USDA
United States Department of Agriculture

Animal and Plant Health Inspection Service

Veterinary Services

1400 Independence Ave., SW

Washington, DC 20250

VETERINARY SERVICES MEMORANDUM NO. 800.57

TO: Veterinary Services Leadership Team
Directors, Center for Veterinary Biologics
Biologics Licensees, Permittees, and Applicants

FROM: for Jack A. Shere
Deputy Administrator

BURKE HEALEY Digitally signed by BURKE HEALEY Date: 2018.06.11 17:49:29 -04'00'

SUBJECT: Market Suspensions and Post Marketing Temperature Deviations

I. PURPOSE

This memorandum provides guidance to licensees and permittees for actions to take concerning the stop distribution and sale of serials and subserials released to the market by the Center for Veterinary Biologics (CVB). The authority to suspend or revoke a product is described in title 9, *Code of Federal Regulations* (9 CFR), parts 105.1 and 105.3. This memorandum also includes the notification process as required by 9 CFR, parts 105.3, 115.2, 116.5(b), and guidance concerning post marketing authorization temperature deviations.

II. CANCELLATION

This memorandum replaces Veterinary Services (VS) Memorandum No. 800.57 dated October 5, 2016.

III. BACKGROUND

Animal and Plant Health Inspection Service (APHIS) may be required to informally suspend a product, a portion thereof, or a product line for various reasons. Evidence may emerge indicating that a licensed veterinary biological product, a portion thereof, or a product line may be worthless, contaminated, dangerous, or harmful. In the case of willfulness or where the public health, interest, or safety so require, a product, a portion thereof, or a product line may be informally suspended. Evidence may come from inspection findings, investigations, adverse event reports, or tests conducted by the licensee or permittee or the CVB.

Veterinary biological product released for marketing not prepared according to the procedures in the filed Outline of Production or the regulations may be worthless, contaminated, dangerous, or harmful. APHIS considers both human and animal interests in determining whether a product is harmful. Licensees or permittees that have not sufficiently investigated manufacturing deviations according to VS Memorandum No. 800.210 before marketing release may be subject to an APHIS-mandated stop distribution and sale action. APHIS may also subject the licensee or permittee to other regulatory action.

APHIS may need to stop distribution and sale of a product to safeguard animal health, or to protect the public health, interest, or environment. The level of the action to stop distribution and sale will depend on the actual or potential harm caused by the use of the product. When APHIS notifies the licensee or permittee of an APHIS-mandated stop distribution and sale, CVB-Inspection and Compliance (CVB-IC) personnel will communicate the resulting actions to the licensee or permittee.

IV. POLICY

A. APHIS Notification to Stop Distribution and Sale

1. The CVB-IC notifies the licensee or permittee of the specific affected product or products.

2. The CVB-IC communicates the level of the stop distribution and sale. The levels include all known users, distributors, or licensed or permitted premises.

3. When notified to stop distribution and sale, the licensee or permittee shall:

a. Stop the preparation, distribution, sale, barter, exchange, shipment, or importation of the affected serials, subserials, or portions of any affected veterinary biological products to the level the CVB-IC specifies. The licensee or permittee must also quarantine the affected biological products pending disposition instructions from the CVB-IC.

b. As instructed by the CVB-IC, immediately, but no later than 3 business days, send stop distribution and sale notifications to any wholesalers, jobbers, dealers, foreign consignees, or other persons known to possess the veterinary biological product. The licensee or permittee must instruct recipients to stop the preparation, distribution, sale, barter, exchange, shipment, or importation of any such veterinary biological product. The CVB-IC must review notifications prior to distribution. The licensee or permittee shall document all notifications.

i. If the CVB-IC certifies a Form 2017, 2046, or 2047 for export purposes for a serial, a portion of a serial, or subserial, and subsequently found the product unsatisfactory, the licensee or permittee will notify the importing country’s regulatory authority. The notification will inform the regulatory authority that APHIS has found the product unacceptable for marketing in the United States.

ii. The licensee or permittee shall document all notifications.

c. As instructed by the CVB-IC, account for and report the remaining quantity of each serial or subserial of any such veterinary biological product at each location in the known distribution channel, pursuant to 9 CFR 116.2.

d. As instructed by the CVB-IC, submit complete and accurate reports of all notifications concerning stop distribution and sale actions to APHIS, pursuant to 9 CFR 116.5.

