

Agricultural Marketing Service, USDA

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transaction that payment may be made by such mailing of a check.

(3) Any agreement referred to in paragraph (b) (1) or (2) of this section shall be disclosed in the records of any market agency or dealer selling such livestock, and in the records of the packer, market agency, or dealer purchasing such livestock, and retained by such person for such time as is required by any law, or by written notice served on such person by the Administrator, but not less than two calendar years from the date of expiration thereof.

(4) No packer, live poultry dealer, market agency, or livestock dealer shall as a condition to its purchase of livestock or poultry, impose, demand, compel or dictate the terms or manner of payment, or attempt to obtain a payment agreement from a seller through any threat of retaliation or other form of intimidation.

(c) *Purchaser to promptly reimburse agents.* Each packer, market agency, or dealer who utilizes or employs an agent to purchase livestock for him, shall, in transactions where such agent uses his own funds to pay for livestock purchased on order, transmit or deliver to such agent the full amount of the purchase price before the close of the next business day following receipt of notification of the payment of such purchase price, unless otherwise expressly agreed between the parties before the purchase of the livestock. Any such agreement shall be disclosed in the records of the principal and in the records of any market agency or dealer acting as such agent.

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

(7 U.S.C. 228, 7 U.S.C. 222, and 15 U.S.C. 46)

[49 FR 6083, Feb. 17, 1984, as amended at 49 FR 8235, Mar. 6, 1984; 54 FR 16355, Apr. 24, 1989; 68 FR 75388, Dec. 31, 2003]

§ 201.44 Market agencies to render prompt accounting for purchases on order.

Each market agency shall, promptly following the purchase of livestock on a commission or agency basis, transmit or deliver to the person for whose account such purchase was made, or the duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind

of animal purchased, the names of the persons from whom purchased, the date of purchase, the commission and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

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(7 U.S.C. 181 *et seq.*)

[44 FR 45360, Aug. 2, 1979, as amended at 54 FR 26349, June 23, 1989; 68 FR 75388, Dec. 31, 2003]

§ 201.45 Market agencies to make records available for inspection by owners, consignors, and purchasers.

Each market agency engaged in the business of selling or buying livestock on a commission or agency basis shall, on request from an owner, consignor, or purchaser, make available copies of bills covering charges paid by such market agency for and on behalf of the owner, consignor, or purchaser which were deducted from the gross proceeds of the sale of livestock or added to the purchase price thereof when accounting for the sale or purchase.

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

(7 U.S.C. 181 *et seq.*; Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[19 FR 4528, July 22, 1954, as amended at 44 FR 45361, Aug. 2, 1979; 47 FR 746, Jan. 7, 1982; 54 FR 26349, June 23, 1989; 68 FR 75388, Dec. 31, 2003]

§ 201.49 Requirements regarding scale tickets evidencing weighing of livestock, live poultry, and feed.

(a) When livestock, poultry or feed is weighed for the purpose of purchase, sale, acquisition, or settlement, a scale ticket must be issued which must be serially numbered and used in numerical sequence. Sufficient copies must be executed and provided to all parties to the transaction. Unused and partially executed scale tickets must not be left exposed or accessible to other parties and, except in feed mills, must be kept under lock when the weigher is not at the scale. In instances where the weight values are automatically recorded directly on the account of purchase, account of sale, or other basic

transaction record, this record may serve in place of a scale ticket.

(b) *Livestock*. When livestock is weighed for the purpose of purchase or sale, or when livestock is purchased on a carcass weight or carcass grade and weight basis, the live or hot carcass weights must be recorded using a scale equipped with a printing device, and such printed weights must be retained as part of the person or firm's business records to substantiate settlement on each transaction. In instances where the weight values are automatically recorded directly on the account of purchase, account of sale, or other basic transaction record, this record may serve in place of a scale ticket. Scale tickets or other basic transaction records issued under this section must show:

- (1) The name 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 identification number of the person who weighed the livestock, or if required by State law, the signature of the weigher, except for an automated weighing system where a weigher is not stationed at the scale.

