ''such packers''.

1976—Pub. L. 94–410 struck out ''in commerce'' wherever appearing.

1958—Pub. L. 85–909 inserted ''with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products'' after ''unlawful''.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted ''or any live poultry dealer or handler'' after ''packer'' wherever appearing.

TERMINATION DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–78 to terminate Sept. 30, 2015, see section 942 of Pub. L. 106–78, as amended, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

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

§ 193. Procedure before Secretary for violations

(a) Complaint; hearing; intervention

Whenever the Secretary has reason to believe that any packer or swine contractor has violated or is violating any provision of this subchapter, he shall cause a complaint in writing to be served upon the packer or swine contractor, stating his charges in that respect, and requiring the packer or swine contractor to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer or swine contractor a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer or swine contractor, be adjourned for a period not exceeding fifteen days.

(b) Report and order; penalty

If, after such hearing, the Secretary finds that the packer or swine contractor has violated or is violating any provisions of this subchapter covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the packer or swine contractor an order requiring such packer or swine contractor to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(c) Amendment of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 194 of this title, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer or swine contractor to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of process

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title II, § 203, 42 Stat. 161; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 6(a), Aug. 28, 1958, 72 Stat. 944; Pub. L. 94–410, § 3(b), Sept. 13, 1976, 90 Stat. 1249; Pub. L. 107–171, title X, § 10502(b)(1), May 13, 2002, 116 Stat. 509.)

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107–171 substituted ''packer or swine contractor'' for ''packer'' wherever appearing.

1976—Subsec. (b). Pub. L. 94–410 inserted provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1958—Subsec. (c). Pub. L. 85–791 struck out ''a transcript of'' after ''until''.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals''.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 194. Conclusiveness of order; appeal and review

(a) Filing of petition; bond

An order made under section 193 of this title shall be final and conclusive unless within thirty days after service the packer or swine contractor appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such packer or swine contractor will pay the costs of the proceedings if the court so directs.

(b) Filing of record by Secretary

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) Temporary injunction

At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer or swine contractor and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) Evidence

The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case.

(e) Action by court

The court may affirm, modify, or set aside the order of the Secretary.

(f) Additional evidence

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modifications or setting aside of his order, with the return of such additional evidence.

(g) Injunction

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer or swine contractor, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) Finality

The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, title II, § 204, 42 Stat. 162; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 85–791, § 6(b), (c), Aug. 28, 1958, 72 Stat. 944; Pub. L. 98–620, title IV, § 402(5), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 107–171, title X, § 10502(b)(1), May 13, 2002, 116 Stat. 509.)

CODIFICATION

Former subsec. (i), which extended the former term ''circuit court of appeals'', in case the principal place of business of the packer is in the District of Columbia, to the United States Court of Appeals for the District of Columbia, for the purposes of sections 191 to 195 of this title, was omitted from the Code as obsolete. The District of Columbia is a judicial circuit under sections 41 and 43 of Title 28, Judiciary and Judicial Procedure. See, also, Change of Name note below.

AMENDMENTS

2002—Subsecs. (a), (c), (g). Pub. L. 107–171 substituted ''packer or swine contractor'' for ''packer'' wherever appearing.

1984—Subsec. (d). Pub. L. 98–620 struck out provisions requiring proceedings in such cases in the court of appeals to be made a preferred cause and expedited in every way.

1958—Subsec. (b). Pub. L. 85–791 § 6(b), substituted ''thereupon file in the court'' for ''forthwith prepare, certify, and file in the court a full and accurate transcript of'', and ''as provided in section 2112 of Title 28'' for ''including the complaint, the evidence, and the report and order'' in first sentence, and ''record'' for ''transcript'' in second sentence.

Subsec. (c). Pub. L. 85–791, § 6(b), substituted ''petition'' for ''transcript''.

Subsec. (d). Pub. L. 85–791, § 6(b), struck out ''duly certified'' after ''admitted''.

Subsec. (h). Pub. L. 85–791, § 6(c), substituted ''jurisdiction, which upon the finding of the record with it shall be exclusive,'' for ''exclusive jurisdiction,'' and section ''1254'' for ''347''.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'', wherever appearing.

Act of June 7, 1934, provided that Court of Appeals in District of Columbia, should hereafter be known as the United States Court of Appeals for the District of Columbia.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 195. Punishment for violation of order

Any packer or swine contractor, or any officer, director, agent, or employee of a packer or swine contractor, who fails to obey any order of the Secretary issued under the provisions of section 193 of this title, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 194 of this title; shall on conviction be fined not less than $500 nor more than $10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, title II, § 205, 42 Stat. 163; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Pub. L. 107–171, title X, § 10502(b)(1), May 13, 2002, 116 Stat. 509.)

AMENDMENTS

2002—Pub. L. 107–171 substituted ''packer or swine contractor'' for ''packer'' in two places in introductory provisions.

CHANGE OF NAME

Act June 25, 1948, as amended by act May 24, 1949, substituted ''court of appeals'' for ''circuit court of appeals'', wherever appearing in this section.

§ 196. Statutory trust established; livestock

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

(b) Livestock, inventories, receivables and proceeds held by packer in trust for benefit of unpaid cash sellers; time limitations; exempt packers; effect of dishonored instruments; preservation of trust benefits by seller

All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided*, That any packer whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided*, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within thirty days of the final date for making a payment under section 228b of this title, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

(c) 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, § 206, as added Pub. L. 94–410, § 8, Sept. 13, 1976, 90 Stat. 1251.)

§ 197. Statutory trust established; poultry

(a) Protection of public interest from inadequate financing arrangements

It is hereby found that a burden on and obstruction to commerce in poultry is caused by financing arrangements under which live poultry dealers encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such financing arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest.

(b) Poultry, inventories, receivables and proceeds held by dealer in trust for benefit of unpaid cash sellers or poultry growers

All poultry obtained by a live poultry dealer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid cash sellers or poultry growers, unless such live poultry dealer does not

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.

