Rules and Regulations

Federal Register
Vol. 72, No. 245
Friday, December 21, 2007

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. APHIS–2006–0079]

RIN 0579–AC30

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Live Vaccines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Virus-Serum-Toxin Act regulations for certain live bacterial and viral vaccines by removing the requirement to retest the Master Seeds for immunogenicity 3 years after the initial qualifying immunogenicity test. In addition, we are amending the requirement concerning mouse safety tests prescribed for a biological product recommended for animals other than poultry. These changes update the standard requirements by eliminating unnecessary testing of Master Seed bacteria and viruses and other forms of bulk or completed biological product.

DATES: Effective Date: *January 22, 2008.*

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, APHIS, USDA, 4700 River Road, Unit 148, Riverdale, MD 20737–1228; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 113 (referred to below as the regulations) contain standard procedures and requirements that are used to establish the purity, safety, potency, and efficacy of veterinary biological products. Current standard requirements for certain live bacterial and viral vaccines require that each Master Seed be retested for immunogenicity 3 years after the initial immunogenicity test.

The requirement to confirm the immunogenicity of a Master Seed at 3 years has been in place since the master seed concept for vaccine production was established, and had been considered necessary until such time that an accumulation of data derived from such confirmatory testing established the antigenic stability of Master Seed bacteria and viruses over extended periods of storage. Data accumulated by veterinary biologics licensees over several years have shown that the immunogenicity of the Master Seed is not adversely affected over extended periods of storage.

On January 31, 2007, we published in the **Federal Register** (72 FR 4470–4472, Docket No. APHIS–2006–0079) a proposal[1] to amend the Virus-Serum-Toxin Act regulations for certain live bacterial and viral vaccines by removing the requirement to retest the Master Seeds for immunogenicity 3 years after the initial qualifying immunogenicity test. We also proposed to amend the requirement concerning mouse safety tests prescribed for biological products recommended for animals other than poultry.

We solicited comments concerning our proposal for 60 days ending April 2, 2007. We received two comments by that date, from a trade association representing veterinary biologics manufacturers and a representative of a State animal health commission.

One commenter supported the elimination of unnecessary testing/retesting from the regulations and noted that such action would decrease duplicative testing in animals. With regard to using the subcutaneous route of inoculation when conducting the mouse safety test, that same commenter recommended that proposed § 113.33(a)(1) should provide the option to split the injection volume among more than one injection site. The commenter pointed out that this recommendation was consistent with the ''good practice'' guidelines for subcutaneous injections recommended by the Association for Assessment and Accreditation of Laboratory Animal Care.

We agree with the commenter's recommendation and have amended § 113.33(a)(1) in this final rule to allow the option of dividing the 0.5 mL inoculation volume among more than one injection site.

The second commenter expressed concern that adverse local reactions may be missed if intraperitoneal inoculation is the only route used for the mouse safety test, and suggested that such test be conducted by inoculating mice using both the subcutaneous and intraperitoneal routes instead of by only one route as had been proposed.

In response to the commenter's concern that adverse local reactions may be missed if only one route is used, we wish to point out that § 113.300(b) of the regulations requires final container samples from each serial of product to be tested for safety in at least one species for which the vaccine is intended; the purpose of such test is to ensure freedom from undue adverse local reactions. Accordingly, we are not making any changes in this final rule in response to the comment.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

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 amending the regulations for certain live bacterial and viral vaccines to eliminate the requirement to retest the Master Seed for immunogenicity 3 years after the initial qualifying immunogenicity test. In addition, this amendment updates the regulations concerning mouse safety tests by requiring either intraperitoneal or subcutaneous inoculation of mice, but not both, in such tests. The primary effect of this rule will be to update the standard requirements by eliminating unnecessary testing of Master Seed bacteria and viruses and other forms of bulk or completed product in animals.

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0079.*

There are approximately 125 veterinary biologics establishments, including licensees and permittees that may be affected by this rule. According to the standards of the Small Business Administration, most veterinary biologics establishments would be classified as small entities.

