

Presidential Documents

Proclamation 5388 of October 11, 1985

Myasthenia Gravis Awareness Week, 1985

By the President of the United States of America

A Proclamation

Myasthenia gravis is a harrowing neuromuscular disorder that enfeebles as many as 250,000 of our citizens, most of them in their prime years. It debilitates strength and destroys vigor. Extreme muscle weakness and abnormal fatigue weigh down its victims, sapping their ability to stand, to walk, to pick up a glass and drink from it, and—in critical cases—even to breathe.

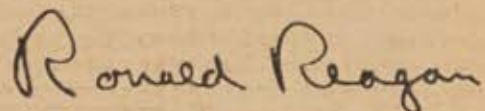
Myasthenia gravis can strike anyone at any time. While its exact cause is unknown, scientists have found evidence that a chemical needed to stimulate muscle movement is somehow blocked, leaving muscles unable to contract. Such new knowledge suggests the possibility of one day preventing myasthenia gravis by replenishing the missing chemical and restoring the transmission of nerve impulses. To this end, scientists supported by the Federal government's National Institute of Neurological and Communicative Disorders and Stroke and by private voluntary groups—notably the Myasthenia Gravis Foundation, Inc., and the Muscular Dystrophy Association—are diligently investigating the basic neurological processes that underlie voluntary movement. Studies of immune system function are also underway to help scientists understand why myasthenia gravis patients seem more susceptible than others to infections.

Thanks to previous investigations, several drugs have been developed that can help many myasthenia gravis patients regain muscle strength and resume a fairly normal life. More research is needed, however, to find ways of liberating patients and their families from rigid medication schedules and from the side effects that accompany long-term drug use.

To acquaint the public with the tragedy of myasthenia gravis and the hope that research holds for eliminating this disorder, the Congress, by Senate Joint Resolution 183, has designated the week of October 6, 1985, through October 12, 1985, as "Myasthenia Gravis Awareness Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 6, 1985, as Myasthenia Gravis Awareness Week. I call upon all government agencies, health organizations, communications media, and people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.



Presidential Documents

Proclamation 5389 of October 11, 1985

National Housing Week, 1985

By the President of the United States of America

A Proclamation

A gratifying sign of our continuing economic upswing is the greatly improved housing picture. The strength and ingenuity of private enterprise, the efficiency and liquidity of our capital markets, and sound government policies have brought decent and affordable housing to the overwhelming majority of Americans. The opportunity to own a home or to live in decent rental housing strengthens the family, the community, and the Nation. It gives individual Americans a stake in the local community and encourages responsible political involvement.

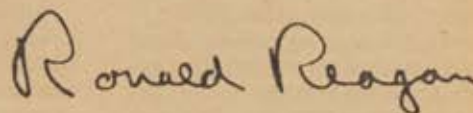
Since World War II, the housing industry has made an immense contribution to the economic prosperity of the United States. It has created millions of productive jobs, creating demand for goods and services, and generated billions of dollars in tax revenues.

Shelter is one of the most basic human needs, and therefore encouraging the production of decent affordable housing must be a primary concern at all levels of government. It is, then, fitting to reaffirm our national commitment to livable housing and family home ownership and to recognize the multiple economic benefits engendered by the current housing recovery.

The Congress, by Senate Joint Resolution 197, has designated the week beginning October 6, 1985, through October 13, 1985, as "National Housing Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 6, 1985, as National Housing Week. I call upon the Governors, Mayors of our cities, and people of this Nation to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of October, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.



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Filed 10-15-85; 10:40 am]

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Rules and Regulations

Federal Register

Vol. 50, No. 200

Wednesday, October 16, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 352

[Docket No. 83-038F]

Voluntary Inspection of Buffalo

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On March 18, 1985, the Food Safety and Inspection Service (FSIS) published a proposed rule in the Federal Register (50 FR 10778-10784) that would provide for the voluntary inspection of buffalo (American bison) under the Agricultural Marketing Act, as amended. This rule incorporates parts of the Federal meat inspection regulations to permit more flexible options for ante-mortem inspection of buffalo under the voluntary inspection program.

The final rule has three changes from the proposed rule. The first incorporates the recently published final rule concerning the ordering, manufacturing, and control of brands. This was incorporated to enable the Food Safety and Inspection Service to control all brands, including the new triangular brand, used under its supervision. The second change cross references to the meat inspection regulations concerning the handling and disposal of condemned or other inedible products at official establishments. This was included because it was inadvertently omitted from the proposed rule. The third change corrects § 352.6(c) of the proposed rule. This clarifies the applicability of the procedures for withdrawal or denial of services.

This rule allows three alternative locations for inspection personnel to perform ante-mortem inspection of buffalo: (1) in the field in a designated area of an owner's premises; (2) on an

appropriate transport vehicle at an official buffalo establishment; and (3) in ante-mortem pens at an official buffalo establishment. The ante-mortem inspection performed on buffalo which is either in the field or on a transport vehicle would be dependent on the adequacy and safety of the particular situation. Humane handling of buffalo during ante-mortem inspection shall be in accordance with the provisions of 9 CFR § 313.2.

The post-mortem inspection procedure would be performed in an official buffalo inspection establishment by a USDA inspector or an inspector of a cooperating State, with the post-mortem disposition determined by the authorized veterinarian. This rule allows the utilization of Federal and State inspection personnel for ante-mortem and post-mortem inspection. A newly designed triangular brand will be used to identify officially inspected and passed carcasses and parts of carcasses of buffalo, and products therefrom under the voluntary inspection program. The triangular brand can be applied by authorized USDA or State employees in an official buffalo inspection establishment. This rule facilitates the sale and export of buffalo carcasses, meat, and meat food products.

EFFECTIVE DATE: November 15, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Assistant Deputy Administrator, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3521.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a "major rule" under Executive Order 12291. This final rule would not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601) because currently only approximately 6,000 buffalo are slaughtered annually compared to over 33,500,000 cattle slaughtered in fiscal year 1983. It is not expected that the number of buffalo slaughtered annually will substantially increase.

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 0583-0036.

Background

The Agricultural Marketing Act of 1946, as amended, provides the Secretary of Agriculture with the authority to furnish a voluntary inspection service for buffalo (American bison) as well as for other game animals (7 U.S.C. 1622). Under regulations contained in 9 CFR Part 350, the Department provides inspection and certification services for domesticated reindeer and other game animals such as buffalo. These inspection services enable persons to bring game animals to an official establishment for ante- and post-mortem inspection. The inspected and passed game meat is branded with a USDA mark of inspection and can be sold interstate or exported.

The increasing consumer demand for buffalo meat and the increasing number of buffalo being raised for food have prompted buffalo associations to request the adoption of regulations for buffalo that would address specific problems involved in their slaughtering and marketing. The transportation of live buffalo to an official establishment for inspection and slaughter is one of the biggest problems facing buffalo producers. The inherent unpredictable behavior of buffalo during their loading onto a transport vehicle, transporting and unloading at an official establishment has resulted in damage to transport vehicles, fences, pens, and

animals. The damage to ante-mortem pens at an official establishment and the increased risk of personal injury have prevented buffalo from being accepted at many slaughter establishments. There are a few establishments which have anti-mortem pens and facilities especially designed and built for buffalo. However, because of the expense, many slaughter establishments are not willing to provide reinforced pens to accommodate unruly buffalo.

Another problem facing the buffalo industry is having a brand applied to the buffalo carcasses, meat and meat food products that would be readily accepted by the consumer. Most consumers have become accustomed to the USDA brand on the meat they purchase. The Federal brand authorized for use under the Federal Meat Inspection Act may only be applied to carcasses, meat, and meat products of cattle, sheep, swine, goats, and equines that have been inspected in a Federal establishment. State inspected buffalo have a State brand applied to the buffalo meat. Even though State inspected buffalo meat may be sold interstate, many consumers, as well as food businesses, will not buy buffalo meat without the Federal mark of inspection.

Recently, FSIS has been petitioned by the National Buffalo Association and the American Buffalo Association on behalf of the buffalo (American bison) industry for changes in the ante-mortem inspection and slaughter procedures for buffalo under the voluntary inspection program. The petitioners requested that ante-mortem inspection of buffalo be conducted on the owner's premises or outside of a transport vehicle at an official establishment as well as in ante-mortem pens at an official establishment.

