

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):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, 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-2016-N-2610 for “A List of Biomarkers Used as Outcomes in Development of FDA-Approved New Molecular Entities and New Biological Therapeutics (October 2007 to December 2015); Establishment of Public Docket.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- **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 <http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. 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: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

#### FOR FURTHER INFORMATION CONTACT:

Marianne Noone, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 4528, Silver Spring, MD 20993-0002, 301-796-2600.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

FDA is committed to support more efficient drug development by providing scientific, technical, and regulatory advice to stakeholders (such as to pharmaceutical industries, academia, patient advocacy groups, and consortia). As part of this commitment, FDA is providing a list of biomarkers that were used as outcomes in the development of FDA-approved NMEs and New Biological Therapeutics in different disease areas from October 2007 to December 2015. This list is intended to provide examples of biomarkers that were accepted and used as endpoints in clinical trials for drug and biologic approvals from October 2007 to December 2015. This list, along with brief background information, is accessible at Biomarkers Used as Outcomes in Development of FDA-Approved Therapeutics (October 2007 to December 2015).

##### II. Establishment of a Public Docket and Request for Comments

FDA is soliciting suggestions and comments from stakeholders to determine the utility of the biomarker outcomes list and to identify any areas of improvement for disseminating information on biomarkers that have been used to support the approval of drugs or biologics. Specifically, FDA welcomes comments regarding the following two areas:

- Areas of improvement for communicating and disseminating information about biomarkers and their utility as drug development tools.

- The best approach for updating the biomarkers outcomes list, including any modifications of the list, in the future.

FDA will consider all comments submitted but will generally not respond directly to the person or organization submitting the comment.

Dated: September 14, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-22470 Filed 9-16-16; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2016-D-2569]

#### S9 Nonclinical Evaluation for Anticancer Pharmaceuticals—Questions and Answers; International Council for Harmonisation; Draft Guidance for Industry; Availability

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

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance entitled “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals—Questions and Answers.” The draft questions and answers (Q&As) guidance was prepared under the auspices of the International Council for Harmonisation (ICH), formerly the International Conference on Harmonisation. The draft Q&As guidance provides recommendations for nonclinical studies for the development of pharmaceuticals, including both small molecule and biotechnology-derived products, intended to treat patients with cancer. The Q&As are intended to provide additional clarity for topics discussed in the ICH guidance entitled “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals” (S9 guidance).

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 18, 2016.

**ADDRESSES:** You may submit comments as follows:

#### Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <http://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 <http://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*

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• For written/paper comments submitted to the Division of Dockets Management, 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-2016-D-2569 for "S9 Nonclinical Evaluation for Anticancer Pharmaceuticals—Questions and Answers; International Council for Harmonisation; Draft Guidance for Industry; Availability." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• *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 <http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. 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: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration (CDER), 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 (CBER), 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. The guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

#### **FOR FURTHER INFORMATION CONTACT:**

*Regarding the guidance:* John K. Leighton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2204, Silver Spring, MD 20993-0002, 301-796-1398; or

Anne M. Pilaro, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 4025, Silver Spring, MD 20993-0002, 240-402-8341.

*Regarding the ICH:* Amanda Roache, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1176, Silver Spring, MD 20993-0002, 301-796-4548.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products for human use among regulators around the world. The six founding members of the ICH are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; and the Pharmaceutical Research and Manufacturers of America. The Standing Members of the ICH Association include Health Canada and Swissmedic. Any party eligible as a Member in accordance with the ICH Articles of Association can apply for membership in writing to the ICH Secretariat. The ICH Secretariat, which coordinates the preparation of documentation, operates as an international nonprofit organization and is funded by the Members of the ICH Association.

The ICH Assembly is the overarching body of the Association and includes representatives from each of the ICH members and observers.

In the **Federal Register** of March 8, 2010 (75 FR 10487), FDA announced the availability of the S9 guidance, and that

guidance was a significant advance in promoting anticancer drug development. Since the S9 guidance was issued, some parties have experienced challenges implementing the nonclinical recommendations for developing anticancer pharmaceuticals outlined in that guidance. In June 2016, the ICH Assembly endorsed the current draft Q&As guidance entitled “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals—Questions and Answers” and agreed that the draft Q&As guidance should be made available for public comment. The draft Q&As guidance is the product of the Safety Implementation Working Group (IWG) of the ICH. Comments about this draft will be considered by FDA and the Safety IWG.

The draft Q&As guidance provides guidance on implementing the S9 guidance. The Q&As were developed by the IWG to provide additional clarity for the nonclinical development of anticancer pharmaceuticals. Topics addressed in the draft Q&As guidance include the patient population covered by the S9 guidance, recovery groups in nonclinical studies, development of antibody-drug conjugates, juvenile animal studies, and the need for long-term toxicity studies when pharmaceutical development moves to patients with earlier stage diseases.

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 “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals—Questions and Answers.” 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. Electronic Access

Persons with access to the Internet may obtain the document at <http://www.regulations.gov>, <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, or <http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>.

Dated: September 12, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-22375 Filed 9-16-16; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2015-N-2489]

#### Receipt of Notice That a Patent Infringement Complaint Was Filed Against a Biosimilar Applicant

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing notice that an applicant for a proposed biosimilar product notified FDA that a patent infringement action was filed in connection with the applicant’s biologics license application (BLA). Under the Public Health Service Act (PHS Act), an applicant for a proposed biosimilar product or interchangeable product must notify FDA within 30 days after the applicant was served with a complaint in a patent infringement action described under the PHS Act. FDA is required to publish notice of the complaint in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Daniel Orr, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6208, Silver Spring, MD 20993-0002, 240-402-0979, [daniel.orr@fda.hhs.gov](mailto:daniel.orr@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The Biologics Price Competition and Innovation Act of 2009 (BPCI Act) was enacted as part of the Patient Protection and Affordable Care Act (Pub. L. 111-148) on March 23, 2010. The BPCI Act amended the PHS Act and created an abbreviated licensure pathway for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product. Section 351(k) of the PHS Act (42 U.S.C. 262(k)), added by the BPCI Act, describes the requirements for a BLA for a proposed biosimilar product or a proposed interchangeable product (351(k) BLA). Section 351(l) of the PHS Act, also added by the BPCI Act, describes certain procedures for exchanging patent information and resolving patent disputes between a 351(k) BLA applicant and the holder of the BLA reference product. If a 351(k) applicant is served with a complaint for a patent infringement described in section 351(l)(6) of the PHS Act, the applicant is required, under section 351(l)(6)(C) of the PHS Act, to provide the FDA with notice and a copy of the complaint within 30 days of service. FDA is required to publish notice of a

complaint received under section 351(l)(6)(C) of the PHS Act in the **Federal Register**.

FDA has received notice of the following complaint under section 351(l)(6)(C) of the PHS Act: *Amgen v. Sandoz*, 3:16-cv-02581 (N.D. Cal., filed May 12, 2015).

FDA has only a ministerial role in publishing notice of a complaint received under section 351(l)(6)(C) of the PHS Act, and does not perform a substantive review of the complaint.

Dated: September 12, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016-22376 Filed 9-16-16; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; International Center of Excellence for Malaria Research.

*Date:* October 13-14, 2016.

*Time:* 8:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Yong Gao, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G13B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Rockville, MD 20892-7616, (240) 669-5048, [yong.gao@nih.gov](mailto:yong.gao@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)