within a reasonable period of time, not
to exceed 60 days after sale.
(7 U.S.C. 181 et seq.)
[19 FR 4528, July 22, 1954, as amended at 28
FR 7218, July 13, 1963; 44 FR 45361, Aug. 2,
1979]
§ 201.42 Custodial accounts for trust
funds.
(a) Payments for livestock are trust
funds. Each payment that a livestock
buyer makes to a market agency sell-
ing on commission is a trust fund. Funds deposited in custodial accounts
are also trust funds.
(b) Custodial accounts for shippers’ pro-
cceeds. Every market agency engaged in
selling livestock on a commission or
agency basis shall establish and main-
tain a separate bank account des-
ignated as “Custodial Account for
Shippers’ Proceeds,” or some similar
identifying designation, to disclose
that the depositor is acting as a fidu-
ciary and that the funds in the account
are trust funds.
(c) Deposits in custodial accounts. The
market agency shall deposit in its cus-
todial account before the close of the
next business day (the next day on
which banks are customarily open for
business whether or not the market
agency does business on that day) after
livestock is sold (1) the proceeds from
the sale of livestock that have been
collected, and (2) an amount equal to
the proceeds receivable from the sale of
livestock that are due from (i) the mar-
ket agency, (ii) any owner, officer, or
employee of the market agency, and
(iii) any buyer to whom the market
agency has extended credit. The mar-
ket agency shall thereafter deposit in
the custodial account all proceeds col-
clected until the account has been reim-
bursed in full, and shall, before the
close of the seventh day following the
sale of livestock, deposit an amount
equal to all the remaining proceeds re-
ceivable whether or not the proceeds
have been collected by the market
agency.
(d) Withdrawals from custodial ac-
counts. The custodial account for ship-
ers’ proceeds shall be drawn on only
for payment of (1) the net proceeds to
the consignor or shipper, or to any per-
son that the market agency knows is
entitled to payment, (2) to pay lawful
charges against the consignment of
livestock which the market agency
shall, in its capacity as agent, be re-
quired to pay, and (3) to obtain any
sums due the market agency as com-
ensation for its services.
(e) Accounts and records. Each market
agency shall keep such accounts and
records as will disclose at all times the
handling of funds in such custodial ac-
counts for shippers’ proceeds. Accounts
and records must at all times disclose
the name of the consignors and the
amount due and payable to each from
funds in the custodial account for ship-
ers’ proceeds.
(f) Insured banks. Such custodial ac-
counts for shippers’ proceeds must be
established and maintained in banks
whose deposits are insured by the Fed-
eral Deposit Insurance Corporation.
(g) Certificates of deposit and/or savings
accounts. Funds in a custodial account
for shippers’ proceeds may be main-
tained in an interest-bearing savings
account and/or invested in one or more
certificates of deposit, to the extent
that such deposit or investment does
not impair the ability of the market
agency to meet its obligations to its
consignors. The savings account must
be properly designated as a party of the
custodial account of the market agen-
cy in its fiduciary capacity as trustee
of the custodial funds and maintained
in the same bank as the custodial ac-
count. The certificates of deposit, as
property of the custodial account,
must be issued by the bank in which
the custodial account is kept and must
be made payable to the market agency
in its fiduciary capacity as trustee of
the custodial funds.
(Approved by the Office of Management and
Budget under control number 0580–0015)
[47 FR 32696, July 29, 1982, as amended at 54
FR 36349, June 23, 1989; 68 FR 75388, Dec. 31,
2003]
ACCOUNTS AND RECORDS
§ 201.43 Payment and accounting for
livestock and live poultry.
(a) Market agencies to make prompt ac-
counting and transmittal of net proceeds.
Each market agency shall, before the
close of the next business day following
the sale of any livestock consigned to
it for sale, transmit or deliver to the