

would be amended by adding the words "Chihuahua or" immediately before the word "Sonora".

Done in Washington, DC, this 14th day of August 1995.

Terry Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-20593 Filed 8-18-95; 8:45 am]

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Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

RIN 0580-AA45

Regulations Issued Under the Packers and Stockyards Act: Registration, General Bonding Provisions

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule; review of existing regulations.

SUMMARY: The Agency is currently reviewing all regulations and statements of general policy issued under the provisions of the Packers and Stockyards (P&S) Act. Review of nine regulations, which have been identified as Group III, has been completed. As a result of the review, this document proposes to modify two regulations to provide uniform termination procedures for all bonds and bond equivalents and to change the requirement that funds pledged to secure bond equivalents be maintained in FDIC insured accounts to permit their deposit in any federally-insured account. It also proposes to retain seven regulations in their present form.

DATES: Comments must be submitted on or before October 20, 1995.

ADDRESSES: Comments may be mailed to the Deputy Administrator, Packers and Stockyards Programs, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Comments received may be inspected during normal business hours in the Office of the Deputy Administrator, Packers and Stockyards Programs.

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: Advance Notice of Proposed Rulemaking was published in the **Federal Register** (57 FR 42515) on September 15, 1992. Comments were solicited at that time

concerning the relevance and importance of each regulation and statement of general policy to today's livestock, meat, and poultry industries, and which sections should be retained, modified or removed. The Agency specifically asked for comments on three regulations included in this group, § 201.10, § 201.29, and § 201.30. The Agency was particularly interested in comments that addressed concerns or recommendations relating to bonding levels.

To complete the review process, the rules covered by the Advance Notice of Proposed Rulemaking were divided into three groupings and this document relates to those rules identified as Group III.

In response to a request for comments in the Advance Notice of Proposed Rulemaking, the Agency received a total of 10 comments relating to the rules in Group III. Comments were received from five livestock producer associations, three trade associations, and two selling agencies.

No comments were received concerning the modification of § 201.27. This regulation provides for approved sureties, authorizes bond equivalents, and requires bond or bond equivalents to be on forms approved by the Administrator.

The Agency proposes to modify § 201.27 (b)(1) and (b)(2) to broaden these subsections to permit funds pledged under bond equivalents to be on deposit or in accounts that are Federally insured and not limited to only deposits or accounts insured by the Federal Deposit Insurance Corporation (FDIC). This modification would also permit all Federally insured banks or other institutions to issue letters of credit and not just those banks or institutions insured by FDIC. The primary benefit accrues to persons choosing to meet bonding requirements with bond equivalents by permitting all Federally insured deposits and letters of credit (not just FDIC) and would expand the number of banks or other institutions available to those seeking bond equivalents without increasing the risk to livestock sellers.

No comments were received concerning § 201.34. This regulation sets forth termination of market agency, dealer, and packer bonds and trust fund agreements. The Agency proposes to modify § 201.34(c) to include termination procedures for trust agreements. This would provide uniform termination for all bonds and bond equivalents.

A review of the following regulations has been completed and the Agency

proposes to retain each in its present form:

§ 201.10 Requirements and procedures for registration.

§ 201.28 Duplicates of bonds or equivalents to be filed with regional supervisor.

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

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

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

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

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

In the process of reviewing these regulations, it was determined that they were necessary to the efficient and effective enforcement of the P&S Act and to 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.

Two comments were received concerning § 201.10. This regulation specifies the requirements and procedures for registration for those persons desiring to operate as market agencies or dealers as defined in § 301 of the Act. Both comments were from producer associations and suggested § 201.10 be amended to deny registration to any applicant for registration with a prior conviction for fraud, theft, or embezzlement.

The Agency believes this concern is sufficiently addressed in § 201.10(b) which specifies that if the Administrator has reason to believe the applicant is unfit to engage in the activity for which application has been made, the applicant will be afforded an opportunity for a full hearing for the purpose of showing cause why the application should not be denied. This subsection gives the Agency authority to review each application and to deny registration to those believed unfit to engage in the business of a market agency or dealer. Therefore, the Agency proposes to retain this regulation in its present form.

No comments were received concerning §§ 201.28, 201.29, 201.31, and 201.33.

Regulation § 201.30 sets forth the formulae for computing bonds for market agencies, dealers, and packers. It also provides the Administrator authority to adjust the level of bond required whenever he determines a bond is not adequate to secure the

obligations of the person or firm. Eight comments were received from producer associations, trade associations, and selling agencies concerning the level of bonds.

Two comments recommended bonds be maintained at current levels for auction markets and dealers. One comment suggests Grain Inspection, Packers and Stockyards Administration study the potential of developing alternative means of providing financial protection. One comment suggested registrants or packers who do a good job and are financially sound should not be penalized and bear additional costs for the actions of the marginal and bad operators in the industry and suggests the Administrator use his authority to require higher bonds for the marginal or bad operator. One comment recommended re-evaluating the formula used to establish bond levels for video auctions and suggested the bonds of video auctions be based on number of sale days and not delivery days. Three comments recommended bonding requirements be retained but should be continually reviewed to ensure adequate protection. One comment recommended bonding regulations be strengthened to provide legitimate protection, but gave no specific recommendation.

The Agency analyzed Clause 1 (selling agency) and Clause 2 (dealer/buying agency) bond claims on those persons who failed financially during the period 1984 through 1991. Sixty-eight market agencies selling on commission failed financially during the 4-year period 1984 to 1987, with 11 of these firms having inadequate bond coverage. These financial failures were reduced significantly from 1988 to 1991, during which period 22 selling agencies failed, but only 4 had inadequate bond coverage. There has been a significant decline in financial failures of auction markets since the Agency expanded its custodial account audit program. Therefore, we do not believe it is necessary, at this time, to adjust the level of bonds for market agencies selling on commission.

