

HS tariff heading	Description
07.08.....	Leguminous vegetables, shelled or unshelled, fresh or chilled.
07.09.....	Other vegetables (excluding truffles), fresh or chilled.
08.06.10.....	Grapes, fresh.
08.08.20.....	Pears and quinces, fresh.
08.09.....	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh.
08.10.....	Other fruit (excluding cranberries and blueberries), fresh.

(i) "Import Price" means the unit value based on data available from the U.S. Customs Service of a particular Canadian fresh fruit or vegetable imported into the U.S. from Canada taking into account any other relevant data, as necessary.

(j) "Secretary" means the Secretary of Agriculture.

(k) "United States" means the United States Customs Territory which includes the fifty states, the District of Columbia and Puerto Rico.

(l) "Wine Grape" means grapes of labrusca, vinifera or hybrid vinifera varieties used for making wine.

(m) "Working Day" means a day which falls on a Monday through Friday, excluding holidays observed by the United States Government and days in which the U.S. Customs Service is not operating.

§ 1560.3 Determination of fresh fruit or vegetable.

The specific group of articles that will be monitored as a particular fresh fruit or vegetable will be determined based on the practicability of monitoring at the eight digit subheading level of the Harmonized Tariff Schedule of the United States. The determination of practicability will be made by the Administrator taking into account: (a) The availability of reliable volume and price data on imports from Canada and data on U.S. planted acreage, (b) market differentiation for the group of articles, and (c) such other factors as the Administrator determines to be appropriate.

§ 1560.4 Calculation of data to support imposition of temporary duty.

The Administrator will inform the Secretary when the following conditions are met with respect to a particular fresh fruit or vegetable imported into the United States from Canada:

(a) If for each of five consecutive working days the import price of the fresh fruit or vegetable is below ninety percent of the corresponding five-year average monthly import price for such fresh fruit or vegetable excluding the years with the highest and lowest corresponding monthly import price; and

(b) The planted acreage in the United States for such fresh fruit or vegetable based on the most recent data available is no higher than the average planted acreage over the preceding five years excluding the years with the highest and lowest planted acreages. For the purposes of calculating any planted acreage increase attributed directly to a reduction in wine grape planted acreage existing on October 4, 1987 shall be excluded.

§ 1560.5 Calculation of data to support removal of temporary duty.

During the time a temporary duty on a particular fresh fruit or vegetable is imposed pursuant to section 301(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, the Administrator will inform the Secretary if the F.O.B. point of shipment price in Canada of such fresh fruit or vegetable exceeds, for five consecutive working days, ninety percent of the corresponding five-year average monthly import price excluding the years with the highest and lowest average corresponding monthly import price, adjusted to an F.O.B. point of shipment price, if necessary, for that fresh fruit or vegetable.

Signed at Washington, DC, on the 30th day of December 1988.

Thomas O. Kay,

Administrator, Foreign Agricultural Service.

[FR Doc. 89-920 Filed 1-12-89; 8:45 am]

BILLING CODE 3410-10-M

Food Safety and Inspection Service

9 CFR Parts 350 and 352

[Docket No. 86-043F]

Voluntary Inspection of Exotic Animals

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is adopting regulations to provide for voluntary inspection concerning certain exotic animals under the Agricultural Marketing Act of 1946, as amended. This rule amends Part 352 of the regulations promulgated under that Act, which provides voluntary inspection concerning American bison, catalo, and cattalo, to provide for voluntary ante-mortem, post-mortem, and products inspection of elk, deer, antelope, reindeer and water buffalo in the same manner as is presently performed for American bison. A triangular brand will be applied to exotic animal carcasses, meat and meat food products inspected

and passed by authorized USDA or State employees in official exotic animal establishments. The rule will facilitate the sale and export of exotic animal carcasses, meat, and meat food products of the additional animals.

EFFECTIVE DATE: February 13, 1989.

FOR FURTHER INFORMATION CONTACT:

Dr. Douglas L. Berndt, Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3219.

