

notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 20, 2000.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00-1919 Filed 1-28-00; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

*Name:* Advisory Council for the Elimination of Tuberculosis (ACET).

*Times and Dates:* 8:30 a.m.-5 p.m., February 9, 2000; 8:30 a.m.-12 p.m., February 10, 2000.

*Place:* Marriott Atlanta Century Center, 2000 Century Boulevard NE., Atlanta, Georgia 30345.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

*Purpose:* This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

*Matters To Be Discussed:* Agenda items include issues pertaining to the Epidemiology of Tuberculosis in Low Incidence counties, Tuberculosis Laboratory issues, and an update on the Occupational Risk of Tuberculosis Transmission.

**CONTACT PERSON FOR MORE INFORMATION:** Paulette Ford, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E-07, Atlanta, Georgia 30333, telephone 404/639-8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 21, 2000.

**Carolyn J. Russell,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 00-1925 Filed 1-28-00; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 98E-1223]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; Certiva™

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Certiva™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

**ADDRESSES:** Submit written comments and petitions to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Claudia V. Grillo, Regulatory Policy Staff (HFD-007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5645.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the

biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product Certiva™ (acellular purified pertussis toxoid). Certiva™ is indicated for immunization of infants and children except as a fifth dose in children who have previously received four doses of DTaP. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Certiva™ (U.S. Patent No. 4,762,710) from Amvax, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 9, 1999, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of Certiva™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Certiva™ is 2,578 days. Of this time, 1,542 days occurred during the testing phase of the regulatory review period, while 1,036 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* July 10, 1991. The applicant claims February 14, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 10, 1991, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section*

351 of the Public Health Service Act: September 28, 1995. FDA has verified the applicant's claim that the product license application (PLA) for Certiva™ (PLA 95-1529) was initially submitted on September 28, 1995.

3. *The date the application was approved:* July 29, 1998. FDA has verified the applicant's claim that PLA 95-1529 was approved on July 29, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 31, 2000, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 31, 2000, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1999.

**Jane A. Axelrad,**

*Associate Director for Policy, Center for Drug Evaluation and Research.*

[FR Doc. 00-2031 Filed 1-28-00; 8:45 am]

**BILLING CODE 4160-01-F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 98E-0479]

#### Determination of Regulatory Review Period for Purposes of Patent Extension; Teslascan

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Teslascan and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:**

Claudia V. Grillo, Regulatory Policy Staff (HFD-007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5645.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Teslascan

(magnafodipir trisodium). Teslascan is indicated for intravenous administration as an adjunct to magnetic resonance imaging (MRI) in patients to enhance the T1-weighted images used in the detection, localization, characterization, and evaluation of lesions of the liver. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Teslascan (U.S. Patent No. 4,933,456) from Nycomed Salutar, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 25, 1999, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Teslascan represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Teslascan is 3,129 days. Of this time, 2,325 days occurred during the testing phase of the regulatory review period, while 804 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* May 5, 1989. The applicant claims May 10, 1989, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was May 5, 1989, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act:* September 15, 1995. The applicant claims November 7, 1995, as the date the new drug application (NDA) for Teslascan (NDA 20-652) was initially submitted. However, FDA records indicate that NDA 20-652 was submitted on September 15, 1995.

3. *The date the application was approved:* November 26, 1997. FDA has verified the applicant's claim that NDA 20-652 was approved on November 26, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension,