

letters of credit authorized in paragraph (b) of this section.

(d) Bonds, trust fund agreements, letters of credit and trust agreements shall be filed on forms approved by the Administrator.

(Approved by the Office of Management and Budget under control number 0580-0015)

[56 FR 2128, Jan. 22, 1991, as amended at 61 FR 36279, July 10, 1996; 62 FR 11759, Mar. 13, 1997; 68 FR 75388, Dec. 31, 2003]

§ 201.28 Duplicates of bonds or equivalents to be filed with Regional Supervisors.

Fully executed duplicates of bonds, trust fund agreements, and trust agreements maintained under the regulations in this part, and fully executed duplicates of all endorsements, amendments, riders, indemnity agreements, and other attachments thereto, and photographically reproduced copies of any letter of credit or amendment thereto, shall be filed with the Regional Supervisor for the region in which the registrant, packer, or person applying for registration resides, or in the case of a corporation, where the corporation has its home office: *Provided*, that if such registrant, packer, or person does not engage in business in such area, the foregoing documents shall be filed with the Regional Supervisor for the region in which the place of business of the registrant or packer or person is located.

(Approved by the Office of Management and Budget under control number 0580-0015)

[56 FR 2128, Jan. 22, 1991, as amended at 68 FR 75388, Dec. 31, 2003]

MARKET AGENCY, DEALER AND PACKER
BONDS

§ 201.29 Market agencies, packers and dealers required to file and maintain bonds.

(a) Every market agency, packer, and dealer, except as provided in paragraph (d) of this section, and except packer buyers registered as dealers to purchase livestock for slaughter only, shall execute and maintain a reasonable bond on forms approved by the Administrator containing the appropriate condition clauses, as set forth in § 201.31 of the regulations, applicable to the activity or activities in which the

person or persons propose to engage, to secure the performance of obligations incurred by such market agency, packer, or dealer. No market agency, packer, or dealer required to maintain a bond shall conduct his operations unless there is on file and in effect a bond complying with the regulations in this part.

(b) Every market agency buying on a commission basis and every dealer buying for his own account or for the accounts of others shall file and maintain a bond. If a registrant operates as both a market agency buying on a commission basis and as a dealer, only one bond to cover both buying operations need be filed. Any person operating as a market agency selling on a commission basis and as a market agency buying on a commission basis or as a dealer shall file and maintain separate bonds to cover his selling and buying operations.

(c) Each market agency and dealer whose buying operations are cleared by another market agency shall be named as clearee in the bond filed and maintained by the market agency registered to provide clearing services. Each market agency selling livestock on a commission basis shall file and maintain its own bond.

(d) Every packer purchasing livestock, directly or through an affiliate or employee or a wholly-owned subsidiary, except those packers whose annual purchases do not exceed \$500,000, shall file and maintain a reasonable bond. In the event a packer maintains a wholly-owned subsidiary or affiliate to conduct its livestock buying, the wholly-owned subsidiary or affiliate shall be registered as a packer buyer for its parent packer firm, and the required bond shall be maintained by the parent packer firm.

(7 U.S.C. 204, 228(a))

[48 FR 8806, Mar. 2, 1983]

§ 201.30 Amount of market agency, dealer and packer bonds.

(a) *Market agency selling livestock on commission.* To compute the required amount of bond coverage, divide the dollar value of livestock sold during the preceding business year, or the substantial part of that business year, in

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which the market agency did business, by the actual number of days on which livestock was sold. The divisor (the number of days on which livestock was sold) shall not exceed 130. The amount of bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$50,000, the amount of bond coverage need not exceed \$50,000 plus 10 percent of the excess over \$50,000, raised to the next \$5,000 multiple. In no case shall the amount of bond coverage for a market agency selling on commission be less than \$10,000 or such higher amount as required to comply with any State law.

(b) *Market agency buying on commission or dealer.* The amount of bond coverage must be based on the average amount of livestock purchased by the dealer or market agency during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased during the preceding business year, or substantial part of that business year, in which the dealer or market agency or both did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of the bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$75,000, the amount of bond coverage need not exceed \$75,000 plus 10 percent of the excess over \$75,000, raised to the next \$5,000 multiple. In no case shall the amount of bond coverage be less than \$10,000 or such higher amount as required to comply with any State law.