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 have 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. Currently less than 2,000 exotic animals are slaughtered annually compared to over 32,000,000 cattle slaughtered in fiscal year 1986. It is not expected that the number of exotic animals slaughtered annually will substantially increase. In addition, since this is a voluntary fee-for-service program, producers must decide if the ability to market a federally inspected product offsets the resulting costs of inspection.

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, (5 U.S.C. 601). Since the voluntary inspection service for some exotic animals, with the exception of American bison, catalo, and cattalo, is not yet provided, FSIS does not have specific information on how many small entities may be affected by this final rule. However, FSIS believes that those producers of exotic animals who would be interested in participating in this voluntary inspection service are small in actual numbers and are small businesses. This assumption is based on the limited number of commercially raised exotic animals and the size of the herds of the animals now being

commercially produced in the United States. This rule is expected to have an impact on all exotic animal producers who wish to have their products federally inspected because it will enable such producers to market their products as federally inspected. In determining whether to participate in this voluntary program, each producer decides if the ability to market a federally inspected product offsets the resulting costs of inspection. In addition, FSIS believes that a substantial number of those establishments which may choose to participate in the program, that is, agree to use their establishments for the preparation under official inspection of carcasses, meat, and products of exotic animals, will also be small businesses. This assumption is based on the fact that the locations where exotic animals are commercially produced are generally in remote areas where few large establishments are located. Each establishment will decide if such use of its facility and equipment is economically advantageous.

Background

The Agricultural Marketing Act of 1946, as amended, provides the Secretary of Agriculture with the authority to furnish a voluntary inspection service, on a fee basis, for exotic animals (7 U.S.C. 1622). Under Parts 350 and 352 of the regulations (9 CFR Parts 350 and 352) promulgated under that Act, the Department provides inspection and certification services for reindeer and American bison, catalo, and cattalo, respectively. These inspection services enable persons to have ante-mortem and post-mortem inspection performed on these exotic animals. The inspected and passed meat is branded with a USDA mark of inspection and can be sold interstate or exported.

The increasing consumer demand for exotic animal meat and the increasing number of exotic animals being raised for food prompted exotic animal producers to request the adoption of similar regulations for the inspection and marking of these animals and their meat products as are currently provided for American bison, catalo, and cattalo.

Therefore, on February 24, 1988, FSIS published a proposed rule (53 FR 5387) to add other exotic animal species to Part 352 which provided only for the voluntary inspection of American bison, catalo, and cattalo. FSIS proposed to add elk, deer, antelope, and water buffalo to Part 352 and to transfer reindeer from Part 350 to Part 352 to consolidate the provisions for voluntary inspection of all exotic animals. To

avoid confusion, FSIS proposed to redefine buffalo as animals belonging to the buffalo family and bison as animals belonging to the bison family.

This final rule allows the following three alternative locations for ante-mortem inspection of reindeer, elk, deer, antelope, and water buffalo, which are presently allowed for American bison, catalo, and cattalo: (1) in the field in a designated area of an owner's premises; (2) on an appropriate transport vehicle at an official exotic animal establishment; and (3) in ante-mortem pens at an official exotic animal establishment. The ante-mortem inspection performed on reindeer, elk, deer, antelope, water buffalo, and bison which is either in the field or on a transport vehicle will be dependent on the adequacy and safety of the particular situation. Humane handling of exotic animals during ante-mortem inspection will be in accordance with § 313.2 of the Federal meat inspection regulations (9 CFR 313.2) which prescribes various methods of humane slaughter.

The post-mortem inspection procedure will be performed in an official exotic animal establishment by a USDA inspector or an inspector of a cooperating State, with the post-mortem disposition determined by the authorized veterinarian. The final rule allows the utilization of Federal and State meat inspection personnel for ante-mortem and post-mortem inspection of reindeer, elk, deer, antelope, water buffalo, and bison.

