by land to Mexico or Canada, shall be exported through said ports or through ports designated in special cases under paragraph (b) of this section.

(b) In special cases, other ports may be designated as ports of embarkation by the Administrator, with the concurrence of the Commissioner of the Bureau of Customs and Border Protection, when the exporter can show to the satisfaction of the Administrator that the animals to be exported would suffer undue hardship if they are required to be moved to a port listed as a designated port of embarkation in accordance with paragraph (a) of this section. Ports shall be designated in special cases as ports of embarkation only if the inspection facilities are approved as meeting the requirements of paragraph (c) of this section.

* * * * *

(d) *Approval and denial or revocation of approval.* Approval of each export inspection facility for designation under paragraph (a) of this section, and in special cases under paragraph (b) of this section, shall be obtained from the Administrator. Approval of an export inspection facility under paragraph (a) or (b) will be denied or revoked for failure to meet the standards in paragraph (c) of this section. Designated ports of embarkation and export facilities shall be reevaluated annually, by means of an APHIS site inspection, for continued compliance with the standards contained in paragraph (c) of this section. If the port or facility fails to pass the annual inspection, its designation will be revoked, and it will be removed from the list of designated ports and facilities. A written notice of any proposed denial or revocation shall be given to the operator of the facility, and he will be given an opportunity to present his views thereon. Such notice shall list in detail the deficiencies concerned. After remedying the deficiencies, an operator may request another inspection. Approval of a port of embarkation in connection with the designation of an export inspection facility in special cases shall be limited to the special case for which the designation was made.

* * * * *

■ 3. In § 91.15, paragraph (a) is revised to read as follows:

§ 91.15 Inspection of animals for export.

(a) All animals offered for exportation to any foreign country, except by land to Mexico or Canada, shall be inspected within 24 hours of embarkation by an APHIS veterinarian at an export inspection facility at a port listed as a designated port of embarkation in accordance with § 91.14(a), or at a port or inspection facility designated by the Administrator in a special case under § 91.14(b).

* * * * *

Done in Washington, DC, this 13th day of September 2010.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–23245 Filed 9–16–10: 8:45 am]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 114

[Docket No. APHIS-2009-0028]

RIN 0579-AD06

Viruses, Serums, Toxins, and Analogous Products; Expiration Date Required for Serials and Subserials and Determination of Expiration Date of Product

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; withdrawal and reproposal.

SUMMARY: We are proposing to amend the Virus-Serum-Toxin Act regulations concerning expiration dating to clarify that the expiration date of a serial or subserial of a veterinary biologic should be computed from the date of the initiation of the first potency test. We also propose to require the expiration dating period (stability) of a product to be confirmed by conducting a real-time stability study with a stability-indicating assay; require stability monitoring of products after licensing; and specify a single standard for determining the expiration date for veterinary biologics in place of the current standard that specifies different procedures for products contingent upon whether they consist of viable or nonviable organisms. These amendments would update and clarify the regulations concerning expiration dating and establish a single uniform standard for determining the stability of veterinary biological products. This proposed rule replaces a previously published proposed rule, which we are withdrawing as part of this document.

DATES: We will consider all comments that we receive on or before November 16, 2010.

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

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0028*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2009-0028, 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-2009-0028.

Reading Room: You may read any comments that we receive on Regulations.gov (see the link above) or 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, Chief of Operational Support, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737-1231; (301) 734-8245.

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 114, "Production Requirements for Biological Products" (referred to below as the regulations), include requirements applicable to computing expiration dates and determining expiration dating periods (stability) for veterinary biologics. Currently, § 114.12 of the regulations requires each serial or subserial of veterinary biological product prepared in a licensed establishment to be given an expiration date, and § 114.13 provides that the expiration date for each product shall be computed from the date of the initiation of the potency test.

The computed expiration date of a serial or subserial of biological product is inextricably linked to the stability of such product. The expiration date of a veterinary biologic designates the end of the period during which such product, when properly stored and handled, can be expected with reasonable certainty to

be efficacious. The most precise determination of the stability of a veterinary biologic occurs when the potency of such product is measured at the end of its predicted shelf life (expiration date). Typically, however, products are licensed and serials or subserials are released for marketing before the first production serials reach the end of their predicted shelf life.