It is anticipated that no increased recordkeeping burden will be added to licensees or permittees since the amended regulations actually will mean that fewer tests will be needed and fewer reports required to be submitted. We further anticipate that licensees and permittees may benefit economically from the cost savings associated with the reduction in the amount of required animal testing. The overall effect of this amendment will be to reduce the costs associated with producing and testing veterinary biological products.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will 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 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 are amending 9 CFR part 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.

§ 113.8 [Amended]

■ 2. In § 113.8, paragraph (d) is amended as follows:

■ a. In the heading by removing the words ''*Repeat immunogenicity tests*'' and adding the words ''*Extending the dating of a reference*'' in their place.

■ b. By removing paragraph (d)(1).

■ c. By removing the paragraph designation ''(2)''.

■ 3. In § 113.33, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 113.33 Mouse safety tests.

* * * * *

(a) * * *

(1) Vaccine prepared for use as recommended on the label shall be tested by inoculating eight mice intraperitoneally or subcutaneously with 0.5 mL (the inoculation volume may be divided among more than one injection site), and the animals observed for 7 days.

(2) If unfavorable reactions attributable to the product occur in any of the mice during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated: *Provided,* That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

* * * * *

§§ 113.66, 113.68, and 113.69 [Amended]

■ 4. In §§ 113.66, 113.68, and 113.69, paragraph (b)(6) is removed and paragraph (b)(7) is redesignated as paragraph (b)(6).

§ 113.67 [Amended]

■ 5. In § 113.67, paragraph (b)(7) is removed and paragraph (b)(8) is redesignated as paragraph (b)(7).

§ 113.70 [Amended]

■ 6. In § 113.70, paragraph (b)(5) is removed.

§§ 113.71, 113.306, and 113.318 [Amended]

■ 7. In §§ 113.71, 113.306, and 113.318, paragraph (b)(4) is removed and paragraph (b)(5) is redesignated as paragraph (b)(4).

§ 113.303 [Amended]

■ 8. In § 113.303, paragraph (c)(6) is removed.

§ 113.302, 113.304, 113.314, 113.315, 113.317, 113.327, 113.331, and 113.332 [Amended]

■ 9. In §§ 113.302, 113.304, 113.314, 113.315, 113.317, 113.327, 113.331, and 113.332, paragraph (c)(4) is removed and paragraph (c)(5) is redesignated as paragraph (c)(4).

§ 113.305 [Amended]

■ 10. In § 113.305, paragraphs (b)(1)(iii) and (b)(2)(iii) are removed and paragraph (b)(2)(iv) is redesignated as paragraph (b)(2)(iii).

§§ 113.308 and 113.316 [Amended]

■ 11. In §§ 113.308 and 113.316, paragraph (b)(5) is removed and paragraph (b)(6) is redesignated as paragraph (b)(5).

§ 113.309 [Amended]

■ 12. In § 113.309, paragraph (c)(9) is removed and paragraph (c)(10) is redesignated as paragraph (c)(9).

§ 113.310 [Amended]

■ 13. In § 113.310, paragraph (c)(8) is removed and paragraph (c)(9) is redesignated as paragraph (c)(8).

§ 113.311 [Amended]

■ 14. In § 113.311, paragraph (c)(7) is removed and paragraph (c)(8) is redesignated as paragraph (c)(7).

§ 113.312 [Amended]

■ 15. In § 113.312, paragraphs (b)(5) and(b)(6) are removed and paragraph (b)(7) is redesignated as paragraph (b)(5).

§§ 113.313 and 113.328 [Amended]

■ 16. In §§ 113.313 and 113.328, paragraph (c)(6) is removed and paragraph (c)(7) is redesignated as paragraph (c)(6).

§§ 113.325 and 113.326 [Amended]

■ 17. In §§ 113.325 and 113.326, paragraph (c)(5) is removed and paragraph (c)(6) is redesignated as paragraph (c)(5).

§ 113.329 [Amended]

■ 18. In § 113.329, paragraph (c)(5) is removed and paragraphs (c)(6) and (c)(7) are redesignated as paragraphs (c)(5) and (c)(6), respectively.

Done in Washington, DC, this 13th day of December 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–24649 Filed 12–20–07; 8:45 am]

BILLING CODE 3410–34–P