

clarified to avoid confusion and keep persons from filing suit against a surety company 15 or 18 months after a transaction when no claim was ever filed against the bond.

The Agency believes that the language in § 201.33 is sufficiently clear and does not believe it is necessary to define "date of transaction" or to modify paragraph (d). In addition, § 409 of the P&S Act provides a basis for when payment is due in subject transactions. Under § 409, payment must be made by the close of the next business day following the purchase of livestock and transfer of possession thereof. After considering these comments, the Agency has decided to retain § 201.33 in its present form.

The proposed changes in § 201.27(b)(1) and (b)(2) and in § 201.34(c) do not impose or change any recordkeeping or information collection requirements. Existing requirements in these regulations have been previously approved by OMB under control No. 0590-0001.

As provided by the Regulatory Flexibility Act, it is hereby certified that these amended rules will not have significant economic impact on a substantial number of small entities and a statement explaining the reasons for the certification is set forth in the following paragraph and is being provided to the Chief Counsel for Advocacy of the Small Business Administration.

While these proposed amended rules impact small entities, they will not have a significant economic impact on any entity, large or small. The primary effect of the changes in rules § 201.27(b)(1) and (b)(2) is to permit funds pledged under bond equivalents to be on deposit or in accounts that are Federally insured and to permit Federally-insured banks and other institutions to issue letters of credit. Eligible institutions would no longer be restricted to those banks or institutions insured by FDIC. The primary effect of the rule change in § 201.34(c) is to include the termination of trust agreements.

These rules have been determined to be not significant for purposes of Executive Order 12866 and, therefore, have not been reviewed by OMB. These amendments do not impose any new paperwork requirements and do not have implications for Federalism under the criteria for E.O. 12612.

This final rule has been reviewed under E.O. 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with

this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

List of Subjects in 9 CFR Part 201

Bonding, Dealer, Market Agency, Packer, Registration.

Done at Washington, D.C., on this 1st day of July 1996.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

For the reasons set forth in the preamble, the Grain Inspection, Packers and Stockyards Administration will amend 9 CFR part 201 as follows:

**PART 201—[AMENDED]**

1. The authority citation for part 201 continues to read as follows:

Authority: 7 U.S.C. 204, 228; 7 CFR 2.17(e), 2.56.

2. Revise § 201.27(b) to read as follows:

**§ 201.27 Underwriter: equivalent in lieu of bonds; standard forms.**

\* \* \* \* \*

(b) Any packer, market agency, or dealer required to maintain a surety bond under these regulations may elect to maintain, in whole or partial substitution for such surety bond, a bond equivalent, or combination thereof, must be the total amount of the surety bond otherwise required under these regulations. Any such bond equivalent must be in the form of:

(1) A trust fund agreement governing funds actually deposited or invested in fully negotiable obligations of the United States or Federally-insured deposits or accounts in the name of and readily convertible to currency by a trustee as provided in § 201.32, or

(2) A trust agreement governing funds which may be drawn by a trustee as provided in § 201.32, under one or more irrevocable, transferrable, standby letters of credit, issued by a Federally-insured bank or institution and physically received and retained by such trustee.

\* \* \* \* \*

3. Revise § 201.34(c) as follows:

**§ 201.34 Termination of market agency, dealer and packer bonds.**

\* \* \* \* \*

(c) Each trust fund agreement and trust agreement shall contain a provision requiring that, prior to terminating such agreement, at least 30 days notice in writing shall be given to the Administrator, Grain Inspection, Packers and Stockyards Administration, U.S. Department of Agriculture,

Washington, D.C. 20250, by the party terminating the agreement. Such provision shall state that in the event the principal named therein files an acceptable bond or bond equivalent to replace the agreement, the 30-day notice requirement may be waived and the agreement will be terminated as of the effective date of the replacement bond or bond equivalent.

\* \* \* \* \*

[FR Doc. 96-17358 Filed 7-9-96; 8:45 am]

BILLING CODE 3410-EN-P

**9 CFR Part 201**

**RIN 0580-AA44**

**Regulations and Statements of General Policy Issued Under the Packers and Stockyards Act**

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

**ACTION:** Final rule.

**SUMMARY:** As part of GIPSA's efforts to review and streamline its regulations, proposed amendments to rules issued under the Packers and Stockyards Act (7 U.S.C. 181 *et seq.*) were published in the Federal Register (60 FR 29506) on June 5, 1995, and identified as Group II. This document adopts proposed changes which modify six trade practice regulations and retains seven regulations and seven statements of general policy in their present form.

