

**Food Safety and Inspection Service, USDA****§ 351.2**

Cost), divided by the number of export applications.

(g) FSIS will publish notice of the electronic export certificate application fee annually in the FEDERAL REGISTER.

[23 FR 9982, Dec. 23, 1958, as amended at 53 FR 13397, Apr. 22, 1988; 54 FR 6389, Feb. 10, 1989; 81 FR 42234, June 29, 2016]

**§ 350.8 Scope and applicability of rules of practice.**

The rules of practice of the Department of Agriculture in subpart H of part I, subtitle A, title 7 of the Code of Federal Regulations, are the rules of practice applicable to adjudicatory, administrative proceedings under the regulations in this part (9 CFR part 350).

[43 FR 11147, Mar. 17, 1978]

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

**SOURCE:** 40 FR 58627, Dec. 18, 1975, unless otherwise noted.

**DEFINITIONS****§ 351.1 Meaning of words.**

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

**§ 351.2 Terms defined.**

When used in this part, unless the context otherwise requires:

(a) *Department* means the United States Department of Agriculture.

(b) *Program* means the Meat and Poultry Inspection Program of the Food Safety and Inspection Service of the Department.

(c) *Administrator* means the Administrator of the Food Safety and Inspection Service of the Department, or any officer or employee of the Department to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(d) *Circuit supervisor* means an employee of the Program assigned to supervise and perform official work in a circuit. Such employee is assigned by and reports directly to the Administrator or person designated by him.

(e) *Inspector* means an employee of the Program or a cooperating State.

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(f) *Circuit* means one or more inspected plants assigned to a circuit supervisor.

(g) *Recognized State* means any State not designated in § 331.2 of this chapter.

(h) *Cooperating State* means any State cooperating under § 351.7 in administration of the regulations in this part.

(i) *Inspection* means ante-mortem and post-mortem inspection by Program inspectors or inspectors of a Meat Inspection Service of a recognized State.

(j) *Animals* means cattle, sheep, swine, goats, horses, mules and other equines.

(k) *Technical animal fat* means animal fat eligible for exportation, or storage for exportation, in accordance with § 325.11 of this chapter.

(l) *Certified technical animal fat* means technical animal fat certified for export or storage for export under the regulations in this part.

(m) *Tallow* means technical animal fat with a minimum titre of 40 °C.

(n) *Certified plant* means any plant or storage facility preparing or storing certified technical animal fat for export, or for transfer to another certified plant or storage facility for ultimate export, and at which certification service is provided under the regulations in this part.

(o) *Inspected and Passed* means inspected and passed under the Federal

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Meat Inspection Act (21 U.S.C. 601 *et seq.*) or the meat inspection laws of a recognized State.

#### SCOPE OF CERTIFICATION SERVICE

#### § 351.3 Kind of service.

(a) Certification, in the form set forth in paragraph (b), is available under the regulations in this part for specific lots of technical animal fat for export, if the fat was rendered from materials derived from carcasses, or parts of carcasses, that had been inspected and passed and came from animals that did not die otherwise than by slaughter under inspection. The certification will be made by a Program employee when he determines, upon the basis of examinations made by him or other inspectors, as provided in § 351.14, and information obtained by him or them from the exporter or other sources, as provided in the regulations in this part, that the technical animal fat is eligible for certification under this section and therefore the statements to be certified are correct. The service will be available upon a voluntary fee basis in accordance with said regulations.

(b)(1) The form of Certificate for Export of Technical Animal Fats is as follows:

**Food Safety and Inspection Service, USDA**

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UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE MEAT AND POULTRY INSPECTION PROGRAM WASHINGTON, D.C. 20250 <b>CERTIFICATE FOR EXPORT OF TECHNICAL ANIMAL FATS</b>		1. KIND OF PRODUCT  2. NET WEIGHT OF PRODUCT (From Bill of Lading)
3. NAME AND ADDRESS OF PLANT MAKING SHIPMENT		4. NAME AND ADDRESS OF TRANSPORTING COMPANY
CERTIFIED PLANT NO.		
5. NAME OF VESSEL		6. COUNTRY OF DESTINATION
7. VESSEL NUMBER	8. NAME OF CITY WHERE LOADED	9. DATE LOADED
The Undersigned Certifies In Accordance With 9 CFR 351.3 That: a. The product described above has been obtained by rendering raw materials, none of which were diseased, suspected of being diseased, or from dead animals. b. The product covered by this certification has not been rendered under the continuous Federal inspection provided in the Federal Meat Inspection Act. For compliance with this certification, the plant equipment, plant conditions, and processing operations of the rendering plant(s) supplying the product certified by this certification are subject to Federal inspection on a periodic basis as authorized by the Agricultural Marketing Act and regulations thereunder (9 CFR Part 351).		
		10. ISSUED AT (Name of City)  11. DATE ISSUED  12. SIGNATURE OF USDA INSPECTOR
MP FORM 87 NOV. 1975		

(2) Certified technical animal fat may be described on the certificate as "technical animal fat"; or if it is tallow, it may be described on the certificate as "Tallow" and the description may include the statement "titre not less than 40 °C."

