NWS HHS FDA CRDH

Moderator: Tammy Wirt
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Coordinator: Welcome and thank you for standing by. At this time all lines are on a listen only mode. During our Q&A session you may press star one on your touchtone phone if you would like to ask a question. Today's conference is being recorded. If you have any objections you may disconnect at this time. Now I would like to turn the meeting over to Ms. Heather Howell. Ma'am you may begin.

Heather Howell: Hello and welcome to today's FDA webinar to discuss recent changes to the clinical laboratory improvement amendments CLIA submission process. I'm Heather Howell, the Deputy Director of CDRH's Office of Communication and Education. FDA has established new processes for tracking submissions that require CLIA categorizations and is formalizing the (unintelligible) waiver by application program. To reflect these changes we have updated the guidance documented titled Administrative Procedures for Clear Categorization Guidance for Industry and FDA staff.

In addition on March 21, 2014 we will update the internal electronic system which will affect the way in which submissions will be tracked. Today the Deputy Director of the Office of In Vitro Diagnostics and Radiological Health

Don St. Pierre will provide clarification on these changes and will answer questions following his presentation. Also with us today to assist with the Q&A portion of our webinar are several other subject matter experts from CDRH's Office of In Vitro Diagnostics and Radiological Health.

Following the webinar the side presentation audio recording and written transcripts of today's program will be available on the CDRH Q&H section of the FDA Web site. Now I give you Mr. Don St. Pierre. Don?

Don St. Pierre: Okay. We'll try to get this going fairly quickly so that people can enjoy the rest of their afternoon not having to listen to me. So today let me see. Why is this popping up? Okay so today we're going to go over the updates to the CLIA program.

As Heather said I'm the Deputy Director in the Office of In Vitro Diagnostic Devices. So I think probably many of you know me and after today many more will know me. So we're going to go over the background of CLIA for those people that don't have the history of that. I think most of the people online probably do. More importantly what's going to be changing with CLIA and what it actually means for stakeholders. So that will be our three main topics.

For the background of CLIA, CLIA was proposed back in 1988 to establish quality standards for our laboratory testing and then those regulations were finalized in 1992. This was a program that was actually run by CMS, our sister agency, and FDA does just one piece of this for CMS which is CLIA categorizations. So in 1999 there was an FR notice transferring these - this categorization responsibility from CDC to FDA.

So for the last 15 years we've actually been - it's kind of been a tri-agency effort with CDC, FDA and CMS all kind of working together to do these CLIA categorizations. So it's actually for having three different agencies with three different perspectives it's really been an informative and really productive working relationship for the three agencies. So I think it's become a really good program and it had a really good basis from its start with CDC setting up how to go about categorizing and such.

In 2008 we actually issued two guidance documents. One was the administrative procedures guidance document for CLIA categorizations. This was the one that's the subject of today's webinar but a separate guidance was on recommendations for CLIA waiver applications. So CLIA waivers by application get a special attention from FDA I think as most people know. So we kind of treat them a little bit differently because there's a lot of work associated with those and they're not kind of the routine types of reviews that we do for other types of categorizations either high or moderate or those parts that are waived because of the regulation.

So we're not going to be talking about the criteria for waiver just the administrative procedures and the IT systems that support those administrative procedures. And in 2012 we actually negotiated new (unintelligible) with the medical device industry and as part of that they wanted to include performance goals and other things related specifically to CLIA labors by application. So our administrative procedures have been updated to incorporate those discussions from - or those commitments from that user fee negotiation.

So what gets categorized? Well any device that - any IVD that FDA clears through the parts and (unintelligible) process, approves through the PMA process or an HDE process or a (De Novo) process. So all of those products

get categorized by FDA. Also the same IVDs or similar IVDs that are cleared or approved by CEVA or licensed by CEVA those also get categorized by the FDA as well the - this is you're talking about CLIA categorization which is a different statutory requirement, a different agency that we're actually doing work for.

Even though products that don't require a 510K review or a submission to FDA to get an FDA decision they still require a CLIA categorization. So you could have devices that are exempt from FDA review that would still come in to get categorized for CLIA.

And a thing that happens all the time which I think this guidance document helps out a lot with if people actually use it is when companies change names or change distributors and change labeling and stuff. A lot of times for IVD products that can affect a lot of different products at once. And in the past FDA had to do that, you know, one by one and enter those manually into the database, so creating those records independently.

We've now actually had a way and we've been using this by policy but it hasn't been written down anywhere where we allow companies to actually submit a spreadsheet with all of those changes for all of those products so that all of them get loaded up into the public database rapidly and accurately. So that's been a big help for industry and everybody that's used that has really liked that on industry side as well as FDA side. So and of course IVDs that are legally marketed for responses are seeking a waiver categorization. So those are the waivers by applications.

So how are IVDs categorized? Well so you've got legally marketed IVDs. So they're either cleared or approved. They're licensed by Biologics or they're exempt, are categorized. The high and moderately complex devices that's

pretty routine. It's pretty standardized. It's very usually, you know, nothing, you know, novel or interesting about those. They're all based on an objective scoring system.

We probably over the 15 years we've been doing this have maybe a handful of issues related to high or moderately complex categorization that we've done. Usually it's due to a misunderstanding. So either FDA got it wrong or industry presented it wrong. These are usually simply and easy things to resolve. So it's not a big deal. So that's not a part of the program that anybody really has many questions on as far as getting their categorizations. Those are usually right and they're usually quick and never a problem.

