

date by which a breach should be remedied; and

(d) Whether the poultry grower or swine production contract grower was afforded adequate time from the date of the notice of the alleged breach to rebut the allegation of a breach.

[76 FR 76889, Dec. 9, 2011]

EFFECTIVE DATE NOTE: At 76 FR 76889, Dec. 9, 2011, §201.217 was added, effective Feb. 7, 2012.

**§201.218 Arbitration.**

(a) In any livestock or poultry production contract that requires the use of arbitration the following language must appear on the signature page of the contract in bold conspicuous print: *“Right to Decline Arbitration.* A poultry grower, livestock producer or swine production contract grower has the right to decline to be bound by the arbitration provisions set forth in this agreement. A poultry grower, livestock producer or swine production contract grower shall indicate whether or not it desires to be bound by the arbitration provisions by signing one of the following statements; failure to choose an option will be treated as if the poultry grower, livestock producer or swine production contract grower declined to be bound by the arbitration provisions set forth in this Agreement:

I decline to be bound by the arbitration provisions set forth in this Agreement

I accept the arbitration provisions as set forth in this Agreement.”

(b) The Secretary may consider various criteria when determining whether the arbitration process provided in a production contract provides a meaningful opportunity for the poultry grower, livestock producer, or swine production contract grower to participate fully in the arbitration process. These criteria include, but are not limited to:

(1) Whether the contract discloses sufficient information in bold, conspicuous print describing all the costs of arbitration to be paid by the poultry grower, swine production contract grower, or livestock producer, and the arbitration process and any limitations on legal rights and remedies in such a manner as to allow the poultry grower,

livestock producer or swine contract production grower to make an informed decision on whether to elect arbitration for dispute resolution;

(2) Whether provisions in the entire arbitration process governing the costs and time limits are reasonable;

(3) Whether the poultry grower, livestock producer, or swine production contract grower is provided access to and opportunity to engage in reasonable discovery of information held by the packer, swine contractor or live poultry dealer;

(4) Whether arbitration is required to be used to resolve only disputes relevant to the contractual obligations of the parties; and

(5) Whether a reasoned, written opinion based on applicable law, legal principles and precedent for the award is required to be provided to the parties.

[76 FR 76889, Dec. 9, 2011]

EFFECTIVE DATE NOTE: At 76 FR 76889, Dec. 9, 2011, §201.218 was added, effective Feb. 7, 2012.

**PART 202—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE PACKERS AND STOCKYARDS ACT**

**RULES OF PRACTICE APPLICABLE TO RATE PROCEEDINGS**

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- 202.1 Applicability of other rules.
- 202.2 Definitions.
- 202.3 Institution of proceedings.
- 202.4 Answer and reply.
- 202.5 Hearing.
- 202.6 Taking no position on the merits.
- 202.7 Modification or vacation of final order.

**RULES OF PRACTICE APPLICABLE TO REPARATION PROCEEDINGS**

- 202.101 Rule 1: Meaning of words.
- 202.102 Rule 2: Definitions.
- 202.103 Rule 3: Beginning a reparation proceeding.
- 202.104 Rule 4: Agency action.
- 202.105 Rule 5: Filing; time for filing; service.
- 202.106 Rule 6: Answer.
- 202.107 Rule 7: Reply.
- 202.108 Rule 8: Docketing of proceeding.
- 202.109 Rule 9: Depositions.
- 202.110 Rule 10: Prehearing conference.
- 202.111 Rule 11: Hearing, oral or written.
- 202.112 Rule 12: Oral hearing.
- 202.113 Rule 13: Written hearing.