is eligible for certification service under the regulations in this part.

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PART 352—EXOTIC ANIMALS AND HORSES; VOLUNTARY INSPECTION

Subpart A—Exotic Animals

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AUTHORITY: 7 U.S.C. 1622, 1624; 7 CFR 2.17 (g) and (t), 2.55.

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Subpart A—Exotic Animals

§ 352.1 Definitions.

The definitions in §301.2, not otherwise defined in this part, are incorporated into this part. In addition to those definitions, the following definitions will be applicable to the regulations in this part.

(a) Act means the applicable provisions of the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq.).

(b) Acceptable means suitable for the purpose intended and acceptable to the Food Safety and Inspection Service.

(c) Antelope means any animal belonging to the antelope family.

(d) Applicant means any interested party who requests any inspection service.

(e) Bison means any American bison or catalo or cattalo.

(f) Buffalo means any animal belonging to the buffalo family.

(g) Catalo or Cattalo means any hybrid animal with American bison appearance resulting from direct cross-breeding of American bison and cattle.

(h) Condition means any condition, including, but not limited to, the state of preservation, cleanliness, or soundness of any product or the processing, handling, or packaging which may affect such product.

(i) Condition and wholesomeness means the condition of any product, its healthfulness and fitness for human food.

(j) Deer means any member of the deer family.

(k) Exotic animal means any reindeer, elk, deer, antelope, water buffalo or bison.

(l) Elk means any American elk.

(m) Exotic animal inspection service means the personnel who are engaged in the administration, application, and direction of exotic animal inspection programs and services pursuant to the regulations in this part.

(n) Exotic animal producer means any interested party that engages in the raising and/or marketing of an exotic animal for commercial purposes.

(o) Field ante-mortem inspection means the ante-mortem inspection of an exotic animal away from the official exotic animal establishment’s premises.

(p) Field designated area means any designated area on the applicant’s premises, approved by the Regional Director, where field ante-mortem inspection is to be performed.

(q) Identify means to apply official identification to products or containers.

(r) Inspection means any inspection by an inspector to determine, in accordance with regulations in this part,
(1) the condition and wholesomeness of an exotic animal, or (2) the condition and wholesomeness of edible product of an exotic animal at any state of the preparation or packaging in the official plant where inspected and certified, or (3) the condition and wholesomeness of any previously inspected and certified product of an exotic animal if such product has not lost its identity as an inspected and certified product.

(s) Interested party means any person financially interested in a transaction involving any inspection.

(t) Official exotic animal establishment means any slaughtering, cutting, boning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the regulations in this part.

(u) Official device means a stamping appliance, branding device, stencil printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or packaging material.

(v) Official identification means any symbol, stamp, label or seal indicating that the product has been officially inspected and/or indicating the condition of the product approved and authorized by the Administrator to be affixed to any product, or affixed to or printed on the packaging material of any product.

(w) Program means the Voluntary Exotic Animal Inspection Program of the Food Safety and Inspection Service.

(x) Reindeer means any reindeer commonly referred to as caribou.

(y) Transport vehicle means any vehicle used to transport an exotic animal.

(z) Veterinarian means an authorized veterinarian of the Program employed by the Department or any cooperating State who is authorized by the Secretary to do any work or perform any duty in connection with the Program.

(aa) Water buffalo means any Asiatic water buffalo, commonly referred to as carabao; and the water buffalo of India, commonly referred to as the Indian buffalo.

[54 FR 1330, Jan. 13, 1989]
§ 352.4 Application for ante-mortem inspection service in the field.

Any exotic animal producer desiring field ante-mortem exotic animal inspection service must receive approval of the field ante-mortem designated area from the Regional Director or designee prior to the rendition of such service. An application seeking approval of the designated area for ante-mortem inspection shall be obtained from the Regional Director, and completed and submitted to the Regional Director.