Thus, prior to licensure, licensees and permittees must submit preliminary stability data that provides a level of confidence that the product will remain efficacious throughout the dating period shown on its labeling. Typically, such data is obtained by subjecting the product to extreme temperatures for a specified time period and measuring the relative strength of each fraction by conducting a potency test. Products that pass the potency test are licensed with the provision that the dating period must be confirmed by real-time stability testing at the end of the predicted shelf life. Currently, the requirement prescribed under § 114.13 of the regulations for confirming stability is contingent upon whether a product consists of viable or nonviable organisms. For products consisting of viable organisms, each serial must be tested for potency at release and at the approximate expiration date until a statistically valid stability record has been established; for nonviable biological products, each serial presented in support of licensure (prelicensing serials) must be tested for potency at release and at or after the dating requested. Products with satisfactory potency tests at the beginning and end of dating are considered to be efficacious throughout the requested dating period. Current science, however, considers stability estimates based on potency tests conducted at the beginning and end of dating (a two-point profile) to be inaccurate and imprecise.

To address this situation, on April 28, 2005, we published in the **Federal Register** (70 FR 21985-21987, Docket No. 04-064-1) a proposed rule[1] to amend the regulations concerning expiration dating to require veterinary biologics licensees and permittees to confirm the proposed expiration dating period of products by potency testing serials on multiple occasions throughout the proposed dating period. The proposed rule also would have required stability data to be submitted to the Animal and Plant Health Inspection Service (APHIS) for review and filing; the stability data approved for filing date to be specified in the filed Outline of Production; and a plan for monitoring the stability of the product and the suitability of its proposed dating period.

We solicited comments on our proposal for 60 days ending on June 27, 2005. We received six comments by that date. The comments were from three licensed manufacturers, two national trade associations representing manufacturers of animal health products, and a professional association. All of the commenters agreed with the need to establish a uniform standard for determining expiration dating; however, most expressed concern that the proposed rule lacked detail, and suggested that such detail be added and the rule reproposed.

In response to these comments, we have provided specifics that we believe address the perceived ambiguity in the proposed rule. Therefore, we are withdrawing the April 22, 2005, proposed rule referenced above and replacing it with the proposed changes described in this document. The proposed requirements for determining expiration dating that would apply to each licensee and permittee that prepares and distributes veterinary biologics are described below.

Definitions

The regulations in 9 CFR part 101 contain the definitions of terms used in the regulations concerning veterinary biologics. The proposed changes to part 114 of the regulations would make it necessary for us to add a definition in § 101.5 for a term used in the proposed regulations: *Stability-indicating assay*. We would define *stability-indicating assay* as a validated quantitative analytical procedure (in vitro or live animal test) that can detect changes over time in the pertinent properties of a veterinary biologic.

Expiration Date Required for a Serial

We are proposing to change the title of § 114.12 from "Expiration date required" to "Expiration date required for a serial." In addition, we propose to amend this section by adding the wording "computed from the date of the initiation of the first potency test." These changes are intended to clarify the fact that the requirements in this section pertain to serials or subserials of product, and that APHIS interprets the "date of the initiation of the potency test" to mean the on-test date of the first potency test conducted on a serial or subserial. This interpretation is consistent with the APHIS policy in that regard.

Determination of the Expiration Dating Period of a Product

We are proposing to change the title of § 114.13 from "Expiration date determination" to "Determination of the expiration dating period of a product." This change would clarify the fact that the requirements in that section pertain to determining the stability of a product rather than the expiration date of a serial or subserial of such product. The proposed revision of this section would:

- Prescribe a single, uniform standard for determining the stability of veterinary biologics in place of the current standards, which prescribe different procedures for products consisting of viable and nonviable organisms;
- Remove the wording "computed from the date of the initiation of the potency test" and providing that the expiration dating period of a product would be based on the testing of production serials beginning on the day of filling into final containers or the date final formulation of the product if such date is specified in the filed Outline of Production;
- Require testing of serials or subserials using a stability-indicating assay on multiple occasions throughout the predicted dating period in place of the current requirement, which only requires potency testing at the beginning and end of the dating period in order to confirm stability;
- Require the stability data to be submitted to APHIS for review and filing and the approved for filing date to be specified in section VI of the filed Outline of Production; and
- Require the periodic testing of serials or subserials to monitor the stability and suitability of the approved dating period.

APHIS is proposing these amendments because it has been shown that the potency of most veterinary biologics degrade in a nonlinear fashion, which may cause potency to degrade more quickly than previously estimated. Testing on only two occasions would be reasonable only if potency loss has a strictly linear pattern, and this is usually not the case. Thus, when confirming the dating period, APHIS is proposing to require the stability of a product to be evaluated as a function of time by requiring serials to be tested on multiple occasions with a stability-indicating assay.

