appendices for each of the copies, should be delivered to Cynthia M. Polit (address above). The application receipt date is July 5, 2001. If the receipt date falls on a weekend, or if the date falls on a holiday, the date of submission will be extended to the following workday. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled ''Response to RFA–FDA–ORA–01–Project I'' or ''RFA–FDA–ORA–01–Project II.'' Submit only one project application (an original and two copies) per package.

## VII. Method of Application

### *A. Submission Instructions*

Each application must be submitted under separate cover. Do NOT submit more than one application (with copies) per envelope. Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing, will be deemed unresponsive and returned to the applicant. Instructions for completing the application are included in form PHS–5161–1. FDA is unable to receive applications via Internet.

### *B. Format for Application*

Submission of the application must be on grant application form PHS 5161–1 (revised 7/00). All instructions for the enclosed Standard Form 424 (SF–424) should be followed using the nonconstruction application pages.

The face page of the application should indicate ''RFA–FDA–ORA–01–Project I,'' or ''RFA–FDA–ORA–01–Project II.''

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on PHS Form 5161–1 were approved and issued under Office of Management and Budget Circular A–102.

### *C. Legend*

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted and/or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: May 15, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–12626 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 01N–0103]**

### Issues Associated With the Intersection of 180-Day Generic Drug Exclusivity and Pediatric Exclusivity; Request for Comments

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) is establishing the public docket identified in brackets in the heading of this document to receive comments related to the interpretation of provisions of the Federal Food, Drug, and Cosmetic Act (the act) and regulations governing the intersection of 180-day generic drug exclusivity and pediatric exclusivity. To date, there has not been a situation where pediatric exclusivity and 180-day generic exclusivity have actually overlapped. However, FDA has received a large number of inquiries about its interpretation of these provisions and, therefore, is establishing this docket to give the public an opportunity to comment on these issues.

**DATES:** Submit written or electronic comments by June 20, 2001.

**ADDRESSES:** Submit electronic comments to http://www.fda.gov/ohrms/dockets/default.htm. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Rose Cunningham, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5468, FAX 301–594–5493.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Recently FDA has been asked to evaluate the intersection of 180-day generic drug exclusivity and pediatric exclusivity, specifically with respect to whether the exclusivity periods should run concurrently or consecutively. FDA has received written correspondence and telephone inquiries from pharmaceutical firms, organizations, individuals, and members of Congress concerning FDA's interpretation of these provisions. FDA is seeking broader public comment on the intersection of these two statutory provisions.

The 180-day generic drug exclusivity provision was created by the 1984 Drug Price Competition and Patent Term Restoration Act (also known as the Hatch-Waxman Amendments), enacted on September 24, 1984. This provision, contained in section 505(j)(5)(B)(iv) of the act (21 U.S.C. 355(j)(5)(B)(iv)), provides an incentive for generic drug applicants to challenge innovator patent claims and thereby speed the entry of generic competition onto the market. This benefit is available to the first abbreviated new drug application (ANDA) received that is a substantially complete application that contains a ''paragraph IV'' certification. This type of certification states the ANDA applicant's belief that a patent listed for the innovator drug is invalid or unenforceable or that the ANDA product seeking approval will not infringe a listed patent. Under the terms of the statute, 180-day generic drug exclusivity is triggered by and begins to run from either: (1) A court decision finding the challenged patent invalid, unenforceable, or not infringed; or (2) the date of first commercial marketing of the ANDA drug product, whichever is earlier. During the 180-day generic drug exclusivity period, FDA is prohibited

from approving a subsequently filed ANDA containing a paragraph IV certification.