During the period of 1984 through 1991, a total of 236 dealers and market agencies buying on commission failed financially with claims of over \$24.7 million filed against \$7 million in bond coverage. This resulted in losses to livestock sellers of over \$17.5 million. Most of the claim activity took place on bonds under \$25,000, with 157 or 65 percent of the claims filed on bonds of \$25,000 or less. However, 35 percent of all losses (approximately \$6 million) occurred on bonds \$25,000 or less and 14 percent of the losses (approximately

\$2.5 million) occurred on \$10,000 bonds.

Since the highest number of claims occurred in the \$10,000 to \$25,000 range, two alternative bond minimums were examined to determine if raising the minimum bond level would significantly reduce the number of inadequate bonds. The two alternatives were to raise the minimum bond to \$20,000 or to \$25,000.

Approximately 3,600 bonds in the amounts of \$10,000 and \$15,000 and about 500 bonds in the amount of \$20,000 would be affected by raising minimum bond levels. The average loss reduction per year at the minimum \$20,000 level would have been \$84,375 compared to an estimated industry annual cost of \$249,000. When the minimum is set at the \$25,000 level, the average 8-year loss reduction would have been \$118,000, compared to an estimated industry annual cost of \$402,000. Neither alternative eliminates all losses to sellers and the additional recovery is deemed not significant when compared to the average annual loss of \$2.5 million. This study also disclosed that 77 percent of registrants with \$10,000 bond coverage made livestock purchases of \$500,000 or less annually.

In addition to reviewing financial failures over the 8-year period covered by the bond study, the Agency also reviewed financial failures of registrants with bonds over \$75,000 for the period 1987 through 1994, to determine what affect the removal of the 10 percent threshold would have on bond payouts to claimants.

Registrants are required to bond for the full amount up to a "break point" or threshold and only 10 percent of the excess above this threshold. Bonds of dealers and market agencies buying on commission (Clause 2) are capped at \$75,000 plus 10 percent of the excess required over the \$75,000 threshold. Removal of the threshold would increase total 1994 Clause 2 bond coverage from the current \$159.5 million to \$269.1 million. This increase would affect approximately 540 registrants, costing dealers and market agencies an estimated \$822,000 per year for the additional coverage.

Since 1987 twenty-three dealers or market agencies with bonds in excess of \$75,000 have failed financially, owing livestock sellers in excess of \$13.9 million. Only 2 registrant bonds were adequate to cover all claims and 21 bonds were inadequate, leaving a shortage owed claimants of \$11.7 million. If the 10 percent threshold on bonds over \$75,000 had been removed, the bonds for 18 registrants would still have been inadequate but the shortage

due livestock sellers would have been reduced by \$3.7 million to \$8.0 million. The average loss would have been reduced by \$462,500 per year compared to an annual industry cost of \$822,000. However, the study also indicated that for 5 of the 8 years reviewed, the average recovery would have been only \$102,000. Further, the recovery would have been insignificant compared to the losses for each of these 5 years and would have been less than 35 percent for 1 of the other 3 years.

The Agency does not believe it is advisable to increase the minimum bond level of Clause 2 bonds or to remove the threshold on bonds over \$75,000 at this time. The cost to the industry for increasing minimum bond levels would far outweigh the increased protection. Small dealers and market agencies buying on commission, which include 48 percent of all dealers or market agencies, would be hardest hit by an increase in bond levels and may find it difficult to remain in business. The Agency also believes that the cost to the industry of removing the 10 percent threshold on Clause 2 bonds over \$75,000 would far outweigh the benefit to livestock sellers and cause an undue hardship on larger dealers and market agencies buying on commission since many would likely be unable to obtain the required bond coverage. The Agency will continue to review the levels of bonds and to study alternative methods of providing financial protection to livestock sellers.

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 proposed 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 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 or 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 of E.O. 12612.

These rules have been reviewed under E.O. 12778, Civil Justice Reform. If these rules are adopted: (1) State and local laws and regulations will not be preempted unless they present an irreconcilable conflict with these rules; (2) no retroactive effect will be given to these rules; and (3) administrative proceedings will not be required before parties may file suit in court challenging these rules.

List of Subjects in 9 CFR Part 201

Bonding, Dealer, Market Agency, Packer, Registration.

Done at Washington, DC, this 14th day of August 1995.

Calvin W. Watkins,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

For the reasons set forth in the preamble, the Grain Inspection, Packers and Stockyards Administration proposes to 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) 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 as provided below. The total amount of any such surety 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, transferable, standby letters of credit, issued by a Federally insured bank or institution and physically received and retained by such trustee.

* * * * *

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

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, DC 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.

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

[FR Doc. 95-20492 Filed 8-18-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-ANE-12]

Airworthiness Directives; AlliedSignal, Inc. LTS101-600 Series Turbohaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal, Inc. LTS101-600 series turbohaft engines. This proposal would require installation of an improved design fuel control. This proposal is prompted by reports of fuel control bearings failing prior to the recommended overhaul period. The actions specified by the proposed AD are intended to prevent a fuel control failure, which could result in an

uncommanded increase or decrease in engine power.

DATES: Comments must be received by September 20, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-ANE-12, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Customer Support, AlliedSignal Engines, 550 Main St., Stratford, CT 06497-7593; telephone (203) 385-1135, fax (203) 385-1272. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT:

Dave Keenan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7139, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to