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, 2015, 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—

(1) burdens on and obstructions to commerce in swine, pork, and pork products by packers, and other persons that enter into arrangements with the packers, that are contrary to, or do not protect, the public interest;

(2) noncompetitive pricing arrangements between or among packers, or other persons involved in the processing, distribution, or sale of pork and pork products, including arrangements provided for in contracts for the purchase of swine;

(3) the effective monitoring of contracts entered into between packers and swine producers;

(4) investigations that relate to, and affect, the disclosure of—

(A) transactions involved in the business conduct and practices of packers; and

(B) the pricing of swine paid to producers by packers and the pricing of products in the pork and pork product merchandising chain;

(5) the adequacy of the authority of the Secretary to prevent a packer from unjustly or arbitrarily refusing to offer a producer, or disqualifying a producer from eligibility for, a particular contract or type of contract for the purchase of swine; and

(6) the ability of the Secretary to cooperate with and enhance the enforcement of actions initiated by other Federal departments and agencies, or Federal independent agencies, to protect trade and commerce in the pork and pork product industries against unlawful restraints and monopolies.

(Aug. 15, 1921, ch. 64, title II, § 223, as added Pub. L. 106–78, title IX, § 934(2), Oct. 22, 1999, 113 Stat. 1209.)

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.

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (b)(1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Agricultural Marketing Act of 1946, referred to in subsec. (b)(2), is title II of act Aug. 14, 1946, ch. 966, 60 Stat. 1087, as amended, which is classified generally to chapter 38 (§ 1621 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS

§ 201. "Stockyard owner"; "stockyard services"; "market agency"; "dealer"; defined

When used in this chapter—

(a) The term ''stockyard owner'' means any person engaged in the business of conducting or operating a stockyard;

(b) The term ''stockyard services'' means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling in commerce, of livestock;

(c) The term ''market agency'' means any person engaged in the business of (1) buying or selling in commerce livestock on a commission basis or (2) furnishing stockyard services; and

(d) The term ''dealer'' means any person, not a market agency, engaged in the business of buying or selling in commerce livestock, either on his own account or as the employee or agent of the vendor or purchaser.

(Aug. 15, 1921, ch. 64, title III, § 301, 42 Stat. 163; Pub. L. 85–909, § 2(1), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsecs. (b) to (d). Pub. L. 94–410 substituted ''livestock'' for ''live stock''.

1958—Subsecs. (c), (d). Pub. L. 85–909 struck out ''at a stockyard'' after ''livestock''.

§ 202. "Stockyard" defined; determination by Secretary as to particular yard

(a) When used in this subchapter the term ''stockyard'' means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this subchapter until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

(Aug. 15, 1921, ch. 64, title III, § 302, 42 Stat. 163; Pub. L. 85–909, § 2(2), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90–446, § 1(a), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–446 substituted ''operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers'' for ''or operated for compensation or profit as a public market''.

1958—Subsec. (a). Pub. L. 85–909 struck out ''Said sections shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.''

TRANSPORTATION OF LIVESTOCK

Section 2(2) of Pub. L. 85–909 provided in part: ''That nothing herein [this section] shall be deemed as a definition of the term 'public stockyards' as used in section 15(5) of the Interstate Commerce Act [former 49 U.S.C. 15(5)].''

§ 203. Activity as stockyard dealer or market agency; benefits to business and welfare of stockyard; registration; penalty for failure to register

After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless (1) the stockyard owner has determined that his services will be beneficial to the business and welfare of said stockyard, its patrons, and customers, which determination shall be made on a basis which is not unreasonable or unjustly discriminatory, and has given written authorization to such person, and (2) he has registered with the Secretary, under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyards services, if any, which he furnishes at such stockyard. Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe. Whoever violates the provisions of this section shall be liable to a penalty of not more than $500 for each such offense and not more than $25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(Aug. 15, 1921, ch. 64, title III, § 303, 42 Stat. 163; Pub. L. 85–909, § 2(3), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90–446, § 1(b), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90–446 designated existing provisions as cl. (2) and added cl. (1).

1958—Pub. L. 85–909 inserted ''Every other person operating as a market agency or dealer as defined in section 201 of this title may be required to register in such manner as the Secretary may prescribe.''

§ 204. Bond and suspension of registrants

On and after July 12, 1943, the Secretary may require reasonable bonds from every market agency (as defined in this subchapter), every packer (as defined in subchapter II of this chapter) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed $500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in this subchapter) under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of this chapter he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 193 of this title requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of this chapter.

(July 12, 1943, ch. 215, 57 Stat. 422; Pub. L. 94–410, §§ 1, 4, Sept. 13, 1976, 90 Stat. 1249.)

CODIFICATION

Section was enacted as part of the Department of Agriculture Appropriation Act, 1944, act July 12, 1943, and not as part of the Packers and Stockyards Act, 1921, which comprises this chapter.

AMENDMENTS

1976—Pub. L. 94–410 inserted provisions exempting market agencies and packers whose average annual purchases do not exceed $500,000 from bonding requirement and authorizing Secretary, after notice and hearing, to issue cease and desist orders to insolvent packers prohibiting the purchase of livestock except under conditions prescribed by Secretary, respectively.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
July 22, 1942, ch. 516, 56 Stat. 689.
July 1, 1941, ch. 267, 55 Stat. 432.
June 25, 1940, ch. 421, 54 Stat. 557.
June 30, 1939, ch. 253, title I, 53 Stat. 970.
June 16, 1938, ch. 464, title I, 52 Stat. 721.
June 29, 1937, ch. 404, 50 Stat. 406.
June 4, 1936, ch. 489, 49 Stat. 1432.
May 17, 1935, ch. 131, title I, 49 Stat. 257.
Mar. 26, 1934, ch. 89, 48 Stat. 477.
Mar. 3, 1933, ch. 203, 47 Stat. 1441.
July 7, 1932, ch. 443, 47 Stat. 620.
Feb. 23, 1931, ch. 278, 46 Stat. 1252.
May 27, 1930, ch. 341, 46 Stat. 402.
Feb. 16, 1929, ch. 227, 45 Stat. 1198.
May 16, 1928, ch. 572, 45 Stat. 547.
Jan. 18, 1927, ch. 39, 44 Stat. 1002.
May 11, 1926, ch. 286, 44 Stat. 527.
Feb. 10, 1925, ch. 200, 43 Stat. 851.
June 5, 1924, ch. 266, 43 Stat. 460.

§ 205. General duty as to services; revocation of registration

All stockyard services furnished pursuant to reasonable request made to a stockyard owner or market agency at such stockyard shall be reasonable and nondiscriminatory and stockyard services which are furnished shall not be refused on any basis that is unreasonable or unjustly discriminatory: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter, and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title.

(Aug. 15, 1921, ch. 64, title III, § 304, 42 Stat. 164; May 5, 1926, ch. 240, 44 Stat. 397; Pub. L. 90–446, § 1(c), July 31, 1968, 82 Stat. 474.)

AMENDMENTS

1968—Pub. L. 90–446 inserted provision requiring that stockyard services which are furnished not be refused

on any basis that is unreasonable or unjustly discriminatory.

1926—Act May 5, 1926, inserted proviso.

§ 206. Rates and charges generally; discrimination

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful: *Provided*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis.

(Aug. 15, 1921, ch. 64, title III, § 305, 42 Stat. 164; Pub. L. 95–409, § 1(a), Oct. 2, 1978, 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95–409 inserted proviso that rates and charges based upon percentages of gross sales of livestock shall not be prohibited merely because based on such percentages rather than on a per head basis.

§ 207. Schedule of rates

(a) Filing; public inspection

Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Detail required; form

Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) Changes

No changes shall be made in the rates or charges so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may, for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) Rejection by Secretary

The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Determination of lawfulness; hearing; suspension

Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing cannot be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of such period.

(f) Suspension of operations; compliance

After the expiration of the sixty days referred to in subsection (a) of this section, no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Penalty

Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than $500 for each such offense, and not more than $25 for each day it con-

tinues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Intentional violations; penalty

Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 15, 1921, ch. 64, title III, § 306, 42 Stat. 164; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94–410 substituted ''livestock'' for ''live stock'' after ''earnings on their''.

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

(a) It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful.

(b) It shall be the responsibility and right of every stockyard owner to manage and regulate his stockyard in a just, reasonable, and nondiscriminatory manner, to prescribe rules and regulations and to require those persons engaging in or attempting to engage in the purchase, sale, or solicitation of livestock at such stockyard to conduct their operations in a manner which will foster, preserve, or insure an efficient, competitive public market. Such rules and regulations shall not prevent a registered market agency or dealer from rendering service on other markets or in occasional and incidental off-market transactions.

(Aug. 15, 1921, ch. 64, title III, § 307, 42 Stat. 165; Pub. L. 90–446, § 1(d), July 31, 1968, 82 Stat. 475.)

AMENDMENTS

1968—Pub. L. 90–446 designated existing provisions as subsec. (a) and added subsec. (b).

§ 209. Liability to individuals for violations; enforcement generally

(a) If any person subject to this chapter violates any of the provisions of this chapter, or of any order of the Secretary under this chapter, relating to the purchase, sale, or handling of livestock, the purchase or sale of poultry, or relating to any poultry growing arrangement or swine production contract, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

(Aug. 15, 1921, ch. 64, title III, § 308, 42 Stat. 165; Pub. L. 94–410, § 6, Sept. 13, 1976, 90 Stat. 1250; Pub. L. 100–173, § 5, Nov. 23, 1987, 101 Stat. 918; Pub. L. 107–171, title X, § 10502(b)(2)(B), May 13, 2002, 116 Stat. 510.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171 inserted ''or swine production contract'' after ''poultry growing arrangement''.

1987—Subsec. (a). Pub. L. 100–173 inserted ''the purchase or sale of poultry, or relating to any poultry growing arrangement,'' after ''livestock,''.

1976—Subsec. (a). Pub. L. 94–410 struck out references to violations of specific sections and added packers to categories of regulated persons against whom private action could be brought for violation of chapter.

EFFECTIVE DATE OF 1987 AMENDMENT

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

§ 210. Proceedings before Secretary for violations

(a) Complaint; response; satisfaction or investigation

Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the ''defendant'') in violation of the provisions of this subchapter, or of an order of the Secretary made under this subchapter, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) Complaints forwarded by agencies of a State or Territory

The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a) of this section.

(c) Inquiries instituted by Secretary

The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of this subchapter, or concerning which any question may arise under any of the provisions of this subchapter, or relating to the enforcement of any of the provisions of this subchapter. The Secretary shall have the same power and authority to proceed

with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) Damage to complainant not required

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) Award and payment of damages

If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) Enforcement of orders

If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit.

(Aug. 15, 1921, ch. 64, title III, § 309, 42 Stat. 165; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–410 substituted ''livestock'' for ''live-stock'' after ''request of the''.

§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be violative of section 205, 206, or 208 of this title, the Secretary—

(a) May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate or charge, or rates or charges, to be thereafter in such case observed as the maximum or minimum or both to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed: *Provided*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 206 of this title; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate or charge or rates or charges so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

(Aug. 15, 1921, ch. 64, title III, § 310, 42 Stat. 166; Aug. 10, 1939, ch. 663, 53 Stat. 1351; Pub. L. 95–409, § 1(b), Oct. 2, 1978, 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95–409, § 1(b)(1), in provision preceding subsec. (a), substituted ''violative of section 205, 206 or 208 of this title'' for ''unjust, unreasonable, or discriminatory''.

Subsec. (a). Pub. L. 95–409, § 1(b)(2), substituted ''May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate'' for ''May determine and prescribe what will be the just and reasonable rate'', and ''as the maximum or minimum or both'' for ''as both the maximum and minimum'', and inserted proviso relating to prescription by the Secretary of rates or charges on a percentage or per head basis at the election of the owner or agency or any other basis unless violative of section 206 of this title.

Subsec. (b). Pub. L. 95–409, § 1(b)(3), substituted ''other than the rate or charge or rates or charges'' for ''more or less than the rate or charge''.

1939—Subsec. (a). Act Aug. 10, 1939, substituted ''as both'' for ''or the''.

Subsec. (b)(2). Act Aug. 10, 1939, substituted ''more or less than the rate or charge so prescribed'' for ''other than the rate or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be''.