**EFFECTIVE DATE:** August 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Daniel Van Ackeren, Director, Livestock Marketing Division, 202-720-6951, or Tommy Morris, Director, Packer and Poultry Division, 202-720-7363.

**SUPPLEMENTARY INFORMATION:** In response to the proposed rule published in the Federal Register (60 FR 29506), the Agency received comments from four organizations and two companies.

Although the Agency did not propose any changes to § 201.43, a poultry growers association suggested that a new paragraph be added to § 201.43 to require live poultry dealers to maintain certain records for flock placements. After considering the comment, the Agency has concluded that this regulation will be retained in its present form. The Agency believes that § 401 of the P&S Act adequately addresses the issue of record maintenance.

The Agency received three comments regarding § 201.49. A livestock trade association agrees with the proposed amendment. A major hog slaughterer suggests that records be retained for lot summaries instead of individual

weights. They feel that the volume of the records for the individual weights would be too impractical to maintain. A cattle producers association stated that this regulation is consistent with its policy.

As proposed, § 201.49 (a) will be amended to specifically state that all scales used to purchase livestock on a dressed weight basis be equipped with printing devices. The Agency will amend subsection (b) of § 201.49 to require weighmaster identification on executed poultry scale tickets that is uniform with identification required by livestock weighers.

The cattle producers association suggested that the Agency closely monitor § 201.53 and help to ensure that information released to the beef industry is accurate and timely. After considering the comment, the Agency has concluded that this regulation will be retained in its present form. The Agency believes this regulation adequately addresses the importance of accurate information.

No comments were received regarding the proposed amendment to § 201.55 to include the purchase, sale, acquisition and settlement of live poultry.

The Agency received two comments regarding § 201.71. One livestock trade association and a livestock producers association agreed with the proposed amendment. As proposed, § 201.71(a) will be amended to incorporate by reference the 1996 edition of the National Institute of Standards and Technology (NIST) Handbook 44. Section 201.71(b) will be amended to require that scales used to purchase livestock on a carcass weight basis be equipped with printing devices.

The Agency received a comment regarding § 201.73-1 from a livestock trade association agreeing with the technical change to this section. The Agency will change § 201.73-1 to more accurately reflect where forms are available and where they are to be filed.

One hog slaughterer suggested that § 201.76 be clarified to state that any reweighing of livestock be requested immediately. They also pointed out that the reweighing of dressed livestock would be impossible after carcasses have cleared the hot scale and entered the cooler. After considering the comment, the Agency has concluded that this regulation will be retained in its present form. The Agency believes immediate reweighing can be accomplished using other packer-owned monorail scales installed before, after or in rail-around areas near the kill floor scale. Where other scales are not available, reweighing can be

accomplished by using an Agency-owned portable monorail scale.

The Agency received a comment from a livestock trade association regarding § 201.98 agreeing with the proposed amendment. As proposed, § 201.98 will be amended by adding the wording, "unless the charge is for services mandated by law or statute."

The Agency received two comments regarding § 201.100. A poultry growers association suggested that paragraph (d) be amended by adding a clause prohibiting persons who are employees and raise poultry under a poultry growing arrangement for the same live poultry dealer that employs them from being included in a grouping or ranking of non-employee growers. A farm association commented that this section is badly needed to make contract growing fair for all growers. After considering the comments, the Agency concluded that this regulation will be retained in its present form. Inclusion of employee growers in a grouping or ranking of all growers is not a violation of the P&S Act unless they are treated favorably over non-employee growers. The Agency has authority to address preferential or discriminatory treatment under section 202 of the P&S Act.

No comments were received regarding the proposed amendment to § 201.108-1. As proposed, § 201.108-1 will be amended by incorporating instructions for weighing live poultry on electronic scales with digital readouts.

As proposed, each of the following regulations and statements of general policy will be retained in its present form:

Sec.

- 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.
- 201.69 Furnishing information to competitor buyers.
- 201.70 Restriction or limitation of competition between packers and dealers prohibited.
- 201.73 Scale operators to be qualified.
- 201.76 Reweighing.
- 201.100 Records to be furnished poultry growers and sellers.
- 201.200 Sale of livestock to a packer on credit.
- 203.2 Statement of general policy with respect to the giving by meat packers of meat and other gifts to Government employees.
- 203.4 Statement with respect to the disposition of records by packers, live poultry dealers, stockyard owners, market agencies and dealers.
- 203.7 Statement with respect to meat packer sales and purchase contracts.
- 203.15 Trust benefits under sections 206 and 207 of the Act.