Utilization of State and Federal inspectors and the use of contract inspectors were requested for the ante-mortem inspection on buffalo. The Associations also requested a special Federal buffalo brand that could be applied to buffalo meat inspected in an official buffalo inspection establishment.

These requests were the result of the previously mentioned problems inherent to the buffalo industry. To address the voluntary inspection of buffalo specifically, this rule is being adopted. The rule adds a new part to the provisions pertaining to Voluntary Inspection and Certification Service contained in Subchapter B, Chapter III, Title 9, of the Food Safety and Inspection Service regulations.

The rule allows three alternative locations for ante-mortem inspection of buffalo. The first alternative allows ante-mortem inspection to be performed

in the field in a designated area of the buffalo producer's premises. The field inspection procedure entails the ante-mortem inspection, stunning and bleeding of the animal. The animal must be handled humanely in accordance with provisions of 9 CFR 313.2. The animal must be bled immediately after stunning. It would then be transported to an official buffalo establishment for post-mortem inspection.

The carcass is required to be ear-tagged with a "U.S. Suspect" tag to identify it. This will provide the post-mortem veterinarian the means to control the post-mortem inspection and disposition of all field ante-mortem inspected buffalo. Tagging the buffalo carcass in the field with a suspect tag, along with post-mortem inspection and disposition by the veterinarian at an official buffalo establishment, is consistent with the current method of handling carcasses that require delayed evisceration. Field ante-mortem inspection would reduce the risks of injury to persons handling buffalo and would eliminate the property damage to transport vehicles, fences and pens.

The second alternative allows ante-mortem inspection to be performed outside of a transport vehicle at an official buffalo establishment. Such ante-mortem inspection allows a buffalo producer with a few buffalo to have ante-mortem inspection performed by an inspector outside the transport vehicle on buffalo that are outside the vehicle. The inspector would be positioned outside the vehicle and provide such service if it can be appropriately and safely performed. The vehicle ante-mortem inspection alternative would enable establishments that do not have reinforced pens to receive a few buffalo for slaughter. The ante-mortem inspected and passed buffalo would be stunned but not bled in the transport vehicle. The carcasses would be immediately taken to the slaughter floor for bleeding and post-mortem inspection.

Ante-mortem inspection performed in the field or outside of a transport vehicle must ensure the safety of inspection personnel and must allow for adequate inspection.

The third alternative allows ante-mortem inspection to be performed in ante-mortem pens at an official buffalo establishment.

The three alternatives are designed to resolve the unique problems involved with the ante-mortem inspection of buffalo. These ante-mortem inspection alternatives would allow more buffalo meat and meat food products to enter the market.

This rule allows the utilization of Federal and cooperating State inspectors to perform all aspects of the inspection service under the provisions of the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450). The utilization of Federal and State inspectors enables a more efficient and economical use of manpower than if Federal inspectors were used exclusively.

This final rule allows the use of a newly designed triangular brand to identify inspected and passed buffalo meat and buffalo meat food products. The Department might possibly decide to use the new triangular brand in the future to identify other species of animals that would be inspected under the voluntary inspection program. The triangular brand may be applied at official buffalo establishments by Federal or State inspectors. The triangular brand readily identifies buffalo meat and meat food products which have been inspected and passed under the voluntary inspection program. The special triangular brand was designed for application to buffalo meat inspected in official buffalo establishments in lieu of the red meat USDA mark of inspection that can only be used in federally inspected establishments under the Federal Meat Inspection Act. The ordering and manufacture of the triangular brand shall be in accordance with the provisions contained in 9 CFR 317.3(c).

Meat and meat food products of buffalo produced under the voluntary inspection service are certified by the Department and carry the mark of Federal inspection. To qualify for this service, the establishment, its facilities and equipment, and its procedures must have to meet certain requirements incorporated from the mandatory meat inspection regulations, and the establishment must be an official buffalo establishment. Therefore, FSIS is incorporating the relevant substantive requirements of the Federal meat inspection regulations into the voluntary buffalo regulations, instead of restating those requirements.