(a) An initial application for field ante-mortem exotic animal inspection service shall be made by an official exotic animal establishment to the Regional Director. Subsequent requests shall be made by the official exotic animal establishment on behalf of an exotic animal producer to the Regional Director in one of the following manners: (1) telephone, (2) telegraph, (3) mail, or (4) in person as determined by the Regional Director.

(b) Upon receipt of the completed application, the Regional Director or designee shall examine the field ante-mortem designated area and facilities for approval of the designated area.

(c) All fees involved for the approval of the designated area, including but not limited to any travel, per diem costs, and time required to perform such approval services, shall be paid directly by the applicant to the Regional Director.

[54 FR 1331, Jan. 13, 1989]

§ 352.5 Fees and charges.

(a) Fees and charges for service under the regulations in this part shall be paid by the applicant for the service in accordance with this section.

(b) The fees and charges provided for in this section shall be paid by check, draft, or money order payable to the “Treasurer of the United States” and shall be remitted promptly to the Regional Director upon furnishing to the applicant a statement as to the amount due.

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rates specified in §§391.2, 391.3, and 391.4 respectively for base time; for overtime including Saturdays, Sundays, and holidays; and for certain laboratory services which are not covered under the base time, overtime, and/or holiday costs. Such fees shall cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

(d) Charges may also be made to cover other expenses incurred by the Service in connection with the furnishing of the service.

(e) Fees and charges for any inspection pursuant to a cooperative agreement with any State shall be paid in accordance with the terms of such cooperative agreement.

§ 352.6 Denial or withdrawal of inspection service.

(a) For miscellaneous reasons. An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing by the appropriate Regional Director: (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure of payment for service; (3) in case the application or request relates to exotic animals or exotic animal products which are not eligible for service under this part; (4) for failure to maintain the designated area or the plant in a state of repair approved by the Service; (5) for the use of operating procedures which are not in accordance with the regulations of this part; (6) for alterations of buildings, facilities, or equipment which cannot be approved under the regulations of this part. Notice of such rejection, denial, or withdrawal, and the reasons therefore, shall promptly be given to the person involved. The applicant or recipient shall be notified of such decision to reject an application or request for service or to deny or withdraw the benefits of the service, and the reasons therefore, in writing in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 374
1.147(b)), or orally. Such decision shall be effective upon such oral or written notification, whichever is earlier, to the applicant or recipient. If such notification is oral, the person making such decision shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the applicant or recipient in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)).

(b) For disciplinary reasons—Basis for denial or withdrawal. An application or request for service may be denied, or the benefits of the service may be withdrawn from, any person or entity who, or whose officer, employee or agent in the scope of his employment or agency:

(1) Has willfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under this part; (2) has given or attempted to give, as a loan or for any other purpose, any money, favor or other thing of value, to any employee or agent of the Department or a cooperating State authorized to perform any function under this part; (3) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee or agent of the Department or cooperating State in the performance of his or her duties under this part by intimidation, threats, assaults, abuse, or any other improper means; (4) has knowingly represented that any exotic animal carcass, or exotic animal product, has been officially inspected and passed by an authorized inspector under this part, when it had not, in fact, been so inspected; (5) has been convicted of more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged good, or fraud in connection with transactions in food, or any felony; Provided, an application or a request for service made in the name of a person or entity otherwise eligible for service under the regulations may be denied, or the benefits of the service may be withdrawn, from such a person or entity in case the service is or would be performed at a location operated by a person or entity, from whom the benefits of the service are currently being denied or have been withdrawn under this part; or by a person or entity having an officer, director, partner, manager or substantial investor from whom the benefits of service under this part are currently being denied or have been withdrawn under this part, and who has any authority with respect to the location where service is or would be performed; or in case the service is or would be performed with respect to any exotic animal or exotic animal product in which any person or entity, from whom the benefits of service are currently being denied or have been withdrawn under this part, has contract or other financial interest.