(c) *Market agency acting as clearing agency.* The amount of bond coverage must be based on the average amount of livestock purchased by all persons for whom the market agency served as a clearor during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased by all persons for whom the market agency served as a clearor during the preceding business year, or sub-

stantial part of that business year, in which the market agency acting as clearing agency did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$75,000, the amount of bond coverage need not exceed \$75,000 plus 10 percent of the excess over \$75,000, raised to the next \$5,000 multiple. In no case shall the amount of bond coverage be less than \$10,000 or such higher amount as required to comply with any State law.

(d) *Packer.* The amount of bond coverage must be based on the average amount of livestock purchased by the packer during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased during the preceding business year, or substantial part of that business year, in which the packer did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of the bond coverage must be the next multiple of \$5,000 above the amount so determined. In no case shall the amount of bond coverage for a packer be less than \$10,000.

(e) If a person applying for registration as a market agency or dealer has been engaged in the business of handling livestock before the date of the application, the value of the livestock handled, if representative of future operations, must be used in computing the required amount of bond coverage. If the applicant for registration is a successor in business to a registrant formerly subject to these regulations, the amount of bond coverage of the applicant must be at least that amount required of the prior registrant, unless

otherwise determined by the Administrator. If a packer becomes subject to these regulations, the value of livestock purchased, if representative of future operations, must be used in computing the required amount of bond coverage. If a packer is a successor in business to a packer formerly subject to these regulations, the amount of bond coverage of the successor must be at least that amount required of the prior packer, unless otherwise determined by the Administrator.

(f) Whenever the Administrator has reason to believe that a bond is inadequate to secure the performance of the obligations of the market agency, dealer or packer covered thereby, the Administrator shall notify such person to adjust the bond to meet the requirements the Administrator determines to be reasonable.

(7 U.S.C. 204, 228(a))

[48 FR 8806, Mar. 2, 1983]

§ 201.31 Conditions in market agency, dealer and packer bonds.

Each market agency, dealer and packer bond shall contain conditions applicable to the activity or activities in which the person or persons named as principal or clearers in the bond propose to engage, which conditions shall be as follows or in terms to provide equivalent protection:

(a) *Condition Clause No. 1: When the principal sells livestock for the accounts of others.* If the said principal shall pay when due to the person or persons entitled thereto the gross amount, less lawful charges, for which all livestock is sold for the accounts of others by said principal.

(b) *Condition Clause No. 2: When the principal buys livestock for his own account or for the accounts of others.* If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account or for the accounts of others, and if the said principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the accounts of others.

(c) *Condition Clause No. 3: When the principal clears other registrants buying livestock and thus is responsible for the obligations of such other registrants.* If the said principal, acting as a clearing agency responsible for the financial obligations of other registrants engaged in buying livestock, viz: (Insert here the names of such other registrants as they appear in the application for registration), or if such other registrants, shall (1) pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such other registrants for their own account or for the accounts of others; and (2) safely keep and properly disburse all funds coming into the hands of such principal or such other registrants for the purpose of paying for livestock purchased for the accounts of others.

(d) *Condition Clause No. 4: When the principal buys livestock for his own account as a packer.* If the said principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by said principal for his own account.

[47 FR 32695, July 29, 1982]

§ 201.32 Trustee in market agency, dealer and packer bonds.

Bonds may be in favor of a trustee who shall be a financially responsible, disinterested person satisfactory to the Administrator. State officials, secretaries or other officers of livestock exchanges or of similar trade associations, attorneys at law, banks and trust companies, or their officers, are deemed suitable trustees. If a trustee is not designated in the bond and action is taken to recover damages for breach of any condition thereof, the Administrator shall designate a person to act as trustee. In those States in which a State official is required by statute to act or has agreed to act as trustee, such official shall be designated by the Administrator as trustee when a designation by the Administrator becomes necessary.

[41 FR 53774, Dec. 9, 1976]