Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 01–091–1]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Determination of Residual Free Formaldehyde Content of Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Virus-Serum-Toxin Act regulations for the determination of residual free formaldehyde in veterinary biologics. This amendment would specify that such determinations be made using the ferric chloride method, and that the residual free formaldehyde content be measured in grams per liter . We are proposing this amendment because the ferric chloride method has been adopted as an international standard by scientific experts and regulatory authorities in the United States, Canada, Japan, and the European Union. The effect of the proposed amendment would be to reduce the differences in technical requirements for veterinary biologics among regulatory agencies in different countries and further ensure the safety and shelf life of veterinary biologics by adopting a method which has been standardized and accepted internationally.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by June 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–091–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–091–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–091–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief of Operational Support, Center for Veterinary Biologics, Licensing and Policy Development, 4700 River Road Unit 148, Riverdale, MD, 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 113 (referred to below as the regulations) prescribe standard requirements for the preparation and testing of veterinary biological products. Standard requirements consist of test methods, procedures, and criteria that define the standards for purity, safety, potency, and efficacy for a given type of veterinary biological product. When a standard procedure for testing veterinary biological products is validated and approved by the Animal and Plant Health Inspection Service (APHIS) for general use, it is proposed for codification in the regulations. Sections 113.100 and 113.200 of the regulations prescribe the requirement for determination of residual free formaldehyde content in inactivated bacterial products and killed virus vaccines, respectively.

In this document, we are proposing to amend the regulations for determination of residual free formaldehyde content in inactivated bacterial products and killed virus vaccines.

Typically, pathogenic microorganisms or toxins are used in the formulation of veterinary biologics. In order to ensure that such products are safe and free from undue local and systemic reactions and cannot replicate and cause disease in the host, the microorganisms may be inactivated or killed. Formalin solution (formaldehyde) is one of several chemical compounds that may be used to inactivate the microorganisms or toxins used in the formulation of veterinary biologics. However, because of its toxicity, excess formaldehyde that remains in the product after inactivation is complete may cause undesirable secondary effects when the product is administered to the host, or result in residues in meat intended for human consumption. Therefore, in order to minimize the undesirable secondary effects associated with the use of formaldehyde as an inactivation agent, excess levels of formaldehyde that persist in veterinary biologics after inactivation is complete must be neutralized. Neutralization of excess formalin:

- Ensures that residual formalin will not inactivate other products used in combination,
- Prolongs product shelf life, and
- Provides an extra margin of safety relative to local and/or systemic reactions and residues in meat for human consumption.

Sodium bisulfite is the chemical compound most veterinary biologics manufacturers use to neutralize residual free formaldehyde in their products. After neutralization is complete, the level of free formaldehyde remaining in the neutralized preparation must be determined. Of the several methods that may be used to estimate residual free formaldehyde content in formalin-inactivated veterinary biologics that are treated with sodium bisulfite, the ferric chloride titration method and the basic fuchsin reagent method are the most accurate. The basic fuchsin test is currently specified in §§ 113.100 and 113.200 of the regulations under the general requirements for inactivated bacterial products and the general requirements for killed virus vaccines, respectively. However, it may not be the

best method for all products. Studies show that the basic fuchsin test may overestimate the amount of residual free formaldehyde in formalin-inactivated vaccine neutralized with sodium bisulfite, based on the calculated amount of sodium bisulfite needed to neutralize the volume of formaldehyde added to the product during inactivation.

Those same studies showed that the ferric chloride method estimated the amount of residual free formaldehyde in formalin-inactivated vaccine neutralized with sodium bisulfite to be closer to the amount that would be determined by calculation based on the volume of formaldehyde added during inactivation. Other countries that receive these products as exports have required vaccine manufacturers to test for residual free formaldehyde content by other methods in addition to using the basic fuchsin test. Some manufacturers may be using two or more test methods in order to satisfy the regulatory requirements of other countries.