We also have products that are waived products. So and there's multiple ways to get classified as waived. So you could be waived by regulation. So in the regulation it cites nine types of tests that are automatically waived. So FDA doesn't do a review of those to say okay this is waived or not. They're waived automatically so you get the letter saying you're waived by regulation.

There are other products that FDA either clears or approves that are for over the counter use or more, you know, a common - a more common term is home use. So products that people can use in their home are - should not be that complex because people don't have the training to use - to be able to understand complex systems for those products. So if you can use them in home then they should be pretty simple. So those are also automatically waived. So if it's one of the nine cited in the regulation it's waived. If it's creator approved for home use it's waived. Those things happen automatically.

The one that doesn't happen automatically is the waiver by application. So and that's the one that is the subject of that second guidance which we're not going to be talking about today.

So those documents - those devices that companies submit and request waiver by application those require clinical data. That's a whole separate review and it kind of takes on the kind of the persona of kind of like an FDA review of a 510K or a PMA. It's kind of more PMA like because the data requirements are a lot more onerous for a CLIA waiver then they would be for a 510K or such.

So it's really important to understand because I think industry sometimes has the misconception that if they get - if they demonstrate substantial equivalent that that should be good enough to also demonstrate waiver and they are two different animals and they shouldn't be confused and they shouldn't be associated with saying, you know, one gets you the other because it certainly isn't the case.

So what is changing? One we have administrative tracking mechanisms. Those are coming about because of (MDUFMA) commitments that came out in 2012. In addition we're updating our CLIA administrative procedures to provide some of the other things that we basically have learned since 2008 to document how we're actually doing things today and also to provide that opportunity for people to change - make multiple changes by submitting a spreadsheet of all those changes rather than having FDA and sponsors do them independently.

So what's changing or what's about to change? So in 2012 FDASIA or - which was MDUFA user fee negotiations were part of FDASIA. And industry wanted some commitments of - on FDA's part for CLIA waivers by application. So it's not the high complexity issues. It's not the moderately complex categorizations. It's not the waivers by OTC or home news. It's not the waivers by regulation. It's that very small subset of CLIA waivers by

application that industry was hoping to have performance criteria established around.

So, excuse me. So that's kind of one of the major drivers of the new IT system as well as another thing that came out in the MDUFA negotiations which was being able to do a dual submission which was actually doing the 510K and a waiver by application in the same submission at the same time. So which is a totally new and different process certainly than we've used previously.

So in 2012 we started implementing these commitments for CLIA waiver by applications. We - it took us about a year and a half to develop a new IT system to kind of track and report on these commitments. It's important to understand that CLIA waivers and - or CLIA reviews and categorizations were totally separate - are totally separate from FDA decisions because the CLIA comes out - those decisions come out under with respect to this CLIA statue in CMS versus Food Drug and Cosmetic Act and the FDA.

So that's totally different animals. We've kind of tracked since the - since getting this program in 1999 we've kind of tracked everything through the FDA submission. So that makes it really complicated because you can have tons or hundreds of CLIA applications or changes that relate - a CLIA categorization for each 510K or each PMA. So it's hard to kind of track them under one tracking number.

So this new IT system basically is allowing us to track all of our CLIA work and anything related to CLIA separately from all the FDA work which is the 510Ks and the PMAs but it links the two systems. So we'll still have that linkage and everybody will still be able to see that linkage and know what that linkage is but we'll be able to track each individual CLIA categorization action that we take.

So in - starting on March 21, fingers crossed, the new IT system will be implemented for CDRH and this will have all this new tracking system for the CLIA work that we do. And that new IT system will not only track each individual CLIA activity that we do it'll also - it's also set up to monitor and track our performance as we negotiate in 2012.

So all of those things are tied up into this new CLIA administrative procedures guidance and it talks about - it introduces some new language or a new tracking system that will be - that industry will see as well as everybody else will see because this tracking number will be in the public database. So not a great worry for anybody per se but any time you - something new pops up and people don't know what it is it causes questions. So hopefully we'll be able to answer all those questions today.

So what is changing? So here we have, you know, again I kind of went through all of this. These are the different types of CLIA categorizations, the things that we do. So it's devices that are approved or cleared by CDRH, devices that approved, cleared or licensed by CBER, devices that are even exempt from FDA review but still need CLIA categorization. And then all of those changes after a product is out in the market, all those product name changes or distributor changes or company changes, all those changes that come in as industry would see as add to files to either a 510K or amendments to PMAs all of those things will now be getting a CR number which is a CLIA - which we refer to as a CLIA record.

So starting March 21 companies will be getting - when they send us their 510K, PMA or De Novo application where those are basically the parent documents as far as CLIA is concerned. So when they submit those you'll get your acknowledgement letter for your 510K, PMA or HDE or De Novo

application just like you normally would but you'll also be getting a separate letter saying that we've also find a clear record number to this application. So you'll get separate communications for both of those.

Same happening for - through any submissions submitted to CBER and for exempt - submissions that are exempt and there is no parent document, so there is no 510K or PMA number. You'll just a CLIA record number. So those X files that we created for exempt files, those who are kind of basically dummy documents for us just to have something to track, there was never an FDA really - there was never a FDA submission associated with that. It was just for the CLIA. So now we'll just have a CLIA record number which is a lot cleaner. Excuse me. And of course when companies add to files those add to files will get logged in as a CLIA record.

