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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. APHIS–2011–0049]

RIN 0579–AD64

Viruses, Serums, Toxins, and Analogous Products; Single Label Claim for Veterinary Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Virus-Serum-Toxin Act regulations to provide for the use of a simpler labeling format that would better communicate product performance to the user. Under this rulemaking, the previous label format, which reflected any of four different levels of effectiveness, is replaced with a single, uniform label format. We are also requiring biologics licensees to provide a standardized summary, with confidential business information removed, of the efficacy and safety data submitted to the Animal and Plant Health Inspection Service in support of the issuance of a full product license or conditional license. A simpler label format, along with publicly available safety and efficacy data, will help biologics producers to more clearly communicate product performance to their customers.

DATES: Effective September 8, 2015.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 851–3426.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) administers and enforces the Virus-Serum-Toxin Act, as amended (21 U.S.C. 151–159). The regulations issued pursuant to the Act are intended to ensure that veterinary biological products are pure, safe, potent, and efficacious when used according to label instructions. The regulations in 9 CFR part 112, ''Packaging and Labeling,'' (referred to below as the regulations) prescribe requirements for the packaging and labeling of veterinary biologics. The regulations ensure that labeling provides adequate information concerning the proper use and safety of the product, including vaccination schedules, warnings, and cautions.

APHIS guidelines provide examples of label claims that may be used to reflect the expected performance of the product, provided that appropriate efficacy data has been submitted and approved by APHIS. Prior to this rulemaking, the guidelines, contained in APHIS Veterinary Services Memorandum No. 800.202 (*http://www.aphis.usda.gov/animal_health/vet_biologics/publications/memo_800_202.pdf*), described performance requirements and allowable indications statements for four different levels (tiers) of effectiveness.

On April 21, 2014, we published in the **Federal Register** (79 FR 22048–22051, Docket No. APHIS–2011–0049) a proposal [1] to amend the Virus-Serum-Toxin Act regulations to provide for the use of a simpler labeling format than the existing one. Specifically, we proposed to replace the previous four-tier label format with a single, uniform label format. We also proposed to require biologics licensees to provide a standardized summary, with confidential business information removed, of the efficacy and safety data submitted to APHIS in support of the issuance of a full product license or conditional license. The proposed requirements for a simpler label format and the provision of publically available safety and efficacy data were intended to help biologics producers more clearly communicate product performance to their customers.

We solicited comments concerning our proposal for 60 days ending June 20, 2014. We received seven comments by that date. They were from veterinary biologics laboratories, trade associations, a veterinarians' association, and individuals. They are discussed below by topic.

Labeling Requirements

One commenter noted that in both the preamble to the April 2014 proposed rule and the accompanying economic analysis, we stated that the removal of the four-tiered efficacy labeling structure will simplify our evaluation of efficacy studies by focusing on a basic claim of effectiveness, resulting in a reduction of the time required for evaluation and a likely reduction in the number of studies being found unacceptable. The commenter requested further explanation of how those benefits will result from this rulemaking.

As a result of this rulemaking, APHIS will be able to evaluate these studies for product efficacy rather than whether or not the data demonstrate a higher efficacy tier or ''stronger'' label claim. For example, under the four-tiered efficacy system, if efficacy data is submitted to support the claim of ''Prevention of infection,'' the data must be analyzed with a very high degree of confidence to determine if it meets the criteria of preventing all colonization or replication of the challenge organism in vaccinated and challenged animals. This is considered an extremely strong claim and would entail a more extensive statistical analysis, as compared to a claim of ''Aids in disease control,'' for which the data needs to demonstrate that the product alleviates disease severity or reduces disease duration. Conducting data reviews with the aim of determining whether a product is effective rather than how ''strong'' its label claim is will simplify and streamline our review process. Fewer studies will be found unacceptable because the data will only have to show that the product is efficacious rather than having to support a label claim of a particular level of strength.

One commenter stated that the title of the April 2014 proposed rule, specifically its reference to single label claims, was misleading. The commenter stated that the proposed rule related to

[1] To view the proposed rule, its supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0049.*

a single efficacy indications statement rather than a single label claim. Label claims, according to the commenter, are numerous and not limited to the efficacy/indication statement.