§ 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce

Whenever in any investigation under the provisions of this subchapter, or in any investigation instituted by petition of the stockyard owner, market agency, or dealer concerned, which petition is authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner, market agency, or dealer, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden and declared to

be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners, market agencies, or dealers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(Aug. 15, 1921, ch. 64, title III, § 311, 42 Stat. 167; Pub. L. 85–909, § 2(4), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 94–410, § 3(c), Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Pub. L. 94–410 substituted ''livestock'' for ''live stock'' wherever appearing.

1958—Pub. L. 85–909 substituted ''stockyard owner, market agency, or dealer'' for ''stockyard owner or market agency'' wherever occurring, and ''stockyard owners, market agencies, or dealers'' for ''stockyard owners or market agencies''.

§ 213. Prevention of unfair, discriminatory, or deceptive practices

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a) of this section, the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. The Secretary may also assess a civil penalty of not more than $10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.

(Aug. 15, 1921, ch. 64, title III, § 312, 42 Stat. 167; Pub. L. 85–909, § 2(5), Sept. 2, 1958, 72 Stat. 1750; Pub. L. 90–446, § 1(e), July 31, 1968, 82 Stat. 475; Pub. L. 94–410, § 3, Sept. 13, 1976, 90 Stat. 1249.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–410, § 3(a), (c), struck out ''in commerce'' after ''or handling'' and substituted ''livestock'' for ''live stock''.

Subsec. (b). Pub. L. 94–410, § 3(b), inserted provisions dealing with authority of Secretary to assess a civil penalty for violations and, upon failure to pay, procedure for recovery of such penalty.

1968—Subsec. (a). Pub. L. 90–446 inserted ''determining whether persons should be authorized to operate at stockyards, or with'' after ''in connection with''.

1958—Subsec. (a). Pub. L. 85–909 struck out ''at a stockyard'' after ''in commerce''.

§ 214. Effective date of orders

Except as otherwise provided in this chapter all orders of the Secretary under this subchapter, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside by the Secretary or is suspended or set aside by a court of competent jurisdiction.

(Aug. 15, 1921, ch. 64, title III, § 313, 42 Stat. 167.)

§ 215. Failure to obey orders; punishment

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of $500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expense of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(Aug. 15, 1921, ch. 64, title III, § 314, 42 Stat. 167; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted ''United States attorneys'' for ''district attorneys'' in subsec. (a). See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

§ 216. Proceedings to enforce orders; injunction

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same.

(Aug. 15, 1921, ch. 64, title III, § 315, 42 Stat. 167.)

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 217. Proceedings for suspension of orders

For the purposes of this subchapter, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this subchapter, and to any person subject to the provisions of this subchapter.

(Aug. 15, 1921, ch. 64, title III, § 316, 42 Stat. 168.)

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

§ 217a. Fees for inspection of brands or marks

(a) Authorization by Secretary; registration as market agency

The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this chapter, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) Applicability of section

The provisions of this subchapter, relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Collection and payment of charges

Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) Revocation of authorization or registration

The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.

(Aug. 15, 1921, ch. 64, title III, § 317, as added June 19, 1942, ch. 421, 56 Stat. 372.)

PRIOR PROVISIONS

Former provisions relating to fees for inspection of brands appearing upon livestock were contained in section 231 of this title.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Secretary of Agriculture under this chapter, except orders issued under section 210(e) of this title and this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

SUBCHAPTER IV—LIVE POULTRY DEALERS AND HANDLERS

§§ 218 to 218d. Repealed. Pub. L. 100–173, § 10, Nov. 23, 1987, 101 Stat. 922

Section 218, act Aug. 15, 1921, ch. 64, title V, § 501, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, stated necessity to curb unfair, deceptive, and fraudulent practices relating to live poultry.

Section 218a, act Aug. 15, 1921, ch. 64, title V, § 502, as added Aug. 14, 1935, ch. 532, 49 Stat. 648, authorized Secretary to designate cities and markets where unfair practices exist, to require licensing, and to prescribe information to be contained in application license, and authorized penalty for dealing without license.

Section 218b, act Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, defined ''live poultry dealer''.

Section 218c, act Aug. 15, 1921, ch. 64, title V, § 504, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to application of other provisions of this chapter to this subchapter and posting of rates, charges, and rentals in licensee's place of business.

Section 218d, act Aug. 15, 1921, ch. 64, title V, § 505, as added Aug. 14, 1935, ch. 532, 49 Stat. 649, related to suspension and revocation of licenses.

EFFECTIVE DATE OF REPEAL

Repeal 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.

SUBCHAPTER V—GENERAL PROVISIONS

§ 221. Accounts and records of business; punishment for failure to keep

Every packer, any swine contractor, and any live poultry dealer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than $5,000, or imprisoned not more than three years, or both.

(Aug. 15, 1921, ch. 64, title IV, § 401, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; Pub. L. 100–173, § 6, Nov. 23, 1987, 101 Stat. 918; Pub. L. 107–171, title X, § 10502(b)(2)(C), May 13, 2002, 116 Stat. 510.)

AMENDMENTS

2002—Pub. L. 107–171 inserted ''any swine contractor, and'' after ''packer,''.

1987—Pub. L. 100–173 substituted '', any live poultry dealer,'' for ''or any live poultry dealer or handler,''.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted ''or any live poultry dealer or handler'' after ''packer'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

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

LIENS OR SECURITY INTERESTS AGAINST LIVESTOCK; INTERAGENCY TASK FORCE TO RECOMMEND METHOD OF PROVIDING INFORMATION TO PURCHASERS; REPORT TO CONGRESS

Pub. L. 95–409, § 2, Oct. 2, 1978, 92 Stat. 887, required the Secretary of Agriculture to appoint a task force to recommend methods of providing information to purchasers of livestock concerning the existence of a lien or security interest against livestock and to submit a report to Congress not later than Feb. 1, 1979.

§ 222. Federal Trade Commission powers adopted for enforcement of chapter

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 to 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Aug. 15, 1921, ch. 64, title IV, § 402, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

AMENDMENTS

1935—Act Aug. 15, 1921, § 503, as added Aug. 14, 1935, purported to insert ''or any live poultry dealer or handler'' after ''packer'' but word ''packer'' does not appear in this section.