Because the diseases in buffalo parallel diseases found in cattle, the post-mortem inspection procedures for buffalo will remain the same as are currently used for cattle. It is recommended that field-slaughtered buffalo be brought to the plant for post-mortem examination and disposition in the shortest possible time. The establishment of specific time and temperature requirements for buffalo slaughtered in the field is difficult because their carcasses would be

transported different distances under varying climatic conditions. It has been determined, however, that to minimize changes in the carcass which can affect post-mortem examination, disposition and wholesomeness, buffalo slaughtered in the field must be eviscerated and inspected on the day of slaughter. Therefore, field-slaughtered buffalo must be presented for post-mortem inspection on the same day of field slaughter. Regardless of the time elapsed, if, in the judgment of the examining veterinarian, changes have occurred in the carcass which make it unwholesome, the carcass must be condemned.

The provisions for mandatory meat inspection are covered under regulations codified in 9 CFR Parts 301 through 335. This document provides regulations that deal with the administration of voluntary buffalo inspection activities and provides for alternate locations for ante-mortem inspection; incorporates the relevant mandatory meat inspection regulations by reference; and codifies them in Title 9, Chapter III, Subchapter B, of the Food Safety and Inspection Service regulations, as a new Part 352.

Discussion of Comments

Comments on the proposed rule were solicited from interested parties in the March 18, 1985, *Federal Register* (50 FR 10778). The comment period closed on June 13, 1985. During the comment period, the Agency received comments from 4 parties—3 from Agency personnel and 1 from a trade association.

The following are the comments and the Agency's response to each comment:

A. Trade Association

The trade association supported the proposal and believes the proposal is in the best interests of industry and consumers.

B. Agency Personnel

Comments from FSIS personnel included the following questions and concerns:

Comment: "What are the specifics of stunning of buffalo in the field after ante-mortem inspection?"

Response: The stunning of buffalo whether in the field, on a transport vehicle or at an official buffalo inspection establishment must be performed humanely in accordance with the provisions contained in 9 CFR 313.15, 313.16 and 313.30 which state the approved methods for humane handling and slaughtering of food animals.

Comment: "Will there be additional costs for the buffalo producer

concerning the field ante-mortem inspection?"

Response: As this is a voluntary inspection service, all costs of providing the service are recoverable by the Agency. The buffalo producer would be required to pay all fees involved in performing field ante-mortem inspection including travel time, per diem, and time required to perform such inspection. These fee requirements are stated in § 352.5 of the rule. In addition, all fees associated with the use of establishment facilities and equipment would be paid by the producer.

Comment: "Many plants have altered their facilities to handle unruly buffalo. If other plants want buffalo inspection, they too can remodel their facilities to accommodate buffalo."

Response: There are only a few plants which have ante-mortem pens and facilities especially designed and built for buffalo. Because of the expense, many slaughter establishments are not willing to provide the necessary reinforced pens and facilities to accommodate unruly buffalo.

This rule would permit alternative methods of ante-mortem inspection and slaughter of buffalo so that establishments could provide producers a facility for post-mortem inspection of buffalo without remodeling to accommodate live buffalo.

Comment: "I have inspected well over 100 buffalo at this establishment without anymore problems than beef. Animals have been brought in by many different producers and some from over 200 miles away with little or no difficulty. I believe that live buffalo could and should be transported to the establishment."

Response: The transportation of live buffalo to an official establishment for inspection and slaughter is one of the biggest problems facing buffalo producers. The inherent unpredictable behavior of buffalo during their loading onto a transport vehicle, transporting and unloading at an official establishment has resulted in damage to transport vehicles, fences, pens, and animals. The damage to ante-mortem pens at an official establishment and the increased risk of personal injury have prevented buffalo from being accepted at many slaughter establishments. This rule will provide buffalo producers alternative methods to the traditional method of ante-mortem inspection and slaughter of buffalo and would alleviate the problems listed above.

Comment: Examining buffalo on the producer's premises would not only cause an undue hardship on the producer by charging for extra time, it would cause a much greater hardship on

the establishment because the inspector would not be available and the establishment would not be able to slaughter.