**PROCEDURE FOR OBTAINING SERVICE:  
ADMINISTRATION OF PROGRAM**

**§ 351.4 Application for certification service.**

Application for certification service under the regulations in this part may be made to the Administrator by the operator of any rendering plant or storage facility at which technical animal fat is prepared or stored for export. In case of a change of ownership or change of location, a new application shall be made. Applications shall be made on forms<sup>1</sup> available from the Administrator and provide all information called for thereon relating to the identity of the applicant and the plant, and the nature of the plant operations, and a certification of specified facts

and an agreement to comply with specified requirements.

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

[40 FR 58627, Dec. 18, 1975, as amended at 47 FR 746, Jan. 7, 1982]

**§ 351.5 Conditions of eligibility for certification service; review of applications.**

(a) To be eligible for certification service under the regulations in this part, the operator of a rendering plant must demonstrate that:

(1) He operates a rendering plant which will receive materials derived from inspected and passed carcasses, or parts of carcasses, of animals that did not die otherwise than by slaughter under inspection, (i.e., not "dead animals"); and such source materials will be rendered at the plant into technical animal fat eligible for export, or storage for export, in accordance with the regulations in this part;

(2) The source materials and the rendered technical animal fat described in paragraph (a)(1) will be identified and kept separated at all times from other products; and

<sup>1</sup>Copy filed as part of the original document.

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(3) He will comply with the applicable regulations in this part.

(b) To be eligible for certification service under the regulations in this part, the operator of a storage facility must demonstrate that:

(1) He operates a storage facility that will receive for storage certified technical animal fat shipped directly from a certified rendering plant for storage for export and he will keep such shipments identified and separated from other products that are not certified, and he will receive such fat only if it is accompanied by MP Form 85, as required by § 351.17.

(2) He will comply with the applicable regulations in this part.

(c) Each applicant for certification service must file with the Administrator, with the application for service, a written description of the procedures to be used for receiving, identifying, processing, storing, and otherwise handling technical animal fat, and materials for use in the preparation thereof, at the plant or storage facility involved, and for shipping technical animal fat from the plant or facility and storing and exporting such technical animal fat, and a written description of the shipping, receiving, and inventory records maintained for technical animal fat.

(d) The Administrator will determine, on the basis of all information available to him, whether the arrangements at the plant or storage facility are such as will assure that certifications of technical animal fat will be correct, and, if so, will grant the application for certification service. An applicant will be given an opportunity to present his views prior to refusal of the service.

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

[40 FR 58627, Dec. 18, 1975, as amended at 41 FR 12637, Mar. 26, 1976; 47 FR 746, Jan. 7, 1982]

## § 351.6 Official number.

The Administrator will assign a certified technical animal fat plant number to each plant granted service. Such number shall be preceded by the letter "C" and be used to identify all certified technical animal fat prepared or stored by the plant.

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### § 351.7 Administration of certification service program.

(a) The regulations in this part shall be administered by the circuit supervisor for the jurisdiction in which is located the certified plant or plants for which application for certification service is made, and such assistants as may be necessary will be assigned by the Administrator.

(b) The Administrator may enter into a cooperative agreement with any recognized State for the conduct by State employees of any surveys, examinations, and other activities involved in the administration of the regulations in this part. However, certifications under these regulations may be issued only by Program employees, as provided in § 351.3.

### FEES

### § 351.8 Charges for surveys of plants.

Applicants for the certification service shall pay the Department for salary costs at the rates specified in §§ 391.2 and 391.3 respectively for base time, and for overtime, travel, and per diem allowances at rates currently allowed by the Federal Travel Regulations, and other expenses incidental to the initial survey of the rendering plants or storage facilities for which certification service is requested.

[54 FR 6389, Feb. 10, 1989]

### § 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be at the rates specified in §§ 391.2, 391.3, and 391.4 respectively for base time; for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14; and for certain laboratory services which are not covered under the base time, overtime, and/or holiday costs and which are required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees 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.