Throughout this rulemaking, as well as in the Veterinary Services Memorandum referred to above, APHIS has used the term ''label claim'' to represent the level of efficacy of the product, as demonstrated by the manufacturer, based on approved data. Taken in context, the meaning of the term should be clear to readers.

A commenter stated that APHIS should provide for the continued use of distinct label statements for various diseases/syndromes, primary parameters in the case definition, or other situations in which such label statements would be appropriate. According to the commenter, the indications statement contained in the April 2014 proposed rule would not fit certain cases, such as those where the indication for a biological product is to reduce the shedding of an organism or reduce viremia.

We are not making any changes to the rule text based on this comment. The proposed text in § 112.2(a)(5) was sufficiently flexible to allow the indications statement to be modified to include a specific parameter associated with the case definition of a disease syndrome. For example, with acceptable data, the indications statement could read, ''This product has been shown to be effective for the vaccination of healthy swine____ weeks of age or older against the respiratory form of porcine reproductive and respiratory syndrome.''

A commenter stated that the April 2014 proposed rule offered no foundation for our conclusion that the change in labels will provide clarity for vaccine users. According to the commenter, there is no evidence that a significant percentage of the vaccine users will read the labels and choose to look up the required data summary of the studies on the Web site. The commenter stated that, contrary to what we claimed in the preamble to the April 2014 proposed rule, the proposed labeling requirements would make labeling more complex rather than simpler.

We disagree with this comment. In our view, providing safety and efficacy data, combined with a simpler labeling format, will allow the end user to better assess product performance. We developed the proposed requirements in cooperation with stakeholders and the public. In 2009, APHIS met with representatives of veterinary biologics manufacturers and the American Veterinary Medical Association, which represents the largest group of consumers of veterinary biologics. We were informed that the current labeling indications were confusing and did not provide sufficient insight into the actual performance of the product. Further, in 2011, APHIS held a public meeting to discuss effectiveness indications statements and received additional feedback from the public on draft guidelines concerning effectiveness indications statements on labels. The proposed labeling requirements, therefore, reflect the views of both APHIS and entities and individuals potentially affected by this rulemaking.

In the preamble to the April 2014 proposed rule, we stated that products for which efficacy data are no longer available should indicate on the label that the data are not available because the product was licensed ''x'' years ago. A commenter suggested that the required statement should be modified to remove the reference to a year or specific date in order to preclude the need to update the label on an annual basis.

We agree with this comment. APHIS guidelines regarding label claims will be revised as this final rule is implemented. The new guideline regarding products for which efficacy data is no longer available will read as follows: ''Original efficacy data is not available because the product was licensed in (date).'' This change will preclude the need to update the label each year.

A commenter stated that a common adverse event warning should appear on all biologics. The same commenter also recommended that we institute an active adverse event reporting structure.

While those issues are beyond the scope of the current rulemaking, APHIS does recognize the need for adverse event warnings and reporting. We intend to address the issues in a future rulemaking.

A commenter stated that in the proposed rule, we did not adequately consider the potential impact of the required label changes upon the export of currently licensed veterinary biological products. In the commenter's view, APHIS must allow the continued use of currently approved export labels (containing the tiered claims and establishment number) for all products licensed at the time this rule becomes effective.

Requirements for export labels are beyond the scope of the present rulemaking. APHIS is open to working with industry and the public regarding transition of international labels, as we have done in the past.

A commenter stated that as a logical next step in our effort to standardize labeling requirements for biological products, we should require standardized pregnant animal language for product labels. The commenter offered examples of pregnant animal language that could be used on labels.

This comment is beyond the scope of the present rulemaking.

A commenter requested more guidance as to the basic efficacy threshold for licensure of new products, stating that neither the current efficacy thresholds nor the manner in which they are determined for novel products was mentioned in the April 2014 proposed rule.