The changes and test procedures prescribed in this proposal would update and standardize expiration date determination for veterinary biologics in §§ 114.12 and 114.13 by establishing a single, uniform standard for all products

[1] To view the proposed rule and the comments we received, go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2005-0041*).

based on testing and monitoring with a stability-indicating assay.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This proposed rule would amend the Virus-Serum-Toxin Act regulations in §§ 114.12 and 114.13 concerning expiration dates and the determination of the stability of veterinary biologics to: Change the title of the sections; clarify that the "date of the initiation of the potency test" is the on-test date of the first potency test conducted on a serial or subserial; require veterinary biologics licensees and permittees to evaluate the stability of veterinary biologics as a function of time by testing serials for potency on multiple occasions with a stability-indicating assay throughout and after their proposed dating period; require the stability data approved for filing date to be specified in the filed Outline of Production; and require monitoring of the stability of the product and the suitability of its dating period. In addition, the proposed changes to the regulations are consistent with the recommendations of the collaborative initiative by regulatory authorities and industry associations known as International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH). VICH is concerned with harmonization of technical requirements for the registration of veterinary medicinal products among three regions: The European Union, Japan, and the United States. The proposed stability testing guidelines are consistent with those adopted by VICH as an international standard for the generation and submission of stability data for veterinary medicinal products. The overall benefit of these proposed amendments would be to reduce the differences in technical requirements for veterinary biologics among regulatory agencies in different countries.

This proposed rule would affect all licensed manufacturers of veterinary biologics. Currently, there are approximately 125 veterinary biologics manufacturers, including permittees. According to the standards of the Small Business Administration, most veterinary biologics establishments are small entities. Relative to the baseline of the existing regulations in §§ 114.12 and 114.13, we do not believe that the changes we are proposing would result in new or additional effects on small entities subject to the regulations, as the current testing protocols would not change; we are simply clarifying those existing protocols. All veterinary biologics manufacturers are currently required to confirm the expiration dating of the products that they produce and to submit the data to APHIS for review and filing. In addition, the proposed requirements to test serials of product on multiple occasions when confirming expiration dating, and to monitor stability post-licensing are not expected to have a significant economic impact because most veterinary biologics manufacturers routinely test and monitor the stability of products throughout their dating period.

Under the changes to the regulations described in this proposed rule, veterinary biologics with a 2-year dating period would require 7 test occasions, for a total of 21 tests of 3 serials. To confirm expiration dating under current regulations, many licensees may be required to test 10 serials twice, a total of 20 tests. This is about the same number of tests. The most recent data compiled by APHIS show that over one 3-year period, 101 veterinary biologics manufacturers submitted 105 stability studies to the Center for Veterinary Biologics, an average per manufacturer of 1 every 3 years. The proposed amendment to the regulations would not necessitate an increase in the number of stability studies required to be performed, or an increase in associated testing costs, as these proposed changes will primarily apply to newly licensed products.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the category of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies where they are necessary to address local disease conditions or eradication programs. However, where safety, efficacy, purity, and potency of biological products are concerned, it is the Agency's intent to occupy the field. This includes, but is not limited to, the regulation of labeling. Under the Act, Congress clearly intended that there be national uniformity in the regulation of these products. There are no administrative proceedings which must be exhausted prior to a judicial challenge to the regulations under this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

List of Subjects

9 CFR Part 101

Animal biologics.

9 CFR Part 114

Animal biologics, Reporting and recordkeeping requirements.

■ Accordingly, we propose to amend 9 CFR parts 101 and 114 as follows:

PART 101—DEFINITIONS

■ 1. The authority citation for part 101 continues to read as follows:

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

■ 2. Section 101.5 is amended by adding new paragraph (s) to read as follows:

§ 101.5 Testing terminology.

* * * * *

(s) *Stability-indicating assay.* A stability-indicating assay is a validated quantitative analytical procedure that can detect changes over time in the pertinent properties of the product.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

■ 3. The authority citation for part 114 continues to read as follows:

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

■ 4. Section 114.12 is revised to read as follows:

§ 114.12 Expiration date required for a serial.

Unless otherwise provided for in a Standard Requirement or filed Outline of Production, each serial or subserial of biological product prepared in a licensed establishment shall be given an expiration date computed from the date of the initiation of the first potency test. A licensed biological product shall be considered worthless under the Virus-Serum-Toxin Act after the expiration date appearing on the label.

■ 5. Section 114.13 is revised to read as follows:

§ 114.13 Determination of the expiration dating period of a product.

