

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Investigational In Vitro Diagnostics in Oncology Trials: Streamlined Submission Process for Study Risk Determination.” This guidance, developed by the Oncology Center of Excellence, CDER, CBER, and CDRH at FDA, describes an optional streamlined submission process to determine whether an investigational in vitro diagnostic in an oncology clinical trial under an IND (an oncology co-development program) is significant risk. In the traditional submission process, many sponsors submitted a study risk determination Q-submission to CDRH and an IND to the appropriate center (CBER or CDER). In the streamlined process, all information regarding the oncology co-development program (including investigational in vitro diagnostic information) is initially submitted to the IND. CBER or CDER works with CDRH to determine whether the in vitro diagnostic is significant risk.

Initially, FDA plans to implement the streamlined submission process for oncology-related products, because FDA has received the greatest number of co-development submissions in this disease area and has the most experience evaluating whether the in vitro diagnostic is significant risk. However, FDA is interested in receiving comments on whether the streamlined submission process should be extended to other disease areas in the future.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). This draft guidance is not final nor is it in effect at this time. The draft guidance, when finalized, will represent the current thinking of FDA on a streamlined submission process for study risk determination for in vitro diagnostics in oncology trials. 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. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This guidance refers to currently approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 809 have been approved under OMB control

number 0910–0485; the collections of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0755; the collections of information in 21 CFR 56.115 have been approved under OMB control number 0910–0130; the collections of information in 21 CFR 50.23 have been approved under OMB control number 0910–0586; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; and the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001. The collections of information in the guidance document titled “Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff” (available at <https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-meddev-gen/documents/document/ucm311176.pdf>) have been approved under OMB control number 0910–0756.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, <https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, <https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm>, or <https://www.regulations.gov>.

Dated: April 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–1174]

Special Protocol Assessment; 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 guidance for industry entitled “Special Protocol Assessment.” This guidance provides information about the procedures and general policies adopted by the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research for special protocol assessment (SPA). This guidance is intended to improve the quality of requests for SPAs and accompanying submission materials, and the quality of the resulting interactions between sponsors and FDA. This guidance finalizes the draft guidance of the same name issued May 4, 2016, and replaces the guidance of the same name issued May 17, 2002.

DATES: The announcement of the guidance is published in the **Federal Register** on April 16, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time 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, 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–2016–D–1174 for “Special Protocol Assessment; Guidance for Industry.” Received comments 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 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

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, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, 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. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Amalia Himaya, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6439, Silver Spring, MD 20993–0002, 301–796–0700; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled “Special Protocol Assessment.” SPA is a process by which sponsors may request to meet with FDA to reach agreement on the design and size of certain trials, clinical studies, or animal studies to determine if they adequately address scientific and regulatory requirements for a study that could support marketing approval. After completing the SPA review, FDA issues a letter including comments from the review team, agreement or nonagreement with the proposed protocol, and answers to the sponsor’s relevant questions. Section 119 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) amended section 505(b) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(b)) and directed FDA to meet with sponsors who request to meet, provided certain conditions are met, to reach agreement on the design and size of the well-controlled clinical trials intended to form the primary basis for a demonstration of effectiveness in a marketing application submitted under section 505(b) of the FD&C Act or section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262). These provisions subsequently were amended in section 7002(d)(1) of the Biologics Price Competition and Innovation Act of

2009 to include any necessary clinical study or studies for biosimilar biological product applications under section 351(k) of the PHS Act. In 2013, the Pandemic and All Hazards Preparedness Reauthorization Act of 2013 further amended the SPA provisions to provide for SPA agreements regarding animal and associated clinical trials conducted in support of applications for products developed under 21 CFR part 314, subpart I, and 21 CFR part 601, subpart H (the animal rule). Such marketing applications include new drug applications (NDAs), biologics license applications (BLAs), and efficacy supplements to approved NDAs and BLAs.

In conjunction with the reauthorization of the prescription drug user fee program in FDAMA (Prescription Drug User Fee Act (PDUFA) II),¹ and with the Biosimilar User Fee Act of 2012 (BsUFA), enacted as part of the Food and Drug Administration Safety and Innovation Act, FDA agreed to specific performance goals (PDUFA goals and BsUFA goals,² respectively) for SPA. Per section 505(b)(5)(B) of the FD&C Act, the PDUFA goals, and the BsUFA goals, the following protocols are eligible for SPA: (1) Animal carcinogenicity protocols; (2) drug substance and drug product stability protocols; (3) animal efficacy protocols for studies intended to provide primary evidence of effectiveness required for approval or for licensure for products developed under the animal rule; (4) protocols for trials intended to form the primary basis of an efficacy claim; and (5) clinical studies necessary to prove biosimilarity and/or interchangeability.

This guidance finalizes the draft guidance of the same name issued May 4, 2016, and replaces the guidance of the same name issued May 17, 2002. Changes were made from the 2016 draft guidance to improve clarity and readability.

This guidance is being issued consistent with FDA’s good guidance

¹ FDA first agreed to specific PDUFA goals for SPA in November 1997 in conjunction with PDUFA II, the reauthorization of the Prescription Drug User Fee Act of 1992. The PDUFA II goals are described in “PDUFA Reauthorization Performance Goals and Procedures,” an enclosure to a letter dated November 12, 1997, from the Secretary of Health and Human Services, Donna E. Shalala, to Senator James M. Jeffords (<https://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm143135.htm>). The program has been reauthorized every 5 years; the most recent goals letter is available on the FDA website at <https://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm149212.htm>.

² The BsUFA goals were later updated, in conjunction with the Biosimilar User Fee Amendments of 2017.

practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on SPA. 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. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information referred to in the guidance entitled “Special Protocol Assessment” have been approved under OMB control number 0910–0470. The collections of information for Form FDA 1571 have been approved under OMB control number 0910–0014.

III. Electronic Access

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

Dated: April 11, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–07871 Filed 4–13–18; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1189]

Highly Concentrated Caffeine in Dietary Supplements; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a guidance for industry, “Highly Concentrated Caffeine in Dietary Supplements.” FDA considers some dietary supplements that consist of only or primarily pure or highly concentrated caffeine to be adulterated. FDA is issuing this document to provide

guidance to firms that manufacture, market, or distribute dietary supplement products that contain pure or highly concentrated caffeine, or are considering doing so. This guidance should help such parties determine whether their products are or would be adulterated under the Federal Food, Drug, and Cosmetic Act (FD&C Act) and to help them understand how to reduce the likelihood that their products will be considered adulterated.

DATES: The announcement of the guidance is published in the **Federal Register** on April 16, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time 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, 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

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- **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–D–1189 for “Highly Concentrated Caffeine in Dietary Supplements; Guidance for Industry; Availability.” Received comments 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.” We will review this copy, including the claimed confidential information, in our 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 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to Office of Dietary Supplement Programs, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your