

# Notices

Federal Register

Vol. 71, No. 179

Friday, September 15, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2006-0146]

#### Availability of an Environmental Assessment for Field Testing Marek's Disease Vaccine, Serotype 1, Live Herpesvirus Chimera

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed Marek's Disease Vaccine, Serotype 1, Live Herpesvirus Chimera. The environmental assessment, which is based on a risk analysis prepared to assess the risks associated with the field testing of this vaccine, examines the potential effects that field testing this veterinary vaccine could have on the quality of the human environment. Based on the risk analysis, we have reached a preliminary determination that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment, and that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing following the close of the comment period for this notice unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a U.S. Veterinary Biological Product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and the issuance of a finding of no significant impact and the product meets all other requirements for licensing.

**DATES:** We will consider all comments that we receive on or before October 16, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS-2006-0146 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS-2006-0146, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0146.

**Reading Room:** You may read environmental assessment, the risk analysis (with confidential business information removed), and 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.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Albert P. Morgan, Section Leader, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737-1231; phone (301) 734-8245, fax (301) 734-4314.

For information regarding the environmental assessment or the risk analysis, or to request a copy of the environmental assessment (as well as

the risk analysis with confidential business information removed), contact Dr. Patricia L. Foley, Risk Manager, Center for Veterinary Biologics, Policy, Evaluation, and Licensing VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232-5785, fax (515) 232-7120.

**SUPPLEMENTARY INFORMATION:** Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA) concerning the field testing of the following unlicensed veterinary biological product:

**Requester:** Schering-Plough Corporation.

**Product:** Marek's Disease Vaccine, Serotype 1, Live Herpesvirus Chimera.

**Field Test Locations:** Alabama, Georgia, Missouri.

The above-mentioned product is a live recombinant chimera, i.e., a hybrid of two parental organisms, consisting of certain sequences of the avirulent herpesvirus of turkeys (HVT) and certain sequences of a strain of Marek's disease virus. The vaccine is for use in 18-day-old embryos or day-of-age chicks as an aid in the prevention of losses due to Marek's disease caused by very virulent Marek's disease virus.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA

(7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial issues with adverse environmental impacts are raised in response to this notice, APHIS intends to issue a finding of no significant impact (FONSI) based on the EA and authorize shipment of the above product for the initiation of field tests following the close of the comment period for this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA that is generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and the issuance of a FONSI, APHIS does not intend to issue a separate EA and FONSI to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensing.

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

Done in Washington, DC, this 11th day of September 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E6–15326 Filed 9–14–06; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Outfitting and Guiding Land Use Fees in the Alaska Region

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of proposed policy; request for comment.

**SUMMARY:** The Alaska Region is proposing to adopt a long-term flat fee policy for outfitters and guides operating in the Alaska Region. Under the flat fee policy, a single land use fee would be charged for each type of service provided by outfitters and guides in the Alaska Region.

**DATES:** Comments must be received in writing by December 14, 2006.

**ADDRESSES:** Send comments to Regional Forester, Attention: Recreation, Lands and Minerals, P.O. Box 21628, Juneau,

Alaska 99802–1628; via electronic mail to *comments-alaska-regional-office@fs.fed.us*; or via facsimile to (907) 586–7866. All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on this proposed policy in the Recreation, Lands and Minerals Staff, Room 519D, Federal Office Building, 709 West 9th Street, Juneau, Alaska, between 9 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Trish Clabaugh, (907) 586–8855, or Neil Hagadorn, (907) 586–9336.

**SUPPLEMENTARY INFORMATION:** The Forest Service issues special use authorizations for a variety of uses of National Forest System (NFS) lands, including outfitting and guiding. Outfitting is defined as “renting on or delivering to National Forest System lands for pecuniary remuneration or other gain any saddle or pack animal, vehicle, boat, camping gear, or similar supplies or equipment. The term ‘outfitter’ includes the holder’s employees and agents” (36 CFR 251.51). Guiding is defined as “providing services or assistance (such as supervision, protection, education, training, packing, touring, subsistence, transporting people, or interpretation) for pecuniary remuneration or other gain to individuals or groups on National Forest System lands. The term ‘guide’ includes the holder’s employees and agents” (36 CFR 251.51). The Forest Service charges a land use fee for special use authorizations, including outfitting and guiding permits.

#### Applicable Law

The Independent Offices Appropriations Act of 1952 (IOAA) authorizes each Federal agency to collect a fee “for a service or thing of value provided by the agency” (31 U.S.C. 9701(b)). The IOAA requires that each fee charged to fair and be based on factors such as the costs to the Government, the value of the service or thing to the recipient, the public policy or interest served, and other relevant facts (31 U.S.C. 9701(b)).

Pursuant to the IOAA, the Office of Management and Budget (OMB) issued a circular which “establish[es] guidelines for Federal agencies to assess fees for Governmental services and for the sale or use of Government property or resources” (OMB Circular No. A–25, 58 FR 38142 (September 23, 1993), as amended July 15, 1993)). Paragraph 6a(2)(b) of OMB circular No. A–25 instructs agencies that when the Federal government is not acting in the capacity

of a sovereign, but rather is acting in a proprietary capacity, as it is here in authorizing the use of Federal land for commercial purposes, user charges or fees are to be “based on market prices.”

OMB Circular No. A–25 further provides that under such conditions, user charges need not be limited to the recovery of full costs, but may yield net revenues (OMB Circular No. A–25, ¶ 6a(2) (a) and (b)). The Circular directs that “[i]n the absence of substantial competitive demand, market price will be determined by taking into account the prevailing prices for goods, resources, or services that are the same or substantially similar to those provided by the Government, and then adjusting the supply made available and/or price of the good, resource, or service so that there will be neither a shortage nor a surplus” (OMB Circular No. A–25, ¶ 6d(2)(b)).

Consistent with the IOAA and OMB Circular No. A–25, Forest Service regulations at 36 CFR 251.57(a) provide that special use permit fees “will be based upon the fair market value of the rights and privileges authorized by appraisal or other sound business management principles.”

#### Development of the Alaska Region's Interim Flat Fee Policy

In general, the gross revenues of a business conducted on NFS lands are an accurate reflection of the value of the business's use of those lands. However, in Alaska many outfitters and guides base a significant percentage of their client charges on activities that occur off NFS lands. Thus, flat land use fees that are based on an average of the revenues generated by outfitters and guides conducting activities on NFS lands more accurately reflect the value of the use of NFS lands for outfitting and guiding in the Alaska Region.

Consistent with this assessment, in 1997, the Alaska Region issued for public comment a proposed flat fee schedule for outfitting and guiding in the Alaska Region. This fee schedule was recommended for consideration in the development of an outfitting and guiding fee system by a working group from Federal and State agencies assisting the Alaska Land Use Council (ALUC). See Final Fee Recommendations of the Alaska Land Use Council Outfitter and Guide Working Group (May 15, 1985).

Based on comments received on the proposed fee schedule, the Alaska Region revised some fee categories and added others to accommodate all outfitting and guiding activities authorized on NFS lands in Alaska. The Alaska Region incorporated some of