So if you are changing your - the device name and you submit an add to file to a 510K we're not asking you - the companies to do anything different. It's just that's going to get logged in and be assigned a CLIA record number, a CR number.

So we also have here the CLIA waivers by application. So this is that very small subset of applications that we get, maybe 10 or 12 a year. Expect that that will eventually go up but right now it's probably averaging about 10 or 12 a year. So for those particular devices they're going to be handled in a similar way but they're going to be given a CW number. So these are CLIA waivers by application because these require a substantial review of data and an app - a specific application that the company submits to us with all these data to support waiving their product.

Then that's kind of given a different number and MDUFA actually asked that we track and report out on these. We've kind of - we've given it a separate

designation so that these are easily identified in the database and can easily be pulled out. So it's the same thing. They're still all going to be associated with a parent document. So whether it's a 510K, PMA, BLA, what have you it'll have those parent documents except for of course if the device is exempt from FDA review and there is no parent document, there is no submission then it'll just get that CLIA waiver, CW number.

So all that's coming into play starting on March 21. So the other thing with the tracking system so it's not only to capture all of our CLIA work and all of our CLIA waiver by application it also captures the - a new program that was started with FDASIA or MDUFA three which allows companies to submit a dual application so their 510K and a CLIA waiver by application.

Prior to this companies had to get their product cleared or approved or licensed by FDA and that would do the CLIA work so because you had to have a legally marketed product. So you had to do the FDA piece first to make it legally marked and then you did the CLIA piece. Well this allows companies to do their 510K and their CLIA waiver studies all in one application. So it's kind of important to industry because they were like if their product is not waived then they - it's not a real viable product. So they needed - the waiver was very important and it was as important or more important than the FDA clearance or approval.

So for those subset of documents where that's important that they both happen at the same time then this is an added option for those companies. This is a difficult process. We've piloted this before and it is difficult because the applications kind of feed off of themselves. So if you make changes to your FDA document, your 510K or PMA, that could impact your - the information or the studies that you need for your CLIA waiver application.

So it was, you know, it's very difficult to do this unless you set it up well from the beginning which is why in the MDUFA commitments we made the - doing a pre-submission mandatory because that's the only way to kind of - that's the best way that we knew how to try to guarantee success or make success more possible because without that we don't think these would end up in a very - in a positive state. So we'll go over that a little bit more later.

So the - what the MDUFA three has done is it's set up performance goals for CLIA, waivers by application. So and this slide shows what those performance goals are. These performance goals although it had never been really applied to CLIA categorizations before again because CLIA was - we're doing that for CNS and it's not like an FDA responsibility for, you know, clearance or approval.

So but what we've - but kind of what we did was devise similar performance goals as for the FDA part of our work even though CLIA has never been associated or has never been tracked that way and kind of adapted that system because industry actually understands what the MDUFA goals are. That makes sense to them. The process makes sense to them. So we might as well have CLIA categorizations use the same process.

So talking about the dual CLIA waiver - dual 510K and CLIA waiver by application this has its own separate performance goals and there are requirements. You have to actually have a pre-submission. So when you submit your 510K you should be identifying your - the pre-submission that you had, that you worked out the plan with FDA on how you were going to go about doing this to improve your chances of being successful at the end.

And we have our performance goals that are associated with this. They are a little bit longer because basically FDA is doing two reviews. We're hoping

that at some point the two reviews will merge into one but quite frankly that's probably idealistic because, excuse me, the studies require to obtain a CLIA waiver is so much more burdensome than the studies required to demonstrate substantial equivalents.

So because of that, you know, it's probably why we were thinking that this would be limited to those - that small subset of products that are not really viable if they are not waived. So if it's not one of those - in that small subset of products then you're probably better off getting your FDA decision and then doing your CLIA because at least you have something that you can market and you can make money on your marketed product and then you'll work on getting your CLIA waiver by application in addition to that so.

So and to provide greater transparency during the MDUFA negotiation we said we would update our procedures to kind of make this new review of management expectations clear for waiver by application and the dual process because these are all new, not only to industry but they're also new to the FDA staff having these performance goals, meeting these certain expectations. So that's an entirely new animal for FDA staff and being tracked on these performance goals for these types of submissions.

So updates to the guidance document it - the guidance document explains what a CLIA record or CR number is and when it will be assigned. It includes time frames. It includes instructions for submitting these requests to FDA as well as the multiple categorizations and I would like to highlight this because this is a huge timesaver for industry and it's a huge timesaver for the staff here because it allows them to enter multiple records, whether that's 100, 200 different records, all at once rather than creating and going into 200 separate records and creating those documents. So this is a huge timesaver.

The benefit for industry is you're actual categorizations that go - that are in the public database actually happen a lot quicker if you do this because that could take - it could take a long time for FDA to enter all of them in. And the guidance documents talks about the CLIA waiver number or the CW numbers that will be assigned and what those expectations are of staff and industry for actually making that process happen smoothly.

So expectations for CLIA waivers by application, the submission should be sent to CDRH. You should still be referencing your creator approved product or your 510K or your PMA because you have to basically demonstrate that you actually have a legally marketed product. And now I think industry, although the e-copy program had its trials and tribulations very early on, I think a lot of those things have been worked out and this has been working much better now.

Since everything has - all the FDA's documents pretty much have to come in through e-copy it wasn't something that we negotiated in the MDUFA three negotiations but since companies know how to do this now and it does expedite the process it's well to your advantage to actually submit your CLIA waiver by application via an e-copy. If you did it for your FDA submissions you should know how to do it for this.

