(4) The licensee, permittee, or the foreign manufacturer has failed to maintain and make available for inspection records in connection with the development and preparation of product, has failed to provide complete and accurate information when requested, or has failed to provide complete and accurate information in the Outline of Production or in reports and records;
(5) The licensee or permittee has violated or failed to comply with any provision of the Virus-Serum-Toxin Act or the regulations in this subchapter;
(6) The license or permit is otherwise used to facilitate or effect the preparation, sale, barter, exchange, shipment, or importation, contrary to the Virus-Serum-Toxin Act, of any worthless, contaminated, dangerous, or harmful biological product.
(b) In case of willfulness or where the public health, interest, or safety so required the Secretary may, without hearing, informally suspend such establishment license, product license, or permit upon the grounds set forth in paragraph (a) of this section pending determination of formal proceedings instituted under part 123 of this subchapter for suspension or revocation of the license or permit.

§ 105.2 Notification of infractions.
If an infraction of a requirement of a product license is brought to the attention of the licensee by written notification thereof by Animal and Plant Health Inspection Service, a subsequent violation of similar nature occurring with the same licensed biological product within 6 months of the said written notification shall be prima facie evidence of willful violation and the license for the product shall be subject to suspension or revocation under the provisions of §105.1(b).

§ 105.3 Notices re: worthless, contaminated, dangerous, or harmful biological products.
(a) If at any time it appears that the preparation, sale, barter, exchange, shipment, or importation, as provided in the Virus-Serum-Toxin Act, of any biological product by any person holding a license or permit may be dangerous in the treatment of domestic animals, the Secretary may without hearing notify the licensee or permittee, and pending determination of formal proceedings instituted under part 123 of this subchapter for suspension or revocation of the license or permit insofar as it authorizes the manufacture or importation of the particular product, no person so notified shall thereafter so prepare, sell, barter, exchange, ship, deliver for shipment, or import such product.
(b) If a serial of biological product is found to be unsatisfactory according to applicable Standard Requirements, the Administrator may notify the licensee to stop distribution and sale of the serial.
(c) When notified to stop distribution and sale of a serial or subserial of a veterinary biological product under the provisions of paragraph (a) or (b) of this section, veterinary biologics licensees or permittees shall:
   (1) Stop the preparation, distribution, sale, barter, exchange, shipment, or importation of the affected serial(s) or subserial(s) of any veterinary biological product pending further instructions from APHIS.
   (2) Immediately, but no later than 2 days, send stop distribution and sale notifications to any wholesalers, jobbers, dealers, foreign consignees, or other persons known to have any such veterinary biological product in their possession, which instruct them to stop the preparation, distribution, sale, barter, exchange, shipment, or importation of any such veterinary biological product. All notifications shall be documented in writing by the licensee or permittee.
   (3) Account for the remaining quantity of each serial(s) or subserial(s) of any such veterinary biological product pending further instructions from APHIS.

§ 105.2 Notification of infractions.
If an infraction of a requirement of a product license is brought to the attention of the licensee by written notification thereof by Animal and Plant Health Inspection Service, a subsequent violation of similar nature occurring with the same licensed biological product within 6 months of the said written notification shall be prima facie evidence of willful violation and the license for the product shall be subject to suspension or revocation under the provisions of §105.1(b).

§ 105.3 Notices re: worthless, contaminated, dangerous, or harmful biological products.
(a) If at any time it appears that the preparation, sale, barter, exchange, shipment, or importation, as provided in the Virus-Serum-Toxin Act, of any biological product by any person holding a license or permit may be dangerous in the treatment of domestic animals, the Secretary may without hearing notify the licensee or permittee, and pending determination of formal proceedings instituted under part 123 of this subchapter for suspension or revocation of the license or permit insofar as it authorizes the manufacture or importation of the particular product, no person so notified shall thereafter so prepare, sell, barter, exchange, ship, deliver for shipment, or import such product.
(b) If a serial of biological product is found to be unsatisfactory according to applicable Standard Requirements, the Administrator may notify the licensee to stop distribution and sale of the serial.
(c) When notified to stop distribution and sale of a serial or subserial of a veterinary biological product under the provisions of paragraph (a) or (b) of this section, veterinary biologics licensees or permittees shall:
   (1) Stop the preparation, distribution, sale, barter, exchange, shipment, or importation of the affected serial(s) or subserial(s) of any veterinary biological product pending further instructions from APHIS.
   (2) Immediately, but no later than 2 days, send stop distribution and sale notifications to any wholesalers, jobbers, dealers, foreign consignees, or other persons known to have any such veterinary biological product in their possession, which instruct them to stop the preparation, distribution, sale, barter, exchange, shipment, or importation of any such veterinary biological product. All notifications shall be documented in writing by the licensee or permittee.
   (3) Account for the remaining quantity of each serial(s) or subserial(s) of any such veterinary biological product pending further instructions from APHIS.