The triangular brand was designed not only to identify inspected and passed bison and bison meat food products under FSIS's voluntary inspection service, but was also designed to identify meat of other exotic animals approved for inspection at a future date. The triangular brand will be applied to these specific exotic animal carcasses, meat and meat food products inspected and passed by authorized USDA or State employees in an official exotic animal establishment. The ordering and manufacture of the triangular brand will be in accordance with the provisions contained in § 317.3(c) of the Federal meat inspection regulations (9 CFR 317.3).

Discussion of Comments

The Agency received eight comments in response to the proposal. Four commenters supported the proposal; four opposed it. One of the four opposing commenters provided no additional comment. The remaining three opposing commenters felt the

proposal would permit the slaughter of game animals, thereby encouraging poaching in the wild which would decrease the numbers of such animals.

The Agency wishes to emphasize that the proposal was a result of requests from exotic animal producers (persons who are involved in the raising and/or marketing of exotic animals for commercial purposes) that the Agency provide Federal inspection of the slaughter and other preparation of elk, deer, antelope, reindeer and water buffalo. The rule provides for ante-mortem inspection (inspection before slaughter) by an FSIS inspector at a producer's premises, on a transport vehicle, or at an official exotic animal establishment. With regard to exotic animals in the wild, it would be very difficult if not impossible to trap and remove an exotic animal from the wild without tranquilizing the animal. Because animals which have been treated with tranquilizers are not permitted for slaughter, any person who attempted such action would gain nothing for their efforts. Therefore, this regulation would have no effect on poaching.

For the reasons discussed in the preamble, FSIS is amending Parts 350 and 352 of the Federal meat inspection regulations as follows:

Final Rule

List of Subjects in 9 CFR Parts 350 and 352

Meat inspection, Voluntary inspection, Exotic animals, Food labeling.

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

1. The authority citation for Part 350 continues to read as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92.

§ 350.2 [Amended]

2. Paragraph (j) of § 350.2 is removed and reserved.

§ 350.3 [Amended]

3. Paragraph (d) of § 350.3 is removed and reserved.

4. The authority citation for Part 352 continues to read as follows:

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.

5. The title of Part 352 is revised to read as follows:

**PART 352—EXOTIC ANIMALS;
VOLUNTARY INSPECTION**

6. The Table of Contents of Part 352 is revised to read as follows:

Sec.	
352.1	Definitions.
352.2	Type of service available.
352.3	Application by official exotic animal 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 exotic animal 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.
352.13	Handling and disposal of condemned or other inedible exotic animal products at official exotic animal 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.

7. Section 352.1 is revised to read as follows:

§ 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 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) "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.

8. Section 352.2 is revised to read as follows:

§ 352.2 Type of service available.

Upon application, in accordance with § 352.3, § 352.4, and § 352.5, 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 exotic animals and the processing of exotic animal products. All provisions of this part shall apply to the slaughter of exotic animals, and the preparation, labeling, and certification of the exotic animal meat and exotic animal products processed under this exotic animal inspection service.

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

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

9. Section 352.3 is revised to read as follows:

§ 352.3 Application by official exotic animal establishment for inspection services.

(a) Any person desiring to process an exotic animal, exotic animal carcasses, exotic animal meat and meat food products in an establishment under exotic animal inspection service must receive approval of such establishment and facilities as an official exotic animal establishment prior to the rendition of such service. An application for inspection service to be rendered in an official exotic animal 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 exotic animal inspection service, the Regional Director or designee, shall examine the establishment, premises, and facilities.

10. Section 352.4 is revised to read as follows:

§ 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.

11. Section 352.6 is amended by revising paragraphs (a) and (b) to read as follows:

§ 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 in 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 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 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.