So and when you do that FDA will send you an email or correspondence assigning you your CLIA CW number, the tracking number and that's the number that you would refer to in future conversations with FDA and that's the number that FDA will use. Again our database will link this to the 510K or the document. So for these types of submissions FDA is going to do its initial review within 90 days and either request information and put the file on hold or just interact with you thinking that you've done such a great job you'll be

able to get this done in that one cycle, in one round, and complete your application and at the end of that hopefully get your waiver granted.

FDA - so once you submit that information it will come in with a CLIA waiver supplement. There will be a CW with X, you know, six numbers and then a flash with a supplement one or however many supplements it takes to get it done. And so and then at the end of that process by day 180 you're either going to get - you're going to get your decision on that waiver application. It's either going to granted or it's going to be denied. So right now I think we're probably running 50/50 for the ones we grant and the ones that we deny.

So but I think the companies that actually go through the pre-submission process and work with FDA up front in setting up their protocols and understanding what's actually required to get CLIA waiver those companies tend to be - tend to do better during this process. So once we make that decision we post that decision in the CLIA public database saying that the waiver has been granted. That's kind of what industry is looking for to have that in the public database so that everybody knows that the product has been waived.

So for our dual application this is one where you must have a pre-submission. They must have done the pre-submission ahead of time and then you'll reference our pre-submission in your 510K and that 510K will contain not only the data and information necessary to get substantial equivalence. It'll also - these will contain all the information for the CLIA - to get CLIA waiver. So all that information has to be in that application at that time.

There's no staging of the information. There's no okay well I'm submitting my 510K now. I'll give you the waiver, you know, and I wanted this to be a dual but I'll give you the waiver information later. None of that. It has to all be in

that submission at the time you submit it. And this because it's coming in as a 510K annual waiver application this is good to be copied. So these actually have to come in in the copy.

So when you do this we're actually going to assign two numbers. So we're going to give this a CLIA waiver number and a 510K tracking number. So that way we can capture and track performance on both our 510K performance as well as our CLIA waiver performance and it's important for these particular applications to have kind of independent tracking. Hopefully all these tracking dates and numbers will all be the same because they're being reviewed at the same time but it's a possibility that there could be some differences there. So for these types of applications it's coming in as a 510K so basically we'll be following our refused step policies for 510K and such.

So FDA will complete our substandard review of this within 90 days and again either put it on hold asking for additional information or say that we think that this has done well enough that we can get this done in one round with the company at the end of that or if you don't hear from us at all then you'll get - what you'll hear is that your SE and your waiver is granted. So okay let's be honest. The likelihood of that happening is not great but it is a possibility.

So if we ask for additional information then that information will come in at a, you know, you'll submit that information as a supplement. And then within 210 days, this is longer than just an FDA - a 510K review because we're basically doing a review of both (unintelligible) things at once. So we extended the days out a little bit. So by day 210 you'll actually - you'll get your decision. So that'll either be your SE and your waiver is granted or your NSE and your waiver is denied. So it's better to get the first one. So and of

course if you are SE and your waiver is granted we will post that in the public database.

So updates to the guidance really there's no changes to the scientific review process. So like I said if it was a - so the scoring mechanism to get your high complexity, moderately complex or waive categorizations those will all stay the same. The criteria to get your CLIA waiver by application that is all outlined in that separate guidance document. So that's not - again that's not the subject of this webinar.

So even if you're not doing a CLIA waiver or a dual submission and you just want to do a CLIA waiver or something you can still submit - do a pre-submission and actually we would probably recommend that you do that to get feedback on what studies you're planning to do and your protocols for - to support your CLIA waiver. So I think it's - really is a good idea to do that.

We've got a lot better in our pre-submission interactions and it seems that - it seems our industry really likes that and those things are going better than they have, you know. Many years ago I don't think we actually did a great job with our pre-submissions. Now it's a much more standardized process. There's clear expectations of what to get out of them. So I think if you haven't done a pre-submission in the recent past then you may want to give it a try. It does allow great interaction between FDA and the sponsors and it can be multiple interactions. So it sets up that dialogue between FDA and the companies which is important.

So what does it mean for stakeholders? So we're going to talk mostly about industries, sponsors of these applications but also there will be some changes that the clinical labs and CMS will see or auditors - CMS auditors will see. So we'll go over those. Sponsors will receive a pre-market tracking number. So

kind of like they always have. You'll give your 510K number. You'll get your PMA number. You'll get your acknowledgement letters but you're also now going to get a separate email with a separate tracking number and that will be your CR number. So you'll get separate letters for each of those. It's important to recognize that you - if you're submitting your 510K you don't have to request this number. You don't have to do anything. FDA is doing it all and you're just going to get the two numbers. So it's like you're getting a two-for.

If categorization is not needed, so there are some applications that we don't do categorizations for, calibrated some controls or and certainly if we don't clear you we're not going to categorize you. You'll just receive an email closing out the CLIA record which we created saying that we're not categorizing this product that you submitted under that 510K. If it is needed you'll receive a letter again by email within days of the marketing decision.

So if we clear your products or we give you your SEE letter then 10 days - within the next 10 days you should also be getting your CLIA categorization. And of course the CLIA categorization will show up in the CLIA database which is the public database and in that database it will also show what your - what the parent was. So it will associate that 510K, PMA, HTAO, whatever it is with that particular CLIA record.

