

Distribution Center, Washington Commerce Center, 3222 Hubbard Rd., Landover, MD 20785.

(g) *Multiple reports.* An applicant should not include in reports under this section any adverse drug experiences that occurred in clinical trials if they were previously submitted as part of the approved application. If a report applies to a drug for which an applicant holds more than one approved application, the applicant should submit the report to the application that was first approved. If a report refers to more than one drug marketed by an applicant, the applicant should submit the report to the application for the drug listed first in the report.

(h) *Patient privacy.* An applicant should not include in reports under this section the names and addresses of individual patients; instead, the applicant should assign a unique code number to each report, preferably not more than eight characters in length. The applicant should include the name of the reporter from whom the information was received. Names of patients, health care professionals, hospitals, and geographical identifiers in adverse drug experience reports are not releasable to the public under FDA's public information regulations in part 20.

(i) *Recordkeeping.* The applicant shall maintain for a period of 10 years records of all adverse drug experiences known to the applicant, including raw data and any correspondence relating to adverse drug experiences.

(j) *Withdrawal of approval.* If an applicant fails to establish and maintain records and make reports required under this section, FDA may withdraw approval of the application and, thus, prohibit continued marketing of the drug product that is the subject of the application.

(k) *Disclaimer.* A report or information submitted by an applicant under this section (and any release by FDA of that report or information) does not necessarily reflect a conclusion by the applicant or FDA that the report or information constitutes an admission that the drug caused or contributed to an adverse effect. An applicant need not admit, and may deny, that the report or information submitted under this section constitutes an admission

that the drug caused or contributed to an adverse effect. For purposes of this provision, the term "applicant" also includes any person reporting under paragraph (c)(1)(iii) of this section.

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[50 FR 7493, Feb. 22, 1985; 50 FR 14212, Apr. 11, 1985, as amended at 50 FR 21238, May 23, 1985; 51 FR 24481, July 3, 1986; 52 FR 37936, Oct. 13, 1987; 55 FR 11580, Mar. 29, 1990; 57 FR 17983, Apr. 28, 1992; 62 FR 34168, June 25, 1997; 62 FR 52251, Oct. 7, 1997; 63 FR 14611, Mar. 26, 1998]

#### § 314.81 Other postmarketing reports.

(a) *Applicability.* Each applicant shall make the reports for each of its approved applications and abbreviated applications required under this section and section 505(k) of the act.

(b) *Reporting requirements.* The applicant shall submit to the Food and Drug Administration at the specified times two copies of the following reports:

(1) *NDA—Field alert report.* The applicant shall submit information of the following kinds about distributed drug products and articles to the FDA district office that is responsible for the facility involved within 3 working days of receipt by the applicant. The information may be provided by telephone or other rapid communication means, with prompt written followup. The report and its mailing cover should be plainly marked: "NDA—Field Alert Report."

(i) Information concerning any incident that causes the drug product or its labeling to be mistaken for, or applied to, another article.

(ii) Information concerning any bacteriological contamination, or any significant chemical, physical, or other change or deterioration in the distributed drug product, or any failure of one or more distributed batches of the drug product to meet the specifications established for it in the application.

(2) *Annual report.* The applicant shall submit each year within 60 days of the anniversary date of U.S. approval of the application, two copies of the report to the FDA division responsible for reviewing the application. Each annual report is required to be accompanied by a completed transmittal

Form FDA 2252 (Transmittal of Periodic Reports for Drugs for Human Use), and must include all the information required under this section that the applicant received or otherwise obtained during the annual reporting interval that ends on the U.S. anniversary date. The report is required to contain in the order listed:

(i) *Summary.* A brief summary of significant new information from the previous year that might affect the safety, effectiveness, or labeling of the drug product. The report is also required to contain a brief description of actions the applicant has taken or intends to take as a result of this new information, for example, submit a labeling supplement, add a warning to the labeling, or initiate a new study. The summary shall briefly state whether labeling supplements for pediatric use have been submitted and whether new studies in the pediatric population to support appropriate labeling for the pediatric population have been initiated. Where possible, an estimate of patient exposure to the drug product, with special reference to the pediatric population (neonates, infants, children, and adolescents) shall be provided, including dosage form.