12. Section 352.7 is amended by revising the introductory text and paragraphs (a) and (b)(1) to read as follows:

§ 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

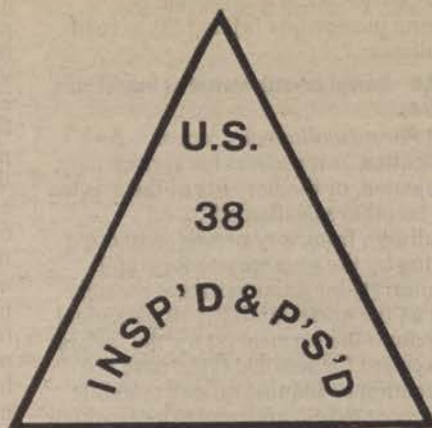
and arrangement shown in this section. The establishment number of the official establishment shall be included in the triangle unless it appears elsewhere on the packaging material. Ordering and manufacture of the triangle brand shall be in accordance with the provisions in 9 CFR 317.3(c) of the Federal 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.

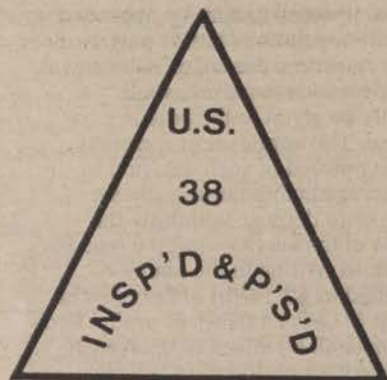
(a) The inspection mark to be applied to inspected and passed carcasses and parts of carcasses of an exotic animal, and products as therefrom approved by the Administrator, shall be in the form and arrangement as indicated in the example below.¹ The establishment number of the official establishment 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.

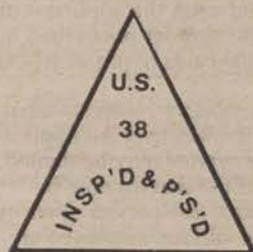
¹ The number "38" is given as an example only. The establishment number of the official exotic animal establishment where the product is prepared shall be used in lieu thereof.



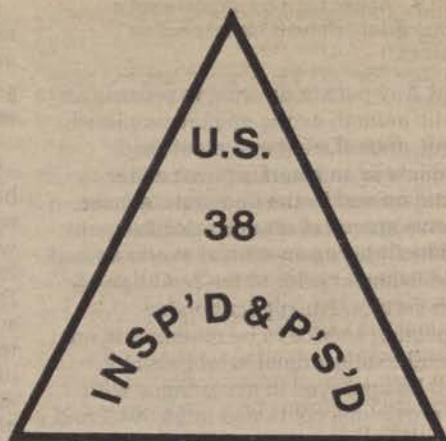
(2) For application to exotic animal calf carcasses.



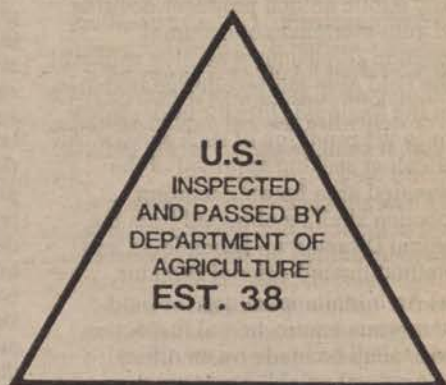
(3) For application to exotic animal tails.



(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:



13. Section 352.8 is revised to read as follows:

§ 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

¹ The 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.

animal establishment to which they are assigned.

14. Section 352.9 is revised to read as follows:

§ 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.

15. Section 352.10 is revised to read as follows:

§ 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.

(9) The ante-mortem inspector shall supervise all phases of field ante-mortem inspection.

(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 as 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.

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

16. Section 352.11 is revised to read as follows:

§ 352.11 Post-mortem inspection.

(a) Post-mortem inspection of reindeer, elk, deer, antelope, bison and water buffalo shall be conducted in

accordance with the provisions contained in 9 CFR Part 310 or as determined by the Administrator.

(b) The post-mortem examination of field ante-mortem-inspected exotic animals 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.