So hopefully all of this will be automated - by automated email. So it should be very important that you have correct email addresses and all of your submissions to EA. So same thing for if - a little bit different procedure. So if you're actually - you're submitting an application to CBER or to Biological 510K or a BP or you get a - or it's a BLA you'll CBER will do their review and when they finish their review if they come out with a positive marketing decision then they're going to send that - automatically forward that information to CDRH and we're going to categorize and we will issue you a

CR number for that. Again nothing for industry to do here. CBER is going to do this. Only thing for you to do is be aware that this is what is happening and if you don't get a CR number from us after your BK is cleared or your BLA is approved. If you don't get that then you should - you send FDA an email asking why you didn't get your CLIA record number.

You know, this is a - this is kind of a new process that we're setting up so we don't expect it to be 100% from the get go. So totally understand if something's happening that you don't understand just send an email. Ask the question. Pick up the phone. Ask the question. Not a problem. So for these types of applications that either come from CBER, you know, there's - there will probably be a little bit of a time lag but we would get these out within 30 days. It may be a lot sooner. We'll just have to see how this process goes because this is really a new internal process for us. So I think it will probably be better than 30 days but we had to start somewhere.

So if your device is exempt, you know, before you got that X number you won't get an X number anymore. You're just going to get the CR number. And if it - if your CLIA - request for CLIA categorization is complete then you're good to go but if you're like missing your package insert, which is what we use to categorize (unintelligible). So our categorization just begins. Or if your device isn't legally marketed and you'll get correspondence from FDA closing the CLIA record file. So we won't be having anything to review but we'll tell you why we're closing it and what you need to do.

So otherwise, you know, if your CLIA record is complete and we have everything that we need and it's appropriate to do that we'll issue your categorization within 30 days of receiving that information from you. Again there's no - because your product hopefully is already cleared or approved there's no FDA review - part of the review going on. It's just the CLIA

categorization. So these are the ones we're talking about, either the exempt files or those add to files or things that are - for submissions that are - either don't need to be submitted to the FDA or have already been submitted to the FDA and cleared.

So again these will all show up in the public database with a CLIA record number, a CR number, as well as the 510K or PMA number. So it's very easy for everybody to pick out whatever number they want. So because most people are used to the 510K - seeing the 510K numbers and the PMA numbers in the database, although we don't think we necessarily need them there, we're leaving them there because that's what people are used to.

If you want to correspond with FDA related to something that's in the CLIA database we would strongly recommend that you correspond with us on - in providing us with the CR number or the CW number because that relates to an individual - a specific application to FDA whereas if you just gave us a 510K or a PMA number that could relate - there could be 100 different categorizations that are under - that are related to that specific parent document or that specific application.

So it may take us longer to find it. So you'll be much better off if it's something that relates to something that's in the CLIA database referring to the CR number because it's a much more specific number and we'll be able to locate it quickly and we'll be able to provide assistance in a much more rapid manner.

So again if your 510K is cleared, your PMA is approved and you're just submitting an add to file or an amendment to your PMA those will get CLIA record numbers and we'll correspond with you related to that CR number. Again if your submission is missing the package insert or it's missing

information that we need to actually complete the CLIA record we'll let you know that and we'll tell you what we need or why we didn't do it. And if it is complete you'll just get your categorization letter via email and we'll publish that information in the public database.

For CLIA waivers by application again we'll send you an acknowledgement letter so that you know that we have it and that we're reviewing it. It's basically in our hands. So no black hole for CLIA waivers. If additional information is needed you'll hear from us by day 90 either putting the file on hold or quite possibly maybe not putting it on hold. But if you submit - if FDA does put the submission on hold it's basically treating this the same as your FDA documents, your 510K or your PMA. You're submitting the additional information to the document control center and they'll log it in as a supplement to the CW number.

So within 180 total CA days you're going to receive a decision from FDA. So it's going to be granted or denied. This will be by an email. So hopefully with all this automation that's coming in with all the new IT systems that we have, all of this stuff will be - work out pretty smoothly. If we do grant your waiver application again it will show up in the public database with your CW number but it will also still have your PMA or 510K number.

So what does it mean for industry when it comes to the new dual 510K or the CLIA waiver by application process? Well so if you're doing this dual submission type again it's important that you have a pre-submission. If you don't have a pre-submission and you ask for the dual we're going to say you don't qualify for dual. We're still going to review your 510K. We're still going to review your PMA but we're not going to review the CLIA piece until we finish the FDA piece.

So if you have a pre-submission and you submit your application and your designating it as a dual submission then we're going to treat it as a single submission. It's kind of like - think of it as like the De Novo process. It's a whole separate application type. De Novo isn't a 510K. It's a De Novo. Dual submission is not a 510K. It's a dual submission. It's a 510K and a CLIA waiver. That's an entity in and of itself. So let's think of it as a separate entity or separate submission type.

And again these cannot be staged or modular. You can't give us one piece and say you'll give us the other piece later during the review process. It's got to all be in the application when it comes in the door. And unlike other CLIA categorization requests the duals because they're coming in with an FDA document must come in as a copy.

So if your application is successful you're going to get - well when you get your application you're going to get two acknowledgement letters, one saying that we received your CLIA waiver, one that we received your 510K. And but even though you'll get the two separate letters we're actually conducting the review under one review clock and we're doing just the one review.

Because this is coming in as a 510K we're applying all of our - pretty much all of our 510K rules to the application. So if - so we're doing a refuse to accept. Again if a company - if your submission is rejected you'll submit your additional information to document control center. They'll send - and then you'll send it into the supplement referencing both the CW and the 510K number. The review clock resets to zero and we start. Hopefully we accept the 510K and the review will start on both the CLIA waiver and the 510K review.

