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 animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360b(j)) became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal 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 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 has approved for marketing the animal drug product ENTYCE (capromorelin). ENTYCE is indicated for appetite stimulation in dogs. Subsequent to this approval, the USPTO received patent term restoration applications for ENTYCE (U.S. Patent Nos. 6,107,306 and 6,673,929) from RaQualia Pharma Inc., and the USPTO requested FDA’s assistance in determining the patents’ eligibility for patent term restoration. In a letter dated December 1, 2016, FDA advised the USPTO that this animal drug product had undergone a regulatory review period and that the approval of ENTYCE 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 ENTYCE is 1,645 days. Of this time, 1,589 days occurred during the testing phase of the regulatory review period, while 56 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 FD&C Act (21 U.S.C. 355(j)) became effective: November 16, 2011. The applicant claims December 5, 2002, as the date the INAD application (INAD) became effective.

2. The date the application was initially submitted with respect to the animal drug product under section 512 of the FD&C Act (21 U.S.C. 360b): March 23, 2016. The applicant claims March 21, 2016, as the date the new animal drug application (NADA) for ENTYCE (NADA 141–457) was initially submitted. However, FDA records indicate that NADA 141–457 was submitted on March 22, 2016.

3. The date the application was approved: May 16, 2016. FDA has verified the applicant’s claim that NADA 141–457 was approved on May 16, 2016.

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 applications for patent extension, this applicant seeks 1,826 and 1,827 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.


Leslie Kux, Associate Commissioner for Policy.

[FR Doc. 2018–00358 Filed 1–10–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration


Determination of Regulatory Review Period for Purposes of Patent Extension; EPANOVA

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 EPANOVA and is publishing this notice of that determination as required by law. FDA has made the determination because of the
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 EPANOVA (omega-3-carboxylic acids). EPANOVA is indicated as an adjunct to diet to reduce triglyceride levels in adult patients with severe (≥500 mg/dL) hypertriglyceridemia. Subsequent to this approval, the USPTO received
patent term restoration applications for EPANOVA (U.S. Patent Nos. 5,948,818; 7,960,370; 7,792,795; and 8,338,678) from AstraZeneca Pharmaceuticals LP, and the USPTO requested FDA’s assistance in determining the patents’ eligibility for patent term restoration. In a letter dated December 1, 2016, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of EPANOVA represented the first permitted commercial marketing or use of the product. Therefore, 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 EPANOVA is 4,269 days. Of this time, 3,964 days occurred during the testing phase of the regulatory review period, while 305 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: August 29, 2002. FDA has verified the applicant’s claim that the date the investigational new drug application became effective was on August 29, 2002.

2. The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act: July 5, 2013. The applicant claims July 3, 2013, as the date the NDA for EPANOVA was initially submitted. However, FDA records indicate that NDA 205060 was submitted on July 5, 2013, which is considered to be the NDA initially submitted date.

3. The date the application was approved: May 5, 2014. FDA has verified the applicant’s claim that NDA 205060 was approved on May 5, 2014. 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 applications for patent extension, this applicant seeks 682 days, 371 days, and 5 years 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: January 8, 2018.

Leslie Kux,
Associate Commissioner for Policy.

[FR Doc. 2018–00353 Filed 1–10–18; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6925]

Risk Communication Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Risk Communication Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on March 5, 2018, from 8 a.m. to 5 p.m. and March 6, 2018, from 9 a.m. to 12:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1303), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–6925. The docket will close on April 6, 2018. Submit either electronic or written comments on this public meeting by April 6, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 6, 2018. The https://www.regulations.gov electronic filing system will accept comments until midnight Eastern Time at the end of April 6, 2018. 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.

Comments received on or before February 26, 2018 will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

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. 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: