Because of this, the Agency conducted internal research on tablet splitting and concluded that in some cases, there are possible safety issues, especially when tablets are not scored or evaluated for splitting. The Agency's concerns with splitting a tablet included variations in the tablet content, weight, disintegration, or dissolution, which can affect how much drug is present in a split tablet and available for absorption. In addition, there may be stability issues with splitting tablets.

Tablet splitting also is addressed in pharmacopeial standards. The European Pharmacopeia currently applies accuracy of subdivision standards for scored tablets—and has at various times also included standards for content uniformity, weight variation, and loss of mass—while the United States Pharmacopeia published a Stimuli article in 2009 proposing criteria for loss of mass and accuracy of subdivision for split tablets.[1]

As an outgrowth of these discussions and developments, FDA is providing recommendations for application content regarding the scientific basis for functional scores on solid oral dosage form products to ensure the quality of both NDA and ANDA scored tablet products. To accomplish this, the Agency has developed consistent and meaningful criteria by which scored tablets can be evaluated and labeled. The criteria are as follows: (1) Provide a harmonized approach to chemistry, manufacturing, and controls reviews of scored tablets; (2) ensure consistency in nomenclature (*e.g.,* score versus bisect) and labeling; and (3) provide information through product labeling or other means to healthcare providers.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on tablet scoring: nomenclature, labeling, and data for evaluation. 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 statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. 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 201.57, 314.50, and 314.70 have been approved under OMB control numbers 0910–0572 (for section 201.57) and 0910–0001 (for part 314).

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: August 25, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–22146 Filed 8–29–11; 8:45 am]

BILLING CODE 4160–01–P

[1] Geoff Green et al., November-December 2009, 35(6), ''Pharmacopeial Standards for the Subdivision Characteristics of Scored Tablets,'' *Pharmacopeial Forum.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0594]

Fee for Using a Priority Review Voucher in Fiscal Year 2012

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the fee rates for using a tropical disease priority review voucher for fiscal year (FY) 2012. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Amendments Act of 2007 (FDAAA), authorizes FDA to determine and collect priority review user fees for certain applications for approval of drug or biological products when those applications use a priority review voucher awarded by the Secretary of Health and Human Services. These vouchers are awarded to the sponsors of certain tropical disease product applications, submitted after September 27, 2007, upon FDA approval of such applications. The amount of the fee to be submitted to FDA with applications using a priority review voucher is determined each FY based on the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous FY. This notice establishes the priority review fee rate for FY 2012.

FOR FURTHER INFORMATION CONTACT: David Miller, Office of Financial Management (HFA–100), Food and Drug Administration, 1350 Picard Dr., Rockville, MD 20850, 301–796–7103.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1102 (under title XI) of FDAAA (Pub. L. 110–85) added new section 524 to the FD&C Act (21 U.S.C. 360n). In section 524, Congress encouraged development of new drug and biological products for prevention and treatment of certain tropical diseases by offering additional incentives for obtaining FDA approval of such products. Under section 524, the sponsor of an eligible human drug application submitted after September 27, 2007, for a qualified tropical disease (as defined in section 524(a)(3)), shall receive a priority review voucher upon approval of the tropical disease product application. The recipient of a priority review voucher may either use the voucher with a future submission to FDA under section 505(b)(1) of the FD&C Act (21 U.S.C. 355(b)(1)) or section 351 of the Public Health Service Act (21 U.S.C. 262), or transfer (including by sale) the voucher to another party that may then use it. A priority review is a review conducted with a Prescription Drug User Fee Act (PDUFA) goal date of 6 months.

The applicant that uses a priority review voucher is entitled to a priority review but must pay FDA a priority review user fee in addition to any other fee required by PDUFA. FDA has published a draft guidance on its Web site about how this priority review voucher program will operate (available at: *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm080599.pdf*).