So after the - then the next kind of review milestone is the substandard review. So we do that by day 90. So by day 90 you'll get an email that either puts the

submission on hold asking for additional information. You'll submit that information to the document on control center. It'll get logged in with a supplement number when you do respond and it's going to get a supplement number for both the CLIA waiver and the 510K. So within a total of 210 days, not 180 but within a total of 210 days you're going to receive one of - there's one of two outcomes.

Either you'll get SE and you get your waiver approved or you get NSE and your waiver is denied. If it's approved and you're waived and of course that information will go in the public database.

So pretty simple, pretty straightforward, important to recognize that you're not submitting anything new or different to the FDA. These are all internal processing stuff for FDA to create these new tracking numbers so that you can - so you can track your CLIA submissions or the CLIA stuff separately from the 510K or PMA stuff. Again clearly when you're talking to the FDA about FDA work you should be referencing your 510K and PMA numbers. When you're talking - when your questions are related specifically to the CLIA work or the CLIA categorization you should be referencing your CR or CW numbers.

So what does it mean for a lab community or for CMS? So the only real impact on them and the only thing that they're going to see is the changes in the CLIA - in the public database. So the public database is going to have a new tracking number associated with it. So they're going to see the CW or CR numbers. They've just go to know that that's an FDA tracking number assigned to track FDA work. It doesn't really actually have any impact on the labs or CMS but of course being something new they'll be wondering what it is. So if you're in a clinical lab or a CMS on the phone it just - it's an FDA tracking number or tracking association.

You don't have to worry about it and please don't worry about it because these are tracking systems - this tracking system is going from March 21 forward. We're not changing or creating CLIA records for all the documents that are in the tracking system already. So there will be all that legacy data that won't have a CR or a CW number and it has no impact. It doesn't mean anything. It just means we weren't tracking them that way previously. So it should have no impact so people should not be worried about seeing this new number.

But what it does do because probably the three questions that we get most related to CLIA is I can't find my CLIA record or I can't find my CLIA categorization in the public database or my CLIA categorization is not in the database. Those are the two biggest questions. This will be able - this will be much easier for us to find those records now. But the third largest question is actually how do I get my CLIA certificate of waiver. And of course we only do the categorizations.

You want a certificate of waiver for your laboratory then you still go to CMS and they've got a great Web site with all that information on there. So if you need your COW or a certificate of waiver you go to CMS for that. FDA just does the CLIA categorizations. So we just say whether it's high, moderate or waived. That's all FDA does.

So here are your references for information from FDA. That's all the information that pretty much we would have as public related to CLIA. Probably should have put up here CMS's Web site because they own the CLIA program and they do a really good job with it. Well any questions outside of CLIA categorization should be going to CMS.

Thank you for participating in this Web site - in this webinar. If you have questions at any time - if you don't get to ask them today or we don't get to answer them today we have set up an email that is going to be - that's monitored by multiple people in my office. So that's the CDRH CLIA coordinator. So any questions that you have you can just send to this email address and somebody will get back to you.

So hopefully that will reduce some of the anxiety. Any time FDA makes changes it causes some anxiety. This shouldn't cause anxiety. FDA is pretty much doing all of the work. And some questions and the issues that you have when you ask FDA questions you'll have a better way to better identify what you're asking your question on so FDA will be able to provide that help more rapidly. Thank you very much.

Heather Howell: Okay we'll take questions from anybody on the webinar at this time. Please indicate that you have a question and the operator will indicate that it is your turn to ask the question.

Coordinator: And to open questions on your phone please dial star one. To ask a question record your name. Thank you. I'm not showing any questions queuing up on the phone currently.

Don St. Pierre: Wow. Love it. Everyone wants to get home. Okay.

Heather Howell: Okay well this is Heather Howell again and I thank you for your questions or actually that was a written script so there was no questions today. Please as Don indicated let us know if you have questions in the future at the email addresses indicated on your screen right now.

Coordinator: Excuse me Ms. (Howell). Three questions just popped in.

Heather Howell: Oh wonderful.

Don St. Pierre: Too late...

Coordinator: So the first question is from (Susan). Ma'am your line is open.

(Susan): Yes I just wanted clarification. On the dual review you said that there were two options, an SEN waiver or an NSEN waiver denied. Is there also the option of an SE with the waiver denied?

Don St. Pierre: No that was not the way that it was intended to happen but probably - I would say FDA being who we are we probably would not withhold an SE determination if the product was SE. So we probably wouldn't do that but, you know, I think that's - whether it ends up for (unintelligible) method it would end up taking a lot longer to get that SE decision in the end. So it's probably not a good, you know, it's probably not good to think well I'll do them both and if I only get one then at least I'm getting one. It's going to take you a lot longer to get the one. So I think you should use the dual program.

Again if you need that waiver to actually make your product viable I think that's - that was what the intent was for that. I think if you use it for something other than that or something more than that I think, you know, it's probably going to be disappointing because it is - it's not an easy thing to do. So we'll help you out with it as much as possible but the likelihood of success for that is clearly not as good as if you just submitted a 510K or a waiver application separately so.

(Susan): Understood. I just would hate to start the new - the 510K if we had made it that far and lose...

Don St. Pierre: Yes we wouldn't do it to you. We might want tot but we wouldn't do it to you. I can't imagine.