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

§ 223. Responsibility of principal for act or omission of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer, any swine contractor, and any live poultry dealer, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, any swine contractor, and any live poultry dealer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person.

(Aug. 15, 1921, ch. 64, title IV, § 403, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649; amended Pub. L. 100–173, § 6, Nov. 23, 1987, 101 Stat. 918; Pub. L. 107–171, title X, § 10502(b)(2)(C), May 13, 2002, 116 Stat. 510.)

AMENDMENTS

2002—Pub. L. 107–171 inserted ''any swine contractor, and'' after ''packer,'' in two places.

1987—Pub. L. 100–173 substituted '', any live poultry dealer,'' for ''or any live poultry dealer or handler,'' in two places.

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, inserted ''or any live poultry dealer or handler'' after ''packer'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

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

§ 224. Attorney General to institute court proceedings for enforcement

The Secretary may report any violation of this chapter to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

(Aug. 15, 1921, ch. 64, title IV, § 404, 42 Stat. 168; Aug. 15, 1921, ch. 64, title V, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

AMENDMENTS

1935—Act Aug. 15, 1921, title V, § 503, as added Aug. 14, 1935, purported to insert ''or any live poultry dealer or handler'' after ''packer'' but word ''packer'' does not appear in this section.

§ 225. Laws unaffected

Nothing contained in this chapter, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions

of the Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies,'' approved July 2, 1890, the Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,'' approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled ''An Act to promote export trade, and for other purposes,'' approved April 10, 1918 [15 U.S.C. 61 et seq.] or sections 73 to 76, inclusive, of the Act of August 27, 1894, entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'' as amended by the Act entitled ''An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' '' approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending on August 15, 1921.

(Aug. 15, 1921, ch. 64, title IV, § 405, 42 Stat. 168; Pub. L. 107–273, div. C, title IV, § 14102(c)(2)(C), Nov. 2, 2002, 116 Stat. 1921.)

REFERENCES IN TEXT

The Act entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies'', approved July 2, 1890, referred to in subsec. (a), means act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Act entitled ''An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes'', approved October 15, 1914, referred to in subsec. (a), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of the Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Interstate Commerce Act, referred to in subsec. (a), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

The Act entitled ''An Act to promote export trade and for other purposes'', approved April 10, 1918, referred to in subsec. (a), means act Apr. 10, 1918, ch. 50, 40 Stat. 516, known as the Webb-Pomerene Act, which is classified generally to subchapter II (§ 61 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 66 of Title 15 and Tables.

Sections 73 to 76, inclusive, of the Act of August 27, 1894, entitled ''An Act to reduce taxation, to provide revenue for the Government, and for other purposes'', referred to in subsec. (a), are sections 73 to 76 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, as amended, and are known as the Wilson Tariff Act. Sections 73 to 76 enacted sections 8 to 11 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

The Act entitled ''An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes','' approved February 12, 1913, referred to in subsec. (a), is act Feb. 12, 1913, ch. 40, 37 Stat. 667, which is classified to sections 8 and 11 of Title 15.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273 substituted ''sections 73 to 76'' for ''sections 73 to 77''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–273 effective Nov. 2, 2002, and applicable only with respect to cases commenced on or after Nov. 2, 2002, see section 14103 of Pub. L. 107–273, set out as a note under section 3 of Title 15, Commerce and Trade.

§ 226. Powers of Interstate Commerce Commission unaffected

Nothing in this chapter shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission.

(Aug. 15, 1921, ch. 64, title IV, § 406(a), 42 Stat. 169.)

CODIFICATION

Section is comprised of subsec. (a) of section 406, of act Aug. 15, 1921. Subsecs. (b) to (e) of section 406, as amended, are classified to section 227 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture

(a) Omitted

(b) Jurisdiction of Federal Trade Commission

The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this chapter is made subject to the power or jurisdiction of the Secretary, as follows:

(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, or livestock products in unmanufactured form, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in

such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this chapter involving the same subject matter.

(3) Over all transactions in commerce in margarine, oleomargarine, or poultry products and over retail sales of meat, meat food products and livestock products in unmanufactured form.

(c) Limitation of Federal Trade Commission jurisdiction

The Federal Trade Commission shall have no power or jurisdiction over any matter which by this chapter is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

(d) Jurisdiction of Secretary of Agriculture except for poultry products

The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this chapter, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, or poultry other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) Jurisdiction of Secretary of Agriculture regarding poultry products

The Secretary of Agriculture shall exercise jurisdiction over poultry products only in a proceeding brought under section 197 of this title or section 228b–1 of this title when such action is necessary to avoid impairment of his jurisdiction.

(f) Information to be included in annual reports

The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b), (d), and (e) of this section.

(Aug. 15, 1921, ch. 64, title IV, § 406, 42 Stat. 169; Pub. L. 85–909, § 1(2), Sept. 2, 1958, 72 Stat. 1749; Pub. L. 100–173, § 7, Nov. 23, 1987, 101 Stat. 919; Pub. L. 102–237, title X, § 1008(2), Dec. 13, 1991, 105 Stat. 1898.)

CODIFICATION

Subsection (a) of section 406 is classified to section 226 of this title.

AMENDMENTS

1991—Subsec. (b)(2). Pub. L. 102–237 struck out comma after ''unmanufactured form,''.

1987—Subsec. (b)(2). Pub. L. 100–173, § 7(1)(A)(ii), which directed insertion of ''or'' before ''livestock products in unmanufactured form.'' was executed by making insertion before ''livestock products in unmanufactured form,'' as the probable intent of Congress.

Pub. L. 100–173, § 7(1)(A)(i), struck out ''or poultry products'' after ''in unmanufactured form,''.

Subsec. (b)(3). Pub. L. 100–173, § 7(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.''

Subsec. (d). Pub. L. 100–173, § 7(2), amended subsec. (d) generally, striking out reference to poultry products in two places and substituting ''10 days'' for ''ten days''.

Subsec. (e). Pub. L. 100–173, § 7(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 100–173, § 7(3), (5), redesignated former subsec. (e) as (f) and substituted ''subsections (b), (d), and (e)'' for ''subsections (b) and (d)''.

1958—Pub. L. 85–909 substituted subsecs. (b) to (e) for former provisions providing that Federal Trade Commission shall have no power or jurisdiction over matters within jurisdiction of Secretary of Agriculture except when Secretary requests Commission to make investigations and reports in any case, which were incorporated in subsecs. (b)(1) and (c).

EFFECTIVE DATE OF 1987 AMENDMENT

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

TRANSFER OF FUNCTIONS

Executive and administrative functions of Federal Trade Commission, with certain reservations, transferred to Chairman of such Commission by 1950 Reorg. Plan No. 8, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

CONSTRUCTION OF 1987 AMENDMENTS

Section 11 of Pub. L. 100–173 provided that:

''(a) GENERAL RULE.—The amendments made by this Act [see Short Title of 1987 Amendment note set out under section 181 of this title] to the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.], shall not be construed to limit or otherwise affect the power or jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to prevent the use of—

''(1) unfair methods of competition in or affecting commerce, and

''(2) unfair and deceptive acts or practices in or affecting commerce,

involving poultry products.

''(b) SECRETARY'S AUTHORITY.—Subsection (a) shall not be construed to limit or otherwise affect the authority of the Secretary of Agriculture under section 406(e), as amended, of the Packers and Stockyards Act, 1921 [7 U.S.C. 227(e)].''

§ 228. Authority of Secretary

(a) Rules, regulations, and expenditures; appropriations

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose.

(b) Deductions from proceeds for financing promotional, educational, and research activities

Notwithstanding any other provision of law, the authority of the Secretary under this chapter shall not apply to deductions made from sales proceeds for the purpose of financing promotion and research activities, including educational activities relating to livestock, meat, and other products covered by the chapter.

(c) Budget estimate; testimony of Secretary before Congressional committees

On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in this chapter.

(d) Development and promulgation of rules governing hearings

The Secretary shall, not later than sixty days after September 13, 1976, prescribe and implement rules to assure that any hearing from which any order may issue under this chapter or any hearing the expenses of which are paid from funds authorized to be appropriated under this chapter shall—

(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

(3) if such hearing concerns a single State or the residents thereof, be held within such State.

(e) Definitions

For the purposes of subsection (d) of this section—

(1) the term ''unit of local government'' means a county, municipality, town, township, village, or other unit of general government below the State level; and

(2) the term ''geographic area within a State'' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(Aug. 15, 1921, ch. 64, title IV, § 407, 42 Stat. 169; Pub. L. 85–909, § 4, Sept. 2, 1958, 72 Stat. 1750; Pub. L. 88–61, July 8, 1963, 77 Stat. 79; Pub. L. 94–410, § 11, Sept. 13, 1976, 90 Stat. 1252; Pub. L. 103–354, title II, § 293(b), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103–437, § 4(a)(2), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–354, § 293(b)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce subchapter II of this chapter.''

Subsec. (c). Pub. L. 103–437, which directed the amendment of subsec. (d) by substituting ''Committee on Agriculture, Nutrition, and Forestry'' for ''Committee on Agriculture and Forestry'', was executed by making the amendment to subsec. (c) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (c) by Pub. L. 103–354. See below.

Pub. L. 103–354, § 293(b)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsecs. (d) to (f). Pub. L. 103–354, § 293(b)(2), (3), redesignated subsecs. (d) to (f) as (c) to (e), respectively, and in subsec. (e) substituted ''subsection (d)'' for ''subsection (e)''.

1976—Subsecs. (d) to (f). Pub. L. 94–410 added subsecs. (d) to (f).

1963—Subsec. (c). Pub. L. 88–61 added subsec. (c).

1958—Pub. L. 85–909 designated existing provisions as subsec. (a) and added subsec. (b).

REGULATIONS

Pub. L. 110–234, title XI, § 11006, May 22, 2008, 122 Stat. 1358, and Pub. L. 110–246, § 4(a), title XI, § 11006, June 18, 2008, 122 Stat. 1664, 2120, provided that: ''As soon as practicable, but not later than 2 years after the date of the enactment of this Act [June 18, 2008], the Secretary of Agriculture shall promulgate regulations with respect to the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) to establish criteria that the Secretary will consider in determining—

''(1) whether an undue or unreasonable preference or advantage has occurred in violation of such Act;

''(2) whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement;

''(3) when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of such Act; and

''(4) if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

§ 228a. Authority of Secretary to request temporary injunction or restraining order

Whenever the Secretary has reason to believe that any person subject to this chapter (a) with respect to any transactions subject to this chapter, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this chapter in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this chapter or enjoin him from operating subject to this chapter except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this chapter is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this chapter or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction.

(Aug. 15, 1921, ch. 64, title IV, § 408, as added Pub. L. 94–410, § 5, Sept. 13, 1976, 90 Stat. 1250; amended Pub. L. 100–173, § 8, Nov. 23, 1987, 101 Stat. 919.)

CODIFICATION

A prior section 228a, act Sept. 21, 1944, ch. 412, title I, § 101(c), 58 Stat. 734, which related to inspections of livestock, hides, animal products, etc., was transferred to section 396 of this title.

PRIOR PROVISIONS

A prior section 408 of act Aug. 15, 1921, was renumbered section 416 and is classified to section 229 of this title.

AMENDMENTS

1987—Pub. L. 100–173 inserted ''or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement,'' after ''unmanufactured form,''.

EFFECTIVE DATE OF 1987 AMENDMENT

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

§ 228b. Prompt payment for purchase of livestock

(a) Full amount of purchase price required; methods of payment

Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or ''grade and yield'' basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

(b) Waiver of prompt payment by written agreement; disclosure requirements

Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a) of this section. Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

(c) Delay in payment or attempt to delay deemed unfair practice

Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an ''unfair practice'' in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term ''unfair practice'' as used in this chapter.

(Aug. 15, 1921, ch. 64, title IV, § 409, as added Pub. L. 94–410, § 7, Sept. 13, 1976, 90 Stat. 1250.)