§ 105.2 Notification of infractions.
If an infraction of a requirement of a product license is brought to the attention of the licensee by written notification thereof by Animal and Plant Health Inspection Service, a subsequent violation of similar nature occurring with the same licensed biological product within 6 months of the said written notification shall be prima facie evidence of willful violation and the license for the product shall be subject to suspension or revocation under the provisions of §105.1(b).

§ 105.3 Notices re: worthless, contaminated, dangerous, or harmful biological products.
(a) If at any time it appears that the preparation, sale, barter, exchange, shipment, or importation, as provided in the Virus-Serum-Toxin Act, of any biological product by any person holding a license or permit may be dangerous in the treatment of domestic animals, the Secretary may without hearing notify the licensee or permittee, and pending determination of formal proceedings instituted under part 123 of this subchapter for suspension or revocation of the license or permit insofar as it authorizes the manufacture or importation of the particular product, no person so notified shall thereafter so prepare, sell, barter, exchange, ship, deliver for shipment, or import such product.
(b) If a serial of biological product is found to be unsatisfactory according to applicable Standard Requirements, the Administrator may notify the licensee to stop distribution and sale of the serial.
(c) When notified to stop distribution and sale of a serial or subserial of a veterinary biological product under the provisions of paragraph (a) or (b) of this section, veterinary biologics licensees or permittees shall:
   (1) Stop the preparation, distribution, sale, barter, exchange, shipment, or importation of the affected serial(s) or subserial(s) of any veterinary biological product pending further instructions from APHIS.
   (2) Immediately, but no later than 2 days, send stop distribution and sale notifications to any wholesalers, jobbers, dealers, foreign consignees, or other persons known to have any such veterinary biological product in their possession, which instruct them to stop the preparation, distribution, sale, barter, exchange, shipment, or importation of any such veterinary biological product. All notifications shall be documented in writing by the licensee or permittee.
   (3) Account for the remaining quantity of each serial(s) or subserial(s) of any such veterinary biological product pending further instructions from APHIS.
the Animal and Plant Health Inspection Service pursuant to §116.5 of this subchapter.

(Approved by the Office of Management and Budget under control number 0579–0318.)


§ 105.4 Termination of licenses and permits for inactivity.

(a) If a biological product has not been prepared by a licensee, or imported by a permittee for a period of 5 years or more, the Administrator may require the licensee to show intent to resume production, or the permittee to show intent to resume importation, within 6 months of notification. If the licensee does not resume preparation, or the permittee does not resume importation, within 6 months of notification, or within a mutually agreeable period, the product license, or permit, may be terminated by the Administrator.

(b) When a license or permit is terminated, the licensee or permittee shall continue to be subject to the applicable records provisions of §116.8.

[61 FR 52874, Oct. 9, 1996]

PART 106—EXEMPTION FOR BIOLOGICAL PRODUCTS USED IN DEPARTMENT PROGRAMS OR UNDER DEPARTMENT CONTROL OR SUPERVISION


§ 106.1 Biological products; exemption.

The Administrator may exempt any biological product from one or more of the requirements of this subchapter if he determines that such product will be used by the Department or under the supervision or control of the Department in the prevention, control or eradication of animal diseases in connection with (a) an official USDA program; or (b) an emergency animal disease situation, or (c) a USDA experimental use of the product.