Therefore, in an attempt to harmonize requirements for determination of residual free formaldehyde in veterinary biologics, the International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) is recommending that regulatory authorities cooperating in the VICH initiative adopt a harmonized procedure for determination of residual free formaldehyde content that is based on the ferric chloride method. (VICH is a unique project that brings together regulatory authorities of the United States, the European Union, and Japan and representatives from the animal health industry in the three regions to harmonize technical requirements for veterinary products as a means of reducing the differences in technical requirements for veterinary drugs and biologics among regulatory agencies in different countries.) The ferric chloride method described in this proposed rule was validated by a collaborative study involving 11 laboratories in the United States, Canada, Japan, and the European Union.

APHIS is proposing to implement the recommendations of the VICH by amending the regulations in §§ 113.100 and 113.200 concerning general requirements for inactivated bacterial products and general requirements for killed virus vaccines. We are proposing to require bulk or final container samples of completed inactivated bacterial products and killed virus vaccines from each serial to be tested for residual free formaldehyde content using the ferric chloride method in place of the basic fuchsin test that is currently specified. We are also proposing that the maximum allowable residual free formaldehyde content of veterinary biologics be measured in grams per liter (g/L) instead of the currently specified equivalent percent or parts per million. Under the present regulations, inactivated bacterial products which are found satisfactory using the viricidal activity test prescribed in § 113.35 are not required to be tested pursuant to § 113.100. This provision would remain unchanged.

Licensed biologics manufacturers currently use the basic fuchsin method for determining residual free formaldehyde content of products that they produce. However, they are allowed to use alternative methods when they are more suited to a particular product being tested or to satisfy the regulatory requirements prescribed by other countries.

The ferric chloride method for determination of residual free formaldehyde content proposed in this document is a harmonized method that regulatory authorities in the United States, the European Union, Japan, and Canada agree is the most accurate of the two best available methods for determining residual free formaldehyde content of veterinary biologics. It was selected because it is a familiar, commonly used procedure that does not require special equipment or reagents, should yield reproducible results in all laboratories, and should eliminate the need for veterinary biologics manufacturers to perform two or more tests to determine if their products contain excess levels of free formaldehyde. If necessary, however, veterinary biologics manufacturers would be allowed an exemption under § 113.4 of the regulations to use other test methods for determining residual free formaldehyde content of their products based on specific requirements or characteristics of the test material.

Determination of Residual Free Formaldehyde Content of Biological Products

We are proposing to amend the regulations to specify that the requirements in §§ 113.100 and 113.200 pertain to using the ferric chloride method to determine the free formaldehyde content of veterinary biological products. A footnote in each of these sections would provide an address from which the procedure for performing the ferric chloride test could be obtained. The basis for this proposed amendment is the collaborative and comparative study performed by APHIS, other VICH members, and the animal health industry to validate the ferric chloride method and earn its recognition as a VICH recommended harmonized procedure.

Materials and Equipment

The proposed change to the regulations in §§ 113.100 and 113.200 would require the use of analytical grade chemical reagents and a spectrophometer capable of measuring absorbance at a wavelength of 628 nm. Other commonly used and readily available laboratory equipment and supplies also would be required.

Compliance

Veterinary biologics manufacturers that determine residual free formaldehyde content in desiccated biological products by a method that is not the ferric chloride method that would be required under this proposed rule would be allowed 1 year after the effective date of the final rule to come into compliance or to request an exemption under § 113.4 of the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to amend the Virus-Serum-Toxin Act regulations for determination of residual free formaldehyde content in biological products to require that such free formaldehyde determinations be made using the ferric chloride method, which determines residual free formaldehyde content by measuring the quantity of coloring matter in solution by the quantity of light absorbed in passing through the solution. In addition, we are proposing that the maximum allowable residual free formaldehyde content of veterinary biologics be measured in grams per liter rather than the currently specified equivalent percent or parts per million. The effect of this action would be to provide a standardized method which has been shown to be more accurate than the presently used basic fuchsin method and which has been standardized and adopted internationally.

