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 an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product BAYTRIL® (enrofloxacin). BAYTRIL® is indicated for chickens to control mortality associated with *Escherichia coli* susceptible to enrofloxacin, and for turkeys to control mortality associated with *E. coli* and *Pasturella multocida* (fowl cholera) susceptible to enrofloxacin. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for BAYTRIL® (U.S. Patent No. 4,670,444) from Bayer Aktiengesellschaft and requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated January 21, 1997, FDA advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of BAYTRIL® represented the first commercial marketing 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 BAYTRIL® is 4,334 days. Of this time, 648 days occurred during the testing phase of the regulatory review period, while 3,686 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective*: November 24, 1984. The applicant claims November 20, 1984, as the date the investigational new animal drug application (INAD) became effective. However, FDA records indicate that the date of FDA's official acknowledgment letter assigning a number to the INAD was November 24, 1984, which is considered to be the effective date for the INAD.

2. *The date the application was initially submitted with respect to the human drug product under section 512(b) of the Federal Food, Drug, and Cosmetic Act*: September 2, 1986. The applicant claims August 26, 1986, as the date the new animal drug application (NADA) for BAYTRIL® (NADA 140–828) was initially submitted. However, a review of FDA records reveals that the date of FDA's official acknowledgment letter assigning a number to the NADA was September 2, 1986, which is considered to be the initially submitted date for the NADA.

3. *The date the animal drug was approved*: October 4, 1996. FDA has verified the applicant's claim that NADA 140–828 was approved on October 4, 1996.

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 1,827 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 19, 1997, 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 September 15, 1997, 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: March 6, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–6719 Filed 3–17–97; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 97D–0024]

Medical Devices; Immunotoxicity Testing Framework; Draft Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Immunotoxicity Testing Framework.'' This guidance will provide reviewers and manufacturers with a coherent strategy for assessing whether testing for potential adverse effects involving medical devices or constituent materials and the immune system is needed. The draft guidance will also aid in developing a systematic approach to such testing.

DATES: Written comments by June 16, 1997.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Immunotoxicity Testing Framework'' to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0806 (toll free outside of MD 1–800–638–2041). Send two self addressed adhesive labels to assist that office in processing your requests. The draft guidance is also available via the World Wide Web at http://www.fda.gov/cdrh/draftgui.html. A text only version is also available from a VT–100 compatible terminal via the FDA bulletin board by dialing 800–222–0185 (terminal settings are 8/1/N).

Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John J. Langone, Center for Devices and Radiological Health (HFZ–113), Food and Drug Administration, 12709 Twinbrook Pkwy., Rockville, MD 20852, 301–443–7132.

SUPPLEMENTARY INFORMATION:

I. Background

In May 1995, FDA adopted the General Program Memorandum G95–1, an FDA-modified version of International Standard ISO–10993, entitled ''Biological Evaluation of Medical Devices-Part 1: Evaluation and Testing.'' It was pointed out that in addition to the general guidance for toxicity testing contained in that document, additional guidance might be needed for evaluation of specific organ or system toxicity. As a result, the Office of Device Evaluation, Center for Devices and Radiological Health, developed the

draft ''Immunotoxicity Testing Framework'' to deal specifically with testing for adverse effects of medical devices or constituent materials on the immune system. The draft guidance will provide medical device manufacturers with FDA's current thinking on immunotoxicity testing, and it will help to ensure a consistent and scientifically sound approach to the overall evaluation of product safety.

The draft guidance also contains a flow chart to determine if immunotoxicity testing is recommended, and three tables that lead sequentially from potential immunological effects, to potential responses commonly associated with those effects, to examples of testing that might be considered as part of the overall safety evaluation of finished devices or constituent materials.

In the past, guidances generally have been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidances to state procedures or standards of general applicability that are not legal requirements, but that are acceptable to FDA. This guidance represents FDA's current thinking on the issue of immunotoxicity testing for medical devices and constituent materials. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Request for Comments

Interested persons may, on or before June 16, 1997, submit to the Dockets Management Branch (address above) written comments regarding the draft guidance. 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. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered in determining whether to amend the current draft guidance document.

