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§ 262. Regulation of biological products

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(a) **Biologics license**

(1) No person shall introduce or deliver for introduction into interstate commerce any biological product unless—

(A) a biologics license is in effect for the biological product; and

(B) each package of the biological product is plainly marked with—

(i) the proper name of the biological product contained in the package;

(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

(iii) the expiration date of the biological product.

(2)

(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

(B) The Secretary shall approve a biologics license application—

(i) on the basis of a demonstration that—

(I) the biological product that is the subject of the application is safe, pure, and potent; and

(II) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent; and

(ii) if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c) of this section.

(3) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1).

(b) **Falsely labeling or marking package or container; altering label or mark**

No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark.

(c) **Inspection of establishment for propagation and preparation**

Any officer, agent, or employee of the Department of Health and Human Services, authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any biological product.

(d) **Recall of product presenting imminent hazard; violations**

(1) Upon a determination that a batch, lot, or other quantity of a product licensed under this section presents an imminent or substantial hazard to the public health, the Secretary shall issue an order immediately ordering the recall of such batch, lot, or other quantity of such product. An order under this paragraph shall be issued in accordance with section [554](#) of title [5](#).

(2) Any violation of paragraph (1) shall subject the violator to a civil penalty of up to

\$100,000 per day of violation. The amount of a civil penalty under this paragraph shall, effective December 1 of each year beginning 1 year after the effective date of this paragraph, be increased by the percent change in the Consumer Price Index for the base quarter of such year over the Consumer Price Index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent. For purposes of this paragraph, the term “base quarter”, as used with respect to a year, means the calendar quarter ending on September 30 of such year and the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

(e) Interference with officers

No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Penalties for offenses

Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding \$500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Construction with other laws

Nothing contained in this chapter shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act [[21 U.S.C. 301](#) et seq.].

(h) Exportation of partially processed biological products

A partially processed biological product which—

- (1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;
 - (2) is not intended for sale in the United States; and
 - (3) is intended for further manufacture into final dosage form outside the United States,
- shall be subject to no restriction on the export of the product under this chapter or the Federal Food, Drug, and Cosmetic Act [[21 U.S.C. 301](#) et. seq.] if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice requirements or meets international manufacturing standards as certified by an international standards organization recognized by the Secretary and meets the requirements of section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act ([21 U.S.C. 381 \(e\)](#)).

(i) “Biological product” defined

In this section, the term “biological product” means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.

(j) Application of Federal Food, Drug, and Cosmetic Act

The Federal Food, Drug, and Cosmetic Act [[21 U.S.C. 301](#) et seq.] applies to a biological product subject to regulation under this section, except that a product for which a license has been approved under subsection (a) shall not be required to have an approved application under section 505 of such Act [[21 U.S.C. 355](#)].