

distributor in commerce. The regulations in this part apply only to a packer that meets the conditions in either paragraph (1) or (2) of this definition:

(1) A packer purchasing at least 100,000 swine per year and slaughtering swine at one or more federally inspected processing plants that meet either of the following conditions:

(i) A swine processing plant that slaughtered an average of at least 100,000 head of swine per year during the immediately preceding 5 calendar years, with the average based on those periods in which the plant slaughtered swine; or

(ii) A swine processing plant that did not slaughter swine during the immediately preceding 5 calendar years that has the capacity to slaughter at least 100,000 swine per year, based on plant capacity information.

(2) Any packer purchasing an average of at least 200,000 sows, boars, or any combination thereof, per year and slaughtering at least 200,000 sows, boars, or any combination thereof at one or more federally inspected processing plants during the immediately preceding 5 calendar years, with the average based on those periods in which the plant slaughtered swine.

Producer. Any person engaged, either directly or through an intermediary, in the business of selling swine to a packer for slaughter (including the sale of swine from a packer to another packer).

Sow. An adult female swine that has produced one or more litters.

Swine. A porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

Swine or pork market formula purchase. A purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or pork product, other than any formula purchase with a floor, window or ceiling price, or a futures or option contract for swine, pork, or a pork product.

Window price. The range of market prices that will be paid for swine. Adjustments may be made to the base price if the market prices fall outside this range. The window price contains both the floor and ceiling prices.

§ 206.2 Swine contract library.

(a) *Do I need to provide swine contract information?* Each packer, as defined in § 206.1, must provide information for each swine processing plant that it operates or at which it has swine slaughtered that has the slaughtering capacity, alone or in combination with other plants, specified in the definition of packer in § 206.1.

(b) *What existing or available contracts do I need to provide and when are they due?* Each packer must send, to the Grain Inspection, Packers and Stockyards Administration (GIPSA), an example of each contract it currently has with a producer or producers or that is currently available at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in § 206.1. This initial submission of example contracts is due to GIPSA on the first business day of the month following the determination that the plant has the slaughtering capacity, alone or in combination with other plants, specified in the definition of packer in § 206.1.

(c) *What available contracts do I need to provide and when are they due?* After the initial submission, each packer must send GIPSA an example of each new contract it makes available to a producer or producers within 1 business day of the contract being made available at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in § 206.1.

(d) *What criteria do I use to select example contracts?* For purposes of distinguishing among contracts to determine which contracts may be represented by a single example, contracts will be considered to be the same if they are identical with respect to all of the following four example-contract criteria:

(1) Base price or determination of base price;

(2) Application of a ledger or accrual account (including the terms and conditions of the ledger or accrual account provision);

(3) Carcass merit premium and discount schedules (including the determination of the lean percent or other merits of the carcass that are used to determine the amount of the premiums and discounts and how those premiums and discounts are applied); and

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(4) Use and amount of noncarcass merit premiums and discounts.

(e) *Where and how do I send my contracts?* Each packer may submit the example contracts, notifications required by this section, and Form P&SP 342, Contract Submission Cover Sheet, by either of the following two methods:

(1) *Electronic report.* Example contracts and notifications required by this section may be submitted by electronic means. Electronic submission may be by any form of electronic transmission that has been determined to be acceptable to the Administrator. To obtain current options for acceptable methods to submit example contracts electronically, contact GIPSA through the Internet on the GIPSA Web site (<http://www.gipsa.usda.gov>) or at USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, Iowa 50309.

(2) *Printed report.* Each packer that chooses to submit printed example contracts and notifications must deliver the printed contracts and notifications to USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, Iowa 50309.

(f) *What information from the swine contract library will be made available to the public?* GIPSA will summarize the information it has received on contract terms, including, but not limited to, base price determination and the schedules of premiums or discounts. GIPSA will make the information available by region and contract type, as defined in § 206.1, for public release 1 month after the initial submission of contracts. Geographic regions will be defined in such a manner to provide as much information as possible while maintaining confidentiality in accordance with section 251 of the Agricultural Marketing Act (7 U.S.C. 1636).

(g) *How can I review information from the swine contract library?* The information will be available on the Internet on the GIPSA Web site (<http://www.gipsa.usda.gov>) and at USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, Iowa 50309. The information will be updated as GIPSA receives information from packers.

(h) *What do I need to do when a previously submitted example contract is no longer a valid example due to contract changes, expiration, or withdrawal?* Each packer must submit a new example

contract when contract changes result in changes to any of the four example-contract criteria specified in paragraph (d) of this section and notify GIPSA if the new example contract replaces the previously submitted example contract. Each packer must notify GIPSA when an example contract no longer represents any existing or available contract (expired or withdrawn). Each packer must submit these example contracts and notifications within 1 business day of the change, expiration, or withdrawal.

§ 206.3 Monthly report.

(a) *Do I need to provide monthly reports?* Each packer, as defined in § 206.1, must provide information for each swine processing plant that it operates or at which it has swine slaughtered that has the slaughtering capacity, alone or in combination with other plants, specified in the definition of packer.

(b) *When is the monthly report due?* Each packer must send a separate monthly report for each plant that has the slaughtering capacity, alone or in combination with other plants specified in the definition of packer in § 206.1. Each packer must deliver the report to the GIPSA Regional Office in Des Moines, Iowa, by the close of business on the 15th of each month, beginning at least 45 days after the initial submission of example contracts. If the 15th day of a month falls on a Saturday, Sunday, or federal holiday, the monthly report is due no later than the close of the next business day following the 15th.

(c) *What information do I need to provide in the monthly report?* The monthly report that each packer files must be reported on Form P&SP-341, which will be available on the Internet on the GIPSA Web site (<http://www.gipsa.usda.gov>) and at USDA GIPSA, Suite 317, 210 Walnut Street, Des Moines, Iowa 50309. In the monthly report, each packer must provide the following information:

(1) *Number of swine to be delivered under existing contracts.* Existing contracts are contracts the packer currently is using for the purchase of swine for slaughter at each plant. Each