(ii) *Distribution data.* Information about the quantity of the drug product distributed under the approved application, including that distributed to distributors. The information is required to include the National Drug Code (NDC) number, the total number of dosage units of each strength or potency distributed (e.g., 100,000/5 milligram tablets, 50,000/10 milliliter vials), and the quantities distributed for domestic use and the quantities distributed for foreign use. Disclosure of financial or pricing data is not required.

(iii) *Labeling.* Currently used professional labeling, patient brochures or package inserts (if any), a representative sample of the package labels, and a summary of any changes in labeling that have been made since the last report listed by date in the order in which they were implemented, or if no changes, a statement of that fact.

(iv) *Chemistry, manufacturing, and controls changes.* (a) Reports of experiences, investigations, studies, or tests involving chemical or physical prop-

erties, or any other properties of the drug (such as the drug's behavior or properties in relation to microorganisms, including both the effects of the drug on microorganisms and the effects of microorganisms on the drug). These reports are only required for new information that may affect FDA's previous conclusions about the safety or effectiveness of the drug product.

(b) A full description of the manufacturing and controls changes not requiring a supplemental application under § 314.70 (b) and (c), listed by date in the order in which they were implemented.

(v) *Nonclinical laboratory studies.* Copies of unpublished reports and summaries of published reports of new toxicological findings in animal studies and in vitro studies (e.g., mutagenicity) conducted by, or otherwise obtained by, the applicant concerning the ingredients in the drug product. The applicant shall submit a copy of a published report if requested by FDA.

(vi) *Clinical data.* (a) Published clinical trials of the drug (or abstracts of them), including clinical trials on safety and effectiveness; clinical trials on new uses; biopharmaceutic, pharmacokinetic, and clinical pharmacology studies; and reports of clinical experience pertinent to safety (for example, epidemiologic studies or analyses of experience in a monitored series of patients) conducted by or otherwise obtained by the applicant. Review articles, papers describing the use of the drug product in medical practice, papers and abstracts in which the drug is used as a research tool, promotional articles, press clippings, and papers that do not contain tabulations or summaries of original data should not be reported.

(b) Summaries of completed unpublished clinical trials, or prepublication manuscripts if available, conducted by, or otherwise obtained by, the applicant. Supporting information should not be reported. (A study is considered completed 1 year after it is concluded.)

(c) Analysis of available safety and efficacy data in the pediatric population and changes proposed in the labeling based on this information. An assessment of data needed to ensure appropriate labeling for the pediatric population shall be included.

(vii) *Status reports of postmarketing study commitments.* A status report of each postmarketing study of the drug product concerning clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that is required by FDA (e.g., accelerated approval clinical benefit studies, pediatric studies) or that the applicant has committed, in writing, to conduct either at the time of approval of an application for the drug product or a supplement to an application, or after approval of the application or a supplement. For pediatric studies, the status report shall include a statement indicating whether postmarketing clinical studies in pediatric populations were required by FDA under §201.23 of this chapter. The status of these postmarketing studies shall be reported annually until FDA notifies the applicant, in writing, that the agency concurs with the applicant's determination that the study commitment has been fulfilled or that the study is either no longer feasible or would no longer provide useful information.

(a) *Content of status report.* The following information must be provided for each postmarketing study reported under this paragraph:

(1) *Applicant's name.*

(2) *Product name.* Include the approved drug product's established name and proprietary name, if any.

(3) *NDA, ANDA, and supplement number.*

(4) *Date of U.S. approval of NDA or ANDA.*

(5) *Date of postmarketing study commitment.*

(6) *Description of postmarketing study commitment.* The description must include sufficient information to uniquely describe the study. This information may include the purpose of the study, the type of study, the patient population addressed by the study and the indication(s) and dosage(s) that are to be studied.

