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June 29, 2001

Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, Maryland 20852

**CORRESPONDENCE**

**Re: Docket No. 99N-1852; Draft "Guidance for Industry: Reports on the Status of Postmarketing Studies -- Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997;"** Notice. Federal Register, Wednesday, April 4, 2001 (Volume 66, Number 65), pages 17912-17914.

Dear Sir/Madam:

Eli Lilly and Company is pleased to have the opportunity to comment on the draft guidance.

**Comments:**

It is the opinion of Eli Lilly and Company that FDA's draft *Guidance for Industry: Reports on the Status of Postmarketing Studies - Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997* should be clarified with respect to the 6-Month Report on Postmarketing Studies. Specifically, Lilly recommends adding wording in the Guidance to clearly define the scope of the special one-time 6-Month Report as applying only to those postmarketing studies required to be reported under CFR §314.81(b)(2)(vii) or CFR §601.70 (i.e., studies concerning a drug product's clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology) and to exclude from this requirement studies concerning chemistry, manufacturing and controls and stability studies which are reported under §314.81(b)(2)(viii).

This recommendation is in accordance with wording in the Final Rule, published in the Federal Register, Volume 65, No. 210, Monday, October 30, 2000 (section III. G., page 64614).

> "Applicants that have entered into a commitment prior to November 21, 1997, to conduct a postmarketing study under proposed §314.81(b)(2)(vii) or §601.70 would be required, as mandated by FDAMA, to submit an initial report to FDA within 6

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months after the effective date of any final rule that issued based on the proposed rule." (Final Rule, FR October 30, 2000, section III. G., page 64614).

Similar wording is also found in the Proposed Rule, published in the Federal Register, Volume 64, No. 230/Wednesday, December 1, 1999 (section II. G. 1., page 67212).

Furthermore, in section II. A., page 67209 of the Proposed Rule, the FDA stated:

> "FDA would use the information provided under proposed §314.81(b)(2)(vii) to meet its reporting obligations under section 506B of the act (annual report in the Federal Register) and section 130(b) of FDAMA (report to congressional committees by October 1, 2001). FDA does not intend to use information provided under proposed §314.81(b)(2)(viii) for this purpose."

Based on these excerpts from the Proposed Rule and the Final Rule, it is Lilly's understanding that the 6-month reporting requirement is limited to status reports required under CFR §314.81(b)(2)(vii) or CFR §601.70, and that it excludes status reports for studies concerning chemistry, manufacturing, and controls and stability studies that are required under §314.81(b)(2)(viii). This distinction is not clearly stated in the draft Guidance.

While the draft Guidance indirectly implies that the special one-time reporting requirement under section 506B of the Act is limited to reporting required under §314.81(b)(2)(vii) or §601.7, it does not specifically state that information reported under §314.81(b)(2)(viii) is outside the scope of this requirement. For example:

> "FDA has focused its authority under section 506B on postmarketing studies that concern a drug's clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology... If a postmarketing study fits one of these four categories, we will include information about its status in the agency's annual *Federal Register* report on postmarketing studies and in the agency's special report to Congress." (Draft Guidance: Section II. B. 1., second paragraph)

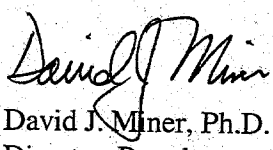
> "The contents of status reports submitted under 21 CFR 314.81(b)(2)(vii) ... will be included in FDA's annual report published in the Federal Register and in FDA's special report to Congress." (Draft Guidance: Section II. B. 2. a., second bullet point)

**Recommendation:**

Lilly recommends adding wording in the Guidance to clearly define the scope of the special one-time 6-Month Report as applying only to those postmarketing studies required to be reported under CFR §314.81(b)(2)(vii) or CFR §601.70 and to exclude from this

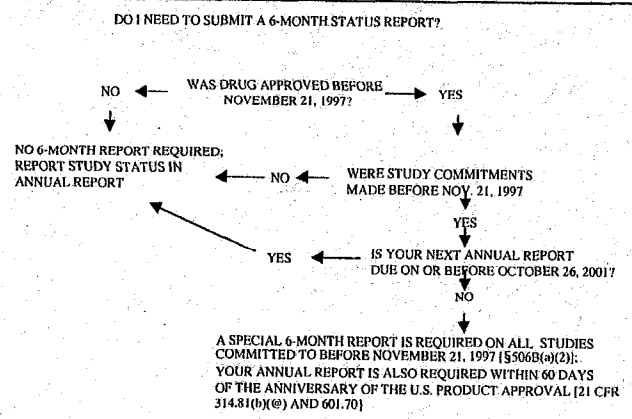
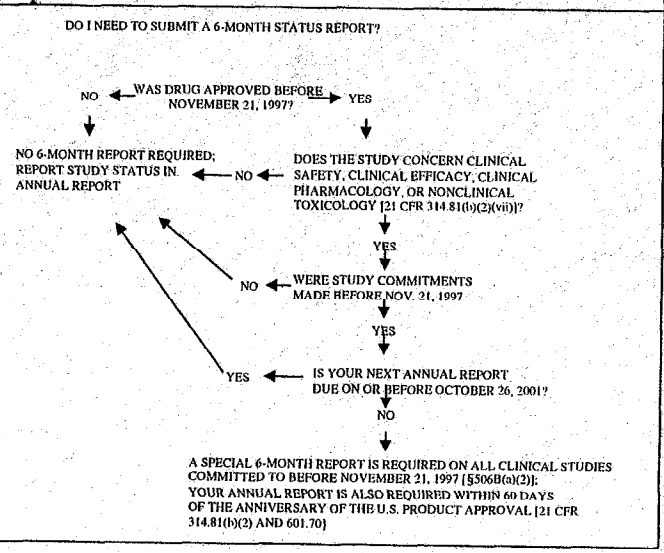
requirement studies concerning chemistry, manufacturing and controls and stability studies which are reported under §314.81(b)(2)(viii). Lilly's suggested changes are included in the attachment to this letter.

Sincerely,



David J. Miner, Ph.D.
Director, Regulatory Affairs
US Marketed Products

**Proposed Changes to the**
**Draft Guidance for Industry: Reports on the Status of Postmarketing Studies - Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997**

| Section | Current Wording | Proposed Wording |
|---|---|---|
| III. C., paragraph 2, second sentence | Under section 506B(a)(2), the initial report for all postmarketing study commitments entered into before the Modernization Act was enacted must be submitted within 6 months after the date that FDA regulations implementing section 506B become effective (April 30, 2001), even if that six month period does not include the regular annual report due date. | Under section 506B(a)(2), the initial report for all postmarketing study commitments that concern a drug's clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology (reports required under §314.81(b)(2)(vii)) and that were entered into before the Modernization Act was enacted must be submitted within 6 months after the date that FDA regulations implementing section 506B become effective (April 30, 2001), even if that six month period does not include the regular annual report due date. |
| III. C., flow chart following paragraph 3 |  |  |

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