(c) Procedure. (1) An application or request for service may be denied or benefits of the service may be withdrawn by the Secretary, as provided by paragraph (b) of this section, after notice and opportunity for hearing before a designated official of the Department. The Administrator may suspend service under this paragraph without hearing, pending final determination of the matter, when he determines that the public health, interest or safety so requires. The applicant or recipient shall be notified of the Administrator’s decision to suspend service, and the reasons therefor, in writing or orally. The Administrator’s decision to suspend service under this paragraph shall be effective upon such an oral or written notification, whichever is earlier, to the applicant or recipient. If such notification is oral, the Administrator shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the applicant or recipient in the manner prescribed in 1.147(b) of Departmental rules of practice (7 CFR 1.147(b)).

(2) The written notification specified in paragraph (c) of this section, which shall constitute the complaint in the proceeding, shall briefly set forth the reason for the denial or withdrawal of service, including allegations of fact which constitute a basis for the action. After the complaint is served upon the respondent, as provided in §1.147(b) of Departmental rules of practice (7 CFR 1.147(b)), or orally. Such decision shall be effective upon such oral or written notification, whichever is earlier, to the applicant or recipient. If such notification is oral, the person making such decision shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the applicant or recipient in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)).

(b) For disciplinary reasons—Basis for denial or withdrawal. An application or request for service may be denied, or the benefits of the service may be withdrawn from, any person or entity who, or whose officer, employee or agent in the scope of his employment or agency:

(1) Has willfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under this part; (2) has given or attempted to give, as a loan or for any other purpose, any money, favor or other thing of value, to any employee or agent of the Department or a cooperating State authorized to perform any function under this part; (3) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee or agent of the Department or cooperating State in the performance of his or her duties under this part by intimidation, threats, assaults, abuse, or any other improper means; (4) has knowingly represented that any exotic animal carcass, or exotic animal product, has been officially inspected and passed by an authorized inspector under this part, when it had not, in fact, been so inspected; (5) has been convicted of more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged good, or fraud in connection with transactions in food, or any felony; Provided, an application or a request for service made in the name of a person or entity otherwise eligible for service under the regulations may be denied, or the benefits of the service may be withdrawn, from such a person or entity in case the service is or would be performed at a location operated by a person or entity, from whom the benefits of the service are currently being denied or have been withdrawn under this part; or by a person or entity having an officer, director, partner, manager or substantial investor from whom the benefits of service under this part are currently being denied or have been withdrawn under this part, and who has any authority with respect to the location where service is or would be performed; or in case the service is or would be performed with respect to any exotic animal or exotic animal product in which any person or entity, from whom the benefits of service are currently being denied or have been withdrawn under this part, has contract or other financial interest.

(c) Procedure. (1) An application or request for service may be denied or benefits of the service may be withdrawn by the Secretary, as provided by paragraph (b) of this section, after notice and opportunity for hearing before a designated official of the Department. The Administrator may suspend service under this paragraph without hearing, pending final determination of the matter, when he determines that the public health, interest or safety so requires. The applicant or recipient shall be notified of the Administrator’s decision to suspend service, and the reasons therefor, in writing or orally. The Administrator’s decision to suspend service under this paragraph shall be effective upon such an oral or written notification, whichever is earlier, to the applicant or recipient. If such notification is oral, the Administrator shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the applicant or recipient in the manner prescribed in 1.147(b) of Departmental rules of practice (7 CFR 1.147(b)).

(2) The written notification specified in paragraph (c) of this section, which shall constitute the complaint in the proceeding, shall briefly set forth the reason for the denial or withdrawal of service, including allegations of fact which constitute a basis for the action. After the complaint is served upon the respondent, as provided in §1.147(b) of Departmental rules of practice (7 CFR 1.147(b)), or orally. Such decision shall be effective upon such oral or written notification, whichever is earlier, to the applicant or recipient. If such notification is oral, the person making such decision shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the applicant or recipient in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)).
§ 352.7 Marking inspected products.