(7) *Schedule for completion and reporting of the postmarketing study commitment.* The schedule should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final

study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment. In addition, it should include a revised schedule, as appropriate. If the schedule has been previously revised, provide both the original schedule and the most recent, previously submitted revision.

(8) *Current status of the postmarketing study commitment.* The status of each postmarketing study should be categorized using one of the following terms that describes the study's status on the anniversary date of U.S. approval of the application or other agreed upon date:

(i) *Pending.* The study has not been initiated, but does not meet the criterion for delayed.

(ii) *Ongoing.* The study is proceeding according to or ahead of the original schedule described under paragraph (b)(2)(vii)(a)(7) of this section.

(iii) *Delayed.* The study is behind the original schedule described under paragraph (b)(2)(vii)(a)(7) of this section.

(iv) *Terminated.* The study was ended before completion but a final study report has not been submitted to FDA.

(v) *Submitted.* The study has been completed or terminated and a final study report has been submitted to FDA.

(9) *Explanation of the study's status.* Provide a brief description of the status of the study, including the patient accrual rate (expressed by providing the number of patients or subjects enrolled to date, and the total planned enrollment), and an explanation of the study's status identified under paragraph (b)(2)(vii)(a)(8) of this section. If the study has been completed, include the date the study was completed and the date the final study report was submitted to FDA, as applicable. Provide a revised schedule, as well as the reason(s) for the revision, if the schedule under paragraph (b)(2)(vii)(a)(7) of this section has changed since the last report.

(b) *Public disclosure of information.* Except for the information described in this paragraph, FDA may publicly disclose any information described in paragraph (b)(2)(vii) of this section, concerning a postmarketing study, if

the agency determines that the information is necessary to identify the applicant or to establish the status of the study, including the reasons, if any, for failure to conduct, complete, and report the study. Under this section, FDA will not publicly disclose trade secrets, as defined in § 20.61 of this chapter, or information, described in § 20.63 of this chapter, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(viii) *Status of other postmarketing studies.* A status report of any postmarketing study not included under paragraph (b)(2)(vii) of this section that is being performed by, or on behalf of, the applicant. A status report is to be included for any chemistry, manufacturing, and controls studies that the applicant has agreed to perform and for all product stability studies.

(ix) *Log of outstanding regulatory business.* To facilitate communications between FDA and the applicant, the report may, at the applicant's discretion, also contain a list of any open regulatory business with FDA concerning the drug product subject to the application (e.g., a list of the applicant's unanswered correspondence with the agency, a list of the agency's unanswered correspondence with the applicant).

(3) *Other reporting*—(i) *Advertisements and promotional labeling.* The applicant shall submit specimens of mailing pieces and any other labeling or advertising devised for promotion of the drug product at the time of initial dissemination of the labeling and at the time of initial publication of the advertisement for a prescription drug product. Mailing pieces and labeling that are designed to contain samples of a drug product are required to be complete, except the sample of the drug product may be omitted. Each submission is required to be accompanied by a completed transmittal Form FDA-2253 (Transmittal of Advertisements and Promotional Labeling for Drugs for Human Use) and is required to include a copy of the product's current professional labeling. Form FDA-2253 may be obtained from the PHS Forms and Publications Distribution Center, 12100 Parklawn Dr., Rockville, MD 20857.

(ii) *Special reports.* Upon written request the agency may require that the applicant submit the reports under this section at different times than those stated.

(iii) *Withdrawal of approved drug product from sale.* (a) The applicant shall submit on Form FDA 2657 (Drug Product Listing), within 15 working days of the withdrawal from sale of a drug product, the following information:

(1) The National Drug Code (NDC) number.

(2) The identity of the drug product by established name and by proprietary name.

(3) The new drug application or abbreviated application number.

(4) The date of withdrawal from sale. It is requested but not required that the reason for withdrawal of the drug product from sale be included with the information.

(b) The applicant shall submit each Form FDA-2657 to the Drug Listing Branch (HFD-334), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(c) Reporting under paragraph (b)(3)(iii) of this section constitutes compliance with the requirements under § 207.30(a) of this chapter to report "at the discretion of the registrant when the change occurs."