Our methodology for statistical and scientific review of efficacy data will not change under this rulemaking. We will continue to evaluate data based on the primary outcome and clinically relevant outcomes of the study. Guidance for efficacy studies can be found on the Center for Veterinary Biologics home page under ''Biologics Regulation and Guidance'' (*http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalhealth?1dmy&urile=wcm%3apath%3a%2FAPHIS_Content_Library%2FSA_Our_Focus%2FSA_Animal_Health%2FSA_Vet_Biologics*).

Implementation of Proposed Requirements

In the preamble to the April 2014 proposed rule, we indicated that for currently licensed products, manufacturers would have to submit a standardized summary of efficacy and safety data and the revised labels to APHIS within 4 years of the effective date of this final rule. Licensees would have the option of requesting an extension for up to 2 years.

Some commenters questioned whether we could realistically implement the proposed requirements in 4 years without tremendous disruption to APHIS operations, the biologics industry, and the consumer. It was also suggested that we could be diverted from ongoing review and approval activities because instituting the proposed new requirements would necessitate that APHIS management and staff perform a number of new tasks. Such an additional workload, it was further suggested, may be especially problematic at a time when we already may not have adequate resources due to budget pressure. One commenter recommended that we phase in the requirements over a period of 8 years. In addition, commenters requested clarification on how the phase-in of the requirements will be approached and communicated to the public, such that

the rollout and public promotions are coordinated.

We do not agree that the 8-year implementation period recommended by one commenter is needed. In our view, a 4-year phase-in of the labeling and data summary requirements, with additional extensions of up to 2 years allowed under certain conditions, will provide manufacturers and consumers with adequate time to adapt to the requirements. We further intend to implement the requirements by species (*i.e.* poultry products, then equine products, etc.) in order to ease the impact on the industry and end users. Implementing the requirements in this manner will also minimize the impact on APHIS personnel with respect to ongoing review and approval activities.

Some commenters noted that on January 13, 2011, APHIS had published an earlier proposed rule in the **Federal Register** (76 FR 2268–2277, Docket No. APHIS–2008–0008) that also proposed changes to the labeling requirements for veterinary biological products. Commenters recommended that APHIS finalize and implement the two rules simultaneously for the benefit of industry and for end users, who will be encountering these new labels for the first time, and that we coordinate the implementation timeline with industry.

APHIS agrees with commenters that implementing the rules concurrently would be advantageous for end users and industry. We intend to finalize the rules in as close proximity to one another as possible and to coordinate their implementation with industry.

Data Summary Requirements

Some commenters addressed issues related to the scope of the proposed data summary requirement. It was suggested that the April 2014 proposed rule was not clear as to the studies that will need to be summarized and appear on the APHIS Web site. A commenter stated that only ''pivotal'' efficacy and safety studies should be included and that reference requalification or other studies that do not lead to a change in a label claim should not be among those summarized. It was also recommended that, for safety summaries, only field safety studies should be included, as they are the most clinically relevant.

We do not agree with these comments. The purpose of the summaries is to present efficacy and safety data in a non-confusing manner. Efficacy data summaries will include information regarding study design and associated raw data used to license the product, and the results of each study will be evaluated in terms of statistical and clinical relevance to the disease in question. Because each study is unique in terms of health status of the animals, environmental conditions, challenge model/strain, and other factors, limiting the range of the studies in the manner recommended by the commenters could mean that relevant efficacy data would not be made available to the public.

Some commenters raised concerns related to the parameters we listed in the preamble to the April 2014 proposed rule for the data summaries. These included, among others, the minimum and maximum age of the target species; the diversity of target species; the number of animals in the study; whether animals are client-owned; the serologic status of animals (including presence or absence of maternal antibody when appropriate); and dosage, timing, and route of administration. It was noted that we do not currently require information on some of these items. The issues raised by these commenters are discussed individually in the paragraphs that follow.

Commenters stated that the maximum age of the target species should be removed from the list of parameters. It was stated that because older animals have better developed immune systems and are more resistant to infection, the minimum age utilized in the study is more important to the field use of the vaccine than the maximum.

It was also recommended by one commenter that the term ''diversity of target species'' be removed from the list of parameters. The commenter stated that the term is vague and, if meant to distinguish among categories (*e.g.,* layers vs. broilers, or breeds), it is immunologically irrelevant.