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

17. The title of § 352.13 is revised to read as follows:

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

Done at Washington, DC, on January 10, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 89-896 Filed 1-12-89; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 1

[Docket No. 89-1]

Investment Securities Regulation

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is amending 12 CFR Part 1 to make two nonsubstantive changes in the regulation. The first change in the regulation incorporates the existing statutory authority of national banks to underwrite and deal in obligations of the African Development Bank, the Inter-American Investment Corporation, and other Type II securities listed in 12 U.S.C. 24(Seventh). The second change deletes from the regulation an outdated and unnecessary provision describing procedures for banks to request rulings by OCC.

EFFECTIVE DATE: January 13, 1989.

FOR FURTHER INFORMATION CONTACT: Horace Sneed, Attorney, Legal Advisory Services Division, Office of the Comptroller of the Currency.

Washington, DC 20219 (202-447-1880); Owen Carney, Director, Investment Securities, Office of the Comptroller of the Currency, Washington, DC 20219 (202-447-1901).

SUPPLEMENTARY INFORMATION:

Background

This rule updates the OCC's investment securities regulation, 12 CFR Part 1 ("Regulation"), to reflect national banks' existing powers with respect to obligations of the African Development Bank. In the African Development Bank Act, Congress amended section 16 of the Glass-Steagall Act, 12 U.S.C. 24(Seventh), to include obligations of the African Development Bank among those obligations, commonly referred to as "Type II Securities," that banks may underwrite and deal in, and that are eligible for national banks to purchase for their own accounts subject to a limitation of ten percent of capital and surplus on the amount that may be held per obligor. See African Development Bank Act, Pub. L. No. 97-35, section 1342(a), 95 Stat. 357, 743 (1981). Congress' provision of the described authority was not conditioned on the OCC's adoption of an implementing regulation. Therefore, our revision of the Regulation to specifically include African Development Bank obligations as Type II Securities does not alter banks' existing securities underwriting, dealing, or investment authority. See Interpretive Letter 392 from Robert L. Clarke, Comptroller of the Currency (June 25, 1987), reprinted in Fed. Banking L. Rep. (CCH) ¶85.616 (recognizing that national banks may exercise the subject authority regarding African Development Bank obligations pursuant to 12 U.S.C. 24(Seventh) prior to OCC revision of the Regulation).

Similarly, this action updates the Regulation to reflect national banks' existing powers with respect to obligations of the Inter-American Investment Corporation. In the Foreign Assistance and Related Appropriations Act, 1985, Congress amended 12 U.S.C. 24(Seventh) to include obligations of the Inter-American Investment Corporation as Type II Securities without requiring an implementing regulation by OCC. See Foreign Assistance and Related Appropriations Act, 1985, Pub. L. No. 98-473, Title I, 98 Stat. 1837, 1885 (1984) (enacting Title II of S. 2416, as introduced in the Senate on March 13, 1984); S. 2416, 98th Cong., 2d Sess. section 211(a), 130 Cong. Rec. S2622-3 (daily ed. March 13, 1984) (containing provision that was enacted to amend 12 U.S.C. 24(Seventh) as described). Therefore, our revision of the Regulation

to specifically include Inter-American Investment Corporation obligations as Type II Securities does not alter banks' existing securities underwriting, dealing, or investment authority.

We are also revising the Regulation by deleting an outdated and unnecessary provision that describes procedures for banks to request rulings on matters pertaining to the Regulation. The subject provision, 12 CFR 1.9, requires that banks send their requests to the Deputy Comptroller for Bank Operations—a position that no longer exists—and to include sufficient facts and analysis to enable the OCC to make a determination. Rather than revise § 1.9 to direct requests to a current OCC official, we are removing the section from the Regulation because there is no need to continue the requirement that requests be directed to one official or to remind banks to accompany their requests with appropriate information. Banks may therefore submit requests for rulings regarding the Regulation in accordance with ordinary practices for requesting OCC legal opinions. The deletion of § 1.9 is not expected to affect the OCC's processing of banks' submission of requests regarding the Regulation.

Technical Explanation of Revisions

Currently, 12 CFR 1.3(d) defines "Type II Security" by describing such securities as those obligations that banks may deal in, underwrite, and purchase subject to a ten percent limitation, and then enumerates specific examples of such obligations. We are amending § 1.3(d) to specifically include African Development Bank and Inter-American Investment Corporation obligations among the enumerated Type II Securities and to include a generic reference to all Type II securities listed in 12 U.S.C. 24(Seventh). No revision is required for 12 CFR 1.5, which describes the qualitative standards applicable to purchases of Type II Securities for a bank's own account, or for 12 CFR 1.7, which describes the ten percent quantitative limitation on holdings of Type II Securities, since those sections refer to all Type II Securities generically rather than enumerating particular Type II Securities. We are amending the description of banks' authority to underwrite and deal in Type II Securities at 12 CFR 1.6 to remove that section's current enumeration of particular Type II Securities to which the underwriting and dealing authority applies, and adding a generic reference to all Type II Securities so that § 1.6 will not require updating to reflect any future additions of Type II Securities by Congress.

Finally, we are removing the provision at 12 CFR 1.9 for requesting OCC rulings on the Regulation. To reflect the removal of § 1.9, we are deleting the existing references to that section from 12 CFR 1.4 and 1.100(b). We are also changing the numbering of the sections that follow § 1.9 to reflect the removal of that section. Specifically, §§ 1.10, 1.11 and 1.12 are being renumbered as §§ 1.09, 1.10 and 1.11, respectively. The existing cross-reference at 12 CFR 1.4 to § 1.11 is being changed to cross-reference § 1.10 to reflect the described renumbering.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*, it has been determined that this proposed rule, if issued as a final rule, would not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Pursuant to Executive Order 12291, it has been determined that this proposed rule, if issued as a final rule, would not have an annual effect on the economy of \$100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; and would not have an adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Adoption Without Notice and Comment and Reason for Immediate Effective Date

Publication for notice and comment and delayed effectiveness as set forth in the Administrative Procedure Act, 5 U.S.C. 553, are not required. The amendments made by this final rule are technical in nature and have no substantive effect on the banking industry or the public.

List of Subjects in 12 CFR Part 1

African Development Bank, Inter-American Investment Corporation, National banks' investment securities, Type II securities.

Authority and Issuance

For the reasons set forth in the preamble, Part 1 of Chapter I of Title 12 of the Code of Federal Regulations is amended as follows:

PART 1—INVESTMENT SECURITIES REGULATION

1. The authority citation for 12 CFR Part 1 is revised to read as follows:

Authority: Paragraph Seventh of R.S. 5136, as amended, 12 U.S.C. 24(Seventh); 12 U.S.C. 93a.

2. Part 1 is amended by revising §§ 1.3(d), 1.4, 1.6, and 1.100(b); by removing § 1.9; by redesignating §§ 1.10, 1.11, and 1.12 as §§ 1.9, 1.10, and 1.11; and by revising newly redesignated § 1.10(b) to read as follows:

§ 1.3 Definitions.

(d) The term "Type II security" means a security that a bank may deal in, underwrite, purchase, and sell for its own account, subject to a 10-percent limitation. These include obligations of the International Bank for Reconstruction and Development, Inter-American Development Bank, the Asian Development Bank, the African Development Bank, Inter-American Investment Corporation, and the Tennessee Valley Authority, obligations issued by any State or political subdivision or any agency of a State or a political subdivision for housing, university, or dormitory purposes, and other obligations listed in paragraph Seventh of 12 U.S.C. 24.

§ 1.4 Type I securities; standards for authorized transactions.

