

may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the institution making the purchase has the discretion to determine the local area to which the geographic preference option will be applied;

(2) For the purpose of applying the optional geographic preference in paragraph (n)(1) of this section, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

Dated: April 18, 2011.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

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**BILLING CODE 3410-30-P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### 7 CFR Part 4280

#### Notice of a Public Meeting on the Rural Energy for America Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) will hold two informational Webinars for the Rural Energy for America Program (REAP) associated with the recently published REAP interim rule and Notice of Funds Availability (NOFA). Participation will be limited for each Webinar to the first two hundred registrants.

**DATES:** The Webinars will be held on Friday, April 29, 2011, and on Monday, May 2, 2011, from 2 p.m. to 4 p.m. EDT both days. You must register, as

described in the **ADDRESSES** section, by noon EDT April 27, 2011, for the April 29, 2011, Webinar and by noon EDT April 28, 2011, for the May 2, 2011, Webinar.

**ADDRESSES:** To participate in one of the Webinars, you must register for one of the Webinars by sending an e-mail to: *energydivision@wdc.usda.gov*. You must include in the SUBJECT line the date of the Webinar for which you wish to participate, and in the body of the e-mail, please provide the participant's name, e-mail address, mailing address, and telephone number. You must submit your e-mail by the applicable deadline listed in the **DATES** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Donnetta Rigney, Rural Business-Cooperative Service, U.S. Department of Agriculture, Stop 3225, 1400 Independence Avenue, SW., Washington, DC 20250-3221, Telephone: (202) 720-9812.

**SUPPLEMENTARY INFORMATION:** The REAP interim rule and the NOFA were published in the **Federal Register** on April 14, 2011. In order to familiarize the public with the content of the REAP interim rule, representatives of the Department of Agriculture are conducting the two Webinars. The purpose of these Webinars is to provide information on the interim rule for the Rural Energy for America Program, focusing on the provisions associated with flexible fuel pumps and other significant changes being implemented through the interim rule. Participants will be afforded the opportunity to ask questions on the material included in the presentation.

Please note that formal comments on the interim rule will not be accepted during the Webinar. Instead, the public has an opportunity to comment formally on the interim rule as provided in the interim rule published in the **Federal Register** on April 14, 2011 (76 FR 21110).

All prospective registrants will be notified by the Agency via e-mail if they are or are not among the first two hundred registrants for one of the two Webinars.

Participants are responsible for ensuring their systems are compatible with the Webinar software.

Dated: April 18, 2011.

**Judith A. Canales,**

*Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2011-9725 Filed 4-21-11; 8:45 am]

**BILLING CODE 3410-XY-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1610

[CPSC Docket No. CPSC-2010-0086]

#### Third Party Testing for Certain Children's Products; Clothing Textiles: Revisions to Terms of Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to Commission's Acceptance of Accreditation

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of requirements; revision of retrospective testing terms.

**SUMMARY:** The U.S. Consumer Product Safety Commission (“CPSC,” “Commission,” or “we”) issues this notice amending the terms under which it will accept certifications for children's products based on third party conformity assessment body (laboratory) testing to the flammability regulations at 16 CFR part 1610 that occurred before the Commission's acceptance of the accreditation of the third party conformity assessment body.<sup>1</sup> We are taking this action in response to a request from certain members of the clothing textile industry to reduce unnecessary retesting of clothing textiles that have been tested already and found to be in compliance with CPSC regulations.

**DATES:** *Effective Date:* The revision announced in this document is effective April 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** Robert “Jay” Howell, Assistant Executive Director for the Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; e-mail: *rhowell@cpsc.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314, directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with “other children's product safety rules.” Section 14(f)(1) of

<sup>1</sup> The Commission voted 4-0-1 to publish this revision to the notice of requirements for clothing textiles. Commissioners Nancy A. Nord and Anne M. Northup each issued a statement, and the statements can be found at <http://www.cpsc.gov/pr/statements.html>.

the CPSA defines “children’s product safety rule” as “a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance.” Under section 14(a)(3)(A) of the CPSA, each manufacturer (including the importer) or private labeler of products subject to a children’s product safety rule must have products that are manufactured more than 90 days after the Commission has established and published notice of the requirements for accreditation tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. Section 14(a)(2) of the CPSA requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (*see, e.g.*, section 14(h) of the CPSA).