Another commenter stated that the serological status of the animals in the study should not be included unless it is relevant to the label claim. If that is not the case, according to the commenter, the information is not useful.

We have already noted that efficacy data summaries will need to include information regarding study design and associated raw data used to license the product. The study parameters listed in the preamble to the April 2014 proposed rule, however, were examples rather than requirements. Further guidance documents, including but not limited to, a users' guide, will be developed by APHIS to provide, among other things, additional clarification of the parameters associated with the data summaries. These guidance documents, which are discussed in greater detail later in this document, will be released by APHIS and made available for public review and comment.

Some commenters expressed concerns that our parameters for the data summaries could potentially lead to exposure of confidential business information. One commenter stated that clarification was needed that the reference to ''dose'' related to the volume and not to the potency of the vaccine. The potency of the vaccine reflects antigen content and is confidential business information that has been historically protected by APHIS, according to the commenter. The same commenter also asserted that the case definition and data regarding the concentration of the challenge organism should be removed from the list of parameters for the same reason. The commenter suggested that the ''strength'' of challenge can be assessed by the morbidity/mortality observed in the controls versus the vaccinates. Another commenter stated that the primary outcome and clinically relevant outcomes of the study used for analysis were confidential business information that should not be required in the summaries.

As noted above, the parameters listed in the preamble of the April 2014 proposed rule were provided as examples only, not as requirements. The studies that will be summarized and included on the APHIS Web site are those studies that demonstrate product efficacy and safety sufficient for product licensure. We will not require the data summaries to include case definitions or statistical results of an inferential nature (*e.g.,* confidence intervals and p values). Biologics licensees will provide a summary of their data, with confidential business information removed. Such information will be protected, thus preventing competitors from using efficacy and data summaries for marketing, promotion, or advertising initiatives. APHIS will provide guidance to the industry, in the form of a users' guide and other guidance documents, regarding the appropriate use of data summaries for use in marketing, promotion, and/or advertising.

A commenter stated that the proposed rule was unclear about the type of explanatory statistical information that will need to be included in the data summaries, given that we indicated that the summaries will not include statistical information of an inferential nature.

The purpose of the summaries is to present efficacy and safety data in a non-confusing manner. Because these data summaries may be read by persons with little to no medical/scientific background, some statistical data may be confusing to such readers. Additionally, including some statistical

information in the data summaries may, in some cases, raise or lower the public's opinion of a given product, which would be contrary to the intent of this initiative. However, there are some instances (*e.g.,* lung lesions as a primary outcome) where statistical terms may be beneficial to the practitioner or other medically trained persons. We will require each data summary to include a statement referring the reader to consult their veterinarian for interpretation of the data. In addition, as noted above, APHIS will provide guidance to the industry regarding the use of data summaries for use in marketing, promotion, and/or advertising.

Some commenters noted that the April 2014 proposed rule did not include a format for the summaries. It was suggested that there is a lack of consistency in how the firms present information and what APHIS reviewers consider acceptable and that if customers are reading the product summaries on the Web site, this variability could have a large effect on the public perception of different companies' products. Given that possibility, it was suggested that APHIS should provide information on its Web site to educate users on the complex nature of efficacy studies, as well as explanatory statistical information, where appropriate, related to individual data summaries. Commenters requested more information regarding the nature of such materials and stated that APHIS should allow input from the regulated industry in the development of both the format and content of the summaries and the educational materials.

As indicated in the preamble to the April 2014 proposed rule, given the large number of diseases, vaccine types, and efficacy models, it is not possible to standardize the study design for all efficacy studies. We will, however, seek industry input regarding the development of a data summary template and educational guide. These documents will then be made available on our Web site in draft form for public comment.

Guidance Documents and Web Site

Some commenters emphasized the need for a general users' guide or other guidance documents to supplement this final rule. It was suggested that, among other things, our guidance documents should address advertising and promotion of products under the new system. Commenters stated that such documents should indicate that the data in the summaries is intended to provide information relative to the licensure of a product, that comparisons among the products with differing experimental models is not scientifically valid, and that we preclude manufacturers from making such comparisons in advertising and promotion outside of head-to-head studies.