203.16 Mailing of checks in payment for livestock purchased for slaughter, for cash and not on credit.

203.18 Statement with respect to packers engaging in the business of custom feeding livestock.

203.19 Statement with respect to packers engaging in the business of livestock dealers or buying agencies.

In the process of reviewing these regulations, it was determined that they were necessary for the efficient and effective enforcement of the P&S Act and for the orderly conduct of the marketing system. The absence of any of the regulations would be detrimental to the industry and could result in increased litigation.

The Agency received a comment from a farm association regarding § 203.4. This policy statement notifies persons subject to the P&S Act that certain records may be disposed of after a specific period of time. It also states that the Deputy Administrator may require that records be retained for a longer period pending completion of an investigation. The policy statement advises that if records are disposed of before the specified periods, the Agency will consider taking formal action. The farm association suggested that records be retained for three (3) years or more. After considering the comment, the Agency has concluded that this policy will be retained in its present form. The two year retention schedule provided in this section has not caused problems in administering the provisions of the P&S Act. Further, the Agency has the authority to require that records be retained for longer periods when deemed necessary.

The Agency received a comment from a cattle producers association regarding § 203.18. This policy statement notifies packers that ownership or operation of custom feedlots may, under certain circumstances, result in a conflict of interest or anticompetitive violations. It suggests packers consult with the Agency before commencing such activity. The association urges the Agency to closely scrutinize this policy statement. Current authority under the P&S Act is sufficient to allow the Agency to review any arrangement that may result in an unfair practice or advantage. A *per se* prohibition of these type of arrangements can only be achieved by legislative action to amend the P&S Act. For these reasons, no changes are being made in § 203.18. The Agency will continue to evaluate these types of arrangements on a case-by-case basis.

The Agency received a comment regarding § 203.19 from a livestock trade association. The association proposed

that this section be amended to prohibit packers and their employees or agents engaged in the business of a buying agency from purchasing and reselling classes or species of livestock which are not part of their main business activity as a packer. The Agency will not make changes to § 203.19 at this time, but will continue to evaluate each such arrangement on a case-by-case basis. As a practical matter, most packers consult with the Agency before entering into such arrangements. Amending this rule to require such consultation does not appear necessary. Attempting to shift the burden of proof that the arrangement does not restrain trade would not relieve the Agency of the responsibility to investigate and make a factual determination.

The changes in §§ 201.49, 201.55, 201.71, 201.73-1, 201.98, and 201.108-1 do not impose or change any recordkeeping or information collection requirements. Existing requirements in these regulations have been previously approved by OMB under Control No. 0590-0001.

As provided by the Regulatory Flexibility Act, it is hereby certified that these amended rules will not have a significant economic impact on a substantial number of small entities and a statement explaining the reasons for the certification is set forth in the following paragraph and is being provided to the Chief Counsel for Advocacy of the Small Business Administration.

While these amended rules impact small entities, they will not have a significant economic impact on any entity, large or small. The primary effect of the changes in §§ 201.49 and 201.71 is to require that when livestock is purchased on the basis of carcass weight, the scale used on such purchases be equipped with a printer. The primary effect of the change in § 201.55 is to require that when poultry is bought, sold, acquired, or settled on a weight basis, the actual weight on the scale ticket be used for such purposes, as is currently required for livestock. The primary effect of the change in § 201.73-1 is to make a technical change in the name of the Agency pursuant to Public Law 103-354, the Federal Crop Insurance Reform and the Department of Agriculture's Reorganization Act of 1994. The primary effect of the change in § 201.98 is to allow packers and dealers to charge for services that are mandated by law or statute. The primary effect of the change in § 201.108-1 is to update the regulation.

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not

been reviewed by OMB. These amendments do not impose any new paperwork requirements and do not have implications of Federalism under the criteria of E.O. 12612.

These amendments have been reviewed under E.O. 12778, Civil Justice Reform, and are not intended to have retroactive effect. These amendments will not pre-empt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this amendment. Prior to judicial challenge of the amendment to rule, a party must first be found by the Secretary to be in violation of the P&S Act and in violation of the accompanying regulations. Second, the party must appeal that finding and the validity of the regulation to the Secretary in the course of the administrative proceeding. Only after taking these steps, may the party challenge the regulation in a court of competent jurisdiction.

#### List of Subjects in 9 CFR Part 201

Reporting and recordkeeping requirements, Stockyards, Trade practices, Incorporation by reference.