B. Notification by the Licensee and Permittee of a Voluntary Stop Distribution and Sale

1. If at any time indications raise questions regarding purity, safety, potency, or efficacy of a product, or if it appears there may be a problem regarding the preparation, testing, or distribution (domestic or international) of a product or a portion of a product, the licensee, permittee, or foreign manufacturer shall immediately notify the CVB-IC according to 9 CFR 116.5(b).

   a. The licensee, permittee, or foreign manufacturer must notify the CVB-IC if the CVB released the biological product for marketing.

   b. The licensee, permittee, or foreign manufacturer must notify the CVB-IC if the CVB has not released the biological product for marketing but the licensee, permittee, or foreign manufacturer submitted an APHIS Form 2008 in accordance with 9 CFR 116.7.

2. Product, other than product with a rabies claim, that deviates from temperature requirements post marketing authorization is exempt from notification if the licensee or permittee sufficiently investigates the effect on the product. Refer to VS Memorandum No. 800.210 concerning product manufacturing deviation investigations. If the investigation indicates that any deviations affected the product quality or shelf life, the licensee, permittee, or foreign manufacturer shall immediately notify the CVB-IC according to the regulations. The licensee or permittee must report temperature deviations of product with a rabies claim to the CVB.

3. If the CVB releases the biological product for marketing and the licensee or permittee stops marketing the product under the conditions described in 9 CFR 116.5(b), the CVB will consider this a reportable Voluntary Stop Distribution and Sale action.

a. The CVB considers this requirement met if the licensee or permittee notifies the CVB-IC within 3 business days of the date any individual the firm employs becomes aware of possible quality concerns or a problem regarding the preparation, testing, or distribution of a product.

Send notifications by one or more of the following means:

- U.S. mail to Director, Center for Veterinary Biologics, Inspection and Compliance, 1920 Dayton Avenue, Ames, IA 50010.
- Electronic mail, cvb@aphis.usda.gov.
- Fax, (515) 337-6120.
- Telephone, (515) 337-6100.
- National Centers for Animal Health (NCAH) Portal.

b. Licensees or permittees can notify the CVB biologics specialists or the program coordinator directly by telephone. They cannot send notifications to a specific CVB employee's electronic mail or voicemail.

c. Portal notifications require the licensee or permittee to be NCAH-portal enabled. Notifications must be in the form of a written letter attached as a mail log submission.

d. The CVB-IC notification must describe the circumstances surrounding the concern as well as the action the firm has taken or may take.

C. Licensee and Permittee Voluntary Stop Distribution and Sale Actions

1. If the licensee or permittee takes a Voluntary Stop Distribution and Sale action, the CVB-IC will confirm the notification of the action.

2. To ask the CVB-IC to approve lifting the Voluntary Stop Distribution and Sale action, the licensee or permittee must provide evidence to the CVB-IC that any deviations did not affect the product's quality and shelf life, and the product is not worthless, contaminated, dangerous, or harmful.

3. If the licensee or permittee takes a Voluntary Stop Distribution and Sale action and finds the product unsatisfactory, the licensee or permittee must notify the CVB-IC. The notice should include the actions the licensee or permittee proposes to take concerning the product and, if applicable, user notification. The CVB-IC must review notifications before the licensee or permittee implements them. The licensee or permittee shall document all notifications.

V. IMPLEMENTATION/APPLICABILITY

This change is effective immediately.