We agree with these comments and, as noted above, we will release a users' guide and other guidance documents as this final rule is being implemented, and we will make the documents available on our Web site in draft form for public comment. For the purposes of marketing, promotion, or advertising, the manufacturers will be allowed to include a statement on promotional and advertising material referring the user to the APHIS Web site, where additional efficacy and safety data may be found. Promotional studies would not be disclosed on the Web site. This policy is consistent with previous guidelines and regulations and would not confer an advantage to any particular manufacturer.

A commenter suggested that our Web site should contain a ''click through'' requiring a person wanting to access the data summaries to ''click'' to indicate he or she has read the statements on the limitation of data comparisons before accessing the material.

We will consider this comment as we craft the Web site that will house the educational material and efficacy and safety summaries.

Commenters stated that the Web address allowing users to access the data summaries is too long and not user friendly. The commenters suggested that the URL should fit on a label and that, in addition, we should allow the Web address to be excluded from very small labels.

We agree with these comments. The new Web address reads as follows: *productdata.aphis.usda.gov.* We will also allow the Web address to be excluded from very small labels.

Additional Comments

A commenter stated that clarification was needed regarding how the requirements contained in this final rule would apply to in-vitro diagnostics, which are subject to the same restrictions as vaccines and other in-vivo products.

As indicated in the preamble to the April 2014 proposed rule, diagnostic products are not covered under this rulemaking. Further, the rulemaking is not applicable to allergenic extracts or autogenous products.

Several commenters expressed concern that the economic analysis provided with the April 2014 proposed rule underestimated the costs associated with the implementation of this rule. The issues raised by the commenters are discussed individually in the paragraphs that follow.

One commenter stated that in that economic analysis, we significantly underestimated the costs of preparing safety and efficacy summaries, which we estimated to be $55 per summary, and product labels, which we estimated to be $99 to $500 per label. According to the commenter, current preparation of labels involves input and review by scientific, commercial, and regulatory staff, preparation of label artwork, generation of printing specifications, generation of controlled documentation for the label, formal review and approval processes, submission to APHIS for approval, and then formal implementation into the production process. Another commenter stated that the cost estimates provided in the economic analysis to demonstrate lack of significant economic impact seem very optimistic, particularly the costs of preparing the summaries, as well as the costs of development of new labels and product outlines for the entire vaccine line.

We used cost range information for label changes from a model developed by The Food and Drug Administration. The model estimates the cost of labeling changes in consumer labeling regulations. While not directly applicable to veterinary biologics labeling changes, the model does include cost range information on various areas pertinent to a veterinary biologics label change.

We agree that label changes go through multiple approval steps. However, because the rule does not require any new scientific content, changing the text on the label to fit with the rule requirements should be much simpler than the comment would imply. The estimates of costs we included in the analysis of the proposed rule do include ranges for administrative and recordkeeping costs associated with labeling changes. Those costs to manufacturers include understanding the regulation, determining their responses, tracking the required change throughout the labeling change process, and reviewing and updating their records of product labels.

These labeling cost ranges were used in reference to the cost for products for which label changes could be coordinated with planned label changes that occur in the normal course of business, and only included administrative and recordkeeping costs. For label changes that cannot be coordinated with planned label changes, we also included other types of costs, such as prepress, graphic design, and

label printing and materials. Those costs are not attributable to the regulation if the labeling is coordinated with a planned change. We have included additional information on the composition of the costs within the economic analysis that accompanies this final rule.

After considering these comments, we did revise our estimate of the cost of preparing a summary. We continue to believe that it will take approximately 1 hour to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. The rule does not require any new scientific content, and the new summary format requirement is simply a repackaging of existing information on a product that has already been collected and assembled as part of the initial licensing process. This activity will most likely be done by a mid-level manager, who will most likely already be very familiar with the product in question, and this labor will cost a manufacturer about $55. We do acknowledge, however, that there will be some further management review involved. Therefore, we are including another one-half hour of management time to our estimate of the cost of preparing a summary. The revised estimate is $83 per summary.

