SUPPLEMENTAL POLICIES

SAFE LEVELS OF UNAPPROVED DRUGS IN AQUACULTURE

"Safe levels of unapproved drugs" are levels of drug residue at or below which the Agency has essentially no public health concern.

These levels are established primarily as targets for developing methods for use in monitoring for residue. It is essential, in methods development, that the required sensitivity of the method be established. "Safe levels" will be determined by FDA mainly in three contexts:

- When FDA is developing a method for regulatory purposes;

- When the industry wants to develop a method for quality control/Hazard Analysis Critical Control Point (HACCP) purposes; and

- When FDA is assessing an unvalidated method that it may encounter in a regulatory context. A "safe level" would be applied only if the method is validated. This situation is expected to occur rarely.

"Safe levels of unapproved drugs" will be established only on an "as needed" basis. Such levels will not be publicized per se, but will be disclosed only in the context of methods development.

"Safe levels of unapproved drugs" are guides for prosecutorial discretion. They are not tolerances or safe concentrations, and are not binding on the Agency. The establishment of "safe levels" does not mean that FDA sanctions the use of unapproved drugs. FDA will continue to consider enforcement action against the illegal manufacture and distribution of drugs for use in aquaculture. The use of unapproved drugs, and unauthorized extralabel use of approved drugs, may also be subject to regulatory action. Under the HACCP regulations, aquaculture processors will be expected to reject fish from producers who use drugs illegally.

FDA may, however, exercise its enforcement discretion with respect to action against the aquaculture product and the drug user when the residue level is at or below the "safe level." Such an exercise recognizes, among other things, the need for the Agency to prove that the residue "may be injurious to health" when the drug cannot be proved to be a "new animal drug" by its labeling. Similarly, aquaculture processors will be permitted to accept fish with residues at or below the "safe level" as detected by a method accepted by FDA.

Establishing "Safe Levels" for Unapproved Drugs in Aquaculture: Background

- o Safe levels are generally established on the basis of toxicity data. Where toxicity data are not available, a conservative standard (e.g., 1 to 10 ppb) is used. Methods are required to be sensitive to the safe levels.

- o The Seafood HACCP regulation stresses prevention as the primary goal. Accordingly, the aquaculture drug hazard guide provides for processors' rejection of shipments from producers who use any drugs that are not sanctioned by FDA. Finished product testing (residue monitoring), therefore, is a backup means of assessing the effectiveness of the preventive measures. The guide suggests that processors themselves periodically test for drug residues.

- o For comparison:

  - FDA has established "safe levels" for residues of unapproved drugs in milk. These levels are established in the same way as described above. The States use methods under the Grade A Pasteurized Milk Ordinance for screening purposes.

  - USDA monitors for several unapproved drugs, e.g., clenbuterol and gentian violet, in meat and poultry. Any amount of residue found is considered to be violative.

Policy:

- o Safe levels and method sensitivity will continue to be established as described above.

- o Ordinarily, any amount of residue that is found will be considered to be violative. However, enforcement discretion may be exercised when residues are found at or below the safe levels.

- o FDA/CVM will continue to encourage, and provide assistance in, development of toxicology data specific to the species and drug.

- o Standards will be the same for imported and domestic samples.

- o Efforts to adopt international agreements (regional or country-by-country) will be emphasized.