Response: The rule would provide more flexible options for ante-mortem inspection under the voluntary inspection program. Therefore, under the voluntary inspection program, the producer has the option to elect to use the traditional method of inspection and slaughter of buffalo or to request the ante-mortem alternatives. Each regional office would assure that the necessary inspection personnel are available for field ante-mortem inspection while maintaining full coverage of all slaughter establishments.

All fees associated with field ante-mortem inspection and slaughter including travel time, per diem and the time required for such inspection will be paid by the buffalo producer. The decision whether to use these alternative procedures with their resulting costs would depend on each producer.

After careful consideration of the comments received in response to the proposed rule, FSIS is adopting the proposal as published with three minor changes: the first incorporates the meat inspection regulations concerning the ordering and manufacture of the new brand; the second incorporates the meat inspection regulations concerning the handling of condemned or other inedible buffalo products at official buffalo establishments; and the third clarifies the applicability of the procedures for withdrawal or denial of service.

List of Subjects in 9 CFR Part 352

Buffalo, Voluntary Inspection

Subchapter B of the Federal meat inspection regulations is amended by adding Part 352 to read as set forth below:

PART 352—BUFFALO; VOLUNTARY INSPECTION

- | | |
|--------|---|
| Sec. | Definitions. |
| 352.1 | Definitions. |
| 352.2 | Type of service available. |
| 352.3 | Application by official establishment for inspection service. |
| 352.4 | Application for ante-mortem inspection service in the field. |
| 352.5 | Fees and charges. |
| 352.6 | Denial or withdrawal of inspection service. |
| 352.7 | Marking inspected products. |
| 352.8 | Time of inspection in the field and in an official buffalo establishment. |
| 352.9 | Report of inspection work. |
| 352.10 | Ante-mortem inspection. |
| 352.11 | Post-mortem inspection. |
| 352.12 | Disposal of diseased or otherwise adulterated carcasses and parts. |

Sec.

352.13 Handling and disposal of condemned or other inedible buffalo products at official buffalo establishments.

352.14 Entry into official establishments; reinspection and preparation of products.

352.15 Records, registration and reports.

352.16 Exports.

352.17 Transportation.

352.18 Cooperation of States in Federal programs.

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

§ 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) "Applicant" means any interested party who requests any inspection service.

(d) "Buffalo" means any American bison or catalo or cattalo.

(e) "Buffalo inspection service" means the personnel who are engaged in the administration, application, and direction of buffalo inspection programs and services pursuant to the regulations in this Part.

(f) "Buffalo producer" means any interested party that engages in the marketing of American bison or catalo or cattalo.

(g) "Catalo" or "Cattalo" means any hybrid animal with American bison appearance resulting from direct crossbreeding 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) "Field ante-mortem inspection" means the ante-mortem inspection of buffalo away from the official buffalo establishment's premises.

(k) "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.

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

(m) "Inspection" means any inspection by an inspector to determine, in accordance with the regulations in this Part, (1) the condition and wholesomeness of buffalo, or (2) the condition and wholesomeness of edible product of buffalo 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 buffalo if such product has not lost its identity as an inspected and certified product.

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

(o) "Official buffalo establishment" means any slaughtering, cutting, boning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the regulations in this Subchapter.

(p) "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.

(q) "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.

(r) "Program" means the Voluntary Buffalo Inspection Program of the Food Safety and Inspection Service.

(s) "Transport vehicle" means any vehicle used to transport buffalo.

(t) "Veterinarian" means by 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.

§ 352.2 Type of service available.

Upon application, in accordance with § 352.3 and § 352.4, the following type of service may be furnished under the regulations in this Part:

(a) Voluntary Inspection Service. An inspection and certification service for wholesomeness relating to the slaughter and processing of buffalo and the processing of buffalo products. All provisions of the Part shall apply to the slaughter of buffalo, and the preparation, labeling, and certification of the buffalo meat and buffalo products processed under this buffalo inspection service.

(b) Only buffalo which have had ante-mortem inspection as described under this Part and which are processed in official buffalo establishments in accordance with this Part may be marked inspected and passed.