A commenter noted that in the preamble to the July 2014 proposed rule, we stated that most labels would be replaced in the normal course of business regardless of this rule, given the 4- to 6-year implementation timeframe. The commenter disagreed, estimating that approximately 20 percent of the labels for existing products would be replaced as normal practice. The commenter suggested that the number of entities that would incur the expenses associated with replacing labels as a result of this rulemaking will be far larger than we projected.

We respectfully disagree. Of the approximately 11,700 active, approved labels, 53 percent, or about 6,200, are no more than 4 years old, suggesting that a similar number will be replaced in the ordinary course of business during the implementation period. We therefore considered 53 percent to be an appropriate percentage to use to estimate the number of products for which regulatory labeling changes can be coordinated with otherwise planned labeling changes.

One commenter, representing a manufacturer, stated that we did not factor in the cost of replacing printing plates for existing labels, thereby significantly underestimating the economic burden placed on that entity by this rulemaking.

In the proposed rule, we did not include the cost of conventional printing plates. Based on our review of all labels for licensed biologics, we concluded that the general practice among manufacturers is to use computer-generated labels. However, to be conservative in our cost estimates for this final rule, we assume that 5 percent of labels are printed using conventional printing plates. Therefore, we added cost estimates for conventional printing plates for 5 percent of the labeling changes that cannot be coordinated with otherwise planned label changes.

A commenter stated that the posting of quantitative results accompanying the studies would be valuable for veterinarians.

Basic statistical data may be applicable to certain disease situations, such as when lesion consolidation is a primary outcome. Such data will be presented in terms of the number of animals exhibiting (controls) and not exhibiting (vaccinates) clinical signs of disease out of the total numbers of animals vaccinated or not vaccinated. For safety studies, the number of animals presenting with adverse reactions to vaccination out of the total number of animals will be included in the data.

Miscellaneous

In addition to the changes described above that we are making in response to the comments we received, we are making an editorial change for the sake of clarity. In § 112.2(a)(5) of the April 2014 proposed rule, we proposed to require an indications statement to read, ''This product has been shown to be effective for the vaccination of healthy animals ____ weeks of age or older against ____.'' In order to clarify that the specific animal species must be included on the label, we are amending that sentence to read as follows: ''An indications statement to read, ''This product has been shown to be effective for the vaccination of healthy (insert name of species) ____ weeks of age or older against ____.''

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

We are amending the Virus-Serum-Toxin Act regulations to require the use of a simpler labeling format. Biologics licensees and permittees will also be required to provide a standardized summary of the efficacy and safety data.

This rule will simplify the evaluation of efficacy studies, thereby reducing the amount of time required by APHIS to evaluate study data. A novel veterinary biological product can generate revenue in the neighborhood of $5 to $10 million per year. Increased efficiencies in the generation and evaluation of efficacy data should result in fewer delays in bringing a product to market. In addition, a simpler label may benefit those manufacturers, both large and small, who export their products, as foreign manufacturers do not use a tiered approach to label claims.

This rule will affect all veterinary biologics licensees and permittees. Currently, there are approximately 100 veterinary biological establishments, including permittees. These companies produce about 1,900 different products, and there are about 11,700 active approved labels for veterinary biologics. There were about 3,100 labels submitted for approval from June 2012 through May 2013, by about two-thirds of the companies.

Costs of the rule for licensees and permittees are not expected to be significant, whether the affected entity is small or large. APHIS anticipates that the only costs associated with the new labeling format will be one-time costs incurred by licensees and permittees in having labels for existing licensed

products reformatted in accordance with the rule. Most biologics companies, in the course of normal business, use a just-in-time method for producing new labels and readily alter their content. Because the label changes due to this rule will only require new text and not a label redesign, they are considered minor changes.

Products that are not yet licensed but are within 6 months of licensure at the time these regulations become effective will be expected to be fully compliant no later than 1 year after licensure. Products that are more than 6 months away from licensure at the time these regulations become effective will be expected to be fully compliant at the time of licensure. For products that are currently licensed, the standardized summary of efficacy and safety data and the revised labels will have to be submitted to APHIS within 4 years of the time these regulations become effective. APHIS will consider written requests to extend the time period for submitting the summaries by an additional 2 years if necessary.