This notice establishes the priority review fee rate for FY 2012 of $5,280,000 and outlines FDA's process for implementing the collection of the priority review user fees. This rate is effective on October 1, 2011, and will remain in effect through September 30, 2012, for applications submitted with a priority review voucher. The payment of

this priority review user fee is required in addition to the payment of any other fee that would normally apply to such an application under PDUFA before FDA will consider the application complete and acceptable for filing.

II. Priority Review User Fee for FY 2012

Under section 524(c)(2) of the FD&C Act, the amount of the priority review user fee is to be determined each FY based on the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous FY.

A priority review is a review conducted with a PDUFA goal date of 6 months. Normally, an application for a Center for Drug Evaluation and Research (CDER) product will qualify for a priority review if FDA determines that the product, if approved, would provide safe and effective therapy where no satisfactory alternative therapy exists or would be a significant improvement compared to marketed products, including non-drug products and/or therapies, in the treatment, diagnosis, or prevention of a disease. A Center for Biologics Evaluation and Research (CBER) product will qualify for a priority review if FDA determines that the product, if approved, would be a significant improvement in the safety or effectiveness of the treatment, diagnosis, or prevention of a serious or life-threatening disease. FDA has committed to a goal to review and act on 90 percent of the applications that have been granted priority review status no later than 6 months after receipt. An application that does not receive a priority designation will receive a standard review. Under the goals identified in the letters referenced in section 101(c) of FDAAA, FDA commits to a goal to review and act on 90 percent of standard applications within 10 months of the date of receipt. A priority review involves a more intensive level of effort and a higher level of resources than a standard review.

Section 524 of the FD&C Act specifies that the fee amount should be based on the average cost incurred by the Agency for a priority review in the previous FY. Because FDA has never tracked the cost of reviewing applications that get priority review as a separate cost subset, FDA estimated this cost based on other data that the Agency has tracked and kept. FDA started by using data that the Agency estimates and publishes on its Web site each year—standard costs for review. FDA does not publish a standard cost for ''the review of a human drug application subject to priority review in the previous fiscal year.'' However, we expect all such applications would contain clinical data. The standard cost application categories with clinical data that FDA does publish each year are: (1) New drug applications (NDAs) for a new molecular entity (NME) with clinical data, and (2) biologic license applications (BLAs).

The worksheets for standard costs for FY 2010, the latest year for which standard cost data are available, show a standard cost of $4,316,567 for an NDA with clinical data and $6,081,461 for a BLA. Based on these standard costs, the total cost to review the 33 applications in these two categories in FY 2010 (9 BLAs and 24 NDAs with clinical data) was $158,331,000, rounded to the nearest thousand dollars. (**Note:** No investigational new drug (IND) review costs are included in this amount; they will be calculated separately and added in the next paragraph.) Records acquired from CDER and CBER by the Office of Policy and Planning (OPP), Economics Staff, indicate that a total of 13 of these applications (8 NDAs [excluding the President's Emergency Plan for Aids Relief NDAs] and 5 BLAs) received priority review, which would mean that the remaining 20 received standard reviews. Because a priority review compresses a review that ordinarily takes 10 months into 6 months, OPP estimates that a multiplier of 1.67 (10 months divided by 6 months) should be applied to non-priority review costs in estimating the effort and cost of a priority review as compared to a standard review. This multiplier is consistent with published research on this subject. In the article ''Developing Drugs for Developing Countries,'' published in *Health Affairs,* Volume 25, Number 2, in 2006, the analysis by David B. Ridley, Henry G. Grabowski, and Jeffrey L. Moe supports a priority review multiplier in the range of 1.48 to 2.35. The multiplier derived by FDA falls well below the mid-point of this range. Using FY 2010 figures, the costs of a priority and standard review are estimated using the following formula:

$$(13\ \alpha * 1.67) + (20\ \alpha) = \$158{,}331{,}000$$

where ''α'' is the cost of a standard review and ''α times 1.67'' is the cost of a priority review. Using this formula, the cost of a standard review for NMEs is calculated to be $3,796,000 (rounded to the nearest thousand dollars) and the cost of a priority review for NMEs is 1.67 times that amount, or $6,339,000 (rounded to the nearest thousand dollars).