§ 228b–1. Final date for making payment to cash seller or poultry grower

(a) Delivery of full amount due

Each live poultry dealer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer obtaining live poultry under a poultry growing arrangement shall, before the close of the fifteenth day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

(b) Delay or attempt to delay collection of funds as "unfair practice"

Any delay or attempt to delay, by a live poultry dealer which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased in a cash sale, shall be considered an ''unfair practice'' in violation of this chapter. Nothing in this section shall be deemed to limit the meaning of the term ''unfair practice'' as used in this chapter.

(c) 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 IV, § 410, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 920.)

PRIOR PROVISIONS

A prior section 410 of act Aug. 15, 1921, was renumbered section 414 and is classified to section 228c of this title.

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.

§ 228b–2. Violations by live poultry dealers

(a) Written complaint by Secretary; hearing; intervention; amended complaint

Whenever the Secretary has reason to believe that any live poultry dealer has violated or is violating any provision of section 197 of this title or section 228b–1 of this title, he shall cause a complaint in writing to be served upon the live poultry dealer, stating his charges in that respect, and requiring the live poultry dealer to attend and testify at a hearing at a time and place designated therein, at least 30 days after the service of such complaint; and at such time and place there shall be afforded the live poultry dealer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing, the Secretary may amend the complaint; but in case of any amendment adding new charges, the hearing shall, on the request of the live poultry dealer, be adjourned for a period not exceeding 15 days.

(b) Report on findings of fact by Secretary; cease and desist order; assessment of civil penalty; action by Attorney General upon live poultry dealer's failure to pay penalty

If, after such hearing, the Secretary finds that the live poultry dealer has violated, or is violating, any provisions of section 197 of this title or section 228b–1 of this title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the live poultry dealer an order requiring such live poultry dealer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $20,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business: *Provided, however*, That in no event can the penalty assessed by the Secretary take priority over or impede the ability of the live poultry dealer to pay any unpaid cash seller or poultry grower. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General, who may recover such penalty by an action in the appropriate District Court of the United States.

(c) Amendment or setting aside of report or order

Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 228b–3 of this title, the Secretary, at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the live poultry dealer to be heard, may amend or set aside the report or order, in whole or in part.

(d) Service of complaints, orders, and other processes

Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 45 of title 15.

(Aug. 15, 1921, ch. 64, title IV, § 411, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 920.)

PRIOR PROVISIONS

A prior section 411 of act Aug. 15, 1921, was renumbered section 416 and is classified to section 229 of this title.

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.

§ 228b–3. Judicial review of order regarding live poultry dealer

(a) Finality of order unless appeal to court of appeals; time limit; bond

An order made under section 228b–2 of this title shall be final and conclusive unless within 30 days after service the live poultry dealer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such live poultry dealer will pay the costs of the proceedings if the court so directs.

(b) Notification of appeal to Secretary; filing of record with court

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) Issuance of temporary injunction

At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the live poultry dealer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) Evidence in record as evidence in case; expedited proceedings

The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) Action by court

The court may affirm, modify, or set aside the order of the Secretary.

(f) Taking of additional evidence; modified or additional findings by Secretary

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) Affirmance or modification of order as injunction

If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the live poultry dealer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

(h) Exclusive jurisdiction of court of appeals; finality of decree; appeal to Supreme Court; stay of decree

The court of appeals shall have jurisdiction which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

(Aug. 15, 1921, ch. 64, title IV, § 412, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 921.)

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.

§ 228b–4. Violation of final order by live poultry dealer; penalty

Any live poultry dealer, or any officer, director, agent, or employee of a live poultry dealer, who fails to obey any order of the Secretary issued under the provisions of section 228b–2 of this title, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time;

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 228b–3 of this title;

shall on conviction be fined not less than $1,000 nor more than $20,000. Each day during which such failure continues shall be deemed a separate offense.

(Aug. 15, 1921, ch. 64, title IV, § 413, as added Pub. L. 100–173, § 9(2), Nov. 23, 1987, 101 Stat. 922.)

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.

§ 228c. Federal preemption of State and local requirements

No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under section 204 of this title, and prompt payment provisions of section

228b of this title, respectively: *Provided*, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this chapter, which is not in conflict with this chapter or regulations thereunder: *Provided further*, That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this chapter or section 204 of this title.

(Aug. 15, 1921, ch. 64, title IV, § 414, formerly § 410, as added Pub. L. 94–410, § 9, Sept. 13, 1976, 90 Stat. 1252; renumbered § 414, Pub. L. 100–173, § 9(1), Nov. 23, 1987, 101 Stat. 919.)

§ 228d. Annual assessment of cattle and hog industries

Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—

(1) assesses the general economic state of the cattle and hog industries;

(2) describes changing business practices in those industries; and

(3) identifies market operations or activities in those industries that appear to raise concerns under this chapter.

(Aug. 15, 1921, ch. 64, title IV, § 415, as added Pub. L. 106–472, title III, § 312(e)(2), Nov. 9, 2000, 114 Stat. 2077.)

PRIOR PROVISIONS

A prior section 415 of act Aug. 15, 1921, was renumbered section 416 and is classified to section 229 of this title.

§ 229. Annual report

(a) In general

Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—

(1) states, for the preceding year, separately for livestock and poultry and separately by enforcement area category (financial, trade practice, or competitive acts and practices), with respect to investigations into possible violations of this chapter—

(A) the number of investigations opened;

(B) the number of investigations that were closed or settled without a referral to the General Counsel of the Department of Agriculture;

(C) for investigations described in subparagraph (B), the length of time from initiation of the investigation to when the investigation was closed or settled without the filing of an enforcement complaint;

(D) the number of investigations that resulted in referral to the General Counsel of the Department of Agriculture for further action, the number of such referrals resolved without administrative enforcement action, and the number of enforcement actions filed by the General Counsel;

(E) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from the referral to the filing of the administrative action;

(F) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from filing to resolution of the administrative enforcement action;

(G) the number of investigations that resulted in referral to the Department of Justice for further action, and the number of civil enforcement actions filed by the Department of Justice on behalf of the Secretary pursuant to such a referral;

(H) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the referral to the filing of the enforcement action;

(I) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the filing of the enforcement action to resolution; and

(J) the average civil penalty imposed in administrative or civil enforcement actions for violations of this chapter, and the total amount of civil penalties imposed in all such enforcement actions; and

(2) includes any other additional information the Secretary considers important to include in the annual report.