In the **Federal Register** of August 18, 2010 (75 FR 51016), we published a notice of requirements providing the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to 16 CFR part 1610, “Standard for the Flammability of Clothing Textiles,” which sets minimum standards for flammability of clothing textiles under the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*) (FFA). The notice of requirements stated that its publication had the effect of lifting the stay of enforcement with regard to testing and certification of children’s products under 16 CFR part 1610. This meant that each manufacturer of clothing textiles that are children’s products must have any such product manufactured after November 16, 2010, tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance based on that testing (75 FR at 51018).

We addressed testing performed by a third party conformity assessment body prior to the Commission’s acceptance of its accreditation, or “retrospective” testing, in section IV of the notice of requirements. We stated that we would accept a certificate of compliance with the standard included in 16 CFR part 1610 based on testing performed by an accredited third party conformity assessment body (including a government-owned or -controlled conformity assessment body, and a

firewalled conformity assessment body), prior to the Commission’s acceptance of its accreditation if:

- The product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an ILAC–MRA member at the time of the test. For firewalled conformity assessment bodies, the firewalled conformity assessment body must be one that the Commission accredited by order at or before the time the product was tested, even though the order will not have included the test methods in the regulations specified in this notice. If the third party conformity assessment body has not been accredited by a Commission order as a firewalled conformity assessment body, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body before it is accredited, by Commission order, as a firewalled conformity assessment body;

- The third party conformity assessment body’s application for testing using the test methods in 16 CFR part 1610 is accepted by the CPSC on or before October 18, 2010;

- The product was tested under 16 CFR part 1610 on or after August 18, 2010;

- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to 16 CFR part 1610;

- The test results show compliance with the applicable current standards and/or regulations; and

- The third party conformity assessment body’s accreditation, including inclusion in its scope of 16 CFR part 1610, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1610.

75 FR at 51019 through 51020.

## II. Requests for Revision

On December 2, 2010, the American Apparel and Footwear Association (AAFA) submitted a letter to the Commission requesting that we “extend the testing and certification date by an additional 60 days,” and that we amend section IV of the notice of requirements “to accept third party tests done on or after August 18, 2009 by testing facilities accredited on or before November 16, 2010.” (The AAFA letter may be viewed at <http://www.regulations.gov> in the docket folder for docket number CPSC–2010–0086.)

The AAFA based its request for an extension of the testing and certification

date on our authority in section 102(a)(3)(F) of the CPSIA, which states:

If the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children’s product safety rule under the accelerated schedule required by this paragraph, the Commission may extend the deadline for certification to such rule by not more than 60 days.

15 U.S.C. 2063(a)(3)(F). The AAFA contended that there is an insufficient number of CPSC-accepted third party laboratories accredited to 16 CFR part 1610. It presented three arguments in support of this contention. First, it argued that although there were 67 CPSC-accepted laboratories accredited to test to 16 CFR part 1610 as of November 16, 2010, those laboratories were not geographically distributed in such a way as to meet industry needs. Second, it stated a concern that many apparel manufacturers are not aware of their obligation to use CPSC-accepted laboratories. Third, the AAFA also asserted that many companies were unaware that the stay of enforcement on the testing and certification requirements for children’s apparel had been lifted.

The AAFA stated that limiting acceptable retrospective tests to those conducted since August 18, 2010, would “further back up testing facilities and be an unnecessary burden on business \* \* \* [and would] put at a disadvantage those companies who had taken the proactive step to engage in third party testing” prior to August 18, 2010. It noted that many textiles are tested before they are manufactured into garments and explained that in some cases, the time that elapses between when a textile has been tested and when the garment is produced can be “several months or even years.” In addition, the AAFA stated that limiting retrospective tests to those conducted since August 18, 2010, “unnecessarily adversely affects the continuing guarantees \* \* \* issued \* \* \* pursuant to Section 8 of the FFA.” Section 8 of the FFA provides that a manufacturer or supplier of clothing textiles may issue a guaranty, based on reasonable and representative testing, that the clothing textile complies with FFA standards. The holder of a valid guaranty is not subject to criminal prosecution under section 7 of the FFA (penalties) for a violation of section 3 of the FFA (prohibited transactions). A continuing guaranty is a notarized declaration filed with the Commission in which the manufacturer avers that it has conducted the requisite reasonable and representative product testing and that the testing shows that the product conforms to 16 CFR part

1610. A continuing guaranty remains valid for three years (and at such other times as any change occurs in the legal business status of the person filing the guaranty).