(b) Charges may also be made to cover the actual cost of travel and per

diem allowance at rates currently allowed by the General Services Administration, and other expenses incurred by the Department in connection with such examinations and laboratory service.

[40 FR 58627, Dec. 18, 1975, as amended at 53 FR 13397, Apr. 22, 1988; 54 FR 6389, Feb. 10, 1989]

#### FACILITIES AND OPERATIONS

##### § 351.10 Facilities.

(a) Facilities for the preparation, identification, and storage of the technical animal fat to be certified shall be furnished and maintained by the certified plant in accordance with this section.

(b) The operator of the certified plant shall provide at the plant, rooms, compartments, and equipment needed to maintain the identity of certified technical animal fats and materials used in their preparation, and separation of such articles from other products. Such rooms, compartments, and equipment shall be conspicuously marked with the phrase "Certified Technical Animal Fat" whenever they contain these fats.

##### § 351.11 Identification and separation of technical animal fats for certification and materials for use therein; removal of wrappers, etc.; cleaning of equipment.

(a) All technical animal fat to be offered for certification under this part and materials to be used in the preparation of such fat, and all certified technical animal fat, shall be identified and kept separate from other products from the time of receipt at a certified plant and throughout processing or handling at such plant. All wrappers and packaging shall be removed from the source materials to the fullest extent practicable before the materials are rendered at the plant.

(b) If a plant's operations are within the provisions of § 351.14(b)(3), all equipment shall be cleaned before it is used for receiving, preparation, or storage of certified technical animal fats or material to be used in preparation of such fats. Such cleaning shall be done in such manner as to prevent contamination of such certified fats or source ma-

terial with materials that are unacceptable under § 351.3.

##### § 351.12 Circuit supervisor to be informed when plant operates.

The operator of each certified plant shall inform the circuit supervisor, in advance, when the plant's work schedule will include preparing technical animal fats for certification and identify the approximate days and hours when operations will begin and end.

##### § 351.13 Inspectors to have access to certified plants at all times.

For the purpose of administering the regulations in this part, inspectors shall have access at all times by day or night to every part of a certified plant.

##### § 351.14 Processes to be supervised; extent of examinations.

(a) All processes used in the preparation of certified technical animal fats at any certified plant shall be subject to supervision by an inspector. Certified plants shall not prepare any technical animal fat for certification under the regulations in this part, except in accordance with such regulations.

(b) Supervision, ranging from full-time coverage of an entire process to one or more reviews per month, to determine a plant's compliance with the regulations in this part will be maintained. A circuit supervisor may increase the frequency of reviews whenever he deems necessary to assure the validity of certifications under the regulations in this part. Usual coverage of individual rendering plants will be as follows:

(1) Coverage shall be at least once a month if the plant consistently handles only raw materials acceptable under § 351.3 for the preparation of certified technical animal fat and the plant operator, in writing, certifies that he is maintaining this procedure.

(2) Coverage shall be at least once a week if the plant consistently handles some raw materials that are acceptable, and some that are unacceptable, under § 351.3, for the preparation of certified technical animal fat, uses separate equipment for processing, and uses separate rooms, compartments, and equipment for receiving and storing

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the respective types of raw materials and technical animal fats, and the plant operator, in writing, certifies that he is maintaining this complete physical separation procedure.

(3) Coverage shall be fulltime during receiving of raw materials and their preparation into certified technical animal fat, if the plant handles some raw materials that are acceptable, and some that are unacceptable, under §351.3, for the preparation of certified technical animal fat, and uses the same rooms, compartments, and equipment, with only time separation between receiving, processing, and storing the respective types of raw materials and technical animal fats.

**§351.15 Reports of violations.**

Inspectors shall report to the circuit supervisor any apparent violations of the regulations in this part or the Federal Meat Inspection Act or regulations thereunder (subchapter A of this chapter) which occur at certified plants, or elsewhere, within their knowledge. The circuit supervisor shall report such actions to the Administrator through appropriate channels.

**TRANSPORTATION AND EXPORTATION OF CERTIFIED TECHNICAL ANIMAL FAT****§351.16 Certificate required for shipments of technical animal fat.**

No certified plant shall export any certified technical animal fat unless the shipment is accompanied by a certificate issued under §351.3.