Wording and form of inspection mark. Except as otherwise authorized by the Administrator, the inspection mark applied to inspected and passed exotic animal carcasses, meat or meat food products under this part shall include wording as follows: “Inspected and Passed by U.S. Department of Agriculture.” This wording shall be contained within a triangle in the form and arrangement shown in this section. The establishment number of the official establishment shall be included in the triangle unless it appears elsewhere on the packaging material. Ordering and manufacture of the triangle brand shall be in accordance with the provisions in 9 CFR 317.3(c) of the Federal meat inspection regulations. The Administrator may approve the use of abbreviations of such inspection mark, and such approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark or approved abbreviation shall be applied, under the supervision of the inspector, to the inspected and passed edible product, packaging material, immediate container or shipping container. When the inspection mark or approved abbreviation is used on packaging material, immediate container or shipping container, it shall be printed on such material or container or on a label to be affixed to the packaging material or container. The name and address of the packer or distributor of such product shall be printed on the packaging material or label. The inspection marks may be stenciled on the container, and when the inspection mark is so stenciled, the name and address of the packer or distributor may be applied by the use of a stencil or rubber stamp. The name and address of the packer or distributor, if prominently shown elsewhere on the packaging material or container, may be omitted from insert labels which bear an official identification if the applicable establishment number is shown.

(a) The inspection mark to be applied to inspected and passed carcasses and parts of carcasses of an exotic animal, and products therefrom approved by the Administrator, shall be in the form and arrangement as indicated in the example below.1 The establishment number of the official establishment shall be set forth if it does not appear on the packaging material or container.

(1) For application to exotic animal carcasses, primal parts and cuts therefrom, exotic animal livers, exotic animal tongues, and exotic animal hearts.

(2) For application to exotic animal calf carcasses.

1The number “38” is given as an example only. The establishment number of the official exotic animal establishment where the product is prepared shall be used in lieu thereof.
(3) For application to exotic animal tails.

(4) For application to burlap, muslin, cheesecloth, heavy paper, or other acceptable material that encloses carcasses or parts of carcasses.

(b) The official inspection mark to be shown on all labels.¹ (1) For inspected and passed products of an exotic animal shall be in the following form, except that it need not be of the size illustrated, provided that it is a sufficient size and of such color as to be conspicuously displayed and readily legible and the same proportions of letter size and boldness are maintained as illustrated:

(2) This official mark shall be applied by mechanical means and shall not be applied by a hand stamp.

(3) The official inspection legend described in paragraph (b)(1) of this section shall also be used on shipping containers, bond labels, artificial casings, and other articles with the approval of the Administrator.

(c) Any brand, stamp, label or other device approved by the Administrator and bearing any official mark prescribed in paragraph (a) or (b) of this section shall be an official device for purposes of the Act.


§ 352.8 Time of inspection in the field and in an official exotic animal establishment.

The official exotic animal establishment on behalf of the applicant shall notify the Regional Director or designee, in advance, of the hours when such inspection is desired. Inspection personnel shall have access at all times to every part of any field ante-mortem inspection area and/or official exotic animal establishment to which they are assigned.

[54 FR 1332, Jan. 13, 1989]

§ 352.9 Report of inspection work.

Reports of the work of inspection carried on within the field ante-mortem inspection area of an exotic animal producer’s premises and/or official exotic animal establishment shall be forwarded to the Administrator by
the ante-mortem inspector. The applicant for such inspection shall furnish to the Administrator such information as may be required on forms provided by the Administrator.

[54 FR 1333, Jan. 13, 1989]

§ 352.10 Ante-mortem inspection.

