

debarment, and proposed that these debarment periods be served consecutively under section 306(c)(2)(A)(iii).

The proposal informed Mr. Lexier of the proposed debarment and offered Mr. Lexier an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Lexier received the proposal and notice of opportunity for a hearing on July 1, 2019. Mr. Lexier failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment. (21 CFR part 12).

## II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Lexier has been convicted of two felony counts under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that each offense should be accorded a debarment period of 5 years. Under section 306(c)(2)(A)(iii) of the FD&C Act, in the case of a person debarred for multiple offenses, FDA shall determine whether the periods of debarment shall run concurrently or consecutively. FDA has concluded that the 5-year period of debarment for each of the two offenses of conviction needs to be served consecutively, resulting in a total debarment period of 10 years.

As a result of the foregoing finding, Mr. Lexier is debarred for a period of 10 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act, the importing or offering for import into the United States of any drug or controlled substance by, with the assistance of, or at the direction of Mr. Lexier is a prohibited act.

Any application by Mr. Lexier for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA-2019-N-1614 and sent to the Dockets Management Staff (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions will be placed in the docket, and will be

viewable at <http://www.regulations.gov> or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 21, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2018-E-2595]

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

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for OZEMPIC 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 Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

**DATES:** Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by January 28, 2020. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 27, 2020. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 28, 2020. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 28, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

### 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-2018-E-2595 for "Determination of Regulatory Review Period for Purposes of Patent Extension; OZEMPIC." Received comments, those filed in a timely manner (see **ADDRESSES**), 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.

- **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 § 10.20 (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.gpo.gov/fdsys/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.

**FOR FURTHER INFORMATION CONTACT:** Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

#### **SUPPLEMENTARY INFORMATION:**

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

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 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 Director of USPTO 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 has approved for marketing the human drug product OZEMPIC (semaglutide). OZEMPIC is indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus. Subsequent to this approval, the USPTO received a patent term restoration application for OZEMPIC (U.S. Patent No. 8,129,343) from Novo Nordisk A/S, and the USPTO requested FDA’s assistance in determining the patent’s eligibility for patent term restoration. In a letter dated September 18, 2018, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of OZEMPIC represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product’s regulatory review period.

##### **II. Determination of Regulatory Review Period**

FDA has determined that the applicable regulatory review period for OZEMPIC is 3,336 days. Of this time, 2,970 days occurred during the testing phase of the regulatory review period, while 366 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 (FD&C Act) (21 U.S.C. 355(i)) became effective:* October 19, 2008. FDA has verified the applicant’s claim that the date the investigational new drug application became effective was on October 19, 2008.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* December 5, 2016. FDA has verified the applicant’s claim that the new drug application

(NDA) for OZEMPIC (NDA 209637) was initially submitted on December 5, 2016.

3. *The date the application was approved:* December 5, 2017. FDA has verified the applicant’s claim that NDA 209637 was approved on December 5, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,040 days of patent term extension.

##### **III. Petitions**

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA 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 comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (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.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA-2013-S-0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 21, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-25850 Filed 11-27-19; 8:45 am]

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#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

##### **Physician-Focused Payment Model Technical Advisory Committee; Meetings**

**ACTION:** Notice of meetings.

**SUMMARY:** This notice announces the 2020 meetings of the Physician-Focused