(c) Buffalo, buffalo meat and meat food products shall be handled in an official buffalo establishment to ensure separation and identity of the buffalo or buffalo meat and meat food products until they are shipped from the official buffalo establishment to prevent commingling with other species.

§ 352.3 Application by official buffalo establishment for inspection service.

(a) Any person desiring to process buffalo, buffalo carcasses, buffalo meat and meat food products in an establishment under buffalo inspection service must receive approval of such establishment and facilities as an official buffalo establishment prior to the rendition of such service. An application for inspection service to be rendered in an official buffalo establishment shall be approved in accordance with the provisions contained in §§ 304.1 and 304.2, of Subchapter A of this Chapter.

(b) Initial survey. When an application has been filed for buffalo inspection service, the Regional Director or designee, shall examine the establishment, premises, and facilities.

§ 352.4 Application for ante-mortem inspection service in the field.

Any buffalo producer desiring field ante-mortem buffalo inspection service must receive approval of the field ante-mortem designated area from the Regional Director or designee prior to 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 buffalo inspection service shall be made by an official buffalo establishment to the Regional Director. Subsequent requests shall be made by the official buffalo establishment on behalf of a buffalo 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.

§ 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 rate of \$18.60 per hour for base time, \$21.72 per hour for overtime including Saturdays, Sundays, and holidays, and \$35.92 per hour for laboratory service to cover the costs of the service. The applicant 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 buffalo or buffalo 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 in this Part. Notice of such rejection, denial, or withdrawal, and the reasons therefor,

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 therefor, in writing in the manner prescribed in 1.147(b) of the 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 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 agent of the Department authorized to perform any function under this Part; (3) has interfered with or obstructed, or attempted to interfere with or to obstruct, any agent of the Department in the performance of his duties under this Part by intimidation, threats, assaults, abuse, or any other improper means; (4) has knowingly represented that any buffalo carcass, or buffalo 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 any felony or of more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food, or fraud in connection with transactions in food. *Provided*, an application or a request for service made in the name of a person, firm or corporation otherwise eligible for service under the regulations may be denied, or the benefits of the service may be withdrawn, from such a person, firm or corporation in case the service is or would be performed at a location operated by a person, firm or corporation, from whom the benefits of the service are currently being denied or have been withdrawn under this Part; or by a person, firm or corporation 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 buffalo or buffalo product in which any person, firm or corporation, from whom the benefits of service are currently being denied or have been withdrawn under this Part, has a 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 Part 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)), the proceeding shall thereafter be conducted in accordance with rules of practice which shall be adopted for the proceeding.

§ 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 buffalo 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 plant number of the official plant 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 9 CFR 317.3(c).

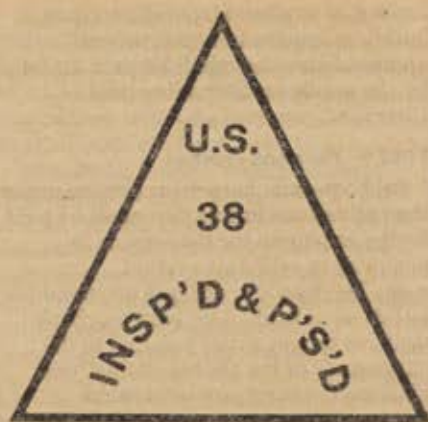
The Administrator may approve the use of abbreviations of such inspection mark, and such approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark or approved abbreviation shall be applied under the supervision of the inspector to the inspected and passed edible product, packaging material of such product, immediate container, and shipping container. When the inspection mark or the 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 a 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 plant number is shown.

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

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

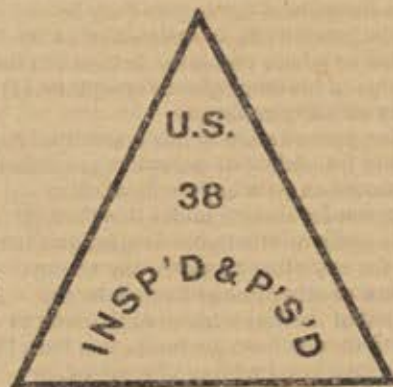


(2) For application to buffalo calf carcasses.