Next, the cost of the IND review phase for these applications is calculated. The standard lifetime cost of reviewing a drug IND in FY 2010 was $362,102. The standard lifetime cost of a biologic IND review in FY 2010 was $791,916. Because there were 8 priority NDAs and 5 priority BLAs received in FY 2010, the following formula below estimates the average cost of the IND review phase of an application:

$$(8\ \text{NDA} * \$362{,}102) + (5\ \text{BLAs} * \$791{,}916) = \$6{,}856{,}396$$

This is the full cost of the IND review associated with the 13 priority review applications received in FY 2010. Dividing $6,856,000 (rounded to the nearest thousand dollars) by 13 (the total number of priority review applications received in FY 2010), yields an average IND review phase cost of $527,000 (rounded to the nearest thousand dollars) per priority review application.

Adding the cost of the NDA/BLA priority review calculated above, $6,339,000, to the cost of the IND review phase of $527,000, results in an estimated average cost for priority review for an application received in FY 2010 of $6,866,000.

Section 524 of the FD&C Act specifies that the fee amount should be based on the average cost incurred by the Agency for a priority review in the previous FY. FDA is setting fees for FY 2012, and the previous FY is FY 2011. However, the FY 2011 submission cohort has not been closed out yet, and the cost data for FY 2011 are not complete. The latest year for which FDA has data is FY 2010. Accordingly FDA will adjust the FY 2010 cost figure above by the average amount by which FDA's average salary and benefit costs increased in the 5 years prior to FY 2011, to adjust the FY 2010 amount for cost increases in FY 2011. That figure, also published in the **Federal Register** of August 1, 2011 (76 FR 45831), setting PDUFA fees for FY 2012, is 3.72 percent. Increasing the FY 2010 average priority review cost figure of $6,866,000 by 3.72 percent results in an estimated cost of $7,121,000 (rounded to the nearest thousand dollars).

FDA will deduct from this amount the PDUFA fee that must also be paid (in addition to the priority review fee) when an NDA or BLA with clinical data is submitted in FY 2012. That amount, also published in the **Federal Register** of August 1, 2011, is $1,841,500. The difference, rounded to the nearest thousand dollars, is $5,280,000. This is the priority review user fee amount for FY 2012 that must be submitted with a priority review voucher in FY 2012, in addition to any PDUFA fee that is required for such an application.

III. Priority Review Fee Schedule for FY 2012

The fee rate for FY 2012 is set out in table 1 of this document:

TABLE 1—PRIORITY REVIEW SCHEDULE FOR FY 2012

Fee category	Fee rate for FY 2012
Applications Submitted With a Priority Review Voucher in Addition to the Normal PDUFA Fee	$5,280,000

IV. Implementation of Priority Review Fee

Under section 524(c)(4)(A) of the FD&C Act, the priority review user fee is due upon submission of the application for which the priority review voucher is used. Section 524(c)(4)(B) specifies that the application will be considered incomplete if the priority review user fee and all other applicable user fees are not paid in accordance with FDA payment procedures. FDA may not grant a waiver, exemption, reduction, or refund of any fees due and payable under this section of the FD&C Act, and FDA may not collect priority review voucher fees prior to a relevant appropriation for fees for that FY. Beginning with FDA's appropriation for FY 2009, the annual appropriation language states specifically that ''priority review user fees authorized by 21 U.S.C. 360n (section 524 of the FD&C Act) may be credited to this account, to remain available until expended.'' (Pub. L. 111–8, Section 5, Division A, Title VI).