Pediatric exclusivity was created by the passage of the Food and Drug Administration Modernization Act, enacted on November 21, 1997. This provision, contained in section 505A of the act, provides an incentive for innovator companies to perform and submit to the agency pediatric studies that may produce health benefits in the pediatric population. This benefit is available to a new drug application holder for the submission of pediatric studies in response to a written request issued by the agency. Pediatric exclusivity extends for 6 months existing patent and/or exclusivity protection on the innovator drug and begins to run on the date the existing patent and/or exclusivity protection on the innovator drug would otherwise expire. ANDAs referencing the innovator drug may not be approved during the pediatric exclusivity period.

FDA seeks public comment on whether pediatric exclusivity runs concurrently or consecutively with 180-day generic drug exclusivity when a favorable court decision in a paragraph IV patent challenge lawsuit is issued less than 180 days before the beginning of or during the pediatric exclusivity period.

## II. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments by June 20, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–12615 Filed 5–15–01; 4:12 pm]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### [Docket No. 01N–0197]

## Clinical Development Programs for Drugs, Biological Products, and Devices for the Treatment of Ankylosing Spondylitis (AS) and Related Disorders; Request for Assistance

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting assistance in developing guidance for industry on issues related to drugs, biological products, and devices for the treatment of AS and related disorders. Once finalized, the guidance would aid sponsors and others interested in developing new agents to treat AS and related disorders.

Before the agency can develop such guidance, a critical appraisal of certain fundamentals of the science related to AS is needed. FDA is interested specifically in identifying a party, or parties, willing to take the lead in coordinating this critical appraisal.

**DATES:** Submit written comments on this notice by July 20, 2001.

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

**FOR FURTHER INFORMATION CONTACT:** Mary Jane Walling, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2268.

**SUPPLEMENTARY INFORMATION:** Because of the positive response to the agency's guidance on rheumatoid arthritis, the agency has recognized the need for more information on the development of drugs, biological products, and devices for the treatment of AS and related disorders. FDA intends to put the information received in response to this notice in a public docket so that interested parties can learn of each other and coordinate these activities.

Specifically, the agency is interested in identifying an interested group or consortium of interested groups from academia, industry, practitioners, and patients and their representatives willing to take the lead in a critical appraisal of certain fundamentals of the science related to AS. Initially, the parties may want to organize a public meeting to discuss relevant questions (a number of which are noted below). The agency hopes this meeting will lead to conceptual advances now not present and their expression in a series of concept papers. Subsequent workshops would then be able to fully discuss these concept papers, soliciting feedback from all quarters including regulators from the United States and elsewhere. Emphasis should be on debating the rationale for various approaches to key issues. The agency welcomes other suggestions of activities that could be undertaken as part of this guidance development effort.

To provide a starting point for discussion, the agency has developed a list of some key concepts that the interested parties may want to consider at the meeting:

1. Scope: Should the guidance discuss AS alone, or a broader spondyloarthropathy rubric? What about the clinical subgroups and pediatric expressions of the disorder(s)?

2. Claims: What type of claims structure is optimal to encompass the types of clinical benefit a therapeutic product might have on patients with AS? What type of evidence would be needed to support each proposed claim?

3. Measures of disease activity: Are currently available instruments for measuring disease activity adequate or are new measures required? Which disease activity should be measured in clinical trials in AS, and on what basis: (1) A consensus approach, which aims for agreement (clinicians, patients, and others) based on a blend of an observer-driven approach and performance characteristics; (2) a decision based on the comparative statistical characteristics of each measurement using concepts such as random measurement error; or (3) a fully data-driven approach where each measurement is tested in a standard venue to assess its predictive capacity.

4. Overall trial design: Are longitudinal comparison of means optimal? Because longer trials inevitably have substantial dropouts, would a survival analysis be more appropriate?

5. Intrinsic trial design: Which measures should be included in the primary analysis of the clinical trial to assess whether the therapeutic product is associated with a clinical benefit? Do all measures need equal-weight in the primary analysis? Can they be unequally weighted? Is the use of composites justified? Are outcomes of secondary endpoints essential for determining the success of the trial?

Interested persons should submit to the Dockets Management Branch (address above) comments and