Dated: March 6, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–6715 Filed 3–17–97; 8:45 am]

BILLING CODE 4160–01–F

Investigational Biological Product Trials; Procedure to Monitor Clinical Hold Process; Meeting of Oversight Committee and Request for Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a meeting of its clinical hold oversight committee, which reviews the clinical hold orders that the Center for Biologics Evaluation and Research (CBER) has placed on certain investigational biological product trials. FDA is inviting any interested biological product company to use this confidential mechanism to submit to the committee for its review the name and number of any investigational biological product trial placed on clinical hold during the past 12 months that the company wants the committee to review.

DATES: The meeting will be held on May 13, 1997. Biological product companies may submit review requests for the May meeting by April 4, 1997.

ADDRESSES: Submit clinical hold review requests to Amanda Bryce Norton, FDA Chief Mediator and Ombudsman, Office of the Commissioner (HF–7), Food and Drug Administration, 5600 Fishers Lane, rm. 14–105, Rockville, MD 20857, 301–827–3390.

FOR FURTHER INFORMATION CONTACT: Joy A. Cavagnaro, Center for Biologics Evaluation and Research (HFM–5), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0379.

SUPPLEMENTARY INFORMATION: FDA regulations in part 312 (21 CFR part 312) provide procedures that govern the use of investigational new drugs and biologics in human subjects. If FDA determines that a proposed or ongoing study may pose significant risks for human subjects or is otherwise seriously deficient, as discussed in the investigational new drug regulations, it may order a clinical hold on the study. The clinical hold is one of FDA's primary mechanisms for protecting subjects who are involved in investigational new drug or biologic trials. Section 312.42 describes the grounds for ordering a clinical hold.

A clinical hold is an order that FDA issues to a sponsor to delay a proposed investigation or to suspend an ongoing investigation. The clinical hold may be ordered on one or more of the investigations covered by an investigational new drug application (IND). When a proposed study is placed on clinical hold, subjects may not be given the investigational drug or biologic as part of that study. When an ongoing study is placed on clinical hold, no new subjects may be recruited to the study and placed on the investigational drug or biologic, and patients already in the study should stop receiving therapy involving the investigational drug or biologic unless FDA specifically permits it.

When FDA concludes that there is a deficiency in a proposed or ongoing clinical trial that may be grounds for ordering a clinical hold, ordinarily FDA will attempt to resolve the matter through informal discussions with the sponsor. If that attempt is unsuccessful, a clinical hold may be ordered by or on behalf of the director of the division that is responsible for the review of the IND.

FDA regulations in § 312.48 provide dispute resolution mechanisms through which sponsors may request reconsideration of clinical hold orders. The regulations encourage the sponsor to attempt to resolve disputes directly with the review staff responsible for the review of the IND. If necessary, the sponsor may request a meeting with the review staff and management to discuss the clinical hold.

CBER began a process to evaluate the consistency and fairness of practices in ordering clinical holds by instituting a review committee to review clinical holds (see 61 FR 1033, January 11, 1996). CBER held its first clinical hold oversight committee meeting on May 17, 1995, and plans to conduct further quality assurance oversight of the IND process. The committee last met in February 1997. The review procedure of the committee is designed to afford an opportunity for a sponsor who does not wish to seek formal reconsideration of a pending clinical hold to have that clinical hold considered ''anonymously.'' The committee consists of senior managers of CBER, a senior official from the Center for Drug Evaluation and Research, and the FDA Chief Mediator and Ombudsman.

Clinical holds to be reviewed will be chosen randomly. In addition, the committee will review some of the clinical holds proposed for review by biological product sponsors. In general, a biological product sponsor should consider requesting review when it disagrees with FDA's scientific or procedural basis for the decision.

Requests for committee review of a clinical hold should be submitted to the FDA Chief Mediator and Ombudsman, who is responsible for selecting clinical holds for review. The committee and CBER staff, with the exception of the FDA Chief Mediator and Ombudsman,