An ante-mortem inspection of an exotic animal shall, where and to the extent considered necessary by the Administrator and under such instructions as he may issue from time to time, be made on the day of slaughter of an exotic animal, in one of the following listed ways or as determined by the Administrator. Humane handling of an exotic animal during ante-mortem inspection shall be in accordance with the provisions contained in 9 CFR 313.2. Immediately after the animal is stunned or killed, it shall be shackled, hoisted, stuck and bled.

(a) To be performed on an exotic animal in the field in a designated area of an exotic animal producer’s premises.

(1) Reindeer, elk, deer, antelope, bison and water buffalo are eligible for field ante-mortem inspection. The field ante-mortem designated area must be approved by the Regional Director or designee prior to rendition of the service.

(2) Any person who desires to receive field ante-mortem inspection must provide:

(i) Notification from an official exotic animal establishment to the Regional Director or designee.

(ii) A field ante-mortem designated area.

(iii) A stunning/slaughtering area which is in a condition that minimizes the possibility of soiling the animal when stunned/slaughtered and bled as determined by the inspector.

(iv) A transport vehicle that is as sanitary as practicable as determined by the inspector.

(3) The ante-mortem inspector shall determine the acceptableness and safety of performing field ante-mortem inspection. If, in the opinion of the ante-mortem inspector, an unsafe circumstance exists at the time of field ante-mortem inspection, the service shall be denied.

(4) An exotic animal that, in the ante-mortem inspector’s opinion, does not pass ante-mortem inspection must be withheld from slaughter.

(5) Stunning to render the animal unconscious shall be in accordance with 9 CFR 313.15 or 313.16.

(6) All stunned/slaughtered and bled exotic animals shall be tagged with a “U.S. Suspect” tag in an ear by the ante-mortem inspector or designee prior to loading on the transport vehicle.

(7) The transport of intact exotic animal carcasses to an official exotic animal establishment for post-mortem inspection shall be as expedient as possible, and must be within the same day as field slaughter.

(8) Ante-mortem cards (Form MP 402-2) shall be filled out by the ante-mortem inspector. One copy is to be retained by the ante-mortem inspector. The other copy shall accompany the transport vehicle to the official exotic animal establishment and shall be delivered to the post-mortem veterinarian.

(b) To be performed on exotic animals that are inside of the transport vehicle at an official exotic animal establishment.

(1) Reindeer, elk, deer, antelope, bison, and water buffalo are eligible for transport vehicle inspection.

(2) The ante-mortem inspector shall remain outside the transport vehicle while performing ante-mortem inspection.

(3) The person requesting transport vehicle inspection must provide a transport vehicle that is as sanitary and practicable and that would safely and thoroughly permit the inspection of an exotic animal from outside of the transport vehicle as determined by the inspector.

(4) The ante-mortem inspector shall determine the adequacy and safety of performing ante-mortem inspection. If, in the ante-mortem inspector’s opinion, the transport vehicle is not adequate or safe to perform ante-mortem inspection, the service shall be denied.
§ 352.19 Ante-mortem inspection and applicable requirements.

Notwithstanding part 309 of this subchapter, an official establishment that wishes to slaughter horses can apply for voluntary ante-mortem inspection according to §352.3. Such establishments shall pay the applicable base time, overtime, and holiday rates for ante-mortem inspection in accordance with §352.5. Such ante-mortem inspection shall be made in pens on the premises of the establishment at which the horses are offered for slaughter in accordance with §309.1(b), and such establishments also shall comply with all applicable provisions of §§352.8 and 352.9. If the establishment complies with all these requirements for ante-mortem inspection, FSIS will conduct ante-mortem inspection at that establishment in accordance with §352.10, and all other provisions in part 309 of this subchapter that pertain to horses will apply. FSIS may deny or withdraw ante-mortem inspection services at official establishments that slaughter horses for any applicable reason under §352.6. Official marks and devices to identify inspected and passed horse carcasses and parts of carcasses, or horse meat food products shall be those in §312.3 of this subchapter.

[71 FR 6341, Feb. 8, 2006]