

Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** 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; or Julia Beaver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2100, Silver Spring, MD 20993-0002, 240-402-0489.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is announcing the availability of a draft guidance for industry entitled “Cancer Clinical Trial Eligibility Criteria: Patients with Organ Dysfunction or Prior or Concurrent Malignancies.” This draft guidance provides recommendations on the inclusion of patients with organ dysfunction or prior or concurrent malignancies in clinical trials of drugs or biological products regulated by CDER and CBER for the treatment of cancer.

A clinical trial’s eligibility criteria are essential components of the trial, defining the characteristics of the study population. Eligibility criteria should be developed taking into consideration the mechanism of action of the drug, the targeted disease or patient population, the anticipated safety of the investigational drug, and the ability to recruit trial participants from the patient population to meet the objectives of the clinical trial. However, some eligibility criteria have become commonly accepted over time or used as a template across trials without clear scientific or clinical rationale. Unnecessarily restrictive eligibility criteria may slow patient accrual, limit patients’ access to clinical trials, and lead to trial results that do not fully represent treatment effects in the patient population that will ultimately use the drug. Broadening cancer trial eligibility criteria can maximize the generalizability of trial results and the ability to understand the therapy’s benefit-risk profile across the patient population likely to use the drug in clinical practice without jeopardizing patient safety.

The recommendations in this guidance for clinical trial eligibility criteria for patients with organ dysfunction focus on renal function, cardiac function, and hepatic function. This guidance also includes recommendations for eligibility criteria for patients with cancer who have a history of prior or concurrent second primary malignancies.

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 current thinking of FDA on “Cancer Clinical Trial Eligibility Criteria: Patients with Organ Dysfunction or Prior or Concurrent Malignancies.” 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. 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 part 312 have been approved under OMB control number 0910-0014; the collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control number 0910-0572.

**III. Electronic Access**

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

Dated: March 7, 2019.

**Lowell J. Schiller,**

*Acting Associate Commissioner for Policy.*  
[FR Doc. 2019-04573 Filed 3-12-19; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2019-D-0363]

**Cancer Clinical Trial Eligibility Criteria: Patients With Human Immunodeficiency Virus, Hepatitis B Virus, or Hepatitis C Virus Infections; Draft 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 draft guidance for industry entitled “Cancer Clinical Trial Eligibility Criteria: Patients with HIV, Hepatitis B Virus, or Hepatitis C Virus Infections.” This draft guidance is one in a series of guidances that provide recommendations regarding eligibility criteria for clinical trials of drugs or biological products regulated by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) for the treatment of cancer. Specifically, this draft guidance includes recommendations on the inclusion of patients with human immunodeficiency virus (HIV), hepatitis B virus (HBV) infections, and hepatitis C virus (HCV) infections. Exclusion of patients with HIV, HBV, or HCV infections remains common in most studies of investigational drugs. Expanding cancer clinical trial eligibility to be more inclusive of patients with HIV, HBV, or HCV infections is justified in many cases, and may accelerate the development of effective therapies in cancer patients with these chronic infections.

**DATES:** Submit either electronic or written comments on the draft guidance by May 13, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance 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-2019-D-0363 for "Cancer Clinical Trial Eligibility Criteria: Patients with HIV, Hepatitis B Virus, or Hepatitis C Virus Infections." 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 the draft guidance to the Office of Communication, Outreach and Development, CBER, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002; Division of Drug Information, CDER, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

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The draft guidance recommends that eligibility criteria regarding patients with HIV, HBV, or HCV infections address requirements regarding relevant concurrent antiviral and other therapies (e.g., antibiotic prophylaxis) and degree of immunocompetence appropriate for a given cancer, investigational drug, and intended use population. The recommendations for eligibility criteria for patients with cancer and concurrent HIV infection are focused on evaluation of immune function and HIV therapy. The recommendations for eligibility criteria for cancer patients with evidence of chronic HBV or with current or history of HCV are focused on liver-related laboratories and HBV/HCV therapy.

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 current thinking of FDA on "Cancer Clinical Trial Eligibility Criteria: Patients with HIV, Hepatitis B Virus, and Hepatitis C Virus Infections." 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

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Dated: March 7, 2019.

**Lowell J. Schiller,**

*Acting Associate Commissioner for Policy.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

[FWS–R3–ES–2018–N140;  
FXES11130300000–189–FF03E00000]

**Endangered and Threatened Species; Receipt of Recovery Permit Applications**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive your written comments on or before April 12, 2019.

**ADDRESSES:** *Document availability and comment submission:* You may, within 30 days of the date of publication of this notice (see **DATES**), submit requests for copies of the applications and related documents, and submit any comments by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (e.g., TEXXXXXX):

- *Email:* [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov). Please refer to the respective permit number (e.g., Application No. TEXXXXXX) in the subject line of your email message.

- *U.S. Mail:* Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

**FOR FURTHER INFORMATION CONTACT:** Carlita Payne, 612–713–5343; [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities

intended to promote recovery of species that are listed as endangered or threatened under the ESA.

**Background**

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA’s definition of “take” includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

**Permit Applications Available for Review and Comment**

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing such permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE06130D .....	Claudio Gratton, Madison, WI.	Rusty patched bumble bee ( <i>Bombus affinis</i> ).	WI .....	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, hold, release.	New.