

**§ 355.37**

**§ 355.37 Alteration or limitation of statement of certification.**

The statement of certification provided for by §355.32(a)(4) shall not be altered, defaced, imitated, or simulated in any respect or used for the purpose of misrepresentation or deception.

[25 FR 1357, Feb. 16, 1960. Redesignated at 30 FR 4195, Mar. 31, 1965]

PENALTIES

**§ 355.38 Withdrawal of service.**

After opportunity for hearing before a proper official of the Department has been accorded the operator of an inspected plant, the inspection, certification, and identification provided for in this part may be withdrawn from such plant if the operator: (a) Persistently fails to comply with any provision of the regulations in this part or of instructions or directions issued thereunder; (b) makes any willful misrepresentation or engages in any fraudulent or deceptive practice in connection with the making of any application for service; (c) violates §355.37; or (d) interferes with or obstructs any program employee in the performance of his duties under the regulations in this part by intimidation, threats, or other improper means. Pending final determination of the matter, the Administrator may suspend such inspection, certification, and identification without hearing in cases of willfulness or those in which the public health, interest, or safety requires such action. The operator of the inspected plant shall be notified of the Administrator's decision to suspend such inspection, certification or identification service, and the reasons therefor, in writing, in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)), or orally. The Administrator's decision to suspend such inspection, certification or identification service shall be effective upon such oral or written notification, whichever is earlier, to the operator of the plant. 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 operator of the inspected plant, in the manner prescribed in §1.147(b) of the

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rules of practice (7 CFR 1.147(b)). In other cases, prior to the institution of proceedings for any withdrawal or suspension, the facts or conduct which may warrant such action shall be called to the attention of the operator in writing and he shall be given an opportunity to demonstrate or achieve compliance with the requirements of the regulations in this part and instructions and directions issued thereunder.

[23 FR 10107, Dec. 23, 1958. Redesignated at 30 FR 4195, Mar. 31, 1965, and amended at 43 FR 11148, Mar. 17, 1978]

APPEALS

**§ 355.39 Appeals from decisions made under this part.**

Any appeal from a decision by an employee of the Program shall be made to his immediate superior having jurisdiction over the subject matter of the appeal.

REPORTS

**§ 355.40 Plants to furnish information for reports.**

Each day the operator of every inspected plant shall furnish the inspector assigned to that plant with a statement of the number of pounds of product certified by the inspector.

(Approved by the Office of Management and Budget under control number 0583-0036)

[23 FR 10107, Dec. 23, 1958. Redesignated at 30 FR 4195, Mar. 31, 1965, and amended at 47 FR 746, Jan. 7, 1982]

MULE MEAT AND ANIMAL FOOD, MULE MEAT BY-PRODUCT

**§ 355.41 Antemortem and postmortem inspection for mules.**

(a)(1) An antemortem examination and inspection shall be made of all mules about to be slaughtered for use in the preparation of products under this part, before their slaughter shall be allowed for such use. Such inspection shall be made on the day of slaughter.

(2) Mules found on such inspection to show symptoms of disease shall be set apart and slaughtered separately. Those found to be affected with strangles, purpura hemorrhagica, azoturia,

infectious equine encephalomyelitis, toxic encephalomyelitis (forage poisoning), infectious anemia (swamp fever), dourine, acute influenza, generalized osteoporosis, glanders, farcy, or other malignant disorder, acute inflammatory lameness or extensive fistula, shall be condemned and destroyed. Any mule which is suspected on antemortem inspection of being infected with glanders shall be tested with mallein, and any mule which on physical examination is suspected of being affected with dourine shall be held for further examination or for such test as the Administrator may prescribe.

(b)(1) A careful postmortem examination and inspection shall be made of all carcasses and parts thereof of all mules inspected under this section, at the time of slaughter. All carcasses and parts of mules found to be affected with any disease listed under paragraph (a) of this section shall be condemned and destroyed.

(2) Other carcasses and parts of mules found abnormal or diseased upon inspection under this section shall be disposed of in accordance with such provisions of the Meat Inspection Regulations (subchapter A of this chapter) as are deemed applicable by the Administrator.

#### § 355.42 Marking of mule meat and animal food mule meat by-product.

All mule meat and animal food mule meat by-product inspected under this part shall be marked and identified as the Administrator may require in any particular case.

[25 FR 1357, Feb. 16, 1960. Redesignated at 30 FR 4195, Mar. 31, 1965, and amended at 32 FR 13115, Sept. 15, 1967]

#### § 355.43 Scope and applicability of rules of practice.

The rules of practice of the Department of Agriculture in subpart H of part I, subtitle A, title 7 of the Code of Federal Regulations, are the rules of practice applicable to adjudicatory, administrative proceedings under the regulations in this part (9 CFR part 355).

[43 FR 11148, Mar. 17, 1978]

## PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

Sec.

- 362.1 Definitions.
- 362.2 Types and availability of service.
- 362.3 Application for service.
- 362.4 Denial or withdrawal of service.
- 362.5 Fees and charges.

AUTHORITY: 7 U.S.C. 1622; 7 CFR 2.18 (g) and (i) and 2.53.

SOURCE: 41 FR 23715, June 11, 1976, unless otherwise noted.

### § 362.1 Definitions.

The definitions in § 381.1 are incorporated in this part except for the definitions excluded in § 362.2(a). In addition to those definitions, the following definitions will be applicable to the regulations in this part.

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

(b) *Inspector*. “Inspector” means any officer or employee of the Department authorized to perform any duties under the regulations in this part.

(c) *Person*. “Person” means any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other organized business unit.

(d) *Poultry*. “Poultry” means any migratory water fowl or game bird, whether dead or alive.

(e) *Poultry Product*. “Poultry product” means any poultry carcass or part thereof; or any human food product which is made wholly or in part from the carcass of any domesticated bird (as defined in § 381.1(b) of this chapter) and is excepted from the inspection requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

[66 FR 22905, May 7, 2001]

### § 362.2 Types and availability of service.

Upon application, in accordance with § 362.3, the following types of service may be furnished under the regulations in this part:

(a) *Inspection service*. An inspection and certification service for wholesomeness relating to the slaughter and