An expiration dating period determined by the stability of each of its fractions shall be assigned to each product. Stability shall be determined with a stability-indicating assay that can detect changes over time in the pertinent properties of the product. Stability criteria include the specifications for potency at release, potency throughout the dating period, and the length of the dating period. When tested at any time during the dating period, the potency of the product shall not be less than the minimum specified in the filed Outline of Production. Prior to licensure, the licensee shall propose an expiration dating period for the product based on preliminary data available about the stability of each of its fractions. If the preliminary stability data are acceptable, the product may be licensed with the provision that the proposed expiration dating period must be confirmed by conducting a real-time stability study with a stability-indicating assay as follows:

(a) In the case of a newly licensed product with acceptable preliminary stability data and the real-time stability study is not conducted in animals, at least three production serials of the product shall be selected and tested during the proposed dating period. Each serial shall be tested beginning on the day of filling into final containers or the date of final formulation specified in the filed Outline of Production, and at the following intervals:

(1) Every 3 months during the first year of storage,

(2) Every 6 months during the second year of storage, and

(3) Annually thereafter throughout the proposed dating period.

(b) In the case of a newly licensed product with acceptable preliminary stability data and the real-time stability study is conducted in animals, at least three production serials shall be tested as follows:

(1) One test per serial shall be conducted beginning on the day of filling into final containers or the date of final formulation specified in the filed Outline of Production.

(2) One test per serial shall be conducted at thebe end of the proposed dating period.

(3) One test per serial shall be conducted between the initial and final test, but at a different interval for each serial.

(c) In the case of a newly licensed product, and licensed products whose stability studies were completed prior to **[Effective date of final rule]**, a real-time stability study conducted with a stability-indicating assay in accordance with paragraphs (a) or (b) of this section shall be completed in support of changes to one of the stability criteria or for major changes to the potency test.

(d) In the case of a licensed product with an unconfirmed expiration dating period that is tested in animals with a test that is not a stability-indicating assay, the following shall apply:

(1) Testing involving the use of a non-stability-indicating assay specified in the filed Outline of Production to confirm the expiration dating period for such product shall be completed by **[Date 42 months after effective date of the final rule]**, or

(2) Subsequent to **[Date 42 months after effective date of the final rule]**, such testing to confirm expiration dating shall be completed with a stability-indicating assay. Products not meeting the requirement to confirm the expiration dating with a stability-indicating assay shall be withheld from the market.

(e) At the completion of the real-time stability study to confirm or change expiration dating, the data shall be submitted to Animal and Plant Health Inspection Service for approval for filing and the approved for filing date shall be specified in section VI of the filed Outline of Production at the next revision.

(f) For products licensed subsequent to **[Effective date of the final rule]**, the licensee or permittee shall submit a plan to monitor the stability of the product and the suitability of its dating period that includes regularly testing serials for potency with a stability-indicating assay during and at the end of dating.

Done in Washington, DC, this 3rd day of September 2010.

John Ferrell,

Deputy Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2010–23186 Filed 9–16–10: 10:57 am]

BILLING CODE 3410–34–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 167

[Docket No. USCG–2010–0785]

Port Access Route Study: The Approaches to San Francisco

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meetings; request for comments.

SUMMARY: The Coast Guard announces a public meeting to receive comments on the study entitled "Port Access Route Study: Off San Francisco" that was published in the **Federal Register** on Thursday, December 10, 2009. As stated in that document, the Coast Guard is conducting a Port Access Route Study (PARS) to evaluate the continued applicability of and the potential need for modifications to the current vessel routing in the approaches to San Francisco.

DATES: A Public meeting will be held on Wednesday, October 20, 2010 from 6:30 p.m. to 8:30 p.m. to provide an opportunity for oral comments. Written comments and related material may also be submitted to Coast Guard personnel specified at the meetings.

ADDRESSES: The October 20, 2010 public meeting will be held at the Executive Inn and Suites at 1755 Embarcadero, Oakland, California. Visitor parking is available in the lots outside the hotel.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the meeting or the study, please call or e-mail LTJG Lucas Mancini, Coast Guard; telephone 510–437–3801, e-mail *Lucas.W.Mancini@uscg.mil.* If you have questions on viewing the docket call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

We published a notice of study in the **Federal Register** on December 10, 2009 (74 FR 65543), entitled "Port Access Route Study: Off San Francisco" in which we did not state a plan to hold a public meeting. We have decided to hold a meeting in order to give the public and waterway users a chance to comment in person.

In the notice of PARS, we discussed our intent to help reduce the risk of marine casualties and increase the efficiency of vessel traffic in the study region. Our goal is to assess whether the current vessel routing system is effective