(c) *General requirements*—(1) *Multiple applications.* For all reports required by this section, the applicant shall submit the information common to more than one application only to the application first approved, and shall not report separately on each application. The submission is required to identify all the applications to which the report applies.

(2) *Patient identification.* Applicants should not include in reports under this section the names and addresses of individual patients; instead, the applicant should code the patient names whenever possible and retain the code in the applicant's files. The applicant shall maintain sufficient patient identification information to permit FDA, by using that information alone or along with records maintained by the investigator of a study, to identify the name and address of individual patients; this will ordinarily occur only

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when the agency needs to investigate the reports further or when there is reason to believe that the reports do not represent actual results obtained.

(d) *Withdrawal of approval.* If an applicant fails to make reports required under this section, FDA may withdraw approval of the application and, thus, prohibit continued marketing of the drug product that is the subject of the application.

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[50 FR 7493, Feb. 22, 1985; 50 FR 14212, Apr. 11, 1985, as amended at 50 FR 21238, May 23, 1985; 55 FR 11580, Mar. 29, 1990; 57 FR 17983, Apr. 28, 1992; 63 FR 66670, Dec. 2, 1998; 64 FR 401, Jan. 5, 1999]

EFFECTIVE DATE NOTE: At 65 FR 64617, Oct. 30, 2000, §314.81 was amended by revising the introductory text of paragraph (b)(2), by revising paragraph (b)(2)(vii), and by adding paragraphs (b)(2)(viii) and (b)(2)(ix), effective Feb. 27, 2001. At 66 FR 10815, Feb. 20, 2001, the effective date was delayed until Apr. 30, 2001. For the convenience of the user, the superseded text is set forth as follows:

**§ 314.81 Other postmarketing reports.**

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(b) \* \* \*

(2) *Annual report.* The applicant shall submit the following information in the order listed each year within 60 days of the anniversary date of approval of the application. The applicant shall submit the report to the FDA division responsible for reviewing the application. Each annual report is required to be accompanied by a completed transmittal Form FDA-2252 (Transmittal of Periodic Reports for Drugs for Human Use) which may be obtained from the PHS Forms and Publications Distribution Center, 12100 Parklawn Dr., Rockville, MD 20857, and is required to include all the information required under this section that the applicant received or otherwise obtained during the annual reporting interval which ends on the anniversary date. The report is required to contain the following:

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(vii) *Status reports.* A statement on the current status of any postmarketing studies performed by, or on behalf of, the applicant. The statement shall include whether postmarketing clinical studies in pediatric populations were required or agreed to, and if so, the status of these studies, e.g., to be initiated, ongoing (with projected completion

date), completed (including date), completed and results submitted to the NDA (including date). To facilitate communications between FDA and the applicant, the report may, at the applicant's discretion, also contain a list of any open regulatory business with FDA concerning the drug product subject to the application.

**§ 314.90 Waivers.**

(a) An applicant may ask the Food and Drug Administration to waive under this section any requirement that applies to the applicant under §§314.50 through 314.81. An applicant may ask FDA to waive under §314.126(c) any criteria of an adequate and well-controlled study described in §314.126(b). A waiver request under this section is required to be submitted with supporting documentation in an application, or in an amendment or supplement to an application. The waiver request is required to contain one of the following:

- (1) An explanation why the applicant's compliance with the requirement is unnecessary or cannot be achieved;
- (2) A description of an alternative submission that satisfies the purpose of the requirement; or
- (3) Other information justifying a waiver.

(b) FDA may grant a waiver if it finds one of the following:

- (1) The applicant's compliance with the requirement is unnecessary for the agency to evaluate the application or compliance cannot be achieved;
- (2) The applicant's alternative submission satisfies the requirement; or
- (3) The applicant's submission otherwise justifies a waiver.

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[50 FR 7493, Feb. 22, 1985, as amended at 50 FR 21238, May 23, 1985]

**Subpart C—Abbreviated Applications**

SOURCE: 57 FR 17983, Apr. 28, 1992, unless otherwise noted.