We estimate that, in total, this rule will cost veterinary biological establishments between $1.1 million and $4.1 million, with a median estimate of about $2.4 million. Costs associated with the rule for an individual manufacturer will depend on the extent of the changes required, type of printing method used, and whether the label changes can be coordinated with planned label changes. All affected manufacturers will incur administrative and recordkeeping costs, that is, costs associated with understanding the regulation, determining responses, tracking the required changes throughout the labeling change process, and reviewing and updating their records of product labels. For label changes not coordinated with planned label changes, costs will also include labor and materials associated with generating the new labels, such as prepress, graphic design, and label printing. Those costs are not attributable to the regulation if the labeling revisions are coordinated with planned changes.

In many instances manufacturers will not have to produce new labeling materials before they would otherwise do so in the normal course of business and will only incur additional administrative and recordkeeping costs to track the changes. Costs incurred for minor label changes that are coordinated with planned label changes are estimated to range between $99 and $500 per label. We estimate that there are about 6,200 labels associated with about 1,000 products for which there will be this type of coordinated change, and the total cost is estimated to range between $99,000 and $500,000.

Costs incurred for minor label changes that cannot be coordinated with planned label changes include costs for prepress, graphic design, and printing the labels, in addition to administrative and recordkeeping activities. We expect that about 5,500 of the active labels, associated with about 900 products, will be changed other than in conjunction with a planned change. Administrative and recordkeeping costs for these label changes are estimated to range between $198 and $1,000 per product, or between about $178,000 and $900,000 in total. We estimate that at least 95 percent of the products with labels that will need to be changed other than in conjunction with a planned change are computer generated with no outside design assistance. The internal prepress and graphic design labor costs associated with these changes are estimated to be between $135 and $743 for each product. The material costs for computer generated labels are estimated to be between $100 and $275 for each new label. For these label changes, production labor and material costs are estimated to range between about $638,000 and $2 million.

To be conservative in our cost estimates, we assume that 5 percent of the products with labels that will need to be changed other than in conjunction with a planned change are printed using more costly conventional printing plates, and the manufacturers of these products use external prepress and graphic design consultants. Prepress and graphic design labor costs, internal and external, are estimated to be between $810 and $5,043 for each product, totaling between about $36,000 and $227,000. There is significant variation in the cost of conventionally printed labels depending on the printing method. Printing material costs for these label changes are estimated to range between about $47,000 and $306,000.

Minor costs may be incurred in producing the standardized summaries of efficacy and safety data for currently licensed products within the 4-year implementation period. We estimate that about 1,700 revised summaries will need to be produced as a result of this rule because efficacy and safety studies are frequently provided for multiple products. The estimated cost will be about $83 per summary, or about $141,000 in total.

Executive Order 12372

This program/activity is listed in the Catalog 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will 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 final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 112 as follows:

PART 112—PACKAGING AND LABELING

■ 1. The authority citation for part 112 continues to read as follows:

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

■ 2. Section 112.2 is amended as follows:

■ a. In paragraph (a)(5), by adding a new first sentence.

■ b. By adding a new paragraph (a)(9)(v).

The additions read as follows:

§ 112.2 Final container label, carton label, and enclosure.

(a) * * *

(5) An indications statement to read, ''This product has been shown to be effective for the vaccination of healthy (insert name of species) ____ weeks of age or older against ____.'' * * *

* * * * *

(9) * * *

(v) A statement similar to ''For more information regarding efficacy and

safety data, go to *productdata.aphis.usda.gov.*

* * * * *

■ 3. Section 112.5 is amended as follows:

■ a. In the introductory text, by removing the words ''paragraph (c) of this section and under the master label system provided in paragraph (d)'' and adding the words ''paragraph (d) of this section and under the master label system provided in paragraph (e)'' in their place.