(Susan): And then on...

Don St. Pierre: You've got the statutory criteria so I don't think legally we would be able to not SE you.

(Susan): All right. And then on the additional information if that's required that follows the same time for response, the 180 days, as it is for a 510K?

Don St. Pierre: Yes.

(Susan): All right. Thank you.

Coordinator: And our next question comes from (Kuann Kim). Ma'am your line is open.

(Kuann Kim): Hi. My question is for dual submission. The FDA, the bureau would it be the same person or different person is assigned for CLIA waiver and 510K?

Don St. Pierre: No there would be the - it would be the same person but they might set up different teams to do different aspects of the review. But it would be - you'd be interacting, you know, unless there was a huge workload issue and it could be handled more efficiently a different way I would say 99 times out of a 100 it's going to be the exact same person doing both.

(Kuann Kim): Thank you.

Coordinator: And the next question comes from (Marlene Hannah). Ma'am your line is open.

(Marlene Hannah): Thank you. If a manufacturer has a product that's categorized and in the database but we no longer support that product do we need to send in a request to have that removed from the database?

Don St. Pierre: You don't have to send in a request. If you do send in a request I'm not sure that we would update the database. That might be a good - I mean not helpful to have outdated information in a public database but I'm not sure there's a way to actually update that database appropriately. One, we'd have to validate and make sure that you're actually the person that actually has that submission now or has responsibility for that submission.

CLIA wouldn't want companies sending in stuff deleting other people's submissions. So there's probably a lot of validation that would go along with doing that. But if you send your, you know, that question to the CDRH CLIA coordinator email we can look into that more specifically. But to my knowledge I don't think that we update that database to remove stuff that is not - that companies are no longer marketing. I know we don't do that for the 510K database or whatever. So I don't think we would do that either for this public database.

(Marlene Hannah): Thank you...

Don St. Pierre: Not that it wouldn't be a good thing to do.

(Marlene Hannah): Okay thank you.

Coordinator: The next question comes from (Katira). Ma'am your line is open.

(Katira Kayayha): Hi yes. This is (Katira Kayayha). Thank you Don for an excellent overview and on the program. Unlimited commitments have been associated with it and particularly with the dual program. I just wanted - I had two questions. The first is related to as a company goes through the pre-submission process, puts together that submission my understanding is that that option under unlimited commitment is available to all manufacturers, that the guidance will be provided to the company.

But I just wanted to clarify that that option for dual submission going through that process allows a company that option. You talked about success and that it can be challenging but I just wanted to clarify that that is an option to companies.

And my second because I think that's vitally important we talked about a small subset of products. I think in many cases in this particular areas that companies simply are - the CLIA waiver is so critically important to the submission that as you mentioned the whole intention towards bringing the product is for the ability to have a CLIA waiver. So I think that dual program is so important, so having that option be available.

And the second is will - I know this was issued just a couple days ago that would the agency be open to additional comments around the administrative process. You detailed a lot of I think very helpful information and whether FDA's open to some - to additional comments on how to support that process really and some of the details that you've talked about today under the commitment so.

Don St. Pierre: Yes well of course FDA always accepts feedback. So we don't pretend to get everything 100% right all the time. Well I may but my colleagues don't. So

yes if people have comments on the guidance or something could be clearer or it's not understandable or maybe we got something wrong. I don't think so because it follows our internal processes and that's what this was about. But if there are - yes if there's issues or questions or certainly if we can present things clearer that would be helpful information to have.

(Katira Kayayha): All right. And on the other one in terms of the company going through that that the option is always retained for a dual submission understanding though that it can be challenging that process and companies and maybe in your experience but well my end here they're very cognizant that the requirements are distinct but really trying to support the efficiency in the process so.

Don St. Pierre: Yes well eventually - I mean if it ends up - if we end up being able to create a dual submission that everything is done with one study rather than separate studies for FDA versus CLIA waiver that would be the ideal to do that. So I think there is lots of merit to trying this and seeing where we can get but I think it's going to be some - yes there will be trial and error and I think it's so far companies have found it very difficult and so I think that's why the pre-submission is really important so that we can help out as much as we can.

You guys don't have a lot of - industry doesn't have a lot of experience with it and neither do we. So working through those problems and issues together is probably - if we expect those to become a bigger part of the program then we'll need those interactions up front.

(Katira Kayayha): Thank you.

Coordinator: And the next question comes from (Jan). Sir your line is open.

(Jan): Hi Don. Quick question. The previous version of the CLIA administrative guidance had a table that showed needed content for categorization requests for various situations, things such as say an exam or a test system for replacement reagent. And it looks like the current version eliminated that table. I think all it says is just include the labeling. Should a sponsor follow what had previously been in there as for content in the earlier version or just include an insert?

Don St. Pierre: So I mean when we do our categorizations we base the categorizations on the pack insert. So that's how we get our number system. What was it, the table?

(Jan): Yes the table in the former version says for example like for the replacement reagent policy anything being submitted should have a package insert that's identified for CLIA categorization and reference the original 510K number including classification regulation numbers, classification product codes, etcetera. It's specific information and it looks like the new version just says, you know, or requests including the labeling. So that's why we were wondering is if all that information should still be included in the request, the specifics.

Don St. Pierre: I may have to get back to you on that. I don't think taking that table out meant to change the - anything in the guidance document.

(Jan): Okay.

Don St. Pierre: I think it was just we were trying to make it simpler.

(Jan): Okay.