Type I securities are not subject to the limitations and restrictions contained in 12 U.S.C. 24 or in this Part other than §§ 1.3(c), 1.3(g), 1.4, 1.8, and 1.10. Consequently, a bank may deal in, underwrite, purchase, and sell for its own account a security of Type I subject only to the exercise of prudent banking judgment. Prudence will require such determinations as are appropriate for the type of transaction involved. For the purpose of underwriting or investment, prudence will also require a consideration of the resources and obligations of the obligor and a determination that the obligor possesses resources sufficient to provide for all required payments in connection with the obligations.

§ 1.6 Type II securities; authority to deal in and underwrite.

A bank may deal in and underwrite Type II securities pursuant to 12 U.S.C. 24(Seventh).

§ 1.10 Amortization of premiums.

(b) Provide for a program to amortize the premium paid or that portion of premium remaining after the writedown required by § 1.9 so that such premium or portion thereof shall be entirely

extinguished at or before the maturity of the security.

§ 1.100 Eligibility of securities for purchase, dealing in, and underwriting by national banks; general guidelines.

(b) The general guidelines are issued to assist national banks and bank counsel in independently applying the relevant law. Due to their summary character, the guidelines are not exclusive or exhaustive. For instance, the guidelines do not provide guidance in evaluating issues which, because of their unique or complex characteristics, are not susceptible to generalization. Neither do the guidelines address novel legal problems which are not reflected in the past rulings. In encountering such complex or novel issues, national banks may wish to request a specific ruling. The general guidelines will be reviewed and amended periodically to reflect new rulings.

Date: January 6, 1989.
Robert L. Clarke,
Comptroller of the Currency.
[FR Doc. 89-696 Filed 1-12-89; 8:45 am]
BILLING CODE 4810-33-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Construction Industries, Surveying and Mapping Services; and Refuse and Garbage Collection Services

AGENCY: Small Business Administration.
ACTION: Notice of retention of current size standards in compliance with Pub. L. 100-656.

SUMMARY: This notice announces to the public that the Small Business Administration (SBA) will not promulgate lower size standards as previously proposed for the Construction, Surveying and Mapping Services and Refuse and Garbage Collection Industries. The current size standards for these industries will remain in effect as mandated by Pub. L. 100-656.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Director, Size Standards Staff, 1441 L Street, NW.—Room 601, Washington, DC 20416, Tele. (202) 653-6373.

SUPPLEMENTARY INFORMATION: Section 921(f) of Pub. L.'s 99-591 and 99-661 directed the Small Business Administration (SBA) to lower its size standards for the construction industries, surveying and mapping, and

refuse and garbage collection services if the total dollar value of small business set-aside and SBA's Minority Small Business and Capital Ownership Development Assistance (section 8(a)) Program awards for these activities annually exceed 30 percent of the dollar value of overall Federal procurements for these activities. In compliance with these laws, SBA published in the *Federal Register* proposals to lower the size standards for the construction industries on December 17, 1987 (52 FR 47937) and to lower the size standards for surveying and mapping services as well as refuse and garbage collection services on August 15, 1988 (53 FR 30689, 30691). These proposals each provided for a 60-day comment period.

On November 15, 1988, President Reagan signed the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656). Title VII of this act repeals the requirements to lower the size standards as provided in Pub. L. 99-591 and Pub. L. 99-661. In lieu of revised size standards, a small business competitiveness demonstration program is to be put into effect for 4 years by nine Federal Agencies. Section 732 of the act requires current size standards for the affected industries to be retained during this demonstration program.

Dated: January 4, 1989.
James Abdnor,
Administrator, U.S. Small Business Administration.
[FR Doc. 89-824 Filed 1-12-89; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

Separation of Functions; Civil Penalty Demonstration Program

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Announcement of separation of functions.

SUMMARY: This notice advises the public of how the separation of functions under the Rules of Practice in FAA Civil Penalty Actions will be implemented within the Office of the Chief Counsel. Under 14 CFR 13.203(b), the Chief Counsel advises the FAA decisionmaker regarding an initial decision or any appeal to the FAA decisionmaker in civil penalty actions not exceeding \$50,000. In that function he will be assisted by the Assistant Chief Counsel for Litigation.