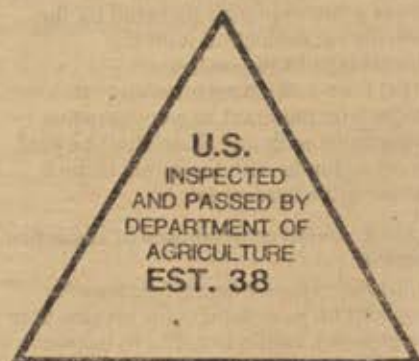


(b) The official inspection mark to be shown on all labels.¹

(1) For inspected and passed products of buffalo 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:



(3) For application to buffalo tails.



(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.

¹ The number "38" is given as an example only. The establishment number of the official buffalo establishment where the product is prepared shall be used in lieu thereof.

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

(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 buffalo establishment.

The official buffalo 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 in a designated area of a buffalo producer's premises and/or official buffalo establishment to which they are assigned.

§ 352.9 Report of inspection work.

Reports of the work of inspection carried on within the field in a designated area of a buffalo producer's premises and/or official buffalo 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.

§ 352.10 Ante-mortem inspection.

An ante-mortem inspection of buffalo 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 buffalo in one of the following listed ways. Humane handling of buffalo during ante-mortem inspection shall be in accordance with the provisions contained in 9 CFR 313.2. Immediately after the animal is stunned, it shall be shackled, hoisted, stuck and bled.

(a) To be performed on buffalo in the field in a designated area of a buffalo producer's premises.

(1) 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 buffalo establishment to the Regional Director or designee.

(ii) A field ante-mortem designated area.

(iii) A stunning area which is in a condition that minimizes the possibility of soiling the animal when stunned 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) The ante-mortem inspector shall supervise all phases of field ante-mortem inspection.

(5) In the ante-mortem inspector's opinion, buffalo that appear diseased or have an abnormal condition will not pass ante-mortem inspection and must be withheld from slaughter.

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

(7) All stunned and bled buffalo shall be tagged with a "U.S. Suspect" tag in an ear by the ante-mortem inspector prior to loading on the transport vehicle.

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

(9) 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 buffalo establishment and shall be delivered to the post-mortem veterinarian.

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

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

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

(3) 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.

(c) To be performed in pens at official buffalo establishments. The inspection shall be conducted in accordance with the provisions contained in 9 CFR Part 309.

§ 352.11 Post-mortem inspection.

(a) The post-mortem examination must occur in the shortest length of time practicable and on the day that field ante-mortem inspection is performed to

minimize the changes in the carcass which can affect the post-mortem examination, disposition and wholesomeness of the carcass and its parts.

(b) The post-mortem veterinarian shall inspect and make the disposition of all incoming "U.S. Suspect" tagged buffalo.

(c) Post-mortem inspection of buffalo shall be conducted in accordance with the provisions contained in 9 CFR Part 310.

§ 352.12 Disposal of diseased or otherwise adulterated carcasses and parts.

This shall be conducted in accordance with the provisions contained in 9 CFR Part 311.

§ 352.13 Handling and disposal of condemned or other inedible buffalo products at official buffalo establishments.

This shall be conducted in accordance with the provisions contained in 9 CFR Part 314.

§ 352.14 Entry into Official Establishments; Reinspection and Preparation of Products.

This shall be conducted in accordance with the provisions contained in 9 CFR 318.1, 318.2, and 318.3.

§ 352.15 Records, Registration, and Reports.

This shall be conducted or maintained in accordance with the provisions contained in 9 CFR 320.1 through 320.7.

§ 352.16 Exports.

This shall be conducted in accordance with the provisions contained in 9 CFR 322.1 through 322.5.

§ 352.17 Transportation.

This shall be conducted in accordance with the provisions contained in Parts 325.1 through 325.21.

§ 352.18 Cooperation of States in Federal Programs.

Under the "Talmadge-Aiken Act" of September 28, 1962 (7 U.S.C. 450), the Administrator is authorized to utilize employees and facilities of States in carrying out Federal functions.

Done at Washington, DC, on September 27, 1985.

Donald L. Houston,
Administrator, Food Safety and Inspection Service.

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