Done at Washington, D.C., this 1st day of July 1996.

James R. Baker,

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

For the reasons set forth in the preamble, 9 CFR Part 201 is amended to read as follows:

1. The authority citation for Part 201 continues to read as follows:

Authority: 7 U.S.C. 204, 228; 7 CFR 2.17(e), 2.56.

2. Section 201.49 is revised to read as follows:

#### **§ 201.49 Requirements regarding scale tickets evidencing weighing of livestock and live poultry.**

(a) *Livestock.* When livestock is weighed for the purpose of purchase or sale, a scale ticket shall be issued which shall be serially numbered and used in numerical sequence. Sufficient copies shall be executed to provide a copy to all parties to the transaction. In instances where the weight values are automatically recorded directly on the account of purchase, account of sale or other basic record, this record may serve in lieu of a scale ticket. When livestock is purchased on a carcass weight or carcass grade and weight basis, the hot carcass weights shall be recorded using a scale equipped with a printing device, and such printed weights shall be retained as part of the person or firm's business records to substantiate settlement on each transaction. Scale

tickets issued under this section shall show:

- (1) The names and location of the agency performing the weighing service;
- (2) The date of the weighing;
- (3) The name of the buyer and seller or consignor, or a designation by which they may be readily identified;
- (4) The number of head;
- (5) Kind of livestock;
- (6) Actual weight of each draft of livestock; and
- (7) The name, initials, or number of the person who weighed the livestock, or if required by State law, the signature of the weigher.

(b) *Poultry.* When live poultry is weighed for the purpose of purchase, sale, acquisition, or settlement by a live poultry dealer, a scale ticket shall be issued which shall show:

- (1) The name of the agency performing the weighing service;
- (2) The name of the live poultry dealer;
- (3) The name and address of the grower, purchaser, or seller;
- (4) The name or initials or number of the person who weighed the poultry, or if required by State law, the signature of the weigher;
- (5) The location of the scale;
- (6) The gross weight, tare weight, and net weight;
- (7) The date and time gross weight and tare weight are determined;
- (8) The number of poultry weighed;
- (9) The weather conditions;
- (10) Whether the driver was on or off the truck at the time of weighing; and
- (11) The license number of the truck or the truck number; *provided*, that when live poultry is weighed on a scale other than a vehicle scale, the scale ticket need not show the information specified in paragraphs (b)(9)-(11) of this section. Scale tickets issued under this paragraph shall be at least in duplicate form and shall be serially numbered and used in numerical sequence. One copy shall be furnished to the grower, purchaser, or seller, and one copy shall be furnished to or retained by the live poultry dealer.

(Approved by the Office of Management and Budget under control number 0590-0001.)

3. Section 201.55 is revised to read as follows:

#### **§ 201.55 Purchases, sales, acquisitions, and settlements to be made on actual weights.**

When livestock or live poultry is bought, sold, acquired, or settled on a weight basis, settlement therefor shall be on the basis of the actual weight on the scale ticket. If the actual weight used is not obtained on the date and at the

place of transfer of possession, this information shall be disclosed with the date and location of the weighing on the accountings, bills, or statement issued. Any adjustment to the actual weights shall be fully and accurately explained on the accountings, bills, or statements issued and records shall be maintained to support such adjustment.

(Approved by the Office of Management and Budget under control number 0590-0001.)

4. Section § 201.71 (a) and (b) is revised to read as follows:

**§ 201.71 Scales, accurate weights, repairs, adjustments or replacements after inspection.**

(a) All scales used by stockyard owners, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, or live poultry for the purpose of purchase, sale, acquisition, or settlement shall be installed, maintained, and operated to insure accurate weights. Such scales shall meet applicable requirements contained in the General Code, Scale Code, and Weights Code of the 1996 edition of National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," which is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register on January 11, 1989. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. This handbook is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. It is also available for inspection at the Office of the Federal Register Information Center, 800 North Capitol Street, N.W., suite 700, Washington, D.C. 20408.

(b) All scales used by stockyard owners, market agencies dealers, packers, and live poultry dealers to weigh livestock or live poultry for the purpose of purchase, sale, acquisition, or settlement and all scales used for the purchase, sale, acquisition, or settlement of livestock on a carcass weight basis shall be equipped with a printing device which shall be used for recording weight values on a scale ticket or other document used for this purpose.