(b) Format of information provided

For subparagraphs (C), (E), (F), and (H) of subsection (a)(1), the Secretary may, if appropriate due to the number of complaints for a given category, provide summary statistics (including range, maximum, minimum, mean, and average times) and graphical representations.

(Aug. 15, 1921, ch. 64, title IV, § 416, as added Pub. L. 110–234, title XI, § 11004(a)(2), May 22, 2008, 122 Stat. 1355, and Pub. L. 110–246, § 4(a), title XI, § 11004(a)(2), June 18, 2008, 122 Stat. 1664, 2117.)

REPEAL OF SECTION

Pub. L. 110–246, title XI, § 11004(b), June 18, 2008, 122 Stat. 2118, provided that, effective Sept. 30, 2012, this section is repealed.

CODIFICATION

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

PRIOR PROVISIONS

A prior section 416 of act Aug. 15, 1921, was renumbered section 417 and is classified to section 229c of this title.

Another prior section 416 of act Aug. 15, 1921, was classified to section 229a of this title, prior to repeal by Pub. L. 106–78.

EFFECTIVE DATE OF REPEAL

Pub. L. 110–234, title XI, 11004(b), May 22, 2008, 122 Stat. 1356, and Pub. L. 110–246, § 4(a), title XI, § 11004(b), June 18, 2008, 122 Stat. 1664, 2118, provided that the repeal of this section is effective Sept. 30, 2012.

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of this title.]

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.

§ 229a. Repealed. Pub. L. 106–78, title IX, § 913(a), Oct. 22, 1999, 113 Stat. 1205

Section, act Aug. 15, 1921, ch. 64, title IV, § 416, as added Pub. L. 105–277, div. A, § 101(a) [title XI, § 1127(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–46, related to mandatory domestic reporting pilot investigation.

TERMINATION OF REPEAL

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

TERMINATION DATE OF REPEAL

Repeal by Pub. L. 106–78 to terminate Sept. 30, 2015, see section 942 of Pub. L. 106–78, as amended, set out in a Livestock Mandatory Reporting note under section 1635 of this title.

§ 229b. Right to discuss terms of contract

(a) Definitions

In this section:

(1) Producer

The term ''producer'' means any person engaged in the raising and caring for livestock or poultry for slaughter.

(2) Processor

The term ''processor'' means any person engaged in the business of obtaining livestock or poultry for the purpose of slaughtering the livestock or poultry.

(b) No prohibition of discussion

Notwithstanding a provision in any contract between a producer and a processor for the production of livestock or poultry, or in any marketing agreement between a producer and a processor for the sale of livestock or poultry for a term of 1 year or more, that provides that information contained in the contract is confidential, a party to the contract shall not be prohibited from discussing any terms or details of the contract with—

(1) a Federal or State agency;
(2) a legal adviser to the party;
(3) a lender to the party;
(4) an accountant hired by the party;
(5) an executive or manager of the party;
(6) a landlord of the party; or
(7) a member of the immediate family of the party.

(c) Effect on State laws

Subsection (b) of this section does not—

(1) preempt any State law that addresses confidentiality provisions in contracts for the sale or production of livestock or poultry, except any provision of State law that makes lawful a contract provision that prohibits a party from, or limits a party in, engaging in discussion that subsection (b) of this section requires to be permitted; or

(2) deprive any State court of jurisdiction under any such State law.

(d) Applicability

This section applies to each contract described in subsection (b) of this section that is entered into, amended, renewed, or extended after May 13, 2002.

(Pub. L. 107–171, title X, § 10503, May 13, 2002, 116 Stat. 510.)

CODIFICATION

Section was enacted as part of the Farm Security and Rural Investment Act of 2002, and not as part of the Packers and Stockyards Act, 1921, which comprises this chapter.

§ 229c. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 15, 1921, ch. 64, title IV, § 417, formerly § 408, 42 Stat. 169; renumbered § 411, Pub. L. 94–410, § 5, Sept. 13, 1976, 90 Stat. 1250; renumbered § 415, Pub. L. 100–173, § 9(1), Nov. 23, 1987, 101 Stat. 919; renumbered § 416, Pub. L. 106–472, title III, § 312(e)(1), Nov. 9, 2000, 114 Stat. 2077; renumbered § 417, Pub. L. 110–234, title XI, § 11004(a)(1), May 22, 2008, 122 Stat. 1355, and Pub. L. 110–246, § 4(a), title XI, § 11004(a)(1), June 18, 2008, 122 Stat. 1664, 2117.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 both renumbered this section as section 417 of act Aug. 15, 1921. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234.

Section was formerly classified to section 229 of this title.

SUBCHAPTER VI—CHARGE FOR INSPECTION

§ 231. Omitted

CODIFICATION

Section, act July 22, 1942, ch. 516, 56 Stat. 689, was from the Department of Agriculture Appropriation Act, 1943, and provided for fees for inspection of brands appearing upon livestock. See section 217a of this title. Similar provisions were contained in the following prior appropriation acts:

July 1, 1941, ch. 267, 55 Stat. 432.
June 25, 1940, ch. 421, 54 Stat. 557.
June 30, 1939, ch. 253, title I, 53 Stat. 970.
June 16, 1938, ch. 464, title I, 52 Stat. 721.
June 29, 1937, ch. 404, 50 Stat. 406.
June 4, 1936, ch. 489, 49 Stat. 1432.
May 17, 1935, ch. 131, title I, 49 Stat. 257.
Mar. 26, 1934, ch. 89, 48 Stat. 477.
Mar. 3, 1933, ch. 203, 47 Stat. 1441.
July 7, 1932, ch. 443, 47 Stat. 620.
Feb. 23, 1931, ch. 278, 46 Stat. 1252.
May 27, 1930, ch. 341, 46 Stat. 402.
Feb. 16, 1929, ch. 227, 45 Stat. 1198.

CHAPTER 10—WAREHOUSES

Sec.
241. Definitions.
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