4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2005-D-0460]

Pediatric Drug Development: Regulatory Considerations--Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Pediatric Drug Development: Regulatory Considerations--Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act." This draft guidance, when finalized, is intended to provide recommendations to industry on complying with the pediatric study requirements under the Pediatric Research Equity Act (PREA), and to describe the process for qualifying for pediatric exclusivity and the protections that pediatric exclusivity offers under the Best Pharmaceuticals for Children Act (BPCA). Combining discussion of PREA and the BPCA together in regulatory guidance emphasizes the sponsor's need to consider both laws when developing pediatric drugs and biological products.

DATES: Submit either electronic or written comments on the draft guidance by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to https://www.regulations.gov will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on https://www.regulations.gov.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2005-D-0460 for "Pediatric Drug Development: Regulatory Considerations--Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at https://www.regulations.gov or at

the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on https://www.regulations.gov. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to https://www.regulations.gov and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001

New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002, or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Rosemary Addy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6430, Silver Spring, MD 20993-0002, 301-796-1640, pedsdrugs@fda.hhs.gov; or Diane Maloney, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Pediatric Drug Development: Regulatory Considerations--Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act." This draft guidance is intended to provide recommendations on how to comply with the pediatric study requirements under sections 505B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355c) (PREA), and to qualify for pediatric exclusivity under section 505A of the FD&C Act (21 U.S.C. 355a) (BPCA). This guidance also incorporates recommendations based on FDA's Retrospective Review.[1]

PREA requires that certain applications (or supplements to applications) submitted under section 505 of the FD&C Act (21 U.S.C. 355) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (specifically, any application that is subject to PREA) must either include

[1] This review was conducted pursuant to section 505B(f)(5) of the FD&C Act and is described in more detail in a report available at https://www.fda.gov/media/78050/download.

pediatric assessments or reports on the molecularly targeted pediatric cancer investigation (as appropriate), or a request for waiver and/or deferral (see section 505B(a)(1), (a)(4), and (a)(5) of the FD&C Act). To ensure that sponsors thoroughly consider a pediatric clinical development program earlier in their overall clinical development program, PREA requires sponsors to submit an initial pediatric study plan during the investigational phase of development (see section 505B(e) of the FD&C Act). PREA also authorizes FDA to require holders of approved applications for drugs and biological products, who are not seeking approval for one of the changes specified, to submit pediatric assessments under certain circumstances (see section 505B(b) of the FD&C Act).

Under the BPCA, certain applications may qualify for 6 months of exclusivity if the following conditions are met: (1) FDA determines that information relating to the use of a drug in the pediatric population may produce health benefits in that population; (2) FDA issues a written request (WR) for studies of that drug in pediatric populations and the applicant agrees to the request; (3) the studies are completed using appropriate formulations for each age group and within the requested time; and (4) the reports of the studies are submitted and accepted by FDA (see section 505A(b)(1) and (c)(1) of the FD&C Act). In accepting or rejecting the reports, FDA determines whether the studies fairly respond to the WR, have been reported in accordance with filing requirements, and otherwise qualify for pediatric exclusivity (see section 505A(d)(4) of the FD&C Act).

With respect to content, this draft guidance addresses pediatric assessments, molecularly targeted pediatric cancer investigations, pediatric study plans, waivers and deferrals (including deferral extensions), labeling considerations, the noncompliance process, the relationship of the PREA requirements to pediatric exclusivity, and the reporting of adverse events for products subject to PREA and the BPCA. Additionally, the draft guidance includes a description of the mechanisms FDA uses to obtain pediatric studies, how industry can obtain a WR and what it includes, how study reports should be submitted to FDA for filing, the criteria to qualify for

pediatric exclusivity, the nature and scope of pediatric exclusivity, and the information that should be submitted in support of a request for a pediatric exclusivity determination.

With respect to its discussion of PREA, this guidance, along with the draft guidance for industry entitled "Pediatric Drug Development Under the Pediatric Research Equity Act and the Best Pharmaceuticals for Children Act: Scientific Considerations," revises and replaces the draft guidance for industry entitled "How to Comply With the Pediatric Research Equity Act" (2005 draft guidance; 70 FR 53233, September 7, 2005).[2] In addition to addressing certain PREA-related topics covered in the 2005 draft guidance, this draft guidance also addresses certain changes to PREA that have occurred since 2005.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on "Pediatric Drug Development: Regulatory Considerations--Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 312 for investigational new drug applications and 21 CFR part 314 for new drug applications and

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[2] This guidance also addresses certain topics previously addressed in the guidance for industry entitled "Qualifying for Pediatric Exclusivity Under Section 505A of the Federal Food, Drug, and Cosmetic Act." That guidance was withdrawn August 7, 2013 (78 FR 48175).

abbreviated new drug applications have been approved under OMB control numbers 0910-0014 and 0910-0001, respectively. The collections of information in 21 CFR parts 601 and 610 pertaining to biologics license applications have been approved under OMB control number 0910-0338. The collections of information in 42 U.S.C. 262(k) for biosimilar applications have been approved under OMB control number 0910-0718. The collections of information in 21 CFR 201.56 and 201.57 regarding labeling requirements for prescription drugs have been approved under OMB control number 0910-0572. The collections of information in 21 CFR part 201, subpart C regarding over-the-counter products have been approved under OMB control number 0910-0340. The collections of information in 21 CFR part 316 regarding orphan drug product development have been approved under OMB control number 0910-0167.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents, or https://www.regulations.gov.

Dated: May 15, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

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