

§ 201.305

another covered producer, or with a commercial entity or consultant, for the purpose of exploring or entering into a business relationship.

(vi) Supporting or participating as a witness in any proceeding under the Act, or any proceeding that relates to an alleged violation of any law by a regulated entity.

(vii) Asserting any of the rights granted under Act or this part, or asserting contract rights.

(3) The following actions are considered retaliation or an otherwise adverse action under paragraph (b)(1) of this section:

(i) Terminating or not renewing a contract.

(ii) Performing under or enforcing a contract differently than with similarly situated covered producers.

(iii) Requiring a contract modification or a renewal on terms less favorable than similarly situated covered producers.

(iv) Refusing to deal with a covered producer on terms generally or ordinarily offered to similarly situated covered producers.

(v) Interfering in a farm real estate transaction or a contract with third parties.

(vi) Any other action that a reasonable covered producer would find materially adverse.

(c) *Recordkeeping of compliance practices.* (1) The regulated entity shall retain all records relevant to its compliance with paragraphs (a) and (b) of this section for no less than 5 years from the date of record creation.

(2) Relevant records to paragraph (c)(1) of this section may include: policies and procedures, staff training materials, materials informing covered producers regarding reporting mechanisms and protections, compliance testing, board of directors' oversight materials, and the number and nature of complaints received relevant to this section.

§ 201.305 [Reserved]

§ 201.306 Deceptive practices.

(a) *Prohibited practices.* A regulated entity may not engage in the deceptive practices in paragraphs (b) through (e) of this section with respect to live-

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stock, meats, meat food products, live-stock products in unmanufactured form, or live poultry.

(b) *Contract formation.* A regulated entity may not make or modify a contract with a covered producer by employing a false or misleading statement, or omission of material information necessary to make a statement not false or misleading.

(c) *Contract performance.* A regulated entity may not perform under or enforce a contract with a covered producer by employing a false or misleading statement, or omission of material information necessary to make a statement not false or misleading.

(d) *Contract termination.* A regulated entity may not terminate a contract with a covered producer by employing a false or misleading statement, or omission of material information necessary to make a statement not false or misleading.

(e) *Contract refusal.* A regulated entity may not provide false or misleading information to a covered producer or association of covered producers concerning a refusal to contract.

§§ 201.307-201.308 [Reserved]

§ 201.389 [Reserved]

§ 201.390 Severability.

If any provision of this subpart, or any component of any provision, is declared invalid or the applicability thereof to any person or circumstances is held invalid, it is the Agricultural Marketing Service's intention that the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby with the remaining provision, or component of any provision, to continue in effect.

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

RULES OF PRACTICE APPLICABLE TO RATE PROCEEDINGS

- Sec.
- 202.1 Applicability of other rules.
- 202.2 Definitions.
- 202.3 Institution of proceedings.