(c) *Poultry*. When live poultry is weighed for the purpose of purchase, sale, acquisition, or settlement by a live poultry dealer, the scale ticket or other basic transaction record must 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 or seller, and purchaser, or a designation by which they may be readily identified;
- (4) The name, initials, or identification number of the person who weighed the poultry, or if required by State law, the signature of the weigher;
- (5) The city and state in which the scale is located, and, if more than one

scale is used to obtain the weight of poultry within the same facility, the identity of the scale;

- (6) The zero balance for both the gross weight and tare weight;
- (7) The date and time zero balance was determined;
- (8) The gross weight, tare weight, and net weight;
- (9) The date and time gross weight and tare weight are determined;
- (10) The number of poultry weighed;
- (11) The weather conditions;
- (12) Whether the driver was on or off the truck at the time of weighing, if applicable; and
- (13) The license number or other identification numbers on the truck and trailer, if weighed together, or trailer if only the trailer is weighed; *provided*, that when live poultry is weighed on a scale other than a vehicle scale, the scale ticket or other basic transaction record need not show the information specified in paragraphs (c)(11) and (c)(12) of this section.

(d) *Feed*. Whenever feed is weighed and the weight of the feed is a factor in determining payment or settlement to a livestock producer or poultry grower, the scale ticket or other basic transaction record must show:

- (1) The name of the agency performing the weighing service, or the name and location of the firm responsible for supplying the feed;
- (2) The name and address of the livestock producer or poultry grower, or a designation by which they may be readily identified;
- (3) The name, initials or identification number of the person who weighed the feed, or if required by State law, the signature of the weigher;
- (4) The city and state in which the scale is located, and, if a facility has more than one scale on which feed is weighed, the identity of the scale;
- (5) The zero balance; *provided* that when using a vehicle scale to weigh feed for more than one producer or grower on the same multi-compartment truck, the preceding producer's or grower's gross weight can be used for the next producer's or grower's tare weight without printing a zero balance, and repeated until the unit is full;
- (6) The date and time zero balance was determined;

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(7) The gross weight, tare weight, and net weight of each lot assigned to an individual producer or grower, if applicable;

(8) The date and time gross weight and, if applicable, tare weight, are determined;

(9) The identification of each lot assigned to an individual producer or grower by vehicle or trailer compartment number and seal number, if applicable;

(10) Whether the driver was on or off the truck at the time of weighing, if applicable; and

(11) The license number or other identification numbers on the truck and trailer, if weighed together, or trailer if only the trailer is weighed, if applicable.

[78 FR 51663, Aug. 21, 2013]

Subpart J—Trade Practices

§ 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.

No packer, swine contractor, live poultry dealer, stockyard owner, market agency, or dealer shall knowingly make, issue, or circulate any false or misleading reports, records, or representation concerning the market conditions or the prices or sale of any livestock, meat, or live poultry.

[73 FR 62440, Oct. 21, 2008]

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

(a) Except as provided in paragraph (b) of this section, whenever livestock or live poultry is bought, sold, acquired, paid, or settled on a weight basis, or whenever the weight of feed is a factor in determining payment or settlement to a livestock grower or poultry grower by a stockyard owner, market agency, dealer, packer, or live poultry dealer when livestock or poultry is produced under a growing arrangement, payment or settlement shall be on the basis of the actual weight of the livestock, live poultry, and/or feed shown 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 statements issued. Any adjustment to the actual weight shall be fully and accurately explained on the accountings, bills, or statements issued, and records shall be maintained to support such adjustment.

(b) Whenever the weight of feed is a factor in determining payment or settlement to such livestock grower or poultry grower when the livestock or poultry is produced under a livestock or poultry growing arrangement, any feed that is picked up from or returned by a livestock grower or poultry grower must be weighed or its weight must be reasonably determined. When feed is picked up or returned and not weighed, the stockyard owner, market agency, dealer, packer, or live poultry dealer must document that the method used reasonably determines weight and is mutually acceptable to it and the livestock grower or poultry grower. The stockyard owner, market agency, dealer, packer, or live poultry dealer must document and account for the picked up or returned feed weight.

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

[65 FR 17762, Apr. 5, 2000]

§ 201.56 Market agencies selling on commission; purchases from consignment.

(a) *Livestock to be sold openly at highest available bid.* Every market agency engaged in the business of selling livestock on a commission or agency basis shall sell the livestock consigned to it openly, at the highest available bid, and in such a manner as to best promote the interest of each consignor.

(b) *Purchases from consignment.* No market agency engaged in the business of selling livestock on a commission basis shall purchase livestock from consignments, and no such market agency shall permit its owners, officers, agents, employees or any firm in which such market agency or its owners, officers, agents, or employees have an ownership or financial interest to purchase livestock consigned to such market agency, without first offering the livestock for sale in an open and competitive manner to other available buyers, and then only at a price higher