

Text of the regulation as proposed	Text of the regulation as revised
206.3(g)(3)(ii) The types of contracts currently being offered to additional producers or available for renewal to currently contracted producers in each geographic region.	206.3(g)(3)(ii) The contract types currently being made available to additional producers or available for renewal to currently contracted producers in each geographic region.

Comment: Packers should submit any and all amendments, addenda, or specialty clauses that they make available. Submitted contracts should be fully representative of those contracts currently in effect.

Response: The regulation requires packers to submit example contracts. We believe that the example contracts should include any and all amendments, addenda, and specialty clauses that complete the contract. As discussed above, we determined that packers would submit example contracts based on a set of criteria. The criteria used to identify example contracts focuses on price determining contract terms. Using this criteria, the example contracts submitted should provide the full range of price determining contract terms for all available and existing contracts. The example contracts may not provide all of the other provisions (non-price determining contract terms) for all available or existing contracts. GIPSA will publish as much information as possible on the non-price determining contract terms contained in the example contracts while maintaining confidentiality. Therefore, we did not make any changes in response to this comment.

Comment: The requirements for "reporting concurrently" and "real-time reporting" need clarification. How would this apply, especially during contract negotiations? Contracts and proposed changes to contracts should not have to be reported until negotiations are final. Publish information within one week of the contract first being made available, issuing either a new contract or a change in a contract rather than on the actual day. Examples of contract development include: a final contract developed through a series of discussions with producers and groups

of producers; contract made available and accepted the same day or the next day; and contracts renegotiated 2 weeks later and again a week later.

Response: After a packer's initial submission of example contracts for the swine contract library, the packer must provide example contracts when a contract is made available that results in a different example contract as determined by using the four example-contract criteria. The LMRA requires the Secretary to make the information available "on a real-time basis if practicable." In the proposed rule, we used the word "concurrently" for the timing of this reporting and proposed to require the packer to provide example contracts to GIPSA on the day the contract is made available. The examples provided in the comments caused us to reconsider the same-day submission requirement.

We believe that the intention of requiring the library to include available contracts and requiring the Secretary make information available on a real time basis, if practicable, was to provide producers with information about contracts in a timely manner to enable the producers to know what terms are available. If packers submit contracts only after final negotiations and do not submit the original contract, then this purpose is defeated. We understand that contract negotiations may result in a contract the same day the contract is made available to producers, which would make submitting the contract, as an example contract, difficult to do on the same day it is made available. We also believe that waiting a week for the submission of the information would not provide adequate notice of the contracts to producers.

The steps involved in collecting and processing the information are time consuming. One of our goals is to minimize the amount of time required to get the information out to the

producers. To minimize the length of time it takes us to process the information and provide the reports, we have automated as much of the process as possible.

Even with the automation of our process, we need to receive the example contracts from the packers in a timely fashion, in order for us to meet the requirement of "real time" reporting as closely as we can. Therefore, the packer must submit example contracts to us within one business day of making the contract available or revising the contract, when the available contract or the change results in a new or replacement example contract. In addition, packers will also be required to notify us of expired contracts or withdrawn contracts by the next business day, to enable us to remove the information from the contract summary reports and keep the information up to date and representative of available and existing contracts. Therefore, we changed the submission requirements specified in paragraph (c) and paragraph (h) of section 206.2 of the regulations to require the packer to submit available contracts within one business day of making the contract available or of a contract change, expiration, or withdrawal.

Other changes to paragraph 206.2(h) included changing "on the day that one of its example contracts no longer represents any existing or offered contracts" to "when an example contract no longer represents any existing or available contract (expired or withdrawn)," adding a sentence to the end of the paragraph to specify that the example contracts and notifications must be submitted within one business day, and combining the first and second sentences of the paragraph and correcting the sentence by changing the word "that" to "if" in the phrase "if the new example contract."

Text of the regulation as proposed	Text of the regulation as revised
206.2(c) <i>What offered contracts do I need to provide and when are they due?</i> After the initial submission, each packer must send GIPSA an example of each new contract it offers to a producer or producers on the day the contract is offered at each plant that it operates or at which it has swine slaughtered that meets the definition of packer in § 206.1.	206.2(c) <i>What available contracts do I need to provide and when are they due?</i> After the initial submission, each packer must send GIPSA an example of each new contract it makes available to a producer or producers within one 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.