■ b. In paragraph (a), by removing the words ''(*http://www.aphis.usda.gov/animal_health/vet_biologics/vb_forms.shtml*)'' and adding the words ''(*productdata.aphis.usda.gov*)'' in their place.

■ c. By redesignating paragraphs (b) through (g) as paragraphs (c) through (h).

■ d. By adding a new paragraph (b).

■ e. In newly redesignated paragraph (d)(1), by removing the citation ''§ 112.5(d)'' and adding the words ''paragraph (e) of this section'' in its place.

■ f. In newly redesignated paragraph (e)(1)(ii), by removing the citation ''§ 112.5(d)(1)(iii)'' and adding the words ''paragraph (e)(1)(iii) of this section'' in its place.

■ g. In newly redesignated paragraph (e)(1)(iii), by removing the citation ''§ 112.5(d)(1)(i)'' and adding the words ''paragraph (e)(1)(i) of this section'' in its place.

■ h. In newly redesignated paragraph (e)(1)(iv), by removing the citation ''§ 112.5(d)(1)(ii)'' and adding the words ''paragraph (e)(1)(ii) of this section'' in its place.

■ i. In newly redesignated paragraph (h), by removing the citation ''§ 112.5(c)'' and adding the words ''paragraph (d) of this section'' in its place.

The addition reads as follows:

§ 112.5 Review and approval of labeling.

* * * * *

(b) A data summary, available on the Internet at *productdata.aphis.usda.gov,* shall be used with each submission of efficacy and safety data in support of a label claim. Manufacturers will submit the efficacy and safety data information with either the efficacy and safety studies or at the time of label submission. This information will be posted at *productdata.aphis.usda.gov* to allow public disclosure of product performance.

* * * * *

Done in Washington, DC, this 6th day of July 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–16898 Filed 7–9–15; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 11 and 101

[Docket No. FDA–2011–F–0172]

RIN 0910–AG57

Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Extension of Compliance Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the compliance date for the final rule requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments. The final rule appeared in the **Federal Register** of December 1, 2014. We are taking this action in response to requests for an extension and for further clarification of the rule's requirements.

DATES:

Effective date: This final rule is effective December 1, 2015.

Compliance date: Covered establishments must comply with the rule published December 1, 2014 (79 FR 71156) by December 1, 2016.

FOR FURTHER INFORMATION CONTACT: Ashley Rulffes, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2371, email: *ashley.rulffes@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 1, 2014 (79 FR 71156), we published a final rule requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments. The final rule implements provisions of section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)) and:

- Defines terms, including terms that describe criteria for determining whether an establishment is subject to the rule;
- establishes which foods are subject to the nutrition labeling requirements and which foods are not subject to these requirements;
- requires that calories for standard menu items be declared on menus and menu boards that list such foods for sale;
- requires that calories for standard menu items that are self-service or on display be declared on signs adjacent to such foods;
- requires that written nutrition information for standard menu items be available to consumers who ask to see it;
- requires, on menus and menu boards, a succinct statement concerning suggested daily caloric intake (succinct statement), designed to help the public understand the significance of the calorie declarations;
- requires, on menus and menu boards, a statement regarding the availability of the written nutrition information (statement of availability);
- establishes requirements for determination of nutrient content of standard menu items;
- establishes requirements for substantiation of nutrient content determined for standard menu items, including requirements for records that a covered establishment must make available to FDA within a reasonable period of time upon request; and
- establishes terms and conditions under which restaurants and similar retail food establishments not otherwise subject to the rule could elect to be subject to the requirements by registering with FDA.

In the preamble to the final rule (79 FR 71156 at 71239 through 71241), we stated that the rule would be effective on December 1, 2015, and also provided a compliance date of December 1, 2015, for covered establishments. The final rule (at 21 CFR 101.11(a)) defines ''covered establishment'' as a restaurant or similar retail food establishment that is a part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership, *e.g.,* individual franchises) and offering for sale substantially the same menu items, as well as a restaurant or similar retail food establishment that is voluntarily registered to be covered under 21 CFR 101.11(d).

II. Extending the Compliance Date

Since we published the final rule in the **Federal Register**, we have received numerous requests asking us to further