The priority review fee established in the new fee schedule must be paid for any application that is received after September 30, 2011, and submitted with a priority review voucher. This fee must be paid in addition to any other fee due under PDUFA. Payment must be made in U.S. currency by check, bank draft, or U.S. postal money order payable to the order of the Food and Drug Administration. The user fee identification (ID) number should be included on the check, followed by the words ''Priority Review.'' Payments can be mailed to: Food and Drug Administration, P.O. Box 979107, St. Louis, MO 63197–9000.

If checks are sent by a courier that requests a street address, the courier can deliver the checks to: U.S. Bank, Attention: Government Lockbox 979107, 1005 Convention Plaza, St. Louis, MO 63101. (*Note:* This U.S. Bank address is for courier delivery only.) The FDA post office box number (P.O. Box 979107) must be written on the check. The tax identification number of the Food and Drug Administration is 53–0196965.

Wire transfer payments may also be used. Please reference your unique user fee ID number when completing your transfer. The originating financial institution may charge a wire transfer fee. Please ask your financial institution about the fee and include it with your payment to ensure that your fee is fully paid. The account information is as follows: New York Federal Reserve Bank, U.S. Dept. of Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Acct. No.: 75060099, Routing No.: 021030004, Swift: FRNYUS33, Beneficiary: FDA, 1350 Piccard Dr., Rockville, MD 20850.

Dated: August 24, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–22062 Filed 8–29–11; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0607]

FDA's Public Database of Products With Orphan-Drug Designation: Replacing Non-Informative Code Names With Descriptive Identifiers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Orphan Products Development, is announcing that it has replaced non-informative code names with descriptive identifiers on its public database of products that have received orphan-drug designation. The Orphan Drug Act mandates that FDA provide notice to the public respecting the designation of a drug as an orphan-drug. FDA typically provides public notice by publishing a drug's generic or trade name upon orphan designation. Where a designated drug does not have a generic or trade name, publishing a non-informative code name does not meet the statutory disclosure requirement because the public would not be able to identify the drug that has received orphan designation.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fritsch, Office of Orphan Products Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5276, Silver Spring, MD 20993, 301–796–8660, e-mail: *OPDAR@FDA.HHS.GOV.*

SUPPLEMENTARY INFORMATION: FDA publishes the generic name and/or trade name of a drug on its Web site at *http://www.fda.gov/orphan* after it designates a drug as an orphan drug. It has come to our attention that a small subset of drugs that have received orphan designation were published on our public database with non-informative code names. After careful consideration of this matter, we have concluded that the Orphan Drug Act mandates that FDA identify to the public products that have received orphan-drug designation. If a drug has no generic or trade name, publishing a non-informative code name for that drug does not meet the statutory notice requirement because the public would not be able to identify the drug that has received orphan designation.

In addition to issuing this notice, FDA has mailed letters to affected sponsors at their last known address and has posted notification on its Web site at *http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/HowtoapplyforOrphanProductDesignation/ucm267378.htm.* We informed sponsors that, on our Web site, we have replaced all non-informative code names with descriptive identifiers. We asked that these sponsors notify us within 20 days of the date of the letter if they believe that their product's current identifier did not accurately identify their product to the public.

Despite reasonable efforts, we were unable to notify a small proportion of affected sponsors. It appears that some sponsors may have gone out of business or may have transferred ownership of, or beneficial interest in, orphan-drug designation without informing FDA. (We remind sponsors of their obligations to notify us of any change in ownership of orphan-drug designation, under 21 CFR 316.27, and to submit brief progress reports to us on an annual basis, under 21 CFR 316.30.)

Through this document, FDA seeks to inform sponsors whom the Agency has not otherwise been able to notify that, under the Orphan Drug Act's notice requirements, all non-informative codes in our public orphan drug designations database have been replaced with corresponding informative identifiers.

If you believe this notice applies to you, please visit our Web site at *http://www.fda.gov/orphan.* Under ''Resources for You,'' click on the ''Search for Orphan Drug Designations and Approvals'' and enter your product. If you believe that your product's current identifier does not accurately identify your product to the public,