This proposed rule would affect all licensed manufacturers of veterinary biologics that test inactivated bacterial products and killed virus vaccines for free formaldehyde content.Currently, there are approximately 135 veterinary

biologics establishments, including permittees. According to the standards of the Small Business Administration, most veterinary biologics establishments would be classified as small entities.

This proposed rule should not impose any additional testing or economic burden on these manufacturers because manufacturers currently test their products for free formaldehyde content using the basic fuchsin and other methods, and the reagents and equipment necessary to perform the ferric chloride test for free formaldehyde content that would be required under this proposed rule should be comparable in cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Virus-Serum-Toxin Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This proposed rule contains no new information or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR parts 113 as follows:

PART 113—STANDARD REQUIREMENTS

1. The authority citation for part 113 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

2. In § 113.100, paragraph (f) is revised to read as follows:

§ 113.100 General requirements for inactivated bacterial products.

* * * * *

(f) If formaldehyde is used as the inactivating agent, and the serial has not been found satisfactory by the viricidal activity test, bulk or final container samples of completed product from each serial must be tested for residual free formaldehyde content using the ferric chloride test.[2] Firms currently using tests for residual free formaldehyde content other than the ferric chloride test have until [*Insert date 1 year from effective date of the final rule*] to update their Outline of Production to be in compliance with this requirement.

(1) The residual free formaldehyde content of biological products containing clostridial antigens must not exceed 1.85 grams per liter (g/L).

(2) The residual free formaldehyde content of bacterins, bacterin-toxoids, and toxoids, other than those containing clostridial antigens, must not exceed 0.74 grams per liter (g/L).

3. In § 113.200, paragraph (f) is revised to read as follows:

§ 113.200 General requirements for killed virus vaccines.

* * * * *

(f) *Formaldehyde content.* If formaldehyde is used as the killing agent, the residual free formaldehyde content must not exceed 0.74 grams per liter (g/L) as determined using the ferric chloride test.[3] Firms currently using tests for residual free formaldehyde content other than the ferric chloride test have until [*Insert date 1 year from effective date of the final rule*] to update their Outline of Production to be in compliance with this requirement.

Done in Washington, DC, this 1st day of April 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–8260 Filed 4–4–02; 8:45 am]

BILLING CODE 3410–34–U

[2] The procedures for performing the ferric chloride test for residual free formaldehyde may be obtained from USDA, APHIS, Center for Veterinary Biologics-Laboratory, 100 Dayton Road, P.O. Box 844, Ames, IA 50010.

[3] The procedures for performing the ferric chloride test for residual free formaldehyde may be obtained from USDA, APHIS, Center for Veterinary Biologics-Laboratory, 100 Dayton Road, P.O. Box 844, Ames, IA 50010.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 01–185; ET Docket No. 95–18; DA 02–601]

Flexibility in the Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order extending comment period.

SUMMARY: This document extends by seven days the time in which parties may provide additional technical comment on issues pertaining to issues the Commission considered in the Notice of Proposed Rulemaking in IB Docket No. 01–185 and ET Docket No. 95–18, *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.*

DATES: Comments are due March 22, 2002.[1]

FOR FURTHER INFORMATION CONTACT: Trey Hanbury, Special Counsel, International Bureau, (202) 418–0766.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document regarding IB Docket No. 01–185 and ET Docket No. 95–18, released on March 6, 2002. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* It is also available on the Commission's website at *http://www.fcc.gov.*

Synopsis

1. On August 17, 2001, the Commission released the *Flexibility Notice of Proposed Rulemaking,* 66 FR 47621 (Sept. 13, 2001) on proposals to bring flexibility to the delivery of communications by mobile satellite service (MSS) providers. One alternative proposal under consideration would open portions of the MSS bands for any operator to provide a terrestrial service that could either be offered in

[1] Editorial note: This document was received at the Office of the Federal Register on April 2, 2002.