Don St. Pierre: And a lot of the things with the replacement we - the replacement of the agent when people use that that's where a lot of the issue of making multiple changes to multiple products which is why we now use that Excel spreadsheet to make those types of changes. So because a lot of those changes happen through the replacement reagent policy and so we don't actually see a lot of those changes and things. So I think we may have just moved over from what was presented there to having this spreadsheet. But I'm not sure that that's the complete answer to your question.

(Jan): Okay.

Don St. Pierre: The stuff you've submitted before if you submitted - we're not trying to change any of those requirements. So if you submitted it before and you submit it now you should be okay.

(Jan): Okay.

Don St. Pierre: Most of what we were talking about today is the different processes that we're using internally and what you can see from us. It's not - we're not intending people to actually do anything different.

(Jan): Thank you very much.

Coordinator: And the last question comes from (Ms. Kim). Ma'am your line is open.

(Ms. Kim): Okay we're starting to do pre-IDE last year for the opportunity of apply for CLIA waiver and then in the middle of time of FDA's review FDA system has been changed as a pre-submission. So in the middle of the review we received the Q number, the submission number. So this - we can use that pre-

submission for the apply of dual submission here because we did the pre-submission last year?

Don St. Pierre: Well it's not - I'm not clear whether your pre-submission is just for the CLIA waiver. So if your pre-submission was for a CLIA waiver and then we changed our system and we had provided Q numbers for those pre-submissions instead of I numbers then that has no impact. So your CLIA - that information is all still relevant. It's just a changing tracking system. You don't have to do anything new or different. If you're saying that that pre-submission was intended for a dual 510K and CLIA waiver application submission it - was that what it was for? Or just for the waiver studies?

(Ms. Kim): That is for both, for 510K and the CLIA waiver.

Don St. Pierre: So if it was ended - if you didn't - so I would just - well if I were you I'd cover my bases. I would make - I would send an email to the reviewer and say, you know, just want to confirm that that pre-submission is my pre-submission for my future dual submission so that they know.

(Ms. Kim): During the review process there was a conversation with the FDA and then FDA told us, you know, do the 510K first and then go into the CLIA waiver at the time.

Don St. Pierre: So well if that's not what you wanted - that's what most people do do. So people get their FDA decision so that their product is legally marketed and then they - then we do the CLIA piece because that - the FDA has to do CLIA based on legally marketed products. The only time that we don't do that now is with this dual submission. So if you identified your product as a dual submission and you told FDA that you were going to come in with a 510K and a CLIA waiver at the same time if they could provide you advice to say

probably not a good idea with what you're doing based on the information that you've submitted. You'd be better off doing this other way. So they could provide that as advice to you based on what you've submitted to them but if that's not the advice you want you just say no I want to do the dual submission. So I want you to review it in the context of that dual submission. So and FDA will do that.

The only time FDA will give you the other advice is if they think wow it's really based on what I'm seeing they're not going to be successful. So they might give you other advice to at least try to help you be successful at least on the FDA part and then work separately on the CLIA part. So they could do that because they're looking out, you know, based on what you've submitted. Whether you - because again some people submit their applications thinking that their SE studies will cover their CLIA, you know, CLIA waiver and that's just not the case.

There are two different statutory requirements that companies have to meet. So if a company did not understand the nuances of those two programs and said I want to do the dual well everybody would say they want to do a dual because it sounds better. I can get two answers for the price of one. Well it may sound good but you - but it's so much more work than doing, you know, one, you know, getting your FDA decision because, you know, FDA threshold is a lot lower. It's a lot less burdensome then your CLIA threshold. So it's much easier to get a substantial equivalence determination than it is to get a CLIA waiver decision based on the statutory criteria.

So it really kind of - I mean I would say I don't think their advice - if I were you I would go back to them to try to understand what their advice was because you have every right to do - to request a dual submission and they can - they should be reviewing it in that context. Again the only reason they would

try to steer you away from it is if they really think that you're so far away you're going to end up getting neither. So but their job is actually to try to help you as best as they can to make it successful.

(Ms. Kim): Okay thank you.

Don St. Pierre: Okay.

Coordinator: And there are no more questions holding on the phone.

Don St. Pierre: So we did have somebody look up that table question. So I'm going to come back to the previous question about the table from the guidance.

Woman: Hi yes I found the old version of the guidance and the table you were referencing and most of the things outlined in that table call for additional copies of the package insert. This was prior to us having e-copies for 510Ks and PMAs and so we needed an extra copy of the package insert for us to use for the CLIA categorization process. We no longer need that extra copy because 510Ks and PMAs and any marketing submission has an e-copy. So we're just going to use that same e-copy that we reviewed for the 510K or whatever. We're going to use that to do our CLIA categorization piece.

And the replacement reagent example falls under the case where you would be asking for a new categorization letter based on additional - based on a change to your existing labeling and that's where you would send in the new labeling and request CLIA categorization in that submission.

Don St. Pierre: So hopefully that answers the question so it's - I think we're good.

Heather Howell: Okay. Now again I thank you for your questions today. Please remember that this presentation will be available on the CDRH learn section of FDA.gov. The written transcript will take a couple days but it should be posted no later than Friday, March 21. If you have further questions please use the contact information provided at the end of this slide presentation. And as always we appreciate your feedback on today's presentation and on CDRH learn in general. Thank you for participating and this concludes today's webinar.

Coordinator: Your conference call has ended and you may disconnect at this time. Again you may disconnect. Your conference call has ended.

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