

[regulatoryinformation/guidances/ucm126396.pdf](https://www.fda.gov/regulatoryinformation/guidances/ucm126396.pdf)).

## II. Topics for Discussion at the Public Meeting

Topics for discussion during this meeting include:

- The risks and benefits of participation in clinical trials as well as potential regulatory, geographical, and socioeconomic barriers to participation.
- the rationale for eligibility criteria in clinical trials, as well as the impact of exclusion criteria on the enrollment of populations, such as infants, children, pregnant and lactating women, elderly, individuals with advanced disease, and individuals with co-morbid conditions.
- alternative clinical trial designs that may increase enrollment of more diverse patient populations, while facilitating the collection of data to establish safety and effectiveness.
- how appropriate patient populations can benefit from the results of trials that employ alternative designs.
- how changes to eligibility criteria may impact the complexity and length of clinical trials, as well as the strength of data necessary to demonstrate safety and effectiveness.
- opportunities for using data from expanded access trials.

## III. Participating in the Public Meeting

**Registration:** To register for the public meeting, please visit the following website: <https://healthpolicy.duke.edu/events/evaluating-inclusion-and-exclusion-criteria-clinical-trials>. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone. Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by April 12, 2018, midnight Eastern Time. There will be no onsite registration. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. Duke-Margolis will post on its website if registration closes before the day of the public meeting.

If you need special accommodations due to a disability, please contact Sarah Supsiri at the Duke-Margolis Center for Health Policy, 202-791-9561, [sarah.supsiri@duke.edu](mailto:sarah.supsiri@duke.edu), no later than April 12, 2018.

**Streaming Webcast of the Public Meeting:** This public meeting will also be webcast; archived video footage will be available at the Duke-Margolis

website (<https://healthpolicy.duke.edu/events/evaluating-inclusion-and-exclusion-criteria-clinical-trials>) following the meeting. Organizations are requested to register all participants, but to view using one connection per location whenever possible. Webcast participants will be sent technical system requirements in advance of the event. Prior to joining the streaming webcast of the public workshop, we recommend that you review these technical system requirements in advance.

**Transcripts:** Please be advised that transcripts will not be available.

FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

**Meeting Materials:** All event materials will be provided to registered attendees via email prior to the workshop and publicly available at the Duke-Margolis website: <https://healthpolicy.duke.edu/events/evaluating-inclusion-and-exclusion-criteria-clinical-trials>.

Dated: January 24, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018-01643 Filed 1-29-18; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2015-E-2082]

### Determination of Regulatory Review Period for Purposes of Patent Extension; Cardiomehs HF Monitoring System

**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 CARDIOMEMS HF MONITORING SYSTEM 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 medical device.

**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 April 2, 2018. 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 July 30, 2018. 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 April 2, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of April 2, 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.

### 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-2015-E-2082 for "Determination of Regulatory Review Period for Purposes of Patent Extension; CARDIOMEMS HF MONITORING SYSTEM." 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 20993-0002, 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 medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (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 medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device CARDIOMEMS HF MONITORING SYSTEM. CARDIOMEMS HF MONITORING SYSTEM is indicated for wirelessly measuring and monitoring pulmonary artery pressure and heart rate in New York Heart Association Class III heart failure patients who have been hospitalized for heart failure in the previous year. The hemodynamic data are used by physicians for heart failure management and with the goal of reducing heart failure hospitalizations. Subsequent to this approval, the USPTO received a patent term restoration application for CARDIOMEMS HF MONITORING SYSTEM (U.S. Patent No. 7,839,153) from CardioMEMS, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 15, 2015, FDA advised the USPTO that this medical

device had undergone a regulatory review period and that the approval of CARDIOMEMS HF MONITORING SYSTEM 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 CARDIOMEMS HF MONITORING SYSTEM is 2,786 days. Of this time, 1,525 days occurred during the testing phase of the regulatory review period, while 1,261 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(g)) involving this device became effective:* October 13, 2006. FDA has verified the applicant's claim that the date the investigational device exemption required under section 520(g) of the FD&C Act for human tests to begin became effective October 13, 2006.

2. *The date an application was initially submitted with respect to the device under section 515 of the FD&C Act (21 U.S.C. 360e):* December 15, 2010. The applicant claims December 14, 2010, as the date the premarket approval application (PMA) for CARDIOMEMS HF MONITORING SYSTEM (PMA P100045) was initially submitted. However, FDA records indicate that PMA P100045 was submitted on December 15, 2010.

3. *The date the application was approved:* May 28, 2014. FDA has verified the applicant's claim that PMA P100045 was approved on May 28, 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 application for patent extension, this applicant seeks 1,026 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: January 24, 2018.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2018–01644 Filed 1–29–18; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2016–E–2521]

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

**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 ZEPATIER 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 (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by April 2, 2018. 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 July 30, 2018. 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 April 2, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of April 2, 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.

#### 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:

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- 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–E–2521 for “Determination of Regulatory Review Period for Purposes

of Patent Extension; ZEPATIER.” 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>.

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**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:**