### III. The Response to the Requests

#### A. Request To Extend the Testing and Certification Date by an Additional 60 Days

We decline to extend the date by which a manufacturer of a children's product subject to 16 CFR part 1610 must have such product tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance based on that testing. We have the authority to grant such a request only if there is insufficient laboratory capacity. The existence of 67 CPSC-accepted labs accredited to test to 16 CFR part 1610 as of November 16, 2010, belies the claim of insufficient laboratory capacity, even if the laboratories are not distributed geographically as the AAFA would prefer.

We also disagree with the AAFA's assertion, as another basis for an extension, that some manufacturers are not fully aware that children's product certifications must be based on testing conducted by CPSC-accepted third party laboratories, and that many companies are unaware that the stay of enforcement on the testing and certification requirements had been lifted for children's apparel. The CPSIA became law in August 2008, and we published the notice of requirements pertaining to 16 CFR part 1610 in the **Federal Register** on August 18, 2010. The statute's existence, as well as the publication of the notice of requirements for 16 CFR part 1610, provided notice of these manufacturers' legal obligations. Additionally, the Commission encourages the apparel and textile trade associations to educate the industry on their obligations under the CPSIA and FFA.

Finally, we note that section 14(a)(3)(E) of the CPSA authorizes the Commission to extend the deadline for certification "by not more than 60 days." Such a time period is measured from the date on which such certification would have been required. In this case, the certification requirement became effective for products manufactured after November 16, 2010; therefore, a 60-day extension, had it been granted, would have expired in mid-January 2011. Thus, the AAFA's request for an extension is moot.

#### B. Request To Accept, for Children's Product Certification Purposes, Tests Pursuant to 16 CFR Part 1610 Conducted by Accredited Third Party Laboratories Since August 18, 2009

We have considered AAFA's request and, through this notice, are revising our position regarding "Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation." Due to the nature of the wearing apparel industry, there is a possible significant time lapse between fabric testing and the finished garment. This could mean that some products that were tested previously by laboratories that have since become CPSC-accepted, would need to be retested. Therefore, we agree that revising our position on "retrospective" testing is appropriate because it will reduce further the potential need for redundant testing. We will accept children's product certifications based on third party conformity assessment body testing, prior to our acceptance of accreditation, under the following conditions:

- At the time of product testing, the product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an accreditation body that is a signatory to the ILAC-MRA;
- The third party conformity assessment body's application for testing using the test methods in 16 CFR part 1610 is accepted by the CPSC on or before November 16, 2010;
- The product was tested under 16 CFR part 1610 on or after August 18, 2009;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to 16 CFR part 1610;
- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope of 16 CFR part 1610, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1610.

Dated: April 19, 2011.

**Todd A. Stevenson,**  
Secretary, Consumer Product Safety Commission.

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**BILLING CODE 6355-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

[Docket No. FDA-2011-N-0003]

#### Implantation or Injectable Dosage Form New Animal Drugs; Enrofloxacin

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayer HealthCare LLC. The supplemental NADA provides for the addition of a pathogen to the indications for use of enrofloxacin solution in cattle, as a single injection, for the treatment of respiratory disease.

**DATES:** This rule is effective April 22, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Cindy L. Burnsteel, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8341, e-mail: [cindy.burnsteel@fda.hhs.gov](mailto:cindy.burnsteel@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201, filed a supplement to NADA 141-068 for BAYTRIL 100 (enrofloxacin), an injectable solution. The supplemental NADA provides for the addition of *Mycoplasma bovis* to the pathogens in the indication for use of enrofloxacin solution in cattle, as a single injection, for the treatment of bovine respiratory disease (BRD). The supplemental NADA is approved as of March 10, 2011, and the regulation in 21 CFR 522.812 is amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and § 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3