**§351.17 Identification required.**

Certified technical animal fats being exported directly from a certified plant or transferred between certified plants for storage for export are subject to the requirements of §325.11 of this chapter. In addition, such shipments between certified plants shall be accompanied by MP Form 85 (Declaration to Accompany Technical Animal Fats Between Certified Technical Animal Fat Plants)<sup>2</sup> prepared by the operator of the certified plant from which shipment is made, certifying that the product has been obtained by rendering raw

materials derived from federally or State inspected and passed carcasses, or parts of carcasses. Technical animal fat described on MP Form 85 as tallow must meet the definition of "Tallow" in §351.2.

**PROHIBITIONS****§351.18 Official identifications; unauthorized use.**

(a) The form of certification set forth in §351.3 and the term "Certified Technical Animal Fat" are official identifications for purposes of the Agricultural Marketing Act of 1946, as amended, and shall not be falsely made, issued, altered, forged, or counterfeited, or used for purpose of misrepresentation or deception.

(b) No container which bears or is to bear any designation as certified technical animal fat shall be filled in whole or in part, except with technical animal fats which have been certified and identified in compliance with this part.

**REMEDIES; PENALTIES****§351.19 Refusal of certification for specific lots.**

If an inspector has reason to believe that a lot of technical animal fat is ineligible for certification under §351.3, or any materials to be used in a lot of technical animal fat would make the technical animal fat ineligible for such certification, certification of the lot shall be withheld pending final determination by the circuit supervisor. The operator of the plant shall be afforded an opportunity to demonstrate the eligibility of the lot for certification before the final determination is made.

**§351.20 Withdrawal of service from certified plants.**

(a) After opportunity for hearing has been accorded the operator of a certified plant, the certification service, provided for in this part, may be withdrawn from such plant in accordance with the applicable rules of practice, if it is determined that:

(1) The operator, or his employee or agent:

(i) Has made any willful misrepresentation or engaged in any fraudulent or deceptive practice in connection with the service;

<sup>2</sup>Copy filed as part of the original document.

(ii) Has interfered with or obstructed any Program employee or other inspector in the performance of his duties, under the regulations in this part, by intimidation, threats, or other improper means; or

(iii) Has violated section 203(h) of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622(h)), or any regulation in this part; or

(2) Facilities or procedures at the certified plant do not conform to the arrangements approved by the Administrator under §351.5.

(b) Pending final determination of the matter, the Administrator may summarily suspend the certification service at any certified plant when he has reason to believe that there is cause for withdrawal of the service under paragraph (a). The operator of the certified plant shall be notified of the Administrator's decision to suspend summarily the certification service at such plant and the reasons therefor, in writing, in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)), or orally. The Administrator's decision to suspend summarily the certification service shall be effective upon such oral or written notification, whichever is earlier, to the operator of the certified plant. If such notification is oral, the Administrator shall confirm such decision, and the reasons therefor, in writing, as promptly as circumstances permit, and such written confirmation shall be served upon the operator of the certified plant, in the manner prescribed in §1.147(b) of the rules of practice (7 CFR 1.147(b)).

(c) The rules of practice of the Department of Agriculture in subpart H of part I, subtitle A, title 7 of the Code of Federal Regulations, are the rules of practice applicable to adjudicatory, administrative proceedings under the regulations in this part (9 CFR part 351).

[40 FR 58627, Dec. 18, 1975, as amended at 43 FR 11148, Mar. 17, 1978]

#### APPEALS

##### § 351.21 Appeals.

Any decision by an employee of the Program may be appealed by any adversely affected person to the immediate supervisor of such employee. De-

cisions of other inspectors may be appealed to the circuit supervisor.

#### RECORDS AND REPORTS

##### § 351.22 Certified plants to maintain records and make reports; access to records.

(a) Each day a certified plant prepares, receives, or ships certified technical animal fat or receives material for use in such product, the operator of the plant shall prepare records identifying the kinds and quantities of such materials and technical animal fats received, the number of pounds of certified technical animal fat prepared or shipped, and an up-to-date inventory of certified technical animal fats in storage. The operator of each certified plant shall include in the records required by this section all MP Forms 85 which he receives with shipments of certified technical animal fat from any other certified plant. These records shall be maintained by the operator of each certified plant and made available to an inspector, upon request, for examination and copying, for a period of 1 year after the date of the transaction involved.

(b) The operator of each certified plant shall provide such relevant information as any inspector may request to enable him to determine whether any technical animal fats are eligible for certification and whether the plant is eligible for certification service under the regulations in this part.

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

[40 FR 58627, Dec. 18, 1975, as amended at 47 FR 746, Jan. 7, 1982]

#### PART 352—EXOTIC ANIMALS AND HORSES; VOLUNTARY INSPECTION

##### Subpart A—Exotic Animals

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