

§201.31

9 CFR Ch. II (1-1-07 Edition)

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 substantial 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 busi-

ness, 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 clearees 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]

§ 201.33 Persons damaged may maintain suit; filing and notification of claims; time limitations; legal expenses.

Each bond and each bond equivalent filed pursuant to the regulations in this part shall contain provisions that:

(a) Any person damaged by failure of the principal to comply with any condition clause of the bond or bond equivalent may maintain suit to recover on the bond or bond equivalent even though such person is not a party named in the bond or bond equivalent;

(b) Any claim for recovery on the bond or bond equivalent must be filed in writing with either the surety, if any, or the trustee, if any, or the Administrator, and whichever of these parties receives such a claim shall notify the other such party or parties at the earliest practical date;

(c) The Administrator is authorized to designate a trustee pursuant to § 201.32;

(d) The surety on the bond, or the trustee on the bond equivalent, as the case may be, shall not be liable to pay any claim if it is not filed in writing within 60 days from the date of the transaction on which the claim is based or if suit thereon is commenced less than 120 days or more than 547 days from the date of the transaction on which the claim is based;