5. Section § 201.73-1 introductory text is revised to read as follows:

**§ 201.73-1 Instructions for weighing livestock.**

Stockyard operators, market agencies, dealers, and packers who operate scales

on which livestock is weighed in purchase or sales transactions are responsible for the accurate weighing of such livestock. They shall supply copies of the instructions in this section to all persons who perform weighing operations for them and direct such person to familiarize themselves with the instructions and to comply with them at all times. This section shall also apply to any additional weighers who are employed at any time. Weighers must acknowledge their receipt of these instructions and agree to comply with them, by signing in duplicate, P&SA Form 215 provided by the Packers and Stockyards Programs. One copy of the form is to be filed with a regional office of the Packers and Stockyards Programs and the other retained by the agency employing the weighers.

6. Section § 201.98 is revised to read as follows:

**§ 201.98 Packers and dealers not to charge, demand, or collect commission, yardage, or other service charges.**

No packer or dealer shall, in connection with the purchase of livestock in commerce, charge, demand, or collect from the seller of the livestock any compensation in the form of commission, yardage, or other service charge unless the charge is for services mandated by law or statute and is not inconsistent with the provisions of the Act.

7. Section § 201.108-1 introductory paragraph and paragraphs, (a) and (c)-(f) are revised to read as follows:

**§ 201.108-1 Instructions for weighing live poultry.**

Live poultry dealers who operate scales on which live poultry is weighed for purposes of purchase, sale, acquisition, or settlement are responsible for the accurate weighing of such poultry. They shall supply copies of the instructions in this section to all persons who perform weighing operations for them and direct such persons to familiarize themselves with the instructions and to comply with them at all times. This section shall also apply to any additional weighers who are employed at any time. Weighers must acknowledge their receipt of these instructions and agree to comply with them by signing in duplicate, a form provided by the Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration. One copy of this form is to be filed with a regional office of the Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration and the other copy retained by the Agency employing the weighers. The following

instructions shall be applicable to the weighing of live poultry on all scales, except that paragraph (c)(1) of this section is only applicable to the weighing of live poultry on vehicle scales.

(a) Balancing the empty scale. (1) The scale shall be maintained in zero balance at all times. The empty scale shall be balanced each day before weighing begins and thereafter its zero balance shall be verified before any poultry is weighed. In addition, the zero balance of the scale shall be verified whenever a weigher resumes weighing duties after an absence from the scale.

(2) Before balancing the empty scale, the weigher shall notify parties outside the scale house of his/her intention and shall be assured that no persons or vehicles are in contact with the platform. When the empty scale is balanced and ready for weighing, the weigher shall so indicate by appropriate signal.

(3) Weighbeam scales shall be balanced by first seating each poise securely in its zero notch and then moving the balance ball to such position that a correct zero balance is obtained. A scale equipped with a balance indicator is correctly balanced when the indicator comes to rest in the center of the target area. A scale not equipped with a balance indicator is correctly balanced if the weighbeam, when released at the top or bottom of the trig loop, swings freely in the trig loop in such manner that it will come to rest at the center of the trig loop.

(4) Dial scales shall be balanced by releasing all drop weights and operating the balance ball or other balancing device to obtain a correct zero balance. The indicator must visibly indicate zero on the dial reading face and the ticket printer must record a correct zero balance. "Balance tickets" shall be filed with other scale tickets issued on that date.

(5) Electronic digital scales should be properly warmed up before use. In most cases it is advisable to leave the electric power on continuously. The zero balance shall be verified by recording the zero balance on a scale ticket. The main indicating element and the remote visual weight display shall indicate zero when the balance is verified. The proper procedure for balancing this type of scale will vary according to the manufacturer. Refer to the operator's manual for specific instructions.

(6) A balance ball or other balancing device shall be operated only when balancing the empty scale and shall not be operated at any time or for any other purpose.

(7) The time at which the empty scale is balanced or its zero balance verified shall be marked on scale tickets or other permanent records.

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(c) Weighing the load. (1) Vehicle scales used to weigh live poultry shall be of sufficient length and capacity to weigh an entire vehicle as a unit; provided, that a trailer may be uncoupled from a tractor and weighed as a single unit. Before weighing a vehicle, either coupled or uncoupled, the weigher shall be assured that the entire vehicle is on the scale platform and that no persons are on the scale platform.

(i) On a weighbeam scale with a balance indicator the weight of a vehicle shall be determined by moving the poises to such positions that the indicator will come to rest within the central target area.

(ii) On a weighbeam scale without a balance indicator the weight shall be determined by moving the poises to such positions that the weighbeam, when released from the top or bottom of the trig loop, will swing freely in the trig loop and come to rest at the approximate center of the trig loop.

(iii) On a dial scale the weight of a vehicle is indicated automatically when the indicator revolves around the dial face and comes to rest.

(iv) On an electronic digital scale the weight of a vehicle is indicated automatically when the weight value indicated is stable.

(2) The correct weight is the value in pounds indicated by a weighbeam, dial or digital scale when a stable load balance is obtained. In any case, the weigher should concentrate on the beam tip, balance indicator, dial or digital indicator while weighing and not be concerned with reading the visible weight indications until a stable load balance is obtained. On electronic digital scales, the weigher should concentrate on the pulsing or flickering of weight values to assure that the unit indicates a stable weight before activating the print button.

(d) Recording the weight. (1) The gross or tare weight shall be recorded immediately after the load balance is obtained and before any poises are moved or load removed from the scale platform. The weigher shall make certain that the printed weight record agrees with the weight value visibly indicated on the weighbeam, dial or digital indicator when correct load balance is obtained. The weigher shall also assure that the printed weight value is sufficiently distinct and legible.

(2) The weight printing device on a scale shall be operated only to produce

a printed or impressed record of the weight while the load is on the scale and correctly balanced. If the weight is not printed clearly and correctly, the ticket shall be marked void and a new one printed before the load is removed from the scale.

(e) Weigher's responsibilities. (1) The primary responsibility of a weigher is to determine and record the true weight of live poultry without prejudice or favor to any person or agency and without regard for poultry ownership, price, condition, shrink, or other considerations. A weigher shall not permit the representations or attitudes of any persons or agencies to influence their judgment or action in performing his/her duties.

(2) Scale tickets issued shall be serially numbered and used in numerical sequence. Sufficient copies shall be executed to provide a copy to all parties to the transaction. Unused scale tickets or those which are partially executed shall not be left exposed or accessible to other parties. All such tickets shall be kept under lock when the weigher is not at his duty station.

(3) Accurate weighing and weight recording require that a weigher shall not permit operations to be hurried to the extent that inaccurate weights or incorrect weight records may result. The gross, tare and net weights must be determined accurately to the nearest minimum graduation. Manual operations connected with balancing, weighing, and recording shall be performed with the care necessary to prevent damage to the accurately machined and adjusted parts of weighbeams, poises, and printing devices. Rough handling of these parts shall be avoided.

(4) Poultry growers, live poultry dealers, sellers, or others having legitimate interest in a load of poultry are entitled to observe the balancing, weighing, and recording procedures. A weigher shall not deny such persons that right or withhold from them any information pertaining to the weight. The weigher shall check the zero balance of the scale or reweigh a load of poultry when requested by such parties or duly authorized representatives of the administrator.

(f) General precautions. (1) The poises of weighbeam scales are carefully adjusted and sealed to a definite weight at the factory and any change in that weight seriously affects weighing accuracy. A weigher, therefore, shall observe if poise parts are broken, loose or lost or if material is added to a poise and shall report any such condition to his/her superior or employer. Balancing or weighing shall not be performed

while a scale ticket is in the slot of a weighbeam poise.

(2) Stops are provided on scale weighbeams to prevent movement of poises back of the zero graduation when balancing or weighing. When the stops become worn or broken and allow a poise to be set behind the zero position, this condition must be reported by the weigher to their superior or employer and corrected without delay.

(3) Motion detection circuits are a part of electronic scales. They are designed to prevent the printing of weight values if the load has not stabilized within prescribed limits. The weighmaster's duty is to print the actual weight of the load within these limits. This requires printing the actual weight of the load, not one of the other weights that may be within the motion detection limits.

(4) Foreign objects or loose material in the form of nuts, bolts, washers, or other material on any part of the weighbeam assembly, including the counter-balance hanger or counter-balance weights, are potential sources of weighing error. Loose balancing material must be enclosed in the shot cup of the counter-balance hanger and counter-balance weights must not be of the slotted type which can readily be removed.

(5) Whenever, for any reason, a weigher has reason to believe that a scale is not functioning properly or not yielding correct weight values, the weigher shall discontinue weighing, report the facts to the parties responsible for scale maintenance and request inspection, test or repair of the scale.

(6) When a scale has been adjusted, modified, or repaired in any manner which can affect the accuracy of weighing or weight recording, the weigher shall not use the scale until it has been tested and inspected and found to be accurate.

[FR Doc. 96-17359 Filed 7-9-96; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 96-ANE-12]

#### Amendment to